



The Center for Civil Rights Remedies

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# Is California Doing Enough to Close the School Discipline Gap?

By Daniel J. Losen and Paul Martinez

June 22, 2020

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# Is California Doing Enough to Close the School Discipline Gap?

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## Introduction

Is California doing enough to close the school discipline gap? Some may argue that now, while confronting the COVID-19 crisis, is not the time to suggest that our schools should do more, considering the harm being done by the shutdown of schools and the looming budget shortfalls schools will face. On the other hand, the civil rights of children should never be overlooked, and hard times are no excuse for injustice. Ironically, the hardships all students are experiencing during the pandemic, including some degree of suspended education, might bring greater awareness of the harm done by the loss of valuable in-person instruction time, as well as the mental health services and other important supports students lose access to when they are suspended from school for breaking a rule.

According to experts, the coronavirus is likely more harmful to children from low-income families, those with disabilities, and children of color. As Berkeley professor Janelle Scott explained to the *L.A. Times*, “This crisis has laid bare what we always knew—how equitable opportunities are so dependent on parental background and wealth and access to resources . . . Having a physical school does really matter and having caring adults around who can support children and family is vital” (Blum & Kohli, 2020). Kathleen Minter, executive director of the National Association of School Psychologists, recently wrote, “There is little doubt that there will be substantial increases in mental- and behavioral-health problems for students and adults when schools reopen . . . the effects will not be equally distributed” (Minke, 2020).

Coming on the heels of a massive loss of instructional time, and of mental health and special education supports and services, we argue in this report that the data demonstrating the inequitable impact of suspensions in these times of extreme stress should compel California educators to do more, once students are allowed to return, to reduce disciplinary exclusion from school. Like our prior reports, the analysis presented here helps to convey how high and disparate levels of exclusionary discipline in terms of days of lost instruction time impact educational opportunity.

This report does include some good news. Namely, as of the end of the 2018-19 academic year, California educators and policymakers have continued to make progress in the area of school discipline reform. In 2019, Governor Gavin Newsom signed legislation that made permanent the prohibition on suspensions and expulsions for the minor misconduct category of disruption/defiance in grades K-3 (first implemented in 2015) and expanded the prohibition to cover students through grade 8, starting with the 2019-20 academic year.

Los Angeles and other school districts led the way, having ended suspensions for the category in K-12 in January 2015.<sup>1</sup> Further, two years ago, California became the first state to use discipline rates as an official school climate indicator for its statewide accountability system, which

requires districts to pursue remedies if their indicator doesn't meet certain standards. The specific good news is that the combination of statewide and local efforts to find alternatives to punitive suspensions aligns with data trends showing that fewer students have been suspended each year since 2011-12. However, the state-level data trends also show that the decline in the use of suspension has slowed considerably in the last few years.

Part I of this report takes an unflinching look at the most recent disparities in the amount of lost instruction due to suspension from California schools along the lines of race, with added breakdowns by race with disability, race by socioeconomic status, and race by gender. Part I also describes statewide trends and explains that the trend data should mitigate concerns that limiting suspensions for disruption/defiance in grades K-12 would result in chaos.

However, the state-level trends tend to mask the wide variation in rates at the district level. To emphasize this point, Part II of this report, which reviews the rates of lost instruction for every California school district and for every racial/ethnic subgroup, begins by describing the unusual distribution of rates of lost instruction across all of the districts for each racial group. Readers who assume that most districts cluster around the state average will likely be surprised that, in many large districts, students lose days of instruction time due to discipline at rates that are far above the state average. Further, despite the fact that the statewide change shows a clear decline in the rate of lost instruction, this report describes numerous districts where the rate of lost instruction time has been rising steeply, especially for children of color.

Policymakers should care about these rates and trends because research has shown that disciplinary exclusion contributes substantially to inequities in both test scores (see Pearman et al., 2019; Morris & Perry, 2016; Noltemeyer, Ward, & McLoughlin, 2015; Whisman, & Hammer, 2014) and graduation rates (see Balfanz, Byrnes, & Fox, 2015). Johns Hopkins researcher Bob Balfanz and colleagues (2015) found that, when controlling for other dropout predictors like course failure and poor attendance, being suspended independently predicted a 20% increase in the risk of dropping out. In an economic analysis focused on California that builds on the Balfanz findings, Russell Rumberger calculated that suspensions contributed to an average lowering of graduation rates by 6.5 percentage points statewide. Rumberger estimated that, when the lifetime societal costs of not earning a high school diploma are calculated, the impact of suspension on graduation rates in California translates into a statewide economic burden of \$2.7 billion for just one graduating class (Rumberger & Losen, 2017).

High suspensions rates are, of course, a product of more than ineffective discipline policy (Pearman et al., 2019), which is why there are no quick fixes. The high and disparate amount of lost instruction due to suspensions reflects not only overly punitive discipline policies but deeper inequities, several forms of bias (Rocque, 2010), including implicit bias (Okonofua & Eberhardt, 2015; Okonofua, Paunesku, & Walton, 2016), discriminatory different treatment and longstanding structural inequalities (U.S. Commission on Civil Rights, 2019), including decisions local policymakers make regarding the distribution of resources, which contribute to differences in opportunities and outcomes. Concerns about the adequacy of education resources will surely grow once the harmful economic impact of COVID-19 gets translated into local budget shortfalls.

In Part III, we look at a relevant piece of the resource question and describe new findings on the impact having a higher number of school security staff has on days of lost instruction due to out-of-school discipline. These findings add to a growing body of research that explores the impact of, and alternatives to, investing in school security personnel and equipment at the high school level. Although we don't directly address the economic impact of the pandemic, this report does situate concerns raised by research on school security within the current context.

Our new findings in Part III are based on the actual days of lost instruction in nearly all California high schools, as reported by the U.S. Department of Education (DoE) Civil Rights Data Collection (CRDC) for 2015-16. The CRDC also collected data on the number security guards at each school and on categories of student support staff, including counselors, nurses, psychologists, and social workers. Although this is not a causal analysis, the findings reveal a positive relationship between the security staff-to-student ratio and the rate of lost instruction due to out-of-school suspensions, especially for Black students. In Part III, we also review the available data on school-based referrals to law enforcement and school-based arrests. We note that many California districts failed to report these data, but we list those with the highest rates among those that did report.

In the wake of George Floyd's murder and Amy Cooper's fraudulent claim that a Black man was threatening her life, there is a resurging awareness of how racism is reflected in excessive policing as well as in the inappropriate invocation of police intervention. We hope that the findings presented here will further raise the awareness among educators of the need to rethink their investment in school security-personnel, and how they are used, as well as to improve accountability for excessive removals.

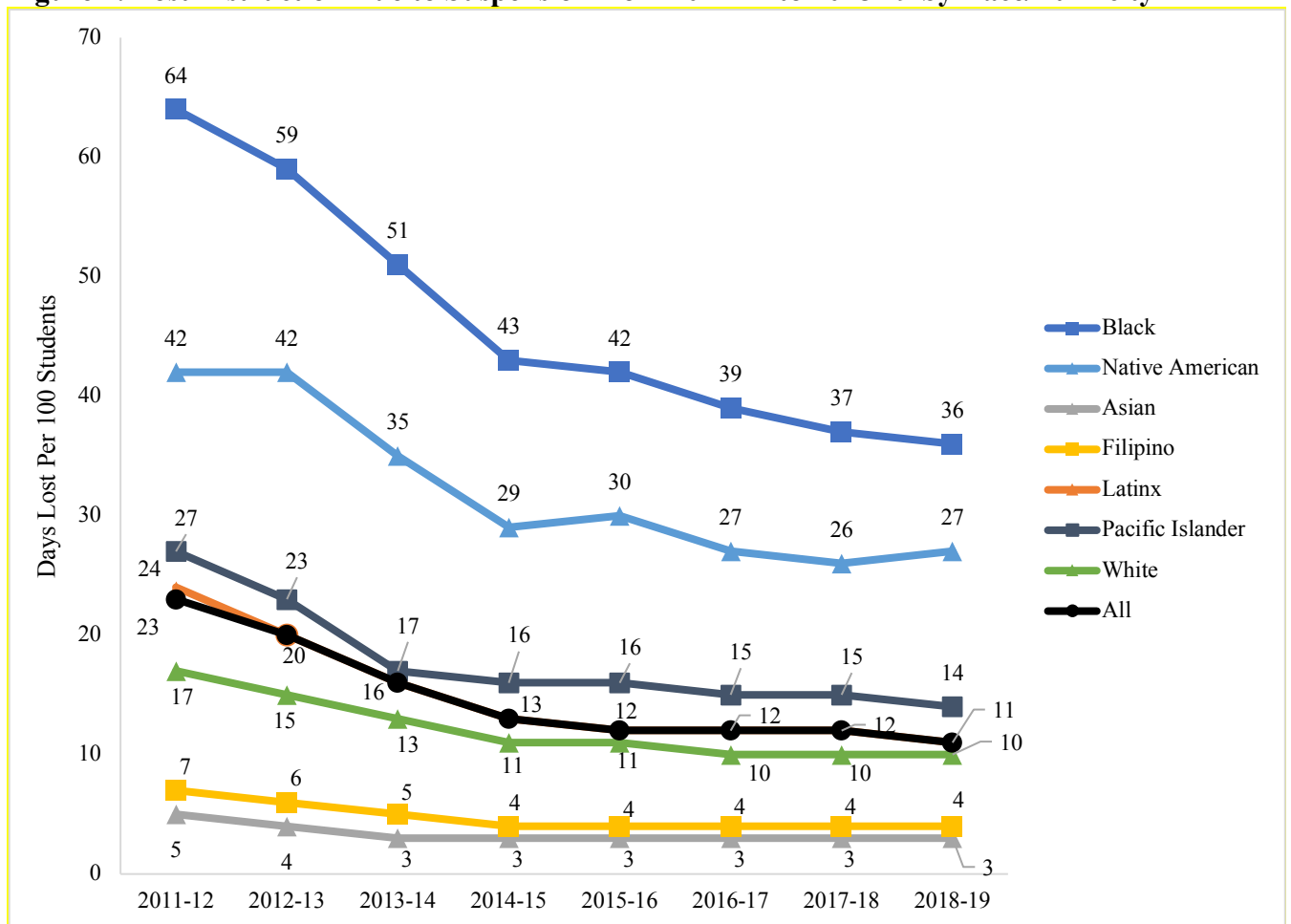
While the state is in the process of remedying its non-compliance with the required collection and reporting of referrals to law enforcement and arrests for school-based behaviors, our review of the 2015-16 district level data found evidence of widespread under-reporting as well as examples of excessive referrals to police. Therefore, CDE should begin scrutinizing more recent data that are available now, investigate districts with excessive and disparate referrals, and take appropriate action to ensure accurate reporting of these rates in the future.

We hope the analyses in each part of this report will further inform policymakers at the state and local levels as they introduce policy and budgetary changes for the fall of 2020. Difficult decisions will need to be made at the district level about using state funds according to the local control funding formula and the corresponding local control accountability plans (LCAP), in particular how funds will be spent to improve school climate. In the discussion and conclusion sections, the report reflects on how the observed trends suggest a need to revise the state accountability system and the way it currently gives credit to districts that have reduced suspension rates. Given that the recent statewide closure of schools will mean that nearly every district will have lower suspension rates, and that the application of the current accountability system will need to be modified to account for the impact of COVID-19, this is also a good time to improve the system at both the state and local levels. Toward this end, the text of this report is accompanied by a spreadsheet that presents disaggregated rates and trends for every school district in California to help inform their local budgeting, LCAP, and accountability decisions.

## PART I: STATE-LEVEL TRENDS AND DISPARITIES

This descriptive report begins by translating the rate of suspensions per 100 students into estimates of days of lost instruction per 100 students.<sup>2</sup> It then documents how the rate of lost instruction for each racial and ethnic group in California has changed over the last seven years. The following graphs and tables depict the days of lost instruction per 100 students enrolled; the estimates in every case are based on doubling the underlying rate of suspensions per 100. The metric, days lost per 100 enrolled, enables readers to compare the impact of suspensions on students in districts of different enrollment sizes and how the impact has changed over time, while documenting the extent to which school discipline still contributes to racial inequity in educational opportunity.

**Figure 1. Lost Instruction Due to Suspension from 2011-12 to 2018-19 by Race/Ethnicity**



The trends presented are based on the combined number of suspensions, in school and out of school, as reported by the state of California. In our first report on days of lost instruction, published in 2017, we conservatively estimated two days of lost instruction per suspension, based on analyses of several large districts; that estimate has remained constant for each year since (Losen & Whitaker, 2017).<sup>3</sup> When we compared our estimates for the 2015-16 school year

against actual data, we found that our conservative estimates were a near match to the actual days lost due to out-of-school suspension alone (see Appendix A and Table A1).

The trend since 2011-12, clearly visible in Figure 1, shows that, while all groups experienced a decrease in lost instruction time, the racial gap in days of instruction lost due to discipline has narrowed for most racial/ethnic groups. Except for Native Americans, the groups with the highest rates experienced a consistent decline, while the groups at the low end declined to a lesser degree, but have stayed the same since 2014-15. Unfortunately, it is also true that, since 2014-15, the rate of decline and the narrowing of the racial gap have slowed considerably and that, despite a decline over the long term, Native Americans experienced a slight increase in days of lost instruction in 2018-19 over the prior year.

Most will agree that the actual amount of lost instruction matters a great deal to the children experiencing the loss. Therefore, this report consistently describes the racial impact of lost instruction time, how it changed over time, and the absolute differences in these changes between racial groups (racial gaps). To calculate the difference, one simply subtracts the lower rate from the higher rate.<sup>4</sup>

The new research presented in this report suggests that the aforementioned statewide prohibition on suspensions for disruption/defiance will continue to be helpful, but it will not be sufficient to close the school discipline gap. Another recent statewide change is that, as part of California’s statewide accountability system, the state allows the public to view their district’s performance on discipline, among other indicators, on the state’s “data dashboard.” The new system has only been in place for two years, and it may need to be revised if it is to have a significant impact. Although this report does not measure the effect these policy changes have had on days of lost instruction, the descriptive data presented here should inform discussions about what is working at the state and local levels as each locality contemplates what next steps might be needed.

**Despite Steady Progress, Large Disparities Remain**

That the racial gap has narrowed is plain to see in Figure 1, yet it is also clear that especially large gaps remain between Blacks and Whites. Specifically, as one can see in Table 1, in 2018-19, Black students lost 26 more days than Whites (per 100 enrolled) due to suspensions. This is a significantly smaller gap than the difference of 47 days in 2011-12, but the current divide still represents a large and disturbing inequity in educational opportunity. Table 1 also describes the gaps for those groups that had higher suspension rates than Whites.

**Table 1. Racial Gap in Days of Lost Instruction Due to Suspension per 100 between the Highest-Suspended Students, and for Disruption/Defiance Only, 2018-19**

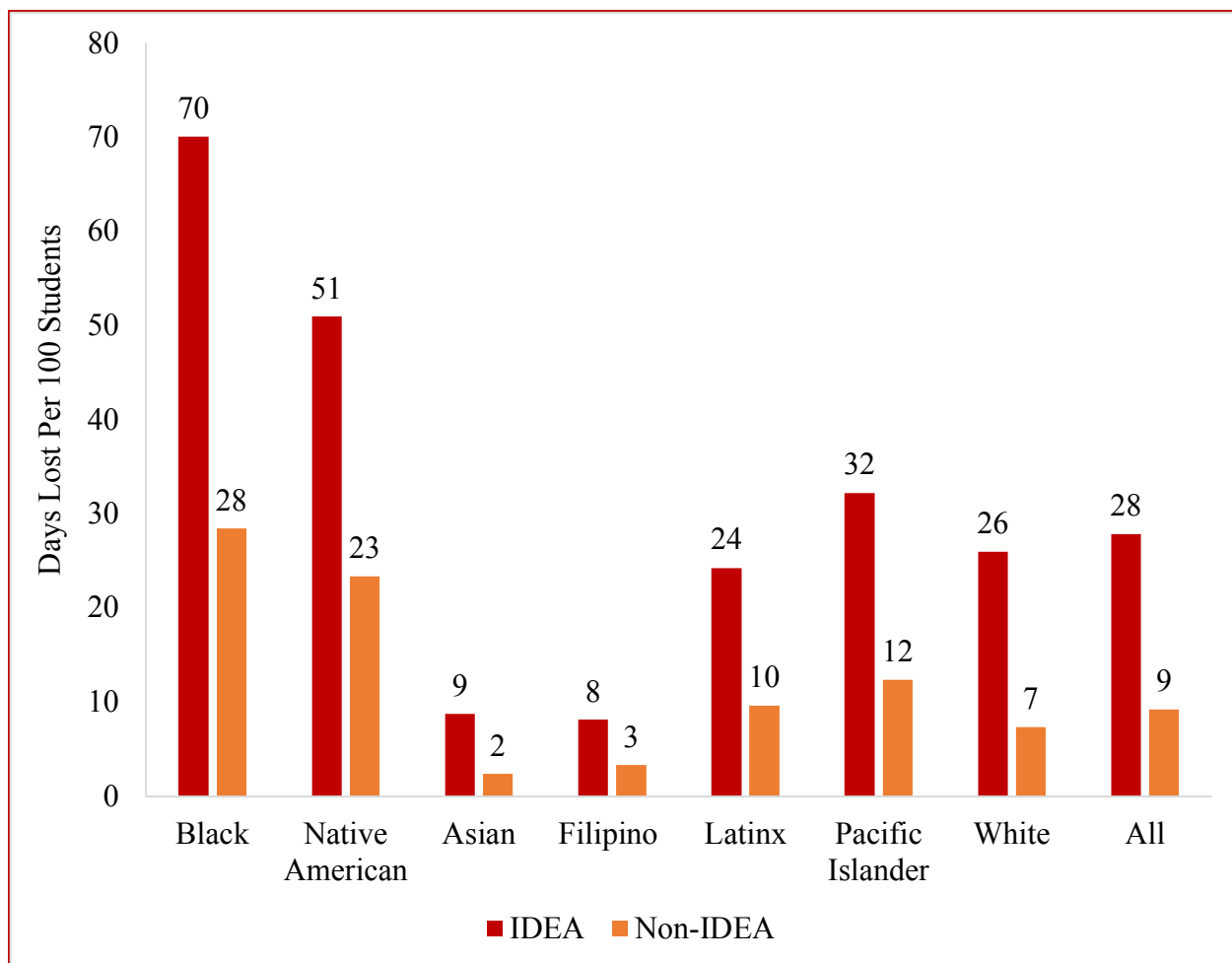
Racial/Ethnic Group	Gap: All Categories	Gap: Disruption/Defiance Only
Black-White	26.0	3.5
Native American-White	17.8	4.2
Pacific Islander-White	4.2	0.6
Latinx-White	1.9	0.3



Table 1 also reflects the impact of banning suspensions in grades K-3 for the disruption/defiance category, which began being implemented in every district in January 2015. That change was not expected to lead to a large reduction or to narrow the gap considerably, because most suspensions are meted out to middle and high school students. For each group, the second column in Table 1 shows the difference in lost instruction (gap) due to disruption/defiance suspensions only. Of course, the most recent extension of the ban on suspensions for disruption/defiance through grade 8 is not reflected in this report, except to the extent that several large districts had already implemented these limits on their own initiative; many, like Los Angeles and Oakland, extended the limitation to cover all grades well before the statewide ban on its use in grades K-3 (The shrinking contribution of suspensions for disruption/defiance is explored fully at the end of this section).

As the next set of graphs reveals, the current disparities are far wider when we consider the racial/ethnic differences in lost instruction in connection with differences by disability status, gender, and socioeconomic status.

**Figure 2. Lost Instruction Due to Suspension among K-12 Students, by Race/Ethnicity with Disability Status in 2018-19**



For every racial group in California, we estimate that students with disabilities lose two or more times the amount of instruction time as their nondisabled peers (see Figure 2); the racial gap for students with disabilities also tends to be larger. Specifically, Blacks with disabilities lost 44 more days of instruction than White students with disabilities, which dwarfs the overarching Black-White difference of 26 more days of lost instruction described in Table 1.

Because they need special education and related services in order to make progress, students of all racial/ethnic identities who have disabilities receive more supports and services when they are in school. Because they receive more support in school, these students also lose more when they lose a day of school than their peers without disabilities. In other words, the impact of a one-day suspension is likely more harmful to students with disabilities.

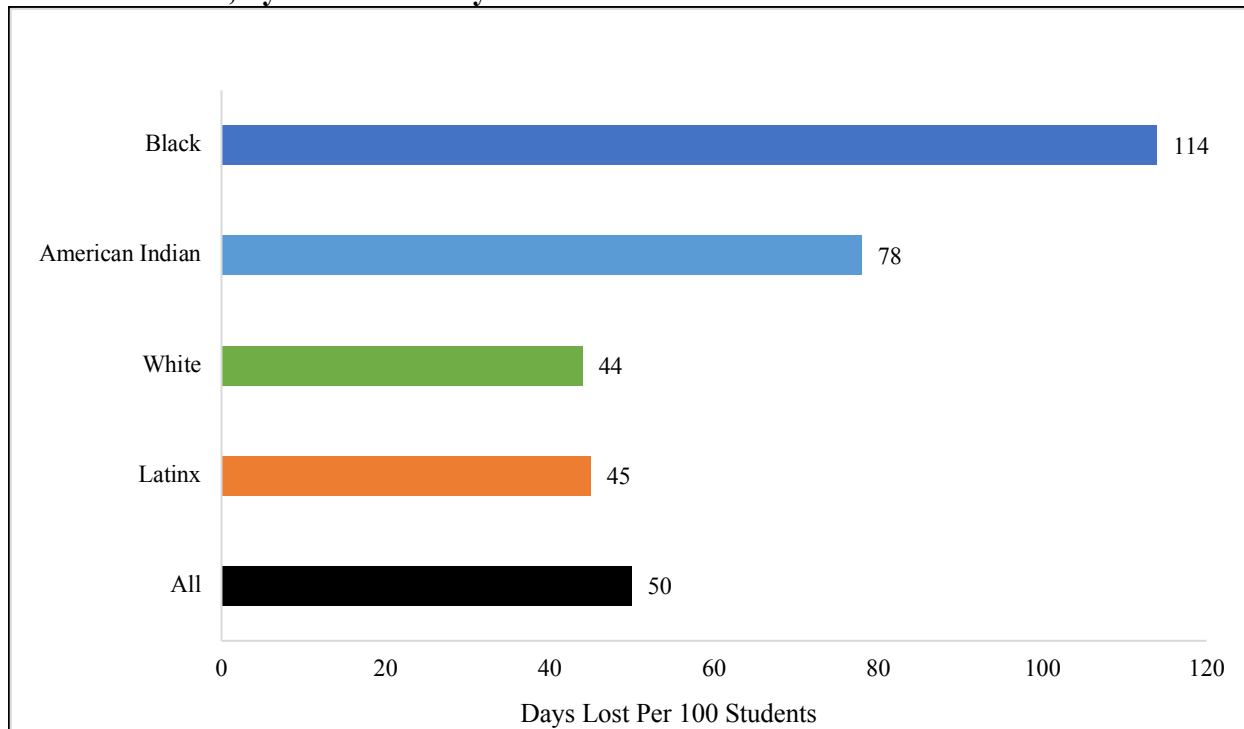
Furthermore, in light of their consistently higher rates of lost instruction, it seems likely that at least some of the disability gap is due to behavior caused by a student's disability. A core concern that led Congress to pass the Education for All Handicapped Children Act in 1975 (now known as the IDEA) was that public schools were denying children with disabilities access to education for fear that behaviors caused by disabilities would disrupt the learning of other students.<sup>5</sup> Excluding students with disabilities from access to education for behaviors caused by their disability is a form of unlawful disability discrimination.<sup>6</sup>

Congress included a due process review, called a manifestation determination, in the Individuals with Disabilities Education Act (IDEA) for determining whether a behavior is caused by disability. Before suspending a student with disabilities for more than ten days, the individualized education program (IEP) team must hold a special meeting to determine the answers to two questions: whether the behavior in question was caused directly by the student's disability, and whether the failure to implement a student's IEP was at the root of the misconduct in question. If the answer to either question is "yes," the district cannot continue to suspend the student for the behavior caused by the disability. Moreover, the IEPs of students with disabilities who have problematic behavior should include a behavior improvement plan (BIP). If a student in question doesn't already have one when the team meets to make the manifestation determination, the team should conduct a functional behavioral assessment and develop a BIP after the meeting, which is required if the behavior was a manifestation of the disability. If the student does have a BIP at the time of the behavioral incident, federal guidance suggests the BIP should be reviewed and possibly revised, even if the team determines that the behavior in question was not caused by the student's disability.<sup>7</sup>

The substantially higher rates of lost instruction for students with disabilities raises serious questions about the efficacy of the current safeguards. We also know from our prior analysis of national data collected by the DoE that students with emotional disturbance are suspended far more often than other students with disabilities (Losen et al., 2015). Yet, as the category suggests, these students are among those most likely to have behavioral challenges caused by their disabilities. If the manifestation determination safeguards were effective, they would help reduce the number of instances where a student with disabilities is punished for behavior caused by their disability, or by the district's failure to implement their IEP.

We also know from our national studies that students at the secondary level who have disabilities are suspended at the highest rates of all. Unfortunately, the California data available online do not provide downloadable district-level data that allow for disaggregation by race with disabilities for every district and by grade span.<sup>8</sup> Below are the statewide results of our analysis, based on the online data reported for grades 7-8.

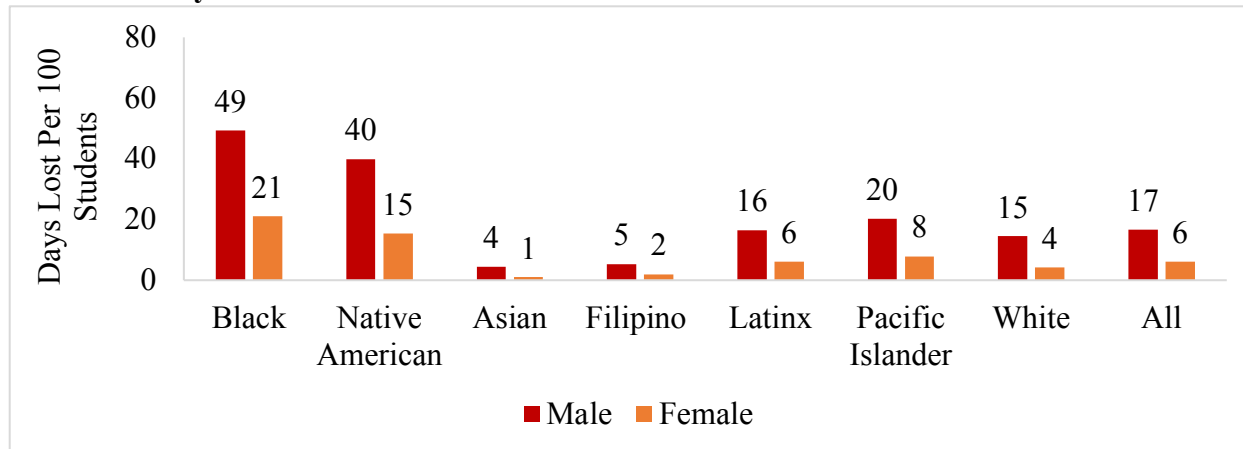
**Figure 3. Lost Instruction Due to Suspension among Middle Schools Students (Grades 7-8) with Disabilities, by Race/Ethnicity in 2018-19**



As is clear from the much higher rates of lost instruction for grades 7-8, the K-12 rates presented in this report do not capture the higher frequency of suspensions experienced by California youth of middle school age. Figure 3, which is based on combined enrollments for grades 7-8 in 2018-19, along with a count of suspensions for the same year, provides a clearer and even more alarming estimate of just how much instruction time is lost and how racially disparate the impact on educational opportunity can be at the secondary level, especially among students with disabilities. One can see that Black students with disabilities in grades 7-8 lost 114 days per 100 enrolled due to suspension, which is 70 more days than their White peers.

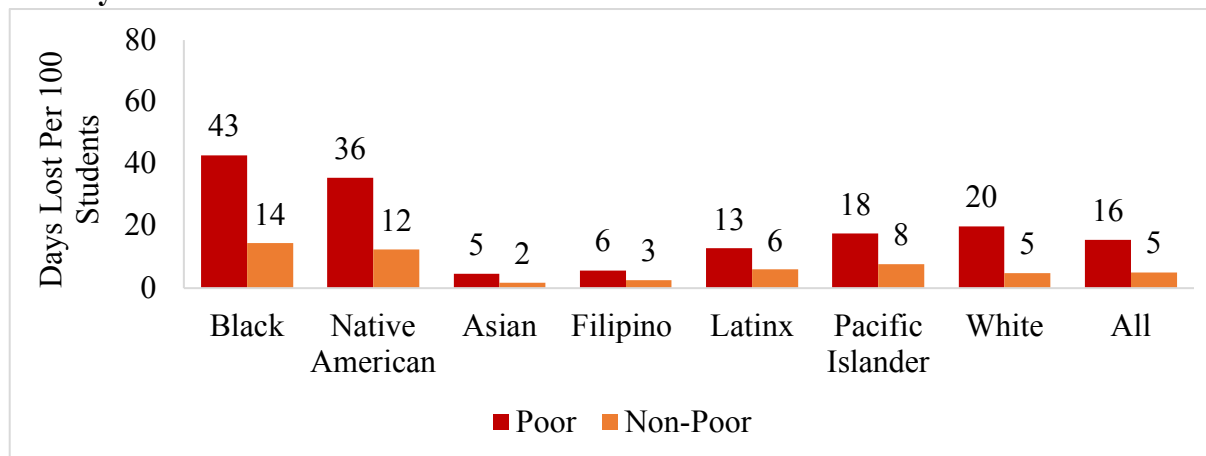
Other types of cross-sectional analysis yield valuable information. Figure 4 combines race with gender, and Figure 5 reviews racial differences by income status. Figure 4 shows that Black males are suspended at far higher rates than males or females of any other racial group, and that Black females are the third highest-suspended group, after Black and Native American males.

**Figure 4. Lost Instruction Due to Suspension among K-12 Males and Females by Race/Ethnicity in 2018-19**



These data dovetail with concerns that Black females may face specific negative race/gender stereotypes that females of other races do not experience (Blake et al., 2011; Epstein, Blake, & González, 2017). In Figure 4, both the rates and the gender differences within racial group are similar in size to the income disparities in Figure 5.

**Figure 5. Lost Instruction Due to Suspension among K-12 Students by Race/Ethnicity and Poverty Status in 2018-19**

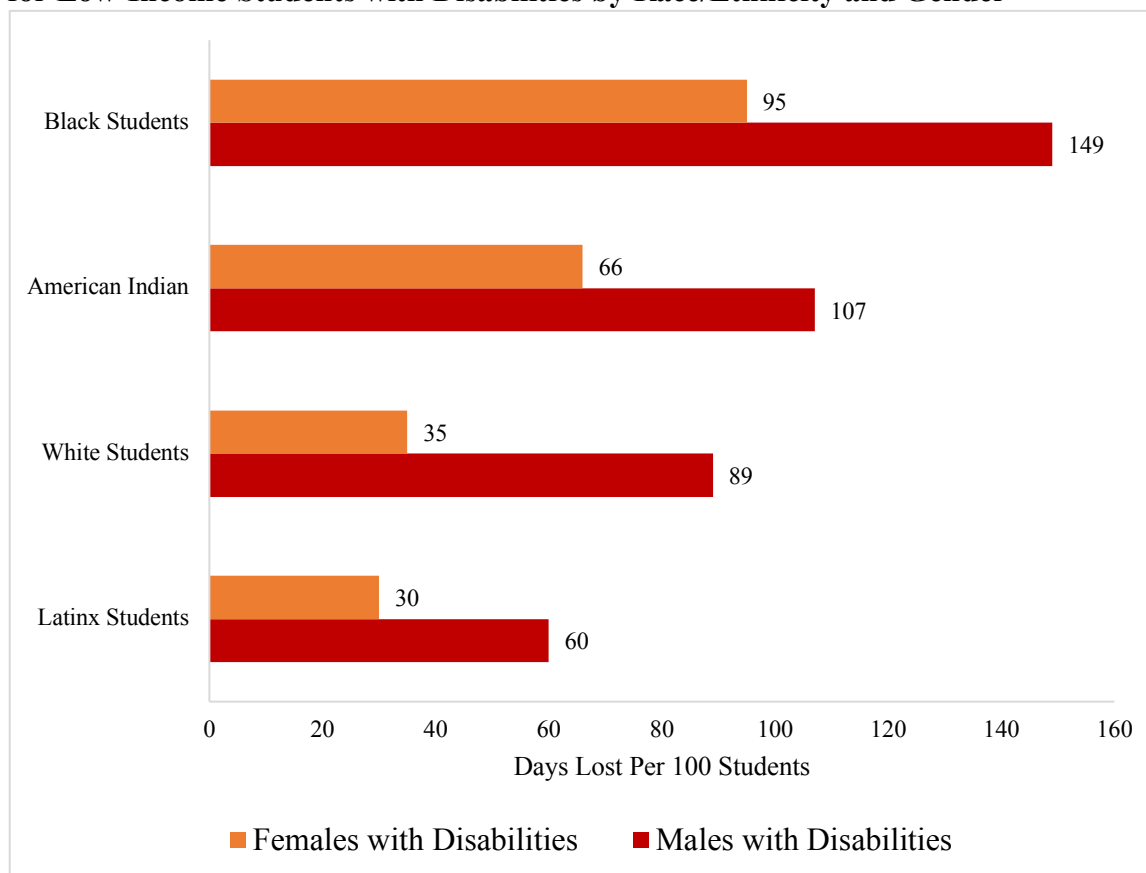


Black students who were poor lost 29 more days (per 100) than Black students who were non-poor. For White students, the difference between the poor and non-poor was 15 days. However, the Black-White gap, which is 26 days without adjusting for poverty, remains nearly as large between poor Black and White students, at 23 days. Between non-poor Black and White students, the difference in the rates is smaller but still substantial, at 9 days per 100 enrolled.<sup>9</sup> One can see that the see that large differences remain between racial groups, especially for Blacks and Native Americans when these two groups are compared to Whites of similar income status. In other words, the racial/ethnic gaps are not explained away by poverty. The same conclusion was reached when the U.S. Government Accountability Office (GAO, 2018) reviewed the data collected from every school in the nation. It is worth noting that, when the rates for White students are compared to those for Latinx and Pacific Islanders, among the non-

poor, White students had lower rates of lost instruction; however, among the poor, Whites had higher rates than both Latinx and Pacific Islanders.

Finally, with the latest data on the state website that allows enrollment to be filtered simultaneously by grade level, disability status, low socioeconomic status, and gender, depicted in Figure 6, we see some truly surprising inequities in 2018-19.

**Figure 6. Lost Instruction Due to Suspension among Middle Schools Students (Grades 7-8) for Low-Income Students with Disabilities by Race/Ethnicity and Gender**



For example, by focusing only on students enrolled in grades 7-8, we can see in Figure 6 that low-income Black males with disabilities lost instruction at a rate of 149 days per 100 enrolled. They lost 60 more days than what was experienced by low-income White males with disabilities (who lost 89 days per 100 enrolled). In the same year, Latinx males with disabilities lost 60 days per 100 enrolled, a high rate but lower than that of their White counterparts. Native American males with disabilities at this grade level clearly had the second highest amount of lost instruction. Rates for Filipinos, Asians, and Pacific Islanders are not depicted, but all three groups had lower rates than their White counterparts.

Black females with disabilities, once again, had the third highest rate of lost instruction and the highest among females. Native Americans females were second highest among females. It is especially noteworthy that Black females with disabilities lost 95 days per 100 enrolled, which was more than all other race/gender combinations, except Black and Native American males.

Moreover, if we compare the 95 days lost by low-income Black females with disabilities to their White female counterparts' 35 days lost per 100 enrolled, we find that, among low-income middle school students with disabilities, the large Black-White gap of 60 days, is equally wide in absolute terms, despite gender differences.

It is fair to say that large racial gaps persist when adjusting for poverty or gender or disability status, and they remain large even when adjusting for how disability and poverty might influence the likelihood of suspension.<sup>10</sup> Viewed in isolation, factors associated with poverty certainly appear to contribute to the racial gap in days of lost instruction, but they do not explain the large racial disparities or the large gender differences between equally poor youth of the same racial/ethnic group.

In fact, among the low-income students with disabilities in grades 7-8, the gender divide between White males and females was almost as large as between Black males and females. Although not within the scope of this report, future studies should look more closely at these large and persistent gender differences, as they will be important when pursuing a comprehensive remedy.

There should be widespread concern that being poor translates into higher suspension rates than not being poor for each racial group (see Figure 5). One point raised by the Centers for Disease Control and Prevention (2017) was that a suspension adds even more stress to the families of students living in poverty, as working parents may risk losing a day's pay or even their job if they have to stay home with the suspended child; such losses could threaten the nutrition and health of the whole family. Qualitative research findings have echoed the concern in finding that, based on their interviews with parents, suspensions can have harmful consequences for the families of suspended students, such as lost wages and jobs, and negative health repercussions (see Kupchik, 2017). These financial hardships can result in a family having to move because they cannot pay the rent; it is well established that high mobility is associated with lower achievement. Moreover, poor families are more likely to be headed by a single parent, thus it is much more likely that a suspended child will be home alone and unsupervised and that the suspension will have negative consequences that impact the entire family. Although the disparate impact unjustified suspensions have on the poor does not trigger civil rights protections, most would agree that policies and practices that are unjustifiable because they don't help achieve their policy goal, and/or have harmful yet avoidable negative consequences that burden low-income students more than others, should be replaced. In fact, ensuring that our responses to misbehavior are effective in preventing reoccurrence, and implementing policies and practices that have few or no harmful consequences for children, would make good sense even if none of the observed disparities existed.<sup>11</sup>

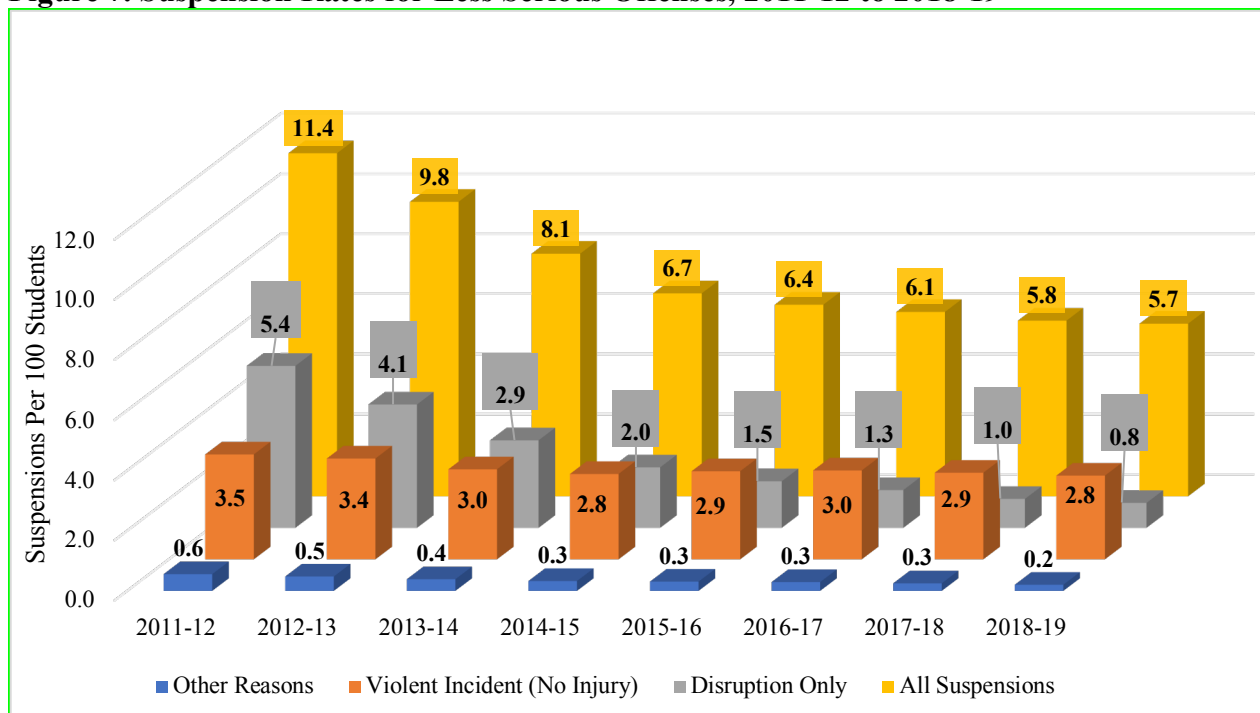
In the next section, on statewide trends, we aim to dispel some of the general and unsubstantiated concerns that efforts to reduce suspensions have harmed children. To keep the review focused and simple, we use the actual rate of suspensions per 100 rather than estimates of lost instruction. We also focus on changes in policy according to the reason for the suspension, without any additional breakdown by race, gender, or disability status.

## Statewide Trends and Reductions in Suspensions for Disruption/Defiance

The contribution made by the disruption/defiance category to overall rates and to racial disparities has declined considerably since 2011-12, when it comprised nearly 50% of all suspensions. In Figure 7, one can see the underlying suspensions rates per 100 and how the use of suspensions in this category declined, as it did in other categories. Keep in mind that these are not days lost per 100 but the actual number of suspensions per 100, from which we derive our estimated days lost. These statewide data on suspensions per 100 indicate that, although legitimate concerns have arisen in some districts that efforts to reduce suspensions in this category are being resisted or that reform efforts may not be having the desired impact, these problems are not large enough or common enough to clearly influence the statewide trends. Moreover, the statewide trends don't tell a clear policy story, in part because some districts' inspiring changes showed results well before statewide adoption of the limitations on the use of suspension for disruption/defiance in the state code of conduct (see amendments to section 48900(k) of California's Education Code).<sup>12</sup>

Given this uneven implementation, it is better to treat the seven-year trends presented in this report as reflecting a constellation of reform efforts that have overlapping but distinct timelines. Therefore, policymakers are encouraged take a close look at both the statewide and district trends, along with a deeper analysis of the most recent data from 2018-19, in order to more thoroughly assess the need for additional state and local policy changes, and the need to improve enforcement.

**Figure 7. Suspension Rates for Less Serious Offenses, 2011-12 to 2018-19**



Among the most important findings in this report is that, while suspensions for disruption/defiance have been reduced from about 5.5 per 100 students in 2011-12 to less than

one per 100 in 2018-19, there has not been a widespread or countervailing increase in suspensions for other offense categories.

### **Chaos Rhetoric Debunked**

During this period of declining suspension rates, anecdotal reports have claimed that reducing suspensions was causing school environments to become chaotic and significantly more dangerous. As the state- and district-level data demonstrate, there is no empirical evidence to support these assertions. The stories likely stem from an underlying assumption shared by many that the main reason students don't misbehave in school is that they fear punishment. Isolated examples, where school violence happened to coincide with discipline reform efforts or a poorly implemented alternative to suspension appeared to have counter-productive results, may further entrench fears, despite the lack of empirical evidence to support them.

Moreover, it is highly relevant that the Trump administration blamed school violence on the former administration's discipline guidance that was issued jointly by the U.S. education and justice departments in 2014, which was part of package of technical supports and other resources designed to assist districts with school discipline reforms.<sup>13</sup> Despite support for ending zero tolerance from the country's two main teachers unions, the American Federation of Teachers and the National Education Association, the Trump administration has used teacher surveys developed by conservative pundits to suggest that its decision to rescind the federal guidance was made to prevent chaos and violence (see DeVos, Nielsen, & Azar, 2018). Despite its rescission, the guidance explained to districts how they could ensure compliance with civil rights laws and regulations. It is critically important to understand that these laws remain unchanged.<sup>14</sup>

While it is certainly possible that a decline in the quality of some school environments and/or lower test scores in some districts corresponded with discipline reform efforts, there is no basis for connecting the guidance to school shootings or other negative outcomes, and no study to date has proven a causal relationship to discipline reforms. To the contrary, after controlling for race and poverty, study after study has found that suspensions predict lower achievement, lower graduation rates, and higher risks for both youth and adult incarceration (GAO, 2018).

Districts that use suspensions frequently to respond to minor misconduct may take a toughminded "no-excuses" approach that is deeply engrained, even if the research indicates that the approach is harmful. Such harsh discipline is not unlike the use of corporal punishment: its use can momentarily stop problematic behavior, yet there is not one study that shows it is effective at improving behavior over the long term.<sup>15</sup> It is important to consider whether districts that frequently suspend students for minor misconduct have a research basis for their practice, as suspending students, especially out of school, is a punishment meant to deter misconduct yet it entails no additional adult intervention.

As Ross Greene's (2018; 1999) research on students with behavioral issues makes clear, most children's misbehavior is motivated by legitimate human need and a lack of skills. According to his research and that of many others, "the logic of popular characterizations of behaviorally challenging kids—such as attention-seeking, unmotivated, manipulative, coercive, and limit-testing—make less sense when they are juxtaposed against the view that lagging skills are the primary contributor to challenging behavior." All of Greene's research-based recommendations



focus on problem-solving and are nonpunitive, and all require more adult interaction, not less, between children and both their teachers and their parents.<sup>16</sup> In 2013, after a review of the available research by the American Academy of Pediatrics Council on School Health, the organization released a policy brief titled “Out-of-School Suspension and Expulsion,” which stated that “research continues to demonstrate that so-called zero-tolerance and out-of-school suspension and expulsion that are used too readily are ineffective deterrents to inappropriate behavior and are harmful and counterproductive to the student, the family, the school district, and the community as a whole, both short and long-term” (see American Academy of Pediatrics Council on School Health, 2013).

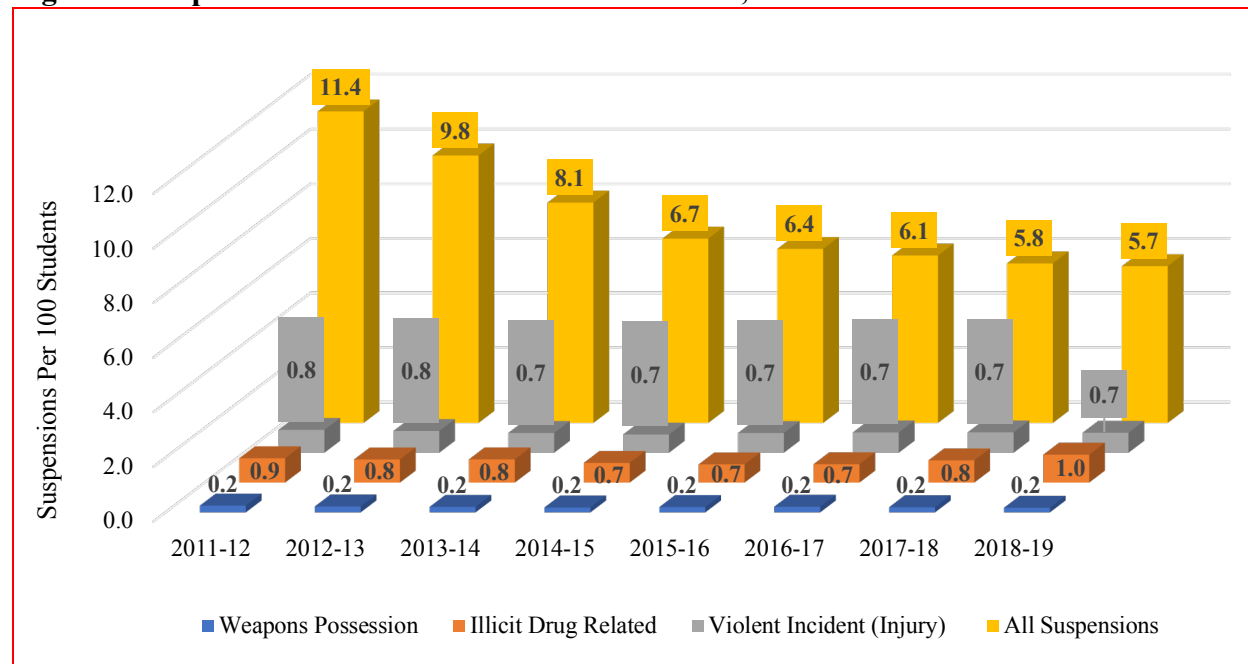
Further, the frequent assumption that kicking out the “bad or disruptive” students so those who are “good and well-behaved” can learn is based on the false dichotomy that students are either disruptive or nondisruptive, and that this is an immutable characteristic or deficit within the student. Findings from a Texas study (Fabelo et al., 2011) suggest that the distinction is false, as more than 60% of Texas middle school students were suspended at least once by the time they left school. National studies have similar findings (Schollenberger, 2015). The hard data on who gets suspended at some point during their schooling indicates that the majority of secondary students have, at one point or another, been counted among the “bad” or “disruptive.” Most important, as mentioned at the outset, the Texas study concluded that school factors, not student characteristics, explained most of the differences in suspension rates among schools (Fabelo et al., 2011).

Nonpunitive frameworks for addressing behavior, like positive behavioral interventions and supports, are built on a well-established understanding of child psychology that, for example, praise is a more powerful motivator than punishment, and that it’s more effective to give positive reinforcement for desired behavior than to rely on punishment to deter problem behavior (see Gregory & Evans, 2020). A good deal of restorative practice is rooted in common sense—for example, that experiencing fair consequences, such as a restorative act, and understanding how misbehavior hurts others should help children improve their behavior over time. Research has found fairly consistently that restorative justice interventions have reduced suspensions rates and that, in many cases, the students suspended most frequently have benefited the most. Experts suggest that these interventions show promise for reducing racial disparities (Gregory & Evans, 2020). In fact, in the most recent report released by the National Education Policy Center, researchers mention Oakland and Los Angeles as two districts where the implementation of restorative practices likely contributed to narrower racial gaps (Gregory & Evans, 2020).

If there were not more effective alternatives, pursuant to the chaos theory, a large statewide increase in suspensions for serious misbehavior that corresponded with reduced suspensions for disruption/defiance offenses would suggest that the fears might have some validity. The California data tell the opposite story—that is, that suspension rates for serious and violent behavior also declined or remained very low. As one can see in Figure 8, Suspensions for violence with injury per 100 students were one-tenth of a point lower in 2018-19 than they were in 2011-12. Weapons possession remained constant at two tenths of one suspension per 100 students. Finally, illicit drug-related suspensions remained very low, at one tenth of one suspension per 100 students, but this category did represent an increase in the rate of one-tenth of one suspension per 100 over 2011-12.<sup>17</sup> One possible explanation is that e-cigarette use among

minors reportedly doubled from 2017 through 2019 (see Kaplan, 2019), and this behavior is considered a drug-related offense in many districts. Another possible explanation is that recreational use of marijuana became legal in California in January 2018, which may have increased access to and use of the drug (see Fuller, 2018).

**Figure 8. Suspension Rates for Most Serious Offenses, 2011-12 to 2018-19**



This report does not evaluate the extent to which schools in California that reduced suspensions improved achievement, learning conditions, or climate. However, it should be mentioned that a prior CRRR study of California’s achievement rates (Losen et al., 2015) and a more recent Stanford University study (Pearman et al., 2019) looked at every district in the nation did show that lower suspension rates are correlated with higher achievement. Simply put, these descriptive trend data show that the claim that greater chaos and an increase in violence would result were unsubstantiated.

Most recently, a forthcoming study by WestEd looked directly at what happened to school climate during this same period by comparing survey responses of seventh-grade students on several indicators. They found that the number of violent incidents declined for all schools but the most for students in schools that reduced suspensions. Victimization and bullying and harassment also declined. On the other hand, school climate did decline slightly for student sense of safety and several other climate indicators, but the decline was significantly worse for schools in California that increased their suspension rates than for those that reduced suspension rates (Austin et al., forthcoming).

Despite the statewide declines, suspensions for serious offenses did increase in some districts. The increase in some districts further coincided with a decrease in suspensions for some minor offense categories, including disruption/defiance. It is theoretically possible that discipline reform efforts will backfire in some schools and districts. However, even if they do, it’s

important to remember, given the disparate harm caused by excessive suspensions, that there are still good reasons not to abandon reform efforts. Reaction to any backfiring should instead center on what schools and districts need to do differently so that their disciplinary responses will prevent misbehavior from reoccurring or escalating, including serious misconduct.<sup>18</sup>

While the research contradicts the repeated fear that reform efforts will beget chaos or academic failure, it is still important to monitor such indicators in each district in case any such unexpected consequences do emerge. If implemented correctly, safety and academic outcomes should improve, not decline. CRR has previously recommend that, as the state continues its reform efforts, it also should continue to collect and review district data for evidence that a decline in suspensions for minor offenses is being offset by safety issues, academic decline, and/or by a countervailing increase in suspensions in another category. However, given the many factors that can affect academic outcomes and safety concerns, policymakers should not jump to causal conclusions when evaluating reform efforts. Policymakers should monitor both recent changes and trends over time. As the district-level trend analysis in Part II highlights, large overarching changes do not always follow a consistent linear path in one direction.

## **PART II: DISTRICT-LEVEL TRENDS AND DISPARITIES IN LOST INSTRUCTION**

The impact school discipline has on educational opportunity depends a great deal on which district students attend. Observing state averages and racial breakdowns often fails to capture just how much a school district's policies and practices impact educational opportunity. There are districts where Black students lose little instruction time due to discipline and others where White and Asian children lose instruction time at a high rate due to suspensions. Figure 9 presents the average per-district rates of lost instruction, which vary widely. Like the analysis in our 2017 report, we designated rates of lost instruction that were equal to or greater than 25 days lost per 100 students enrolled as a uniform benchmark for a "high rate of lost instruction." In both 2015-16 and 2018-19, that rate of lost instruction was approximately one standard deviation above California's average per-district rate of lost instruction for all students.

Readers should note that the data below are presented in terms of a range for rates of lost instruction at the district level. The top range of 25 days *or more* per 100 enrolled doesn't capture the full brunt of the harsh discipline inflicted on certain groups, who often attend school in a district with actual rates on the "or more" end of the uppermost range. For example, the statewide average for days of lost instruction per 100 enrolled is 36 for Black students and 27 for Native Americans.

**Figure 9. District Distribution of Rate of Lost Instruction by Race/Ethnicity, 2018-2019**

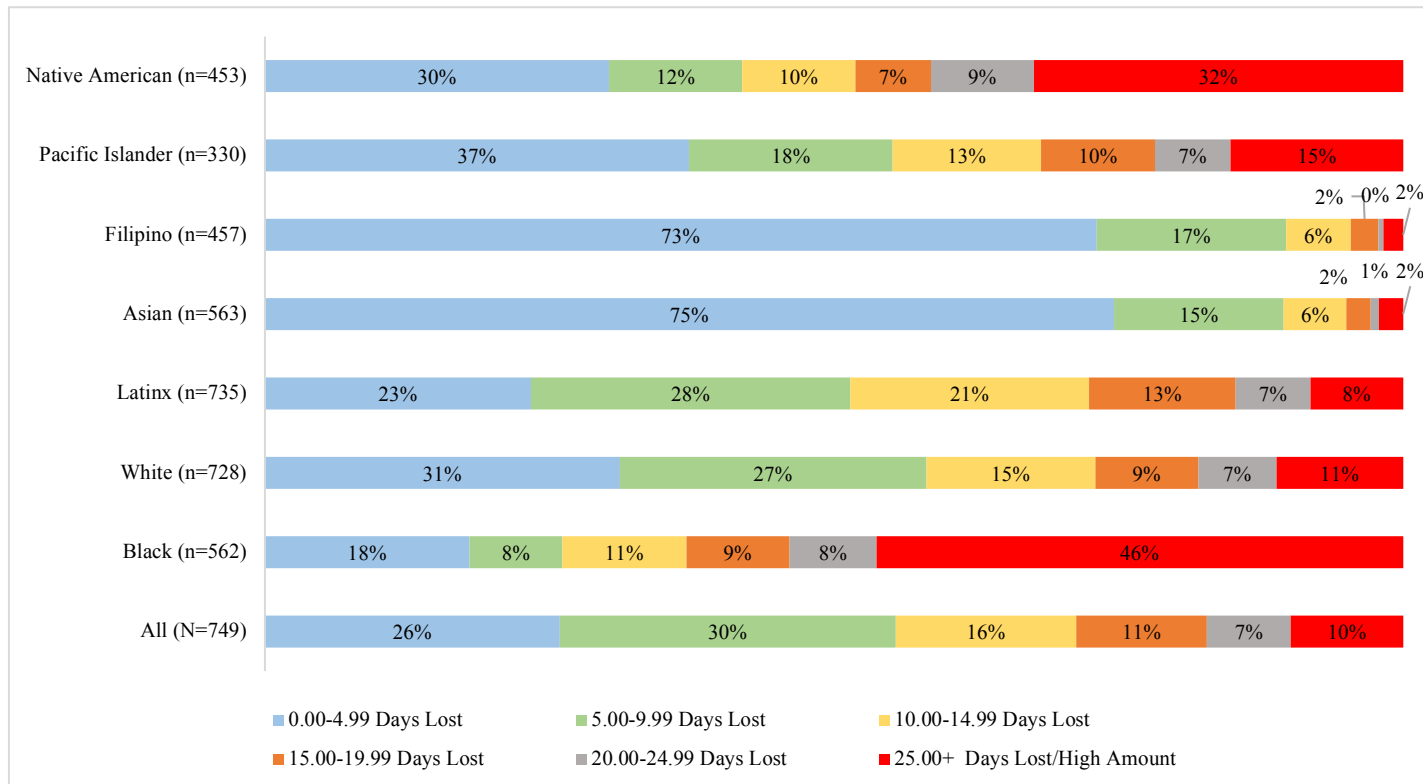


Figure 9 presents a comparison of the district-level distribution for different districts’ rates of lost instruction for all disciplinary reasons for all students in 2018-19. The distribution is further broken down for California’s largest racial/ethnic groups.<sup>19</sup> The “n=#” in parenthesis indicates that the given number represents just those districts included in the distribution, which differs for each group because only districts with at least ten students enrolled for the given group were included in the distribution analysis for that particular group. The bottom row represents the distribution of rates for “all students” and included 749 districts.

The distribution is presented in increments of five days, going from left to right. At the lowest end of the spectrum and shaded blue in the bottom bar, one can see that 26% of students attended districts where they generally lost between 0 and 5 days of instruction per 100. Black students experienced these low rates in about 18% of the California districts they attended. Although this is worse than other groups, it also serves as a reminder that Black students are suspended at very low rates in numerous districts.

Unfortunately, in nearly half the districts they attended (46%), Black students had rates of lost instruction at the highest end of the distribution, 25 days *or more* lost per 100.<sup>20</sup> In contrast, White students experienced rates in the highest-suspending range in just 11% of the districts they attended. Readers may be surprised to learn that every racial/ethnic subgroup lost instruction time due to discipline at the highest rate in at least some districts. Latinx students experienced the highest rate in only 8% of districts, a lower percentage than for White students. This

distribution is consistent with other reports examining differences in school-level suspension rates using the California dataset (Loveless, 2017).

Figure 9 provides a clear sense of the wide range of instructional loss that each racial group experienced from one district to the next. The district-level trends described in Part II give a more complete picture of the degree to which children who attend just one district have experienced large changes in their school climate.

### **Trends in Selected Districts Show Large Decreases**

This report features districts that have had the largest reduction in the use of suspensions since 2011-12, and those with the largest increase. To prepare this report, we analyzed the data from every district in California. Each of the districts we feature in the figures and tables that follow enrolled at least 3,000 students. For the analysis in this report, we selected only districts that enrolled at least 100 Blacks because they are the racial group with the highest suspension rates in California. However, we provide a spreadsheet for this trend analysis, with no enrollment limits, to enable users to look up their own district and compare it to others.<sup>21</sup>

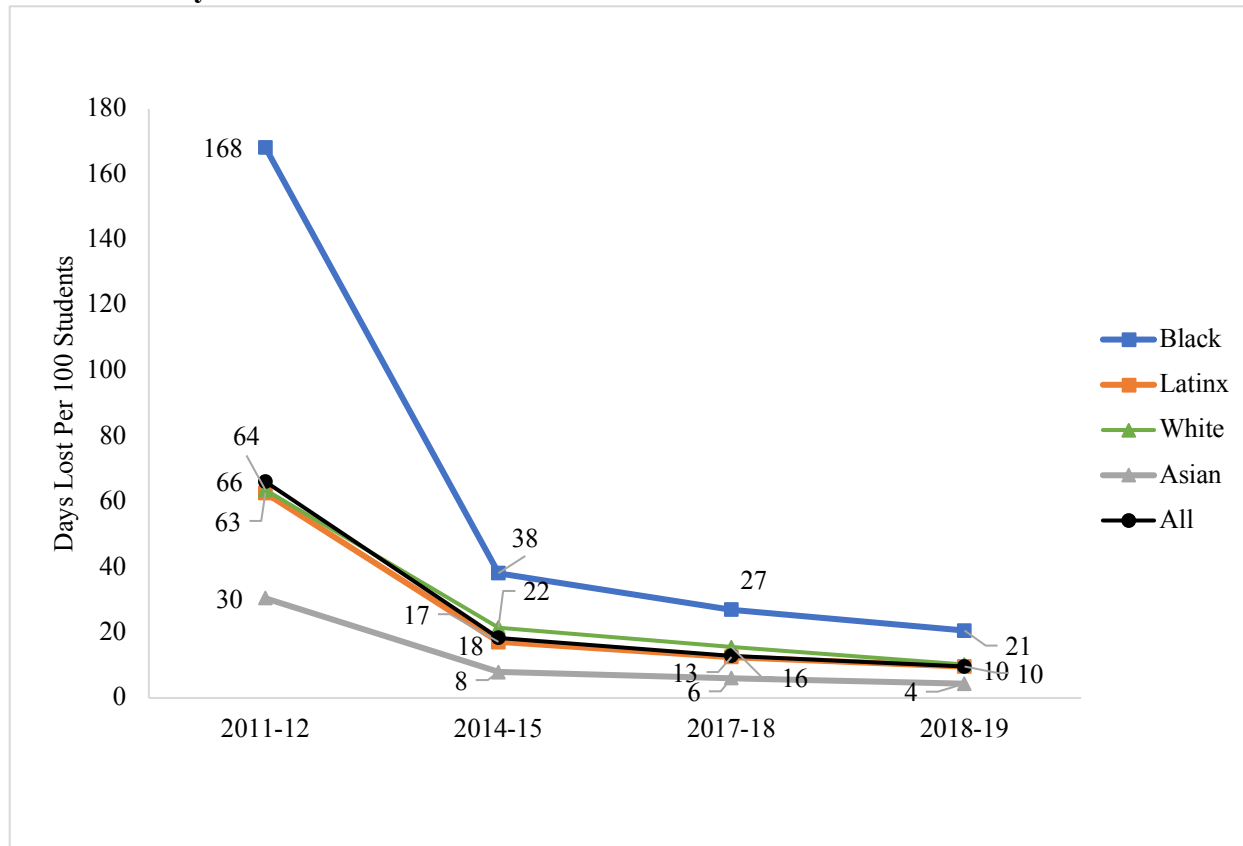
Rates of disciplinary exclusion are not simply a reflection of state or local discipline policy. Many factors besides codes of conduct affect whether districts suspend students frequently and whether or not they produce problematic disparities along the lines of race/ethnicity and disability status (Fabelo et al., 2011; Skiba, 2015). Although this report on discipline rates and disparities does look carefully at the data in terms of the disparate impact suspensions have on educational opportunity, with an additional breakdown by offense category, it does not cover the all the likely factors contributing to these disparities.

We begin by featuring districts that showed a decline in suspensions, as we believe we can learn a great deal from those that are making progress and/or are maintaining low rates with low or nonexistent disparities. The lessons learned from successful districts may prove useful to those with high and/or increasing rates. In addition to the districts featured in the text, this report provides spreadsheets on nearly every district for 2018-19, along with the seven-year trends in days of lost instruction for each district that reported data. Further, although our text focuses on the largest and most frequently suspended racial and ethnic subgroups, we encourage readers to use the sorting and filtering functions of the spreadsheet to find the data on their district and compare the current rates and changes to other districts of interest.

In this section, to ensure that the districts we highlight for their decline are potentially more successful in their discipline reform efforts, we required that the recent suspension rates were equal to or lower than the state average. We had to remove several districts that were among the top ten in the state for lowering their suspension rates in 2017-18 because they reported higher rates in 2018-19.<sup>22</sup>

The focus in the first set of selected districts is on the size of the decline between 2011-12 and 2018-19. Unfortunately, districts that successfully reduced rates before 2011-12 and then kept them low were not included.

**Figure 10. Modesto City Elementary: Lost Instruction Due to Suspension by Race/Ethnicity from 2011-2012 to 2018-2019**



Modesto City Elementary’s decrease mirrors that of the state, as the district achieved the greatest overall reduction during the 2011-12 to 2013-14 timespan. Rates there continued to decline, but at a much slower pace. The changes in Modesto were more robust than the statewide trend, as the overall rate changed from above the state average to below the state average.<sup>23</sup>

As shown in Figure 10, students from every racial group experienced a large reduction in days of lost instruction. However, although Black students experienced a consistent decrease, as of 2018-19 they still lost 11 more days of instruction per 100 than White students. Native American students experienced the second largest decrease, but they experienced a large increase in 2018-19. It is worth noting that, in May 2018, the Modesto district settled a lawsuit to address racial disparities in discipline.<sup>24</sup> In fact, for each district included in Table 2, Black students had the highest amount of lost instruction in 2011-12, experienced the largest reductions, and showed declining rates for each year.

The five districts featured in Table 2 all had student suspension rates below the state average in 2018-19. The largest period of decline for each of these districts, as for the state, occurred from 2011-12 to 2013-14. Although beyond the scope of this report, we hope to learn more about what changes to policy or practice were pursued by these districts to help achieve these declines. Despite this progress, however, all still have large racial disparities. It is also important to continue to study the possible obstacles to change. Along those lines, it is worth noting that,

among the five districts showing progress, there is a wide range in rates of lost instruction for Black students, from 3.67 to nearly 33 days per 100.

**Table 2. Districts with Largest Overall Decrease in Days of Lost Instruction per 100 from 2011-2012 to 2018-2019**

District		All Students	Latinx	Black	Asian	Native American	White
Merced Union High	11-12 Rate	122.76	135.85	298.14	24.63	82.54	110.12
	14-15 Rate	17.05	17.12	51.15	5.15	37.21	16.13
	17-18 Rate	15.35	14.43	59.43	3.72	10.53	16.44
	18-19 Rate	9.92	10.18	32.67	1.56	3.39	8.53
	<b>Difference</b>	<b>-112.84</b>	<b>-125.66</b>	<b>-265.47</b>	<b>-23.07</b>	<b>-79.15</b>	<b>-101.59</b>
Ripon Unified	11-12 Rate	71.18	98.90	163.16	5.19	72.00	57.68
	14-15 Rate	12.45	15.55	10.31	5.26	0.00	11.69
	17-18 Rate	12.92	16.43	12.20	7.78	62.50	11.94
	18-19 Rate	7.99	8.55	3.67	4.65	0.00	8.63
	<b>Difference</b>	<b>-63.19</b>	<b>-90.35</b>	<b>-159.49</b>	<b>-0.54</b>	<b>-72.00</b>	<b>-49.06</b>
Modesto City Elementary	11-12 Rate	66.12	62.64	168.21	30.46	87.91	63.58
	14-15 Rate	18.34	17.15	38.12	7.92	36.11	21.53
	17-18 Rate	12.90	12.53	27.00	6.11	10.17	15.58
	18-19 Rate	9.62	9.59	20.61	4.37	22.64	10.23
	<b>Difference</b>	<b>-56.50</b>	<b>-53.06</b>	<b>-147.59</b>	<b>-26.09</b>	<b>-65.27</b>	<b>-53.35</b>
Fontana Unified	11-12 Rate	50.57	47.22	111.16	13.28	90.70	42.95
	14-15 Rate	24.48	21.78	69.89	7.16	27.91	27.86
	17-18 Rate	12.88	11.24	31.33	9.71	8.70	22.27
	18-19 Rate	9.96	9.11	23.35	1.35	15.38	14.60
	<b>Difference</b>	<b>-40.61</b>	<b>-38.11</b>	<b>-87.81</b>	<b>-11.92</b>	<b>-75.31</b>	<b>-28.35</b>
Bakersfield City	11-12 Rate	44.18	35.46	124.55	17.86	103.23	40.87
	14-15 Rate	12.40	10.08	33.09	6.84	23.33	12.73
	17-18 Rate	7.81	6.15	23.70	4.05	9.21	6.69
	18-19 Rate	6.58	5.31	19.76	1.72	11.43	5.60
	<b>Difference</b>	<b>-37.60</b>	<b>-30.15</b>	<b>-104.79</b>	<b>-16.14</b>	<b>-91.80</b>	<b>-35.27</b>

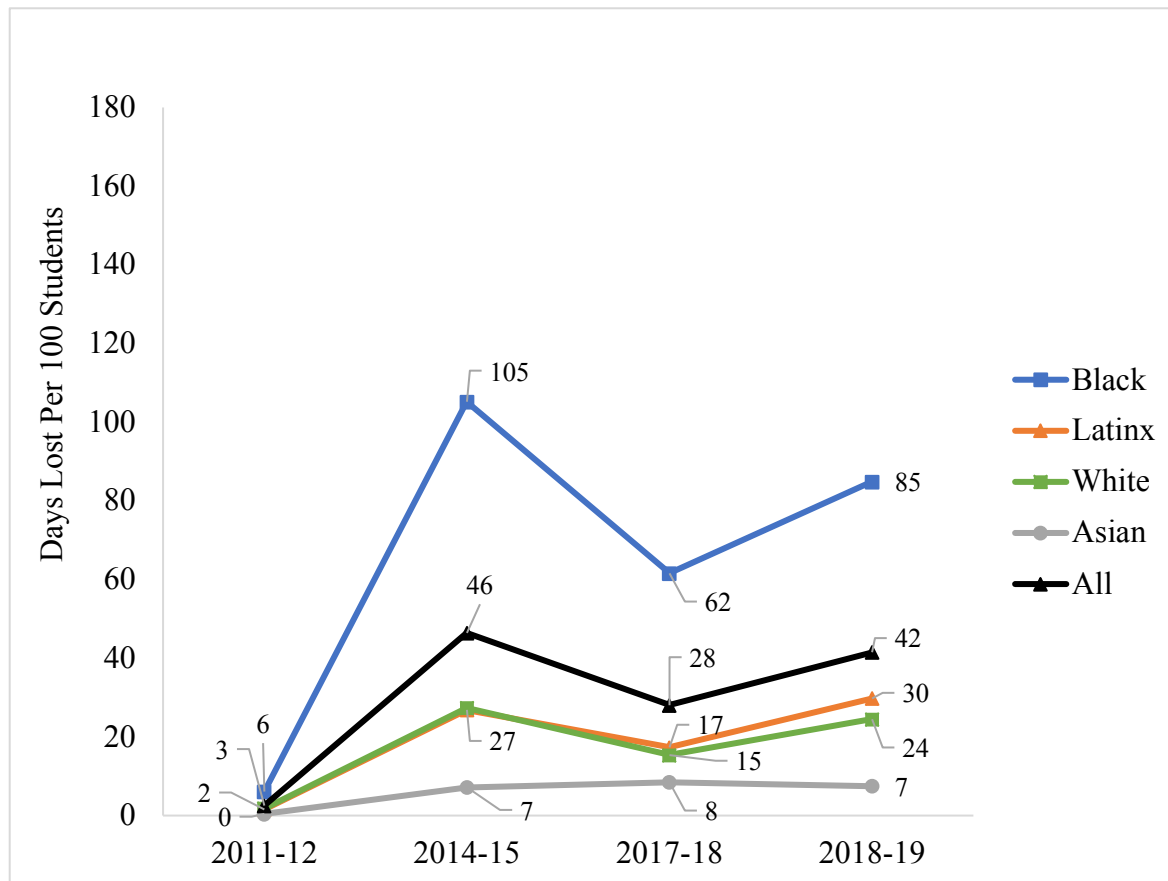
*Note:* Districts considered included a minimum of 3,000 students, 100 Blacks, and risk of suspension below or equal to the state average. The numbers above show the absolute difference of 2018-19 rates per 100 subtracted by 2011-12 rates per 100.

### Districts with the Largest Increases

It's not surprising that the districts showing the largest increases also had very large differences in the overall rates of lost instruction and a wider range of rates for subgroups than those of the aforementioned districts showing the largest declines. Four of the five featured districts had surprising increases, in that their rates of lost instruction were below the state average in 2011-12 but now are well above it. We do not know the reason for these large increases in the rates of lost

instruction between 2011-12 and the highest point in 2014-15. The trend in Antioch (Figure 11) is striking for the large changes, both up and down, and for bucking the declining statewide trend. Most of the subgroups there show large declines from 2016-17 to 2017-18, followed by large increases from 2017-18 to 2018-19.

**Figure 11. Antioch Unified: Lost Instruction Due to Suspension by Race/Ethnicity From 2011-2012 to 2018-2019**



Of the five featured districts, four followed a similar up-and-down pattern for Black students' days lost per 100, and many showed trends that were inconsistent over the seven years for at least one subgroup. Barstow Unified bucked the steady statewide downward trend for Black students most consistently; it had a sizeable increase at each point in time, ending in 2018-19, with 138 days lost per 100 Black students enrolled, which was also among the highest in the state. Barstow also has a very large racial gap; Blacks lost over 114 more days of instruction than their White counterparts due to suspensions.

Moreover, the increase for Black and Native American students in Barstow contrasted starkly with the decrease in rates for Latinx, Asian, and White students. However, Antioch had the largest increase, 78 more days of lost instruction, when comparing the 2018-19 rates for Black days lost per 100 to their rate in 2011-12. Further, both Colton Unified and Antioch had



increases for every racial/ethnic subgroup when comparing the most recent rates to rates from seven years ago.

**Table 3. Largest Overall Increase in Days of Lost Instruction per 100, 2011-12 to 2018-19**

District		All Students	Latinx	Black	Asian	Native American	White
Antioch Unified	11-12 Rate	2.54	1.55	6.10	0.43	2.55	1.77
	14-15 Rate	46.43	26.87	105.20	7.18	49.21	27.36
	17-18 Rate	28.05	17.34	61.58	8.45	35.85	15.37
	18-19 Rate	41.52	29.76	84.86	7.46	37.89	24.49
	<b>Difference</b>	<b>38.97</b>	<b>28.22</b>	<b>78.76</b>	<b>7.02</b>	<b>35.35</b>	<b>22.73</b>
Morongo Unified	11-12 Rate	22.35	21.38	41.98	2.27	84.75	21.45
	14-15 Rate	40.94	37.40	92.11	11.76	68.97	37.79
	17-18 Rate	44.24	41.47	80.37	20.17	40.96	41.24
	18-19 Rate	49.58	41.42	96.52	33.33	16.09	49.69
	<b>Difference</b>	<b>27.23</b>	<b>20.04</b>	<b>54.54</b>	<b>31.06</b>	<b>-68.65</b>	<b>28.24</b>
Colton Joint Unified	11-12 Rate	3.54	3.14	9.36	1.52	2.27	4.18
	14-15 Rate	11.14	8.98	42.35	3.59	46.88	11.62
	17-18 Rate	15.73	14.15	38.55	4.28	40.82	20.62
	18-19 Rate	17.52	15.80	43.68	3.50	29.63	22.99
	<b>Difference</b>	<b>13.97</b>	<b>12.66</b>	<b>34.31</b>	<b>1.98</b>	<b>27.36</b>	<b>18.81</b>
Southern Kern Unified	11-12 Rate	11.50	8.63	21.66	23.53	15.38	12.37
	14-15 Rate	29.58	25.30	60.44	16.67	25.00	26.30
	17-18 Rate	20.62	16.54	46.31	0.00	0.00	19.21
	18-19 Rate	25.81	18.55	67.90	0.00	40.00	24.35
	<b>Difference</b>	<b>14.31</b>	<b>9.92</b>	<b>46.25</b>	<b>-23.53</b>	<b>24.62</b>	<b>11.98</b>
Barstow Unified	11-12 Rate	49.44	41.62	95.23	27.45	55.77	42.44
	14-15 Rate	47.53	33.04	128.68	4.76	26.32	29.60
	17-18 Rate	44.91	22.84	120.70	18.60	54.55	29.34
	18-19 Rate	51.95	30.79	137.68	19.05	74.58	22.95
	<b>Difference</b>	<b>2.51</b>	<b>-10.83</b>	<b>42.45</b>	<b>-8.40</b>	<b>18.81</b>	<b>-19.49</b>

*Note:* Districts considered included a minimum of 3,000 students, 100 Blacks, and risk of suspension above or equal to the state average. The numbers above show the absolute difference of 2018-19 rates per 100 subtracted by 2011-12 rates per 100. Table is ranked order from the largest group, given the restrictions mentioned above.

## Closing the Racial Discipline Gap: Disruption/Defiance Suspensions Still Contribute to Disparities at High-Suspending Schools

As we present these troubling trends, it is important to reiterate that, where racial disparities are their widest, suspensions for disruption/defiance often remain a major contributor. For example, our 2017 report, “Lost Instruction: The Disparate Impact of the School Discipline Gap in California,” noted that, in districts where Black students on average lost 65 more days of instruction per 100 than White students, the disruption/defiance category contributed to 41% of that racial difference (Losen & Whitaker, 2017).

The following district-level analysis suggests that suspensions in the category of disruption/defiance still contribute to a large share of the racial difference in many districts. The following segment starts with the districts showing the highest Black-White gap in the disruption/defiance category and provides the district name and the most relevant findings. In these ten districts, Black students lost between 15 and 65 more days than their White counterparts due to this minor offense category.

**Table 4. Top 10 Districts for Largest Black/White Gap in Days Lost of Instruction per 100 Due to Suspension for Disruption/Defiance Only**

District	Black Students	White Students	Black/White Gap	Percentage of Total Black/White Gap
Los Angeles County Office of Education	69.40	4.28	65.12	25.66%
Yuba City Unified	46.15	9.73	36.43	60.22%
San Joaquin County Office of Education	37.33	8.21	29.12	52.52%
Pittsburg Unified	37.82	16.09	21.73	35.89%
San Mateo-Foster City	19.47	0.52	18.95	52.47%
Bellflower Unified	26.08	8.70	17.37	55.60%
Lemoore Union High	24.06	6.81	17.25	52.36%
Antioch Unified	23.90	7.05	16.86	27.92%
Ceres Unified	36.84	20.64	16.20	42.59%
Tracy Joint Unified	23.93	8.58	15.35	43.01%

\*Having a minimum of 100 Black students enrolled was required. Table is ranked in order from the largest group, given the restrictions mentioned.

Further, in seven of the ten districts, suspensions for disruption/defiance comprised over 42% of the racial difference in lost instruction. At its highest, this category represented more than 60% of the Black-White gap in Yuba City Unified. The total Black enrollment was more than 100 in each of these districts, with some unified districts enrolling well over 1,000 Black students, such as Antioch, Pittsburg, and Bellflower.

## Concerns about High Rates and Wide Disparities in Schools Run by the California County Offices of Education

This section is particularly important because the California County Offices of Education (COEs) provides alternative school programs for the state’s most vulnerable students.<sup>25</sup> For example, the Alameda COE’s mission statement claims that they “provide, promote, and support leadership and service for the success of every child, in every school, every day!” However, we see that some COEs have very high suspension rates and alarming disparities, and when we aggregate and compare them as one group to the 2018-19 state rate for all districts, we find that they have much larger discipline disparities. Readers should know that many of these schools are supposed to have specialized systems for helping students with behavioral issues. If that is the case, why are rates of lost instruction so high?

**Figure 12. Lost Instruction Due to Suspension in California County Offices of Education (COEs) Schools, By Race/Ethnicity, 2018-2019**

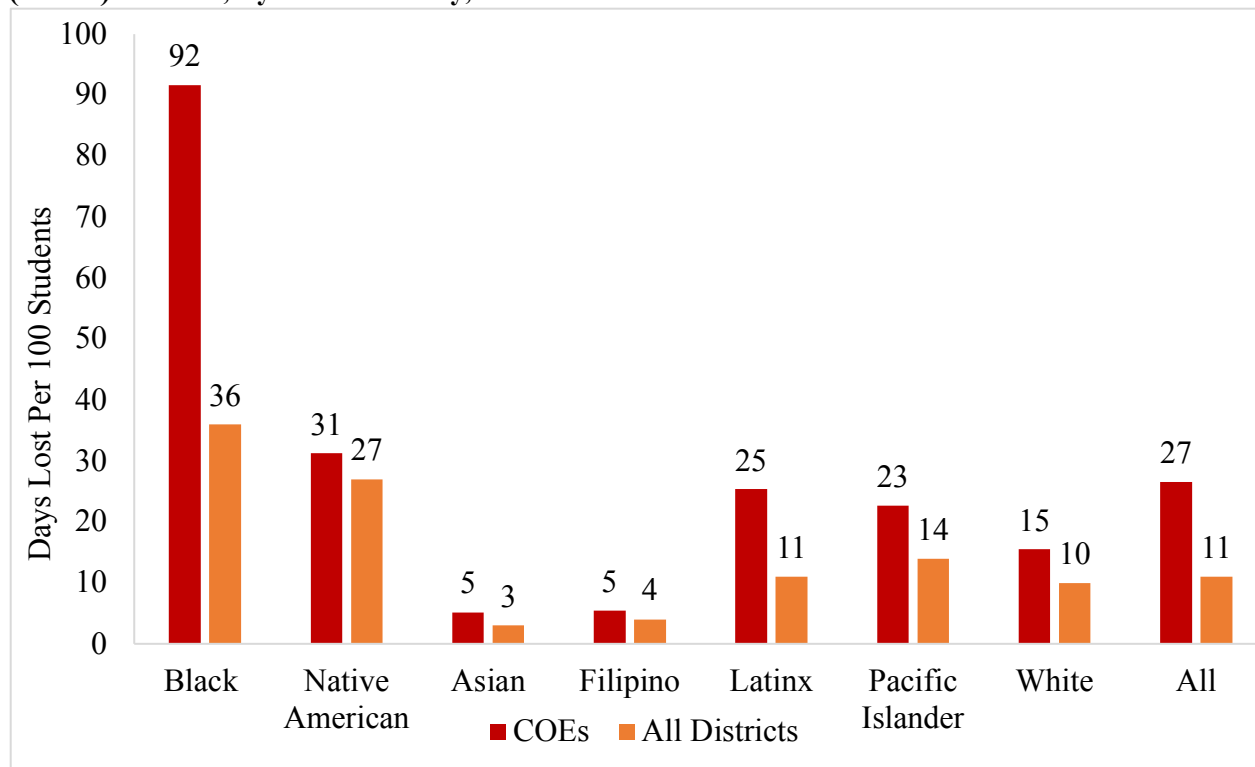


Figure 12 shows the prominent differences between COEs and all district rates of lost instruction. Black students are affected the most; that is, in COEs, 92 days of instruction were lost for every 100 Black students, which compares to 36 days lost for all districts. Latinx students have more than twice the number of days lost in COEs than in all districts. In fact, all racial and ethnic groups have more days of lost instruction time due to suspension in COEs than in all districts in 2018-19. What exactly are these specialized systems and whom are they actually helping? In Table 5, we can see discipline disparities in COEs at the district level. While the rates are already high at the state level, the district-level analysis reveals even more stark and shocking findings.

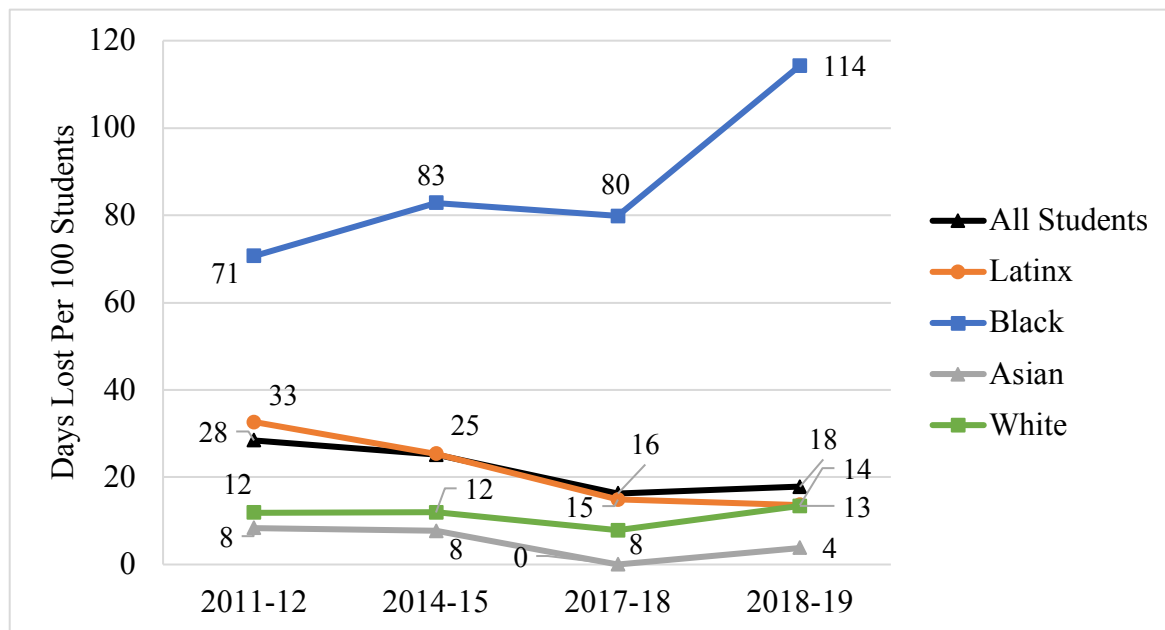
**Table 5. Top 5 COE Districts for Days of Lost Instruction Due to Suspension per 100 Students By Race/Ethnicity 2018-19**

District	Blacks	Native American	Asian	Latinx	White	All
Los Angeles County Office of Education	280	450	7	77	26	96
Kern County Office of Education	114	13	4	14	13	18
Fresno County Office of Education	105	24	30	35	14	37
San Bernardino County Office of Education	94	21	11	18	27	30
San Joaquin County Office of Education	84	32	22	27	29	33

*Note:* Districts included had a minimum of 500 students and at least 100 Black students enrolled. Table is rank ordered by the largest group, given the restrictions mentioned.

Of the five COE districts with the most days of lost instruction due to suspension, the Los Angeles COE had the highest rate for Black students: a total of 280 days of instruction were lost for every 100 Black students. This is shocking, and interesting, given that Los Angeles Unified School District (LAUSD) has some of the state’s lowest suspension rates. Kern County was one of two COEs that had an increase over time for Black students (Figure 13); from 2011-12 to 2018-19, days lost increased by 43 days for Black students. However, we did not find that all COEs had such disturbingly high rates. In fact, five COEs (with a minimum of 500 students enrolled, including 100 Black students)—Riverside, Stanislaus, Santa Clara, Inyo, and Nevada—were below the state average when compared to the all-districts rates.

**Figure 13. Kern County Office of Education, Lost Instruction Due to Suspension by Race/Ethnicity from 2011-2012 to 2018-2019**



\*A minimum of 500 students and 50 Black students, and a Black suspension rate above the state average.

### **PART III: STAFFING NEEDS, SCHOOL SECURITY, AND DAYS OF LOST INSTRUCTION DUE TO DISCIPLINE**

The first two sections of this report addressed the current disparate impact of suspensions on instructional time, and the trend lines reflect efforts to reduce the use of suspensions, in particular suspensions for disruption/defiance. In order to reduce the use of suspensions and institute more effective teaching and classroom management methods, schools will need to replace punitive responses with alternative approaches. Research described in the book *Closing the School Discipline Gap* includes studies by contributing scholars who found that there are benefits to offering rigorous teacher-training programs, investing in restorative practices, and providing instruction in social and emotional learning; one study pointed out the potential pitfalls of relying heavily on transfers to alternative discipline schools (Vanderhaar, Petrosko, & Munoz, 2015). One related concern is that schools in some districts may be inappropriately referring students to law enforcement as part of their disciplinary responses.

In the wake of school shootings, many districts have called for hiring more law enforcement and security personnel.<sup>26</sup> However, Denise C. Gottfredson, one of the nation's leading researchers on school safety and juvenile delinquency, has stated that "there is no evidence that placing officers in the schools improves safety."<sup>27</sup> Further, two leading scholars who contributed chapters to *Closing the School Discipline Gap* suggested that hiring police and spending education dollars to increase security could be counterproductive (Osher et al., 2015; Finn & Servoss, 2014).<sup>28</sup> A study by Osher and colleagues (2015) showed that additional investment in security by the Cleveland school district following a school shooting there did not increase teachers' sense of security or reduce the number of behavioral incidents. Finn and Servoss (2014) found higher suspension rates, especially for Black and Latino males, in the schools that had invested more in security measures, including random student searches, drug sweeps, a greater police presence, metal detectors, and security cameras. Not surprisingly, a higher degree of "school security" was significantly related to neighborhood crime and urbanicity. About 90% of schools in high-crime neighborhoods had a high level of security, compared to 27% of schools in low-crime neighborhoods. However, after applying school-level controls, investing in additional security was not associated with better behavior or higher safety ratings, but was associated with higher suspension rates, especially for Black males (Finn & Servoss, 2014).

Moreover, in 2013, Michael Nash, the presiding juvenile court judge in Los Angeles and president of the National Council of Juvenile and Family Court Judges, told the *New York Times*, "While schools may bring in police officers to provide security, the officers often end up handling discipline and handing out charges of disorderly conduct or assault."<sup>29</sup> One recent study, published by the University of Texas at Austin in 2018, controlled for the influence of poverty and many other factors associated with more police in schools and found that "receiving federal funding for school police in Texas increases disciplinary rates for middle school students by 6% but does not change high school disciplinary rates" (see Weisburst, 2018). Even proponents of additional school security have acknowledged this potential problem. For example, in his discussion of different models of deploying school resource officers, a leading consultant for the school security industry writes, "Assigned SROs [school resource officers] can also be misused by school staff: There are stories of staff who ask SROs to inappropriately help to enforce school rules . . . At times administrators who may be trying to make the case for

removing a student from school may even ask the SRO to give a citation or arrest a student for breaking a school rule” (see Rosniak, 2020). Other studies have shown that police officers in school settings often use law enforcement tactics, including random sweeps, student searches, drug testing, and interrogations (Hirschfield, 2008; Kupchik, 2010).

A recent report by the ACLU of Southern California and Public Advocates Inc. describes the shortage of adequate student supports in three large California counties and compares them with security expenditures. Students who protested against the Pomona Unified School District’s (USD) use of funds for police contributed to the report. According to the authors, the students’ efforts were successful after they “implored the board members to re-invest those funds in counselors, social workers, psychologists, restorative justice, . . . and other resources that have been shown by evidence and experience to support high-needs students.”<sup>30</sup> It should be noted that, according to a February 2020 report by Children Now, “In California, an estimated 700,000 school-aged children have serious mental or behavioral health needs. The majority of children who do receive services get them at school” (see Thornton, 2020). The report suggests that California’s current funding for mental health supports is inadequate to meet the needs of students.

There are many perspectives on providing a greater police presence in the schools. On the one hand, it’s not surprising that concerns that students aren’t adequately protected from dangerous outsiders would lead many to want to add security guards. Besides preventing school shootings, more security staff might also discourage gang involvement and drug activity. On the other hand, there is no research demonstrating a need for a regular police presence in our schools and research suggests that adding police does not help prevent bullying (Devlin et al., 2018). Moreover, many civil rights advocates have expressed concerns that, beyond providing basic protection from the outside world, having police patrolling school hallways makes schools feel like prisons and can have serious negative outcomes, especially for students of color.<sup>31</sup>

One reason a police presence might be expected to escalate problematic behaviors is because police are evaluated on the basis of issuing citations and making arrests (see Kastner, 2018). Advocates have many examples of abusive school policing, and several have resulted in litigation.<sup>32</sup> These concerns are greater for exchanges between police and students of color, given the numerous anecdotes and studies suggesting that police engage generally in racial profiling (Rios, 2011). Moreover, many videos show police overreacting to students of color, body-slaming students for minor misconduct, and handcuffing even very young children of color.<sup>33</sup> In the advocacy report, *We Came to Learn: A Call to Action for Police Free Schools*, by the Advancement Project, advocates “document the school policing model and discuss how school police became institutionalized in America’s public education system through funding and policy at both the federal and local level.” The report chronicles the reports of excessive and abusive conduct by school security personnel between 2010 and 2018. Five of the 62 instances were reported in California schools.<sup>34</sup> Other studies and anecdotes have fueled concern that adding police in schools criminalizes typical adolescent misconduct (see, e.g., Eckholm, 2013). For example, juvenile justice Steven Teske testified before the U.S. Senate that adding police in Clayton County Georgia dramatically increased the number of students in his court who had been charged with felony misdemeanors based on school-based misconduct.<sup>35</sup> Judge Judith Kaye, the former chief judge of the New York Court of Appeals and chair of the New York State

Permanent Judicial Commission on Justice for Children, organized a national conference to address these concerns (see *Judges Criticize*, 2012).

In the wake of the massive protests against police brutality and the murder of George Floyd, there has been a spillover effect from the heightened awareness of abusive policing directed at Black people as well as against those protesting the racist and excessive use of force, with many school districts taking action and leading initiatives to sever their relationships with local police departments across the country. Many large districts are taking steps to eliminate school-based law enforcement, including Minneapolis, Denver, Portland, Milwaukee, and proposed actions in New York City, and Oakland, California.

In California, staffing decisions are subject to a greater level of local control than in many other states because the states provide districts with additional funds through the local control funding formula (LCFF). As the name implies, districts control how these funds are spent, but under the LCFF, the state provides large sums to districts to supplement basic school budget expenditures, and school districts must demonstrate that the funds target their high-need populations, which includes homeless youth, children living in poverty, and English learners.<sup>36</sup> Each district receiving LCFF funds must create a local control accountability plan that reports on how it will meet the priority areas, one of which is improving school climate. Each district's LCAP has a corresponding budget that details the goals for each priority area and explains how the budget will help reach those goals, especially with regard to high-needs students.

Arguably, spending on security staff is not the kind of supplemental expenditure that would meet the LCAP requirements.<sup>37</sup> For example, in response to a 2016 complaint against the Fresno USD, which had spent tens of millions of dollars from the supplemental budget on what it claimed were additional police and custodial services needed to improve the school climate, the California Department of Education (CDE) made it clear that, absent a distinct demonstration of how additional police and custodians would benefit high-need youth in particular, the expenditures violated the LCAP regulations/guidelines. In May 2017, the CDE directed Fresno to improve the transparency of its LCAP budget “and redirect some of these funds earmarked for high-needs students away from expenses such as janitorial staffing, increased policing, and surveillance” (see Conner, 2018, p. 1). Most recently, Public Advocates and the ACLU of Southern California analyzed LCAP spending in 136 school districts from Los Angeles, Riverside, and San Bernardino counties and their report, “Our Right to Resources found that 35 of the school districts spent funds earmarked for high-needs students, instead, on school police, including resource officers (see Ochi et al., 2020). Of course, not all districts are violating LCAP requirements, as the majority of districts did not appear to misuse their funds this way. However, spending of large sums on school police and security, even where legal, is not necessarily a sound expenditure, especially given the looming budget shortfalls. In a contrasting example, Berkeley USD, whose LCAP supplemental and concentration budgets did not include security staff, went further and discontinued funding for one of its SROs and repurposed those funds to address other needs, such as hiring restorative justice coaches (see Raguso, 2016).

The purpose of presenting this contextual information about the utility of investments in security staff is to nest our comprehensive findings on rates of lost instruction, whose continued decline appears to be slowing, within the ongoing debate that juxtaposes the need for more student

support staff, including those needed to better implement discipline reforms, with spending scarce education dollars on school security staff.<sup>38</sup>

This state context prompted CCRR to ask, “Might having a large number of security staff on campus be contributing to the discipline disparities in California’s high schools?” Many studies and reports have shown that the number of suspensions, and the racial disparities in those numbers, are predicted by the attitudes and preferred disciplinary methods of school principals (Skiba, 2015) and, more generally, by factors that educators can control (Fabelo et al., 2011). Given local control over budgeting under LCFF, we thought we should look more closely at the available data and ask, “Is there a relationship between school-level staffing of certain personnel, and particularly security staff, and the amount of instruction lost due to suspension?” This addition to our descriptive study was not designed to evaluate causation but to explore whether there is a correlation across California’s high schools between higher rates of days of lost instruction per 100 due to out-of-school suspensions and the security staff-to-student ratio. We also explored whether there was a relationship between the rates of lost instruction and the ratio of student support staff (including counselors and social workers) to students. Our aim was to see if there is a general correlation for all students, and for Black students in particular.

We use federal civil rights data from 2015-16, collected and publicly reported by the U.S. DoE, to explore whether rates of lost instruction (per 100 students) from actual school-level data on days lost for the 2015-16 school year were related to ratios of either security staffing or student support staffing. These were not the estimates used in Parts I and II of this report, but the actual count of days lost due to out-of-school suspension in high schools in 2015-16. We controlled in all cases for the percentage of low-income students in the school, school demographics, and a number of other variables. The full analyses and results are presented in Appendix B.

Our hypothesis stems from our chief concern, which is that schools with a high ratio of security staff to students (security guards) have harsher discipline. If true, we would expect to see that an incremental increase in the ratio of security staff to students would be positively correlated with higher rates of lost instruction across the sample of schools for the given academic year. Similarly, to the extent that student support staff helps prevent problematic behavior, we’d expect to see an inverse relationship across our sample of high schools for the same year, whereby lower rates of lost instruction would be related to incremental increases in the student support staff to student ratios.

A concern related to the evidence on racial profiling and racial bias among police is that adding a school resource officer to a school could result in significantly harsher responses to the behavior of Black students, including possible arrest or suspension from school (Rios, 2007; Goff et al., 2014). A positive relationship between security staff in the high schools with at least 100 Black students and days of lost instruction for Black students also indirectly supports the theory that adding police relates to an increase in the racial inequities in the rates of lost instruction. Although one would also expect to see an increase in arrests for school-based misbehavior and/or a rise in civil citations (both of which fall under the CRDC definition of referral to law enforcement) we know of many large urban districts that erroneously reported zero school-based arrests, which means that the referral to law enforcement data were not sufficiently reliable to use in the analysis.



Although adding security staff might deter some misconduct in some schools, another reason adding them might be related to higher rates of out-of-school suspensions is that we know that when they intervene, the students they arrest or give citations to often also receive a suspension; this expectation is consistent with the aforementioned studies that have documented such relationships (Finn & Servoss, 2014; Weisburst, 2018). Although we could not test for it, poorly trained security staff members may be far more likely to escalate a routine school discipline issue into a more serious code-of-conduct violation, or even a felony arrest. It's worth noting that Judge Teske testified to the Senate that, after he developed a model memorandum between the police and the Clayton County Georgia school district that explicitly limited the involvement of police in routine school discipline, school-based arrests for felonies declined dramatically.<sup>39</sup>

### **Methods and Analysis (see Appendix B for detailed descriptions)**

We looked at 1,307 traditional high schools in California to examine the relationship between incremental increases in staff-to-student ratios and the total days of instruction lost due to suspension for all students per 100 enrolled. We restricted our sample to all of California's public high schools that had at least 200 students enrolled in 2015-16.<sup>40</sup> It is important to note that these high schools had an average of 20 days lost of instruction per 100 students enrolled. Moreover, on average, 17.9% of those enrolled were low-income students (see Table B1 in Appendix B).

As shown in Parts I and II of this report, Black students experienced far more days of lost instruction than any other racial group. Therefore, we conducted a sub-analysis to examine the more specific impact of staffing on Black students' days lost per 100. In order to understand the impact of staffing at high schools where Black students were enrolled in sizeable numbers, we restricted this review to the 305 high schools that had at least 100 Black students. This smaller subset of high schools had an average Black share of enrollment of 14%, as compared to an average of 6% across the larger sample. The smaller subset of schools enrolled a similar but slightly lower percentage of low-income students, 17.2%, versus 17.9% in the larger sample. However, the ratio of security staff to students was twice as high in the subset as it was for all high schools. Across the smaller group of high schools, rates of lost instruction on average were substantially higher for all students as well as for Black students.

To calculate the security staffing ratios, we divided the number of security guards for each high school by total student enrollment. Note that what we refer to as "security staff" only includes security guards and not SROs because of an error in the indicator committed by the Office of Civil Rights (see Appendix B, section 2, for a more detailed explanation). Similarly, we arrived at student support staff ratios by first totaling the number of counselors, psychologist, social workers, and nurses at each school and dividing that number by the total student enrollment.

To explore our main hypothesis, we looked at incremental increases in the security staff and support staff per-student ratio. We then conducted the same analysis, this time looking at the relationship between the ratio of support staff to pupils and days of lost instruction per 100. In each case, the use of ratios adjusted for enrollment ensured that our findings accounted for the likelihood that high schools with larger enrollments had more staff members. For similar reasons, we measured the impact of days of lost instruction as days lost per 100 students

enrolled. Both our variables and our outcomes accounted for differences in high school enrollment.

## **Limitations**

The purpose of this study was not to establish a causal relationship between staffing and days of lost instruction but to understand whether such an association existed. By restricting high school enrollment to schools with at least 200 students, our findings cannot be generalized to all high schools in California. We also grouped together all student support staff reported to the Office for Civil Rights and, similarly, we may have found different results had we looked at each type of support staff separately (i.e., nurses and counselors). Further, because the data on days of lost instruction in the CRDC are tied only to out-of-school suspensions, it is possible that the study didn't capture the degree to which security staff to student ratios correlate with higher rates of days of lost instruction due to all forms of discipline. See Appendix B for more detail regarding the limitations.

## **Results: Higher Security Staff-to-Student Ratios Predict Higher Rates of Lost Instruction**

Here we report the most relevant findings, which came from Model 1, the model of all 1,307 high schools, and Model 2, which looked at relationships in the 305 high schools with at least 100 Black students.

Overall, when looking at the model for all high schools and at the model for high schools with at least 100 Black students, we found a positive correlation across each sample between an increase in the ratio of security staff to students and the rate of lost instruction. Each incremental increase in the security staff-to-pupil ratio was correlated with an increase in the rate of days lost of instruction due to out-of-school suspension per 100 students. This occurred after controlling for numerous other variables that could affect the lost instruction rate, including the support staff-to-student ratio, the novice teachers-to-student ratio, the teacher absenteeism-to-student ratio, and the percentage of low-income students, students with disabilities, limited English proficient students, and students from each racial/ethnic group. We adjusted for these demographics because we know that some schools serving a high percentage of low-income students are located in racially isolated, high-crime neighborhoods, which likely would predict a larger police presence regardless of the school environment or discipline policy. In other words, after controlling for these other factors across the high schools in both models, each incremental increase in the security staff-to-student ratio was related to a small but statistically significant increase in the rate of lost instruction (see Table B2 in Appendix B).

Further, in Model 2, which examined high schools with at least 100 Black students, the relationship between security staffing and Black students' rates of lost instruction was stronger in both magnitude and statistical significance. We also found in this model that an increase in the support staff-to-student ratio predicted a decrease in the days of lost instruction per 100 Black students. Table B4 in Appendix B shows the results of this analysis.<sup>41</sup>

While these findings are not sufficient to establish a causal relationship, they should alert policymakers to the possible unintended negative consequences of adding security staff, and to the potential benefits of adding student support staff. While every district's budget process varies

in terms of control and flexibility over staffing, we believe these observations are worth considering where possible.

These findings raise additional important questions:

**1. Should discipline reform efforts include adding student support staff?**

The findings for the high schools serving at least 100 Black students lend indirect support to the theory that student support staff can help reduce reliance on out-of-school suspensions and result in lower rates of lost instruction. Teachers union leaders have also suggested that teachers need more support to successfully implement discipline reforms, which they support (American Federation of Teachers, 2015). It is understandable that schools with more personnel who are skilled at improving student behavior and/or can help teachers improve their skills would have fewer days of lost instruction due to suspensions.

**2. Will increasing the number of school security staff be harmful to school climate?**

The data analysis in this report reveals a disturbing correlation and raises the possibility that adding security guards could have the unintended consequence of increasing rates of lost instruction, especially for Black students. Moreover, advocates have pointed out that many schools nationally and in California report having no counselors, yet they do have law enforcement officers on staff (see ACLU, 2019). Spending scarce resources on security could be related to spending less on necessary student support staff. Therefore, although the research conducted in this report doesn't prove that adding security staff will result in more days of lost instruction, it does suggest that districts should consider the possible unintended consequences of expending education dollars on security staff.

**Missing Data on Referrals to Law Enforcement**

One additional limit in our analysis of the security staff-to-student ratios pertains to what we could not study. The obvious question would be, "How did security staffing relate to referrals to law enforcement, including arrests for school-based behaviors?" These are important data to consider in order to understand the impact of security staffing on school climate.

Although in 2015-16 some relevant data were collected and reported, there were too many instances of unreported data from California's high schools to conduct the analysis. These data are critically important to the formation of public policy, and districts are required to report these data, every other year, to the U.S. Department of Education as part of the Civil Rights Data Collection. Moreover, states and districts are required to report these data annually to the public as part of their report cards pursuant to the federal Every Students Succeeds Act.

Where we can see the data, the disparities are often stark. However, California's reporting non-compliance has meant that the public could not tell how often most schools and districts in the state used police and security to enforce school rules. Without reliable data, the extent of the school policing disparities by race and disability remain hidden from public view. In our

forthcoming national report, we do provide the race and disability breakdown for districts across the nation for 2015-16. But due to our concerns about under-reporting, in this report we do not present a detailed disaggregation for districts in California.

To adjust for enrollment, we created two metrics: referrals to law enforcement, and school-based arrests per 1,000 enrolled. Note that it is possible that a student might be referred or arrested multiple times in a given year. Because every arrest is also a referral to law enforcement, the number of referrals should always be greater than or equal to the number of arrests. Our list of districts does include some that had reporting errors, such as the Napa COE, which reported more school-based arrests than referrals—a clear error, given that all arrests should have been counted as referrals (see Table 6).<sup>42</sup>

**Table 6. California Districts with the Highest Rates of Referral to Law Enforcement for All Students (2015-16)**

District Name	Referral to Law Enforcement per 1,000	School-Based Arrests per 1,000
Mendocino County Office of Education	235.3	0.00
Death Valley Unified	125.0	125.0
Etiwanda Elementary	101.2	0.00
Napa County Office of Education	95.2	142.9
California School for the Deaf-Riverside	94.6	0.00
San Benito County Office of Education	83.3	0.00
California School for the Blind	66.7	66.7
San Ardo Union Elementary	52.6	0.00
East Side Union High School District	47.6	0.43
Calaveras County Office of Education	45.5	0.00
Optimist Charter	41.7	0.00
San Mateo County Office of Education	39.2	19.6
Corning Union High	30.3	0.00
Exeter Unified	29.4	1.7
Environmental Charter Middle – Inglewood	27.8	0.00
Dublin Unified	27.7	0.00
El Dorado Union High	23.5	2.3
Hanford Joint Union High	22.3	2.6
Cuyama Joint Unified	21.3	0.00
San Diego County Office of Education	21.0	2.6
Banning Unified	20.9	6.6
Marin County Office of Education	20.8	20.8
Oroville Union High	20.0	2.2
Pixley Union Elementary	18.2	0.00
Butte Valley Unified	17.5	0.00

When we rank-ordered all the districts in California on the rate for student referrals to law enforcement, five of the twelve highest-ranked districts were County Offices of Education that serve Mendocino, Napa, San Benito, Calaveras, and San Mateo counties (see Table 6). The Mendocino COE re-referred 235 per 1,000 enrolled students to law enforcement, Napa about 95, San Benito about 83, Calaveras just over 46, and San Mateo 39. When we look only at those that ranked highest for school-based arrests, some COEs not on the referral list surfaced as among the districts with the highest rates of school-based arrests, including Napa, Marin, San Mateo, San Louis Obispo, Merced, and Riverside; they were 6 of the 14 districts in the state with the highest referral rates. Readers should note that in our data cleaning we eliminated schools and districts that reported to OCR that they were part of the juvenile justice system.

Also noteworthy is that the districts with the highest rates of referral to law enforcement included the California School for the Deaf (Riverside), with a referral rate of 10 per 1,000 but no school-based arrests reported, and the California School for the Blind, which reported identical rates of referrals and arrests, 66.7 per 1,000 enrolled. The lack of reliable data on arrests and referrals is just another example of how children in California with some of the greatest needs are allowed to remain invisible. However, based on discussions with advocates across the state, we believe that many districts may have higher rates than those listed here. Greater attention should be paid to districts with high rates, as there is no reason to think that such districts are over-reporting referrals and arrests. But additional efforts are needed to improve the accuracy, especially where large districts are reporting zeros in either column.

A closer look at these data suggests that many California districts in 2015-16 were likely out of compliance with the federal requirements to collect and report their data on referrals to law enforcement and school-based arrests to the DoE's Office for Civil Rights (OCR). For example, although the district is now complying with this reporting requirement, we know that LAUSD failed to comply fully in 2015-16 because it reported more than 7,000 referrals but zero school-based arrests for that year. All school-based arrests are, according to OCR's definition, referrals to law enforcement. We know from discussions with organizations representing court-involved youth that there were not zero school-based arrests in LAUSD in 2015-16, and therefore LAUSD's referral data were also likely inaccurate that year.

### **A Hidden Problem: Excessive Reliance on School Police and the Possibility That Referrals Supplant Suspensions**

While the problem of a high number of referrals to law enforcement is largely hidden, there is reason for concern about the excessive use of police in many large schools and school districts, and not just those run by COEs. California is not the only state where failure to report that referral and arrest data is a problem, but this failure is surprising in California, given that the state has made such important strides in other areas.

Of the districts referring a high number of students to law enforcement, besides those run by the COEs, none was among the featured districts reported for having an increase or decline in suspensions and days lost. However, because these data are from 2015-16, it will be important to review the data from 2017-18 when they are released to ensure that most districts reported their data and did so accurately. The state has also collected these data for the 2019-2020 school year. There also is major concern among discipline reform activists about the possibility that, in

response to pressures to lower suspensions, some districts are calling in the SRO or local law enforcement, instead of sending students to the principal’s office, thereby removing the students, yet keeping their suspension rates low.

As the resolution of the aforementioned complaint against Fresno USD drives home, there is reason to be concerned that some districts may be inappropriately using LCAP funds for school improvement by adding police or custodial services instead of student support staff and training, or by funding other direct efforts to improve the school climate. The CDE helped resolve the dispute over Fresno’s budget, but as the aforementioned report, “Our Right to Resources,” makes clear, similar allocations can be found in other districts’ LCAP budgets.

The same year the LAUSD board of education voted to eliminate all suspensions for disruption/defiance, advocates expressed concern that LCAP funds were being spent on school police instead of on training and support for teachers. It is therefore noteworthy that LAUSD had a rate of referral to law enforcement in 2015-16 of about 1.5%. Although not included in the table, we did look at the racial breakdown for LAUSD’s referrals, and the OCR data shows that in 2015-16, nearly 3.4 % for Black students, and 3.1 % for students with disabilities were referred to law enforcement. Further, as one can see in Table 7, the 1.5% referral rate in 2015-16 represents a substantial increase in referrals to law enforcement. LAUSD’s referral rates were higher than the district’s rate of suspensions per 100. As mentioned, one can assume that LAUSD’s arrest data were not reported that year.<sup>43</sup>

Although not yet published, we were able to obtain a copy of LAUSD’s CRDC report for the 2017-18 school year. As one can see in Table 7, in comparison to 2015-16 the rates for 2017-18 school year show that the percentage of students referred to law enforcement declined considerably, yet was still approximately two tenths of a percentage point higher than the referral rate in 2011-12. On the other hand, the rate of school-based arrests was lower in 2017-18 than it was in 2011-12.

Meanwhile LAUSD’s rate of total suspensions (in and out of school) per 100 students has steadily declined during the same period. The inconsistency in the referral to law enforcement rates and the missing data on school-based arrests in 2015-16 makes the trends difficult to interpret.<sup>44</sup> Further, a student can be suspended and referred to law enforcement for the same offense. The two actions are not mutually exclusive. The available evidence does not indicate that LAUSD consistently replaced suspensions with referrals to police. On the other hand, the large uptick in referrals in 2015-16, is highly problematic. Fortunately, the 2017-18 data show referrals to law enforcement declined considerably. Although not depicted, we reviewed the recent changes in referral rates for each racial group and for students with disabilities and found that the 2017-18 data also showed consistent declines in referral rates for each group.

**Table 7. LAUSD Rates of Referral to Law Enforcement and School-Based Arrests, and Suspensions per 100, from 2011-2012 to 2017-2018**

Rates	2011-12	2013-14	2015-16	2017-18
Referrals	0.58	0.34	1.46	0.79
Arrests	0.11	0.21	n/a	0.06
Suspensions	2.95	1.14	0.82	0.54

It should be noted that The Center for Civil Rights Remedies has not included an analysis of the CRDC arrest and referral data in our national reports on school discipline in prior years because of deep concerns regarding the accuracy of these data. Our chief concern is that the referral and school-based arrest data are seriously *under-reported*.<sup>45</sup> It is also plausible that LAUSD's actual rates of referral to law enforcement changed very little and that the observed uptick represents an improvement in LAUSD's reporting rather than an actual increase.

Most important, the school policing data irregularities raise serious questions that the policymakers and the public in general needs answers to in order to understand the impact of school policing on students. When we reviewed these data for all of the 397 districts in California that enrolled at least 3,000 students, we found that 308 of them (78%) reported zero school-based arrests. We cannot tell whether some of these zeros represent an accurate reporting but a state agency with access to arrest data could likely find ways to cross check the reported numbers. Moreover 180 districts (45%) reported zero referrals to law enforcement and zero school-based arrests. Wishful thinking aside, we think that these districts are among the most likely to represent a failure to report, especially in large districts that have large numbers of SROs on staff. Among the state's largest districts with apparent data reporting errors in 2015-16 were the following:

- West Contra Costa Unified: reported zero school-based arrests and zero referrals to law enforcement.
- Long Beach Unified: reported zero school-based arrests and 5 referrals to law enforcement.
- Capistrano Unified: reported zero school-based arrests.
- Fresno Unified reported 90 referrals and 125 school-based arrests (an error because by definition all arrests must be counted as referrals).
- Sacramento City and Moreno Valley each reported an identical number of referrals to law enforcement as school-based arrests. Because all arrests must be included among the count of referrals districts reporting identical numbers means that either there were no referrals reported that were not also arrests, or their referrals were under-reported.

Only with consistently accurate information on referrals to law enforcement and school-based arrests can we fully understand the scope of the problem.

## **Discussion**

We hope that by documenting the information deficits in California that state and local policymakers will reject the status quo. Fortunately, according to a 2019 update on collection efforts, the referral and arrest data were collected by the state for the first time for the school year that recently ended. Given the concerns raised here regarding under-reporting of data, alongside the evidence of excessive referrals by some districts, there is much more that should and could be done this year. California's policymakers and civil rights enforcement agencies should begin reviewing the data that districts reported to OCR for 2017-18, (which is not yet publicly reported) as well as the data that CDE collected for 2019-2020 before it abruptly ended. Along with the state AG's office, CDE should consider investigating those districts whose data suggest

possible excessive and disparate referrals to police and school-based arrests. CDE should also review the LCAP budgets of districts with excessive rates for signs of inappropriate expenditures on security staff as the two might be connected.

Further, the state will likely find data reporting deficiencies similar to those documented for 2015-16. Reviewing the more recent data now will give the state time to offer technical assistance and to work with local law enforcement and district leaders to cure the reporting issues in time for the reopening of our schools. It is imperative that state and local educators make better use of the data we do have so they may direct education resources more equitably, away from policing children and the punitive exclusion from school, and toward ensuring that California's school children experience a more nurturing, safer and supportive school climate once schools re-open.

As we have discussed in prior reports, the data on days of lost instruction due to suspension helps clarify why we won't ever close the achievement gap if we don't close the discipline gap. Part of the gap closing efforts, even with likely budget shortfalls in 2020, must include improvements in the quality and quantity of special education, counseling, school health, along with sound training and supports for teachers and principals. If we continue to neglect these essential supports our public schools will continue to struggle to ensure equity in educational opportunity. As important as it is to make changes to the code of conduct that will help eliminate unnecessary and disparate loss of instruction due to discipline, to have a deeper impact it will be necessary to combine formal limitations on the use of suspension with increased resources and other improvements to policy and practice that are designed to foster healthier and safer school climates. Keeping children safe includes protecting them from unlawful discrimination and the criminalization of typical adolescent misconduct.

Although beyond the scope of this report, in the near term, education policymakers also need to anticipate how the response to the pandemic might further exacerbate disciplinary exclusion. Returning students will not only have experienced the hardships disproportionately, but the impact of being excluded may have a harsher impact than before. Educators need to also think about how keeping more distant could add to stress levels, make it harder to engage students, and add pressure to increase exclusions. We should also anticipate that new school rules such as dress codes requiring masks, social distancing, as well as heightened concerns about the health risks from all sorts of minor misconduct, may lead to more exclusions from school. Meanwhile there maybe shortages of school nurses, and the support from counselors, psychologists and social workers may be spread thinner than ever before.

The documented disparities also demonstrate that along with these pandemic considerations there remains a deep need for California's educators to respond to discriminatory discipline. As Catherine Lhamon, the chair of the U.S. Commission on Civil Rights, pointed out in a recent statement, "The nation's attention in addressing the corona-virus pandemic must include addressing and guarding against potential civil rights violations to ensure the health and safety of all Americans, regardless of race, national origin, ability status, or any other protected characteristic. There is no time when civil rights violations are acceptable" (U.S. Commission on Civil Rights, 2020). Nor should the pandemic be a reason to ignore the concerns raised regarding the inappropriate expenditure of state education dollars intended to benefit high-needs students.



Difficult times should not be used to justify reducing the level of oversight and accountability as it is sorely needed to ensure equitable outcomes for all children.

At the national level, however, reducing civil rights oversight of schools has been a consistent theme. Even though on December 21, 2018, the Trump administration rescinded federal guidance for school districts on how to address potentially discriminatory school discipline, it contains important advice for state and local policymakers. The federal guidance, issued jointly by the Department of Justice and the Department of Education Office of Civil Rights (2014), encouraged administrators to review their discipline data by race and provided guidance on the legal obligation, pursuant to Title VI of the Civil Rights Act of 1964, to protect students from discriminatory discipline. The guidance outlined the primary types of discrimination, different treatment and disparate impact, and explained how data might suggest that there was different treatment in cases where Black students consistently received longer suspensions for the same offenses, or where mitigating circumstances were considered only for expulsion hearings involving White students. The guidance also provided a step-by-step flow chart (see Appendix C) for the review of discipline policies and practices to help evaluate whether the policy in question had an unlawful disparate impact.

The critical difference in the two types of reviews is that discriminatory disparate impact is caused by a policy or practice that is educationally unsound or can be replaced by a policy that meets the same goal but without (or with less of) a racially disparate impact. Most important, there is no inference that policymakers or educators ever intended the policy in question to have this disparate impact. One potentially unsound policy presented in the guidance is to suspend students for tardiness or truancy. Even if a district's policymakers believe that not allowing students to attend school is an effective punishment, there arguably are more effective ways to improve attendance than kicking out students for such violations. The guidance points out similarly that policies that make suspensions mandatory, especially for minor violations of school rules such as "being insubordinate," are the type that "raise disparate impact concerns."

Despite rescission of the federal guidance, the laws and regulations remain unchanged. Therefore, districts remain obligated to protect the civil rights of students that school authorities decide to exclude on disciplinary grounds. To this point, California's attorney general, Xavier Becerra, recently reminded school leaders in California that state law was consistent with the interpretation in the rescinded federal discipline guidance and that his office would redouble efforts to protect children from unjust discipline.<sup>46</sup>

California has made strides, and statewide suspensions for the disruption/defiance category constituted a much smaller proportion of the total racial gap in 2018-19 than they did in 2011-12, when the category accounted for 41% of all suspensions. The report we published in 2018, which covered data up through 2016-17, found that the disruption/defiance category contributed to 30% of the Black-White gap in the 50 districts with the largest overall Black-White gap. In our analysis for this report, we found that nine of the ten districts with the largest Black-White gap in disruption/defiance suspensions constituted over 41% of the total racial gap in lost instruction due to suspensions, and as much as 60% in some districts. It's unclear whether these ten districts have seriously considered alternatives to suspension in response to disruptive/defiant behavior.

## More Changes Are Needed

Despite the progress made on what was once the most substantial contributor to the racial divide, the data suggest that researchers and educators should take a closer look at the numerous other categories that also may lack a sufficient justification for the continued use of suspensions, especially considering our growing understanding of its harmful consequences and the growing albeit inconsistent evidence that there are many alternatives, including restorative practices, that hold promise for reducing racial disparities (Gregory & Evans, 2019).

However, several other factors besides suspensions for minor misconduct are likely contributing to the excessive and racially disparate impact of school discipline. This report has highlighted the higher rates of lost instruction from suspension found in schools run by the COE and the greater use of suspensions for students with disabilities. In both cases, students with greater needs and receiving specialized attention are removed more often on disciplinary grounds than their peers without special needs. As mentioned, there is no research basis for frequently suspending students with greater needs, and we should be especially concerned when they are suspended for minor offenses from a program or school that specifically addresses behavioral issues. COE district leaders need to give more attention to their high rates and disparities. Like all district leaders, they need to review their data and determine whether suspension is an effective intervention, and even where they believe it is, they should explore whether less punitive responses would be more effective. Similarly, a close review of a district's use of security personnel might indicate that their deployment has an unjustifiable and disparate impact in terms of higher rates of lost instruction or other types of school exclusion. Above all, leaders in high-suspending districts where the most disadvantaged students are punished with much greater frequency need to reject the status quo and take action to reduce the high rates and wide disparities.

## Conclusion: California Can Improve Discipline Accountability

Finally, these difficult times present an opportunity to review and revise California's accountability system where it pertains to discipline. We applaud the fact that CDE and the state's school board made school discipline part of the accountability dashboard, including the experience of subgroups. However, in preparing this report, we noticed that several of the state's highest-suspending districts were not flagged on the dashboard as being in the red. The system could be improved by maintaining the red code for all districts with suspension rates above 6%, and by adding failure to meet that goal for any subgroup as grounds for being flagged red for accountability.

The current system also gives credit to high-suspending districts that have made progress. If a district with a rate of more than 6% reduces it by even 0.3 percentage points, the state will replace the code red with code orange. For a reduction of 1 percentage point or more, the state replaces code red with code yellow.<sup>47</sup> These rules are applied equally whether the district is 20 percentage points over the threshold or just two points over. We believe the concept of giving credit for declining suspension rates is fundamentally sound and that all districts should have incentives to lower their use of suspensions. However, when we looked at how California applied the coding rules to some of the districts featured in this report, we discovered that even

the highest suspending districts had their red code changed to orange or yellow by showing even a slight reduction.<sup>48</sup>

For example, even though South Monterey ranks among the districts with high suspension rates and its overall risk for suspension in 2018-19 was 13.4%—double the 6% rate threshold for code red—the South Monterey County Joint USD was coded orange, not red.<sup>49</sup> The main reason South Monterey avoided being coded red was because its rate declined to 13.4% in 2018-19—but that was after it had increased it to 15% in 2017-18! The latest rate represents a reduction of 1.6 points, which the accountability system considers substantial progress, ignoring the fact that the this recent decline did not offset the 3.3-point increase, from 11.7% to 15%, that had occurred two years earlier. The fact that this district was coded orange rather than red is also the function of an accountability system that pays too little attention to the impact of suspensions on youth of color and other groups that have experienced historical discrimination. In this case, the district's most recent rates also had a large increase in the suspension rate of English learners, students who are homeless, along with an increase of 0.3 percentage points for students with disabilities, one of the district's highest-suspended groups.

Ultimately, it makes good sense for policymakers to give districts credit for declining suspension rates, but only if doing so doesn't overlook unusually high rates for some groups or an overarching trend showing an increase in suspension rates. Therefore, one of our core recommendations is that the district accountability system should only credit progress for districts with rates exceeding the threshold if they meet the following two standards:

1. The recent decline represents a downward trend over at least three years, not just compared to the prior year.
2. Each of the highest suspended subgroup(s) that is over the threshold experienced a decline, and one that satisfies the first standard.

The argument for giving weight to district changes over a longer period of time is even stronger in the wake of the statewide school closures. Almost every district will have lower suspension rates as a result, even if their school climate declined during the period that schools were in session. There also may be good reasons to adjust other accountability standards that will be negatively influenced by a substantially shortened school year. It is disturbing to imagine that, when they reopen, the schools with high rates of lost instruction documented in this report will continue to exclude students from the classroom at extremely high rates, even for minor infractions.

California's accountability system should also require a larger decline for the districts with the highest rates. An improved system might include greater incentives to reduce disparities along the lines of race and disability status. The precise details of changes to the accountability system should be worked out by a team of stakeholders and researchers. A system that incorporated the suggested standards and modifications would better ensure that credit for progress was given only to districts where disparities along the lines of race and disability status were being addressed successfully and consistently.

## Summary of Recommendations

We applaud the California legislature and Governor Newsom for extending the ban on suspensions for disruption/defiance from K-3 to K-8 and for making school discipline part of the statewide accountability system, but when schools re-open, state and local educators will need to pursue additional efforts to reduce the high rates and wide disparities in instructional loss from disciplinary exclusions.

Based on our analyses and extant research we encourage the state and school districts to take a closer look at other minor offense categories, and at behaviors that raise concerns about addiction. Many policy changes should be considered. Besides improving accountability and eliminating other minor codes of conduct as grounds for suspension there could be restrictions on the length of suspensions. More resources will be needed to ensure that viable alternatives to punitive and exclusionary discipline can be implemented with integrity. Many of California's districts have initiated changes that appear to be effective and those should be studied closely.

However, without greater data integrity, including compliance with federal reporting requirements, it will be challenging to distinguish the truly effective approaches. Expenditures on approaches that are potentially counter-productive, such as expenditures on security staff, need to be seriously reconsidered where resources are needed to better support the needs of students and staff. Many California districts might consider following the examples set by Portland's superintendent, or of the Minneapolis school board which voted on June 1<sup>st</sup> to terminate its contract with the Minneapolis police department. According to the Guardian, "The Minneapolis teachers union had endorsed the change, calling for the city's schools... to invest in additional mental health support for students instead."<sup>50</sup>

The following list summarizes our core recommendations.

For state education policymakers and oversight agencies:

1. Because of the disparate impact the coronavirus is having on certain racial groups, there is an even greater need to address the disparities in the opportunity to learn caused by harsh school discipline. State agencies will need to provide additional support and oversight to protect the children most affected by Covid-19, especially in districts that are still using suspensions frequently.
2. We believe that beginning with the 2018-19 school year every district began reporting the days of lost instruction data to CDE. CDE should publicly report disaggregated school and district level data on lost instruction due to discipline on an annual basis.
3. The office of California's attorney general should conduct a closer review of districts with high rates of lost instruction, and large discipline disparities, especially at the secondary level and in schools run by the COEs where the rates and disparities are the largest.
4. The office of California's attorney general should also review the data on referrals to law enforcement and school-based arrests that districts submitted to the U.S. Department of Education for the 2017-18 school year and further investigate districts that reported high rates and large disparities, as well as those that clearly failed to comply with the federal

reporting requirements. This monitoring and enforcement activity should also include the data that the state has collected for the 2019-2020 school year through March of 2020.

5. We encourage the state to extend the ban on suspensions for disruption/defiance to cover all grades, K-12.
6. The State Board of Education should seek improvement in the way discipline rates are incorporated into the statewide accountability system so that districts with the highest rates and largest disparities have a greater incentive to reduce both and will receive the guidance and resources they need to make effect changes.
7. The CDE needs to do more to involve community groups as stakeholders as they engage in efforts to improve accountability and oversight.
8. The CDE should provide guidance and greater oversight to discourage districts from using LCAP supplemental and concentration funding to add security staff, or for other inappropriate budget purposes.
9. The State Board of Education should take whatever steps are necessary to ensure that all districts comply with state and federal civil rights law, including creating incentives to improve the collection and reporting of the data on school-based arrests and referrals to law enforcement. Additional steps will be needed to ensure that these rates are reported accurately in the state and district report cards so that the reported data will provide a clearer understanding of the impact of school police and security officers on students, especially Black students and students with disabilities.
10. Given the serious health concerns that arise in prisons and detention centers, greater efforts are needed to reduce their use for children.
11. The state and all districts that allocate education dollars to security need to seriously consider cutting or shifting some of these expenditures to ensure that core educational needs, including the provision of a healthy school climate, are met.
12. In order to improve the accountability system, provide technical assistance, and evaluate the efficacy of ongoing efforts, the CDE needs to do more to engage those specializing in school discipline disparities and the underlying issues.

Local advocates, educators, and policymakers should monitor rates of lost instruction, as well as trends in these rates, and consider the following:

1. Extend the ban on suspensions for disruption/defiance to cover all grades, K-12, and for other forms of minor misconduct.
2. Consider reducing the length of suspensions as another way to reduce their harmful and disparate impact. Reducing the duration could apply to all offense codes, but especially where eliminating suspensions is not a viable option.
3. Use the uniform complaint procedures to file complaints against districts whose LCAP budgets lack transparency, or those that appear to have inappropriately used the priority of improving school climate to pay for security or custodial staff.
4. Local advocates and members of the media should request districts to provide disaggregated data on referrals to law enforcement and school-based arrests, and scrutinize the reported data carefully to ensure it is being reported accurately.
5. Educators, advocates, and members of the media should use the spreadsheets provided with this report, and the tutorial on their use, to help them understand the rates and disparities in lost instruction due to discipline, as well as the trends for the district(s) they

are most interested in. They should also request districts to publish the disaggregated data on lost instruction due to suspensions on an annual basis so that the public can see the impact of discipline on the opportunity to learn.

Finally, based on our research findings thus far, as well as research beyond the scope of this report, the Civil Rights Project at UCLA has endorsed the letter to congress initiated by the Leadership Conference on Civil and Human Rights, and originally signed in October of 2019 by over 60 of the most prominent civil rights groups in the nation. These principles can also be applied to policymakers at state and local levels. The letter entitled, "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates" lists as the seventh principle, "Eliminate School-based Law Enforcement." Consistent with these Civil Rights Principles, the research presented in this report, and with the federal guidance on school discipline in the section on school policing found in the appendix (part C), we also recommend that to the extent that districts will continue to employ law enforcement and/or security personnel, districts and local stakeholders should pursue additional measures<sup>51</sup> to help prevent the unnecessary involvement of security/law enforcement personnel in matters of school discipline.

Ultimately, eliminating or reducing the involvement of law enforcement will help transform school climates, and help ensure that educators' responses to behavior serve an educational purpose. More generally, following these research-informed recommendations should help serve the public interest in protecting the civil rights of our children and ensuring an equitable opportunity to learn.

## **Appendix A: California Department of Education Data Methods and Measures**

### **Data**

For Parts I and II of this report we use the California Department of Education (CDE) data. CDE provides downloadable data files that include various student outcomes and measures for the state. In our analyses, we utilized discipline and enrollment data from the CDE public repository.

**Calculating suspension rates.** Suspension rates were calculated by dividing the total number of suspensions (both in-school and out-of-school suspensions) for each school district by the number of students enrolled on a specific date (census enrollment). For example, if there were 100 total suspensions in a district and 1,000 students enrolled, the overall suspension rate would be 10 suspensions per 100 enrolled students. This "x suspensions per 100 students enrolled" methodology was followed in our reports that utilized the same dataset (see Losen, et al., 2015; Losen & Whitaker, 2017).

**Estimating days of lost instruction and corresponding rates.** In the state of California, a single suspension can last up to five consecutive school days (Cal. Ed. Code § 48911). In this report, we assigned a conservative number of two days per suspension. Also, a national review of other studies exploring the number of days missed due to suspension informed our effort. The State of Washington, for instance, found that students were suspended for 3.6 to 4.5 days, depending on the student's race. Massachusetts students missed an average of 3.75 days for each suspension (Losen, Sun, and Keith, 2017).

**Further justification for the estimated days of lost instruction.** Table A1 shows the comparison between our statewide *estimate* of days of lost instruction, which is calculated by assigning two days to each suspension (or doubling the rate of suspensions per 100 students) in the data reported for CALPADS 2015-16, with OCR’s publicly available data from the same year on *actual* reported days lost due only to out-of-school suspensions, only. The rates were nearly identical.

**Table A1. Estimates of Days of Lost Instruction Based on CDE Reported Data Compared with Rates Based on Days Lost Reported to the U.S. DoE’s OCR 2015-16**

California 2015-16	OCR	CDE
All Students	12.0	12.7
Black	39.0	41.8
Latinx	11.6	12.3
Native American	23.9	29.6
White	10.1	10.7

One key difference is that CALPADS counts the number of in- and out-of-school suspensions. California districts mete out far more out-of-school than in-school suspensions. Because what we considered to be a conservative rate included all in-school suspensions, which OCR did not count, we expected our estimate based on combined suspensions to be higher than the rates based on actual reported days lost due to out of school suspensions alone. Readers should note that OCR published the counts of the days lost but did not create a rate of days lost per 100 enrolled. We used the OCR reported enrollment data, which are also census data, to calculate the OCR rates presented in the table.

We know that in-school suspensions statewide constituted 15.2% of all suspensions in 2015-16, and that many California districts had no in-school suspensions that year. Had OCR calculated days lost based on combined suspensions, they would necessarily have reported higher numbers. In other words, our estimate gives a reasonable sense of days lost due to suspensions in general, but because it matched OCR’s reported rate of days lost per 100 for out-of-school suspensions for all students, it is almost certainly a slight underestimate of the actual days lost in the state and in any district that used both in-school and out-of-school suspensions. Further, the number of both in- and out-of-school suspension rates have fallen in California: in-school suspensions now represent 17.9% of all suspensions, and the actual number has shrunk from 70,829 in 2015-16 to 53,742 in 2018-19. This reduction of about 17,000 is less than the reduction of out-of-school suspensions during the same period, which declined from 363,406 in 2015-16 to 300,774 in 2018-19.

**Designating “High-Suspending” Districts Using Standard Deviation.** We used the following analyses to designate districts that had lost instruction rates of 25 per 100 or more as “high-suspending” districts. This term is most prominently featured in Part II of the report where we describe the distribution of high-suspending districts as experienced by students from each racial/ethnic group.

The statistical tool of calculating a standard deviation and adding it to the mean is often used by researchers to give a sense of high or low values relative to the mean (Johnson, 2009). Standard deviations are smaller when most districts are clustered near the state per-district average. However, with discipline in California we find a wide range (0-124 days lost per 100 students).

In keeping with our prior reporting, (Losen & Whitaker, 2017). we used the mean plus one standard deviation to determine what constituted a district with high rates of lost instruction in the state of California. The standard deviation tells us how districts' lost instruction rates per 100 are distributed across the state. Any district rate that is a standard deviation above the state mean is higher than the vast majority of districts in California (around 90% of all districts had lower rates). We used 25 days per 100 students instead of the combined number of 26.81 days per 100 to keep our descriptive analysis of lost instruction rates simpler.

The dataset was comprised of 749 school districts across the state of California. Only school districts that (1) reported suspension data for the 2018-19 school year, (2) had more than four Black students enrolled, and (3) were not designated as a COE district were included in calculating the standard deviation. Most districts designated as COEs included disciplinary alternative schools, which often had small enrollments but very high suspension rates. They were excluded from the sample used to calculate the standard deviation, and from our description of the distribution.

**Why rate differences (gaps) in days of lost instruction are used almost exclusively.** Ideally, tools used to measure differences in a negative experience should reflect the magnitude of the impact experienced by children of different groups. Likewise, harm reduction should be captured by measures used to evaluate progress. Therefore, the chosen measure should reflect the magnitude of the harm done, as reducing harm is the most important aim. The rate of days of lost instruction is a prime example. Assuming that the quality of instruction is the same, the differences in amount of lost instruction equate with differences in the opportunity to learn. Any parent or teacher or administrator knows that missing 20 days of school is worse than missing 10 days of valuable instruction time.

Unfortunately, using relative ratios as the major comparison de-emphasizes the magnitude of the impact as experienced by the children and ignores the fundamental reality that the actual number of days lost is critical to fully understanding the adverse disparate impact analysis. Researchers who argue that is better to use relative ratios in when measuring the disparate impact of school discipline are essentially arguing that a ratio of 30 days to 10 days lost is as serious a problem as a ratio of 3 days to 1 day lost, because the ratios are an identical 3 to 1. Yet, the racial inequity of losing 20 days more than White peers is ten times worse in terms of the difference in the opportunity to learn. The same is true when comparing the number of suspensions per 100 students, (as long as we assume that the suspensions are of roughly equal length for all races).

When it comes to educational outcomes that matter, whether they be reading proficiency, graduation rates, or college preparedness, discussions of progress almost always focus on how far the group we are most concerned about is from a goal, such as reading proficiency. In this case the desired outcome is to reduce the amount of instructional loss. Therefore, assessments of



progress in discipline should always reflect whether the underlying discipline rates are rising or falling.

One property of relative ratios is that, in order for a relative ratio to get smaller over time, the ratio of the decline must exceed the starting ratio. This creates a particular problem in the area of discipline, where interventions are designed to help all children. For example, imagine that a district starts using intervention Z to replace suspensions, which helps both racial groups. Imagine that the suspension rates decline but that, before the intervention, Blacks had been suspended at three times the rate of Whites. If the Black suspension rate declines by eight percentage points, and the rate for Whites decline by four percentage points, the Black decline would be just twice the decline for Whites. Despite the greater decline for Black rates, the new rate ratio will be greater than the starting ratio of three times the rate of Whites. This example can be seen in the first row of Table A-2.

**Table A2. Ratios Get Larger Despite Decreasing Rates and Narrowing of Black-White Gap**

<b>Starting Values Percent Suspended</b>	<b>Starting Gap and Ratio</b>	<b>Decline (Black 2x White)</b>	<b>New Values After Decline</b>	<b>New Gap and Ratio</b>	<b>Change to Gap (absolute value)</b>	<b>Change to Ratio</b>
Black 15 White 5	Gap =10 Ratio =3:1	Black -8 White -4	Black =7 White =1	Gap = 6 Ratio = 7:1	-4 percentage point <b>decrease</b>	133% <b>increase</b>
Black 40 White 10	Gap = 30 Ratio = 4:1	Black -10 White -5	Black=30 White =5	Gap =25 Ratio 6:1	-15 percentage point <b>decrease</b>	50% <b>increase</b>
Black 25 White 5	Gap = 20 Ratio = 5:1	Black -4 White -2	Black 21 White 3	Gap =18 Ratio =7:1	-2 percentage point <b>decrease</b>	40% <b>increase</b>

Every case where rates are reduced for the group that is experiencing the highest rates could be described as progress. And there certainly is progress when the decline in the rates for the highest-suspended group is the largest decline, as is the case for each example in Table A2. In each row in the table the new values for both Blacks and Whites decline. However, in all the examples in the table the decrease for Blacks was twice the decrease experienced by Whites. In other words, in each case the ratio of decline was two to one. In absolute value terms, the result in each example is that the racial gap narrowed. Yet, in every case the new Black:White ratio increased over the starting ratio. This is because the new ratio will always be larger if the ratio of the decline does not exceed the starting ratio.

Determining whether suspension rates are higher or lower than they were in prior years, and measuring racial disparities in absolute terms, are simple and straightforward methods for determining progress. This is true for both comparing disparities across districts (or among schools in the same district) and for evaluating the change in disparities over time. Therefore, the calculations used in this report not only capture whether suspensions are used frequently, rarely, or somewhere in between, they also provide a clear estimate of the resulting difference in educational opportunity and how that difference changes over time. Using absolute values also means that the suspension rate gaps between any two groups in one district can be compared to the gaps in any other. The same is true for comparing the amount of change in the size of the disparity over time. Moreover, calculations of disparities based on absolute differences are not

influenced by changes in the demographics or suspension rates of other groups because, unlike ratios or proportionality indexes, different enrollment sizes are baked into the rates.

Another problem with the relative ratios is that, when the comparison metrics used to detect problems are purely relative and if the comparison group is White students, but no White students were suspended, a ratio cannot be calculated. This problem occurs in many elementary schools. It also frequently occurs when comparing rates for low incident responses, such as school-based arrests and expulsions.

**Suspension data codebook obtained retrieved from the CDE website,**

**<https://www.cde.ca.gov/ds/sd/sd/filesd.asp>.** Table A3 shows how the raw data was obtained from CDE prior to being analyzed. More importantly, it includes how CDE creates categories for each offense type. For example, they define “Suspension Count Violent Incident (No Injury)” as any suspension resulting from the following offenses: sexual harassment; caused, attempted, or threatened physical injury; aided or abetted physical injury; harassment or intimidation; harassment; intimidation of a witness; made terrorist threats; obscene acts; profanity and vulgarity; and bullying. Note that, while further disaggregated data are helpful in understanding discipline disparities, the most ideal data would include information for each code alongside the broader categories. With the current data, it is not possible to determine exactly what offense code is contributing the most disparities between groups. The broader categories in particular include a lot variation, for example, profanity and sexual harassment are two very distinct offenses but are placed under one umbrella, which makes discipline disparities difficult to analyze in terms of types of offenses.

**Table A3. California Department of Education Data Definitions**

<b>Total Suspensions</b>	Total count of ALL suspensions at the selected entity for the selected population using the available filters. Some students may be suspended multiple times and all suspensions are counted.
<b>Unduplicated Count of Students Suspended (Total)</b>	Total distinct count of ALL students suspended one or more times at the selected entity for the selected population using the available filters. Students who are suspended multiple times are only counted once.
<b>Unduplicated Count of Students Suspended (Defiance-Only)</b>	Total distinct count of all students suspended one or more times for DEFIANCE-ONLY at the selected entity for the selected population using the available filters. Students who are suspended multiple times are only counted once.
<b>Suspension Rate (Total)</b>	The unduplicated count of students suspended divided by the cumulative enrollment at the selected entity for the selected student population.
<b>Suspension Count Violent Incident (Injury)</b>	This federal offense category includes the following California Education Code sections: Sexual Battery/Assault: 48915(c)(4), 48900(n), Caused Physical Injury: 48915(a)(1) , Committed Assault or Battery on a School Employee: 48915(a)(5), Used Force or Violence: 48900(a)(2) , and Committed an act of Hate Violence: 48900.3.

<b>Suspension Count Violent Incident (No Injury)</b>	This Federal Offense Category includes the following California Education Code sections: Sexual Harassment: 48900.2, Caused, Attempted, or Threatened Physical Injury: 48900(a)(1), Aided or Abetted Physical Injury: 48900(t), Harassment or Intimidation: 48900.4, Harassment, Intimidation of a Witness: 48900(o), Made Terrorist Threats: 48900.7, Obscene Acts, Profanity, and Vulgarity: 48900(i), and Bullying: 48900(r).
<b>Suspension Count Weapons Possession</b>	This Federal Offense Category includes the following California Education Code sections: Possession, Sale, Furnishing a Firearm: 48915(c)(1), Possession, Sale, Furnishing a Firearm or Knife: 48900(b), Brandishing a Knife: 48915(c)(2), Possession of a Knife or Dangerous Object: 48915(a)(2), and Possession of an Explosive: 48915(c)(5).
<b>Suspension Count Illicit Drug-Related</b>	This Federal Offense Category includes the following California Education Code sections: Sale of Controlled Substance: 48915(c)(3), Possession of Controlled Substance: 48915(a)(3), Possession, Use, Sale, or Furnishing a Controlled Substance, Alcohol, Intoxicant: 48900(c), Offering, Arranging, or Negotiating Sale of Controlled Substances, Alcohol, Intoxicants: 48900(d), Offering, Arranging, or Negotiating Sale of Drug Paraphernalia: 48900(j), and Offering, Arranging, or Negotiating Sale of Soma: 48900(p).
<b>Suspension Count Defiance-Only</b>	Any suspension associated with a student in which the only offense committed by a student is disruption is considered a "defiance-only" incident. The Defiance-Only Category includes the following California Education Code section: Disruption, Defiance: 48900(k)(1).
<b>Suspension Count Other Reasons</b>	This category includes the following California Education Code sections, most of which are NOT included in any of the federal offense categories. The only offense that is reportable in the Federal category of "Other" is EC 48900(m)—Possession of an Imitation Firearm, the rest of the offenses are not part of the federal hierarchy. Possession of an Imitation Firearm: 48900(m), Possession or Use of Tobacco Products: 48900(h)(2), Property Damage: 48900(f), Robbery or Extortion: 48915(a)(4), Property Theft: 48900(g), and Received Stolen Property: 48900(l).

**Why this report uses census enrollment and not cumulative enrollment.** Census enrollment is the number of students enrolled in a given school (or district) on a specific date, usually in October or November. This enrollment count is used for federal reporting, for special education, for the Civil Rights Data Collection (CRDC), and for state financial purposes. The state of California publishes census enrollment data under “enrollment” on the CDE Dataquest website at the state, district, and local levels. Since we published our first report on California in 2012, we have consistently used this census enrollment data to calculate discipline rates.

Cumulative enrollment is the count of all students attending a particular school for any period of time during the school year. The state of California publishes cumulative enrollment on Dataquest, but only in the discipline files. California uses cumulative enrollment to calculate the suspension rates used for statewide accountability. However, the state does not provide cumulative enrollment where it officially reports “enrollment” on the CDE Dataquest website. Because the cumulative data are not used for state or federal financing purposes, there may be less oversight to ensure their accuracy.

As a practical matter, cumulative data are still useful because CDE uses the cumulative numbers to calculate the suspension rates it uses for accountability and for the published suspension rates on the Dataquest website. In the spreadsheets provided with this report, the raw cumulative data are published along with the raw number of suspensions and unduplicated counts of students suspended, so it’s easy to re-create the published discipline rates. The Dataquest reports are useful because, in addition to the current rates, they provide tables that display the trends over time for overall rates, thus one can look up prior years for specific subgroups.

The reason the Center for Civil Rights Remedies report only uses cumulative enrollment in isolated cases is that the rates and disparities that are based on cumulative enrollment are always lower, and these lower rates can sometimes become distorted and do not accurately represent the actual use of suspensions. This distortion is more common for Black students, those with disabilities, and those who are highly mobile, including migrant youth and youth in the foster care system. These subgroups are also the most frequently suspended. Middle and high school students also tend to have higher mobility, and suspension rates are double or triple at the upper grade levels. Using an example from our report, we calculated that 3,872 suspensions were experienced by low-income Black male students with disabilities in grades 7-8. There were 5,183 Black 7<sup>th</sup>- and 8<sup>th</sup>-grade males with disabilities. The rate based on the CDE census enrollment translated into 149 days of lost instruction per 100 students, which was 60 more days than their White counterparts. However, when the cumulative enrollment for this subgroup was used, which was 5,887 students, the rate of lost instruction came out lower, at 132 days lost per 100. Using the cumulative rate can cloud one’s understanding of the degree of the problem even more when the starting enrollment sizes are smaller at the district level. In districts with highly mobile populations, as many students often enter or exit during the course of the year, yet the cumulative enrollment does not adjust for attrition. For example, those who enroll during the last month of school are counted as the equal of students who attend for the entire school year, while students who left after one month are not subtracted from the total enrollment.

Moreover, being suspended or expelled from school can increase student mobility. Therefore, when calculating suspension rates, it doesn’t make sense to rely on cumulative enrollment data to mitigate concerns about high mobility. Further, cumulative enrollment is not the official “enrollment,” which makes it more difficult to cross-check with other data sources.

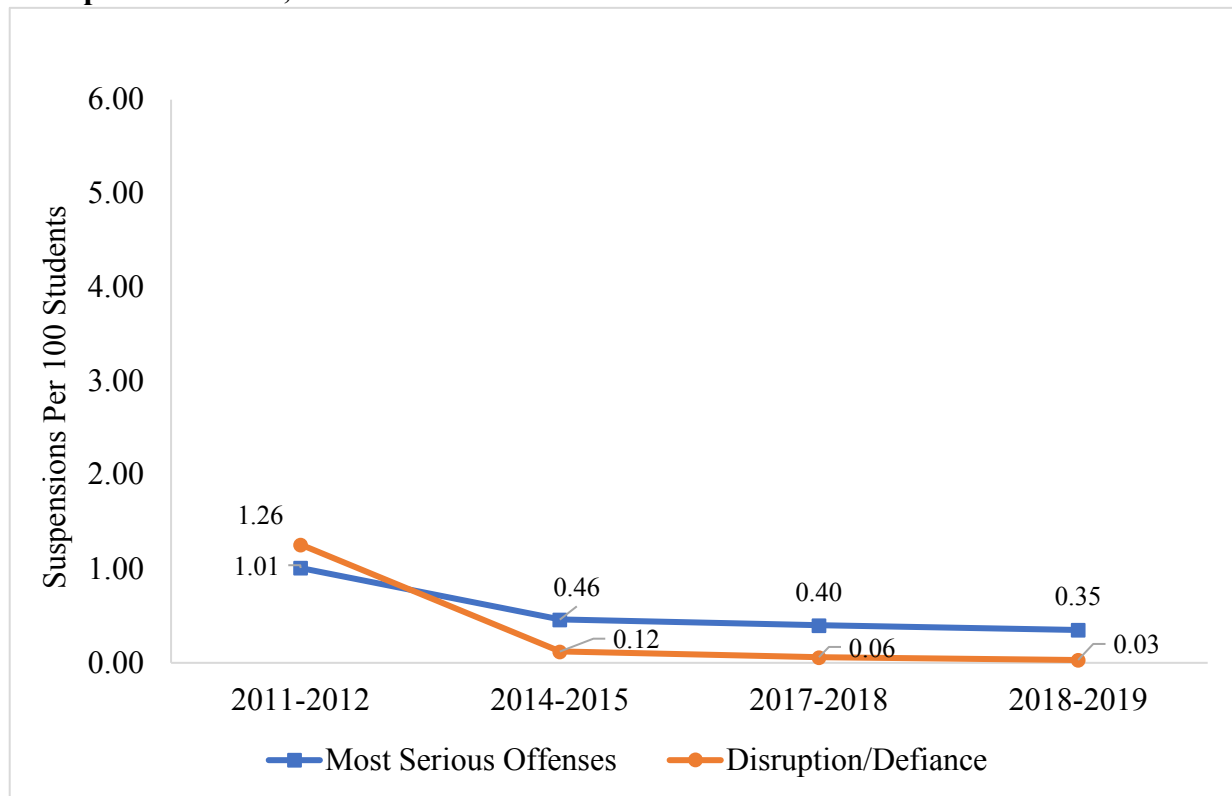
Some argue that a high percentage of students attending COE schools attend on a temporary basis and that using cumulative enrollment would therefore be a fairer measure, because a school designed to serve 100 students may serve 300 over the course of the entire year. In theory, 300 students would be expected to generate more suspensions than 100 students, but that would only apply if most attended for the full year. It is our understanding that, in most of these schools,

students only attend on a temporary basis. We argue that, for the most accurate system, students who only attend school for a fraction of the year would be counted in accordance with their total days of enrollment. For example, a student who was suspended twice but attended just one-third of the school year might be expected to be suspended four more times during the remaining two-thirds of the year if the suspension rate remained constant.

However, if a school’s total enrollment expands substantially as the year progresses, exceptions should be made at the school and district level when calculating suspension rates. In those less-common cases, using the cumulative enrollment for the denominator will produce the more accurate results. Yet, it’s not clear that all or even most alternative schools should qualify for such an exception because many of those schools also have very high attrition rates during the year.

**Additional data and discussion of district trends.** The following analyses were mentioned in the text of the report but represented additional nuanced descriptions that many readers might find repetitious.

**Figure A1. Los Angeles: Suspension Rates for Most Serious Offenses and for Disruption/Defiance, from 2011-2012 to 2018-2019**



**Table A4: Largest Overall Decline in Suspensions per 100 for Serious Offenses and for Disruption/Defiance**

District	Year	Overall Number of Suspensions for Serious Offenses	Rate per 100 for Serious Offenses	Overall Number of Suspensions for Disruption	Disruption Rate Per 100
Vallejo City Unified	11-12	2727	17.81	8267	53.99
	14-15	1758	11.72	1643	10.96
	17-18	1368	9.46	397	2.74
	18-19	1186	8.30	493	3.45
	Difference	-1541	-9.51	-7774	-50.54
Yuba City Unified	11-12	884	6.68	1156	8.74
	14-15	811	6.07	934	6.99
	17-18	358	2.70	1742	13.16
	18-19	327	2.49	652	4.97
	Difference	-557	-4.19	-504	-3.77
Santa Rosa High	11-12	978	8.61	1992	17.54
	14-15	597	5.31	579	5.15
	17-18	523	4.68	187	1.67
	18-19	519	4.67	159	1.43
	Difference	-459	-3.94	-1833	-16.11
Compton Unified	11-12	620	2.50	1970	7.95
	14-15	298	1.35	149	0.67
	17-18	268	1.13	30	0.13
	18-19	164	0.71	19	0.08
	Difference	-456	-1.79	-1951	-7.87
Los Angeles Unified	11-12	6660	1.01	8323	1.26
	14-15	2988	0.46	768	0.12
	17-18	2514	0.40	396	0.06
	18-19	2109	0.35	181	0.03
	Difference	-4551	-0.66	-8142	-1.23

Note: Districts considered included a minimum of 3,000 students. Table is ranked ordered by the largest group, given the restrictions mentioned.

Along with the statewide data, the trendlines for these large districts should help allay the fear that reducing suspensions will make schools more chaotic and violent, as many successful districts show a decline in suspensions for both minor and serious offenses.

## **Appendix B: Days of Lost Instruction Regression Analysis showing Correlation with Security Staff and Student Support Staff**

### **Data**

The analysis presented for the regression analysis in this report used the 2015-16 CRDC dataset. That year is the first in which the days of lost instruction due to out-of-school suspensions were collected and publicly reported. This report also merges the 2015-16 EdFacts data in order to determine the number of low-income students for each school in the sample.

### **Sample Selection**

The sample examined included California high schools that were not juvenile justice centers or virtual schools. Additional cleaning was done to the OCR data. High schools that reported suspension rates above 100% for any racial group were categorized as error schools. More than 50% of the high schools with fewer than 200 students were alternative high schools, which tend to have higher rates of lost instruction. Therefore, we required each high school to have a minimum enrollment of 200 students, which resulted in a total of 1,307 high schools. The 200-student minimum was applied to ensure that the sample represented traditional high schools. Including a high number of alternative schools would have skewed the distribution of lost instruction rates and made them seem much worse.

To measure the effects of high-crime neighborhoods, we merged data from the 2015-16 EdFacts data to include a proxy on socioeconomic status. We merged CRDC high school data with school-level data on the total number of economically disadvantaged students in a four-year adjusted high school cohort. We were able to include this variable for all 1,307 high schools in the sample. Our analyses also looked at subsamples. An examination of the impact of security staff on days lost of instruction per 100 enrolled for Black students only looked at high schools with a minimum of 100 Black students.

### **School-Level Variables**

The security staff-to-student ratio variable was constructed by dividing the number of security guards at each school by the total enrollment of each school. It is important to note that security staff does not include sworn law enforcement officers (SROs) because of an error by OCR.<sup>52</sup> Similarly, the support staff-to-student ratio variable includes the sum of the number of counselors, psychologist, social workers, and nurses at each school, divided by the total student enrollment. In fact, all variables in the regression model were divided by the total enrollment of each school to adjust for school size differences. The novice teachers-to-student ratio variable includes the number of first- or second-year teachers, and the teacher absenteeism-to-student ratio variable was constructed by adding the number of teachers who were absent more than ten days during the school year and dividing it by the total student enrollment. Lastly, the enrollment variables included the percentage of students enrolled by racial/ethnic group (e.g., race/ethnicity, gender, IDEA status). The dependent variable used was total days of instruction lost due to out-of-school suspension per 100; that is, the total number of days lost due to suspensions, divided by total enrollment and then multiplied by 100. This measure allows us to compare between schools, regardless of differences in enrollment among schools.

### **Hypothesis**

Our hypothesis was constructed by trying to understand the general relationship of security staff and, separately, support staff to rates of lost instruction due to out-of-school suspension. Was either the security staff-to-student ratio or the support staff-to-student ratio statistically significant when correlated with the rate of lost instruction? Another factor we wanted to consider was high-crime neighborhoods, because those schools may have more security staff in order to safeguard students from the criminal activity that surrounds the school and the security staff may be deployed primarily outside the school. While we don't have the necessary crime statistics to fully and accurately account for this phenomenon, we used the percentage of low-income students enrolled as a proxy. It is likely that schools with higher concentrations of poor students are located in high-crime neighborhoods (Kelly, 2000). Schools serving high percentages of non-White students, especially racially isolated schools, also are more likely to be located in high-crime neighborhood (Hagan et al., 2018). We controlled for percentage low-income and the racial demographics.

If having higher security staff ratios increased the attention given to misconduct and the harshness of the responses among all high schools, we expect higher security staff-to-student ratios to be related to higher rates of lost instruction due to out-of-school suspension. If student support staff help prevent problem behavior and are involved in providing less punitive responses to misconduct, we would also expect that having incrementally higher support staff-to-student ratios would be related to lower rates of lost instruction. In schools with a minimum of 100 Black students, the impact of increases in the security staff-to-student ratio and support staff-to-student ratio on Black students' days of lost instruction per 100 is expected to have the same relationship. However, given that Black students experience the highest number of days of lost instruction of all racial groups, we expect these high schools to be those most affected by adding security staff and/or support staff.

### **Analysis Strategy**

To test the relationship between staff-to-student ratios and rates of lost instruction due to out-of-school suspensions, we used a mixed-effects negative binomial regression while controlling for novice teachers and teacher absenteeism-to-student ratios, and enrollment by subgroup. Negative binomial regression is used when the dependent variable is an observed count that follows the negative binomial distribution (Cameron & Trivedi, 1998). To contextualize the ratios in the regression models, we divided all ratios by 0.001. We did this so we could interpret the regression coefficients for the ratios in increments of one-thousandth. The reason for this had to do with the fact that the security staff-to-student ratio had a mean of 0.001 (see Table B1). In other words, the ratio indicated an average of one security guard for a high school with 700 students enrolled. Increasing a ratio by 1, as is standard in any regression, would not make much sense in the context of this study. Doing the one-thousandth increments represents a rough estimate of adding one security guard. We thought this increment was more realistic than looking at what the model predicted if we added ten security guards to one high school. Note that the model of all 1,307 high schools that examined the overall rates of lost instruction is referred to as Model 1; Model 2 examined Black rates of lost instruction in the 305 high schools with at least 100 Black students. While not included in this report, we also looked at relationship of Black rates of lost instruction in Model 1 and overall rates of lost instruction in Model 2, and all of our results were consistent with the findings highlighted in the report.



## Findings

We added descriptive statistics for each regression model analyzed to contextualize each of the samples with the restrictions that were applied. It is important to note that Model 1 had a mean of 20 total days of lost instruction per 100 students, 45 days lost of instruction per 100 Black students, and 17.9 percentage of low-income students (see Table B1). In contrast, as shown in Table B3, Model 2 had an average of 28 days lost due to an out-of-school suspension per 100 students, 63 days lost of instruction per 100 Black students, and an average of 17.2% low-income students. It is important to note that, while the subset of high schools with a minimum of 100 Black students had a slightly lower percentage of low-income students, the ratio of security staff to students was twice as high in comparison to the all high school model, and the average Black days lost per 100 students was significantly higher.

In both models, we found a positive relationship between increasing the security staff-to-student ratio and the increasing the rate of lost instruction, after controlling for the support staff-to-student ratio, novice teacher-to-student ratio, teacher absenteeism-to-student ratio, and the percentage of low-income students, students with disabilities, limited English proficient students, and different racial/ethnic and gender groups.

When examining all high schools in California, as one can see in Table B2, with a one-thousandth unit increase to the security staff-to-student ratio, the difference in the logs of expected counts would increase by 0.13 days of lost instruction per 100 students, while holding constant support staff, novice teachers, teacher absenteeism, and enrollment by subgroups.

Table B4 shows the relationship of staffing and Black days of lost instruction due to out-of-school suspension in high schools with at least 100 Black students (Model 2). These findings were similar to the findings in the all high school model but had stronger effects, both in magnitude and statistical significance. For instance, with a one-thousandth unit increase to the security staff-to-student ratio, the difference in the logs of expected counts would increase by 0.20 Black days of lost instruction per 100 students, while holding constant support staff, novice teachers, teacher absenteeism, and enrollment by subgroups. In contrast, with a one-thousandth unit increase to the support staff-to-student ratio, the difference in the logs of expected counts would decrease by 0.11 Black days of lost instruction per 100 students, controlling for school-level factors.

**Table B1. Descriptive Statistics of Regression Model 1 Examining Total Days of Lost Instruction due to Out-of-School Suspensions Per 100 Students for High Schools in California**

Variable	All High Schools	
	<i>Mean</i>	<i>St.Dev.</i>
Total Days Lost Per 100	20	27
Black Days Lost Per 100	45	83
Security Staff to Student Ratio	0.001	0.002
Support Staff to Student Ratio	0.005	0.008
Novice Teachers to Student Ratio	0.006	0.005
Teacher Absenteeism to Student Ratio	0.011	0.012
Percentage of Students		
Latinx	53.6%	26.8%
Native American	0.8%	2.7%
Asian	9.6%	13.8%
Hawaiian/Pacific Islander	0.7%	1.2%
Black	6.1%	8.0%
White	26.0%	23.0%
Students with Disabilities	12.3%	14.2%
Boys	51.8%	5.7%
Low-Income	17.9%	13.4%
Limited English Proficiency	13.0%	12.1%
n (schools)	1,307	

**Table B2. Model 1 Mixed-Effects Negative Binomial Regression on Total Days of Lost Instruction due to Out-of-School Suspensions Per 100 Students for High Schools in California**

	All High Schools	
Variable	<i>B</i>	<i>SE</i>
Security Staff to Student Ratio	0.13***	0.02
Support Staff to Student Ratio	-0.00	0.00
Novice Teachers to Student Ratio	-0.00	0.01
Teacher Absenteeism to Student Ratio	0.02***	0.00
Percentage of Students		
Latinx	-1.74*	1.03
Native American	3.01	2.39
Asian	-3.29***	1.11
Hawaiian/Pacific Islander	14.29***	4.03
Black	0.02	1.19
White	-1.45	1.11
Students with Disabilities	-1.38***	0.34
Boys (Girls Reference)	4.15***	0.75
Low-Income	1.13***	0.37
Limited English Proficiency	-0.34	0.40
Intercept	1.80	1.10
n (schools)	1,307	

\*\*\* p<0.01, \*\*p<0.05, \* p<0.1. Data come from the restricted 2015-16 CRDC and the 2015-16 EdFacts.

**Table B3. Descriptive Statistics of Regression Model 2 Examining Black Days of Lost Instruction due to Out-of-School Suspensions Per 100 Black Students for High Schools in California**

Variable	High Schools	
	<i>Mean</i>	<i>St.Dev.</i>
All Students Days Lost Per 100	28	31
Black Days Lost Per 100	63	66
Security Staff to Student Ratio	0.002	0.002
Support Staff to Student Ratio	0.004	0.003
Novice Teachers to Student Ratio	0.005	0.004
Teacher Absenteeism to Student Ratio	0.011	0.009
Percentage of Students		
Latinx	52.2%	19.4%
Native American	0.5%	0.6%
Asian	11.2%	11.8%
Hawaiian/Pacific Islander	0.9%	1.3%
Black	14.6%	10.6%
White	17.3%	14.3%
Students with Disabilities	11.3%	8.1%
Boys	51.4%	4.3%
Low-Income	17.2%	7.5%
Limited English Proficiency	11.7%	8.2%
n (schools)	305	

**Table B4. Model 2 Mixed-Effects Negative Binomial Regression on Black Days of Lost Instruction due to Out-of-School Suspensions Per 100 Black Students for High Schools in California**

Variable	High Schools	
	<i>b</i>	<i>SE</i>
Security Staff to Student Ratio	0.20***	0.04
Support Staff to Student Ratio	-0.11***	0.02
Novice Teachers to Student Ratio	0.03*	0.02
Teacher Absenteeism to Student Ratio	0.01	0.01
Percentage of Students		
Latinx	-6.37**	2.53
Native American	30.60**	13.84
Asian	-5.71**	2.76
Hawaiian/Pacific Islander	0.66	7.93
Black	-7.60***	2.72
White	-6.02**	2.67
Students with Disabilities	-0.07	1.3
Boys (Girls Reference)	5.08**	2.37
Low-Income	3.40**	1.46
Limited English Proficiency	1.36	1.15
Intercept	6.36**	2.76
n (schools)	305	

\*\*\* p<0.01, \*\*p<0.05, \* p<0.1. Data come from the restricted 2015-16 CRDC and the 2015-16 EdFacts. High schools with less than 100 Black students were not considered in this analysis.

### Limitations

First and foremost, it is important to note that the purpose of this study was not to establish a causal relationship between different types of staffing and days lost of instruction, but to discover and describe whether there was a statistically significant relationship. While this in itself is not a limitation per se, readers should be aware we are seeking to further understand and contextualize days of lost instruction by examining school-level factors, which were informed by the extensive scholarship on suspensions.

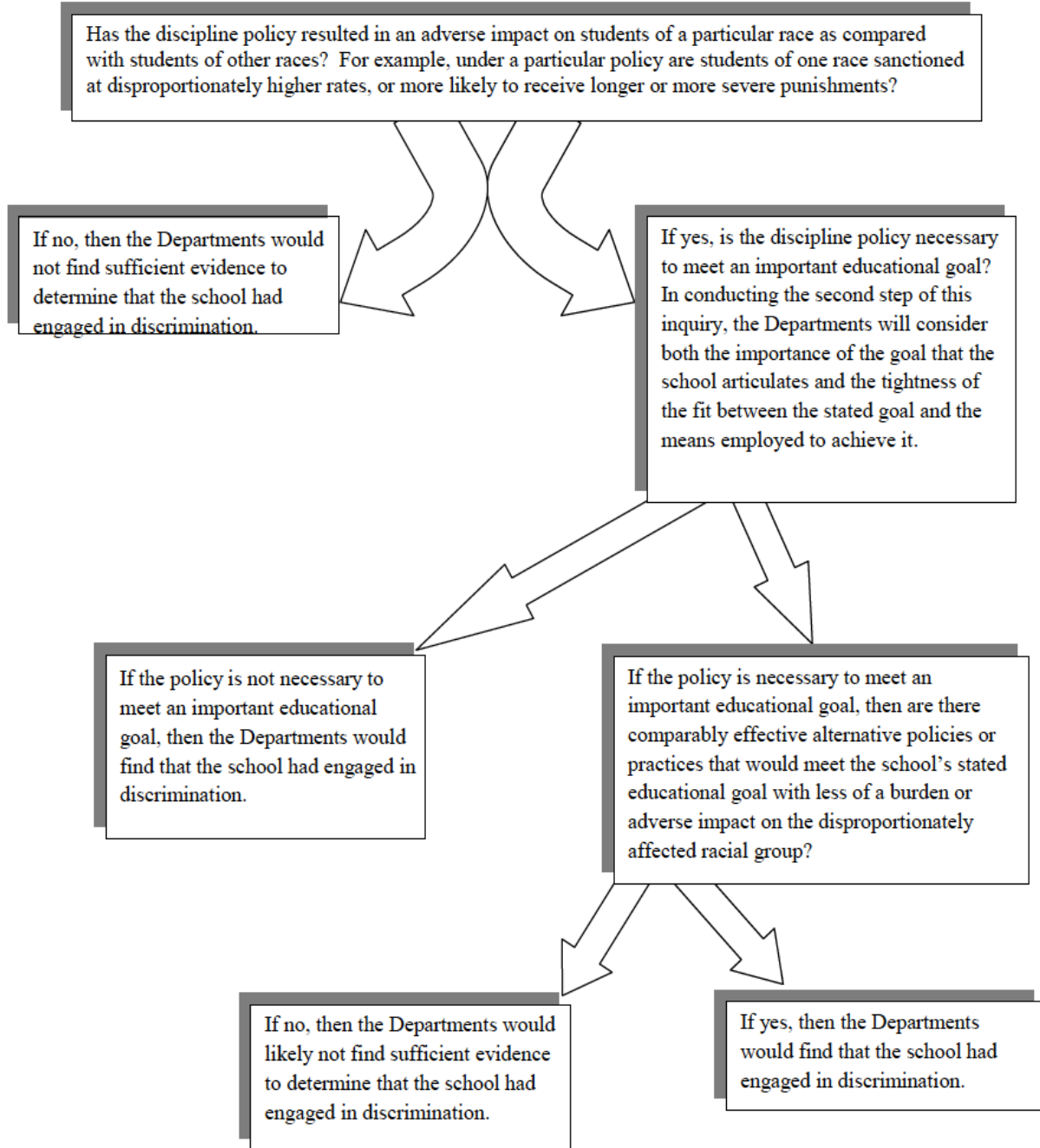
The present analysis also only takes into account school-level factors. The association examined here does not consider data, such as when security personnel refer students to the office for run-

of-the mill misconduct, whereby the referral would permit researchers to distinguish between incidents involving a serious danger or criminal activity and those involving minor misconduct. This important but missing layer of information might reveal the extent to which security staff are engaged with routine enforcement of school rules—that is, the way some teachers and/or other staff members perceive and respond to students and how this might affect referral rates on the basis of race/ethnicity, gender, and/or disability status, as well as how disparate referral rates impact rates of lost instruction due to suspension. Moreover, this study only looked at the impact on instructional time in a given year. Ideally, with longitudinal data, researchers could follow the same students over time and analyze the cumulative impact of suspensions and how that might relate to security staff-to-student ratios. Unfortunately, there is no federal data on either teacher or security staff referrals to the office for discipline and there are serious problems with the required reporting of referrals to law enforcement. Further, universal longitudinal administrative data on days of lost instruction for students attending public schools in the U.S. currently do not exist.

Additionally, by restricting the high school enrollment to those schools with at least 200 students, our findings cannot be generalized to all high schools in California. We grouped all counselors, psychologists, nurses, and social workers together under the term “student support staff,” although each was reported to the OCR separately. We may have found different results had we looked at each type of support staff separately. Finally, because the data on days of lost instruction in the CRDC are tied only to out-of-school suspensions, it is possible that the study didn’t nearly capture the degree to which security-to-student ratios correlate with higher rates of days of lost instruction due to all forms of discipline.

## Appendix C: Disparate Impact Flow Chart, How Districts Should Review Discipline Policy for Potentially Unlawful Disparate Impact

**Illustration 2: Disparate Impact Flowchart**



*Note:* See the entire guidance letter at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>

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<sup>1</sup> Assembly Bill 420, which took effect on January 1, 2015, eliminated the authority of school districts to issue in-school or out-of-school suspensions to students in kindergarten through third grade for disruption or willful defiance.

<sup>2</sup> According to a CALPADS Update Flash #145, November 5, 2018, under the heading, Reporting "Incident Disciplinary Action Duration Days" the state collects but does not publicly report the actual data on days lost due to suspensions and expulsions. Available at: [cde.ca.gov/ds/sp/cl/calpadssupdf145.asp](https://cde.ca.gov/ds/sp/cl/calpadssupdf145.asp).

<sup>3</sup> In reviewing our analysis, we re-ran the data for prior years using the most current numbers. Our re-analysis also used updated files provided by the California Department of Education, and these changes explain some very slight variations in the rates for some subgroups for some years found in our prior published reports.

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<sup>4</sup> We compare gaps using absolute rather than relative differences to best capture the magnitude of the disparate impact different discipline policies and practices have on students' opportunity to learn. Some might argue, using ratios instead of absolute differences in rates, that the racial disproportionality has not improved. However, we urge policymakers, educators, and researchers to choose measures of racial difference that can capture the magnitude of the changes and better reflect the actual impact suspensions have on the most frequently suspended racial and ethnic groups. We provide a complete explanation for our chosen methods in the appendix.

<sup>5</sup> Rulings in two lawsuits, *Pennsylvania Association for Retarded Children (Parc) v. Commonwealth*, 334 F Supp 1257 (E.D. 1971) and *Mills v. Board of Education* 348 F. Supp. 866 (D.D.C. 1972), became codified in legislation in what is now known as the Individuals with Disabilities Education Act (IDEA). Both cases involved claims that the students were excluded from public schools because they posed behavioral problems. The denial of access to public education to students with disabilities for behavior caused by the disability is a form of unlawful denial of a free appropriate public education and is discriminatory. For a fuller description and analysis see Kim, Losen, and Hewitt (2010, p. 53), and accompanying footnotes.

<sup>6</sup> In the 2016 "Dear Colleague" letter (significant guidance) issued by the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS), the department provides examples of how, "in the case of a child whose behavior impedes the child's learning or that of others the IEP Team must consider . . . strategies to address that behavior." The letter says that the data showing higher rates of discipline for students with IEPs "strongly suggest that many children with disabilities may not be receiving appropriate behavioral interventions and supports, and other [behavioral improvement] strategies in their IEPs." This letter was retrieved from <https://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf> and is summarized in the press release available at <https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-schools-ensuring-equity-and-providing-behavioral-supports-students-disabilities>. The letter provides examples of how the disciplinary procedures and responses can constitute a failure to provide a free appropriate public education (FAPE), which violates the IDEA. Denial of FAPE is also considered discriminatory pursuant to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, and their implementing regulations. As the letter points out, "While this letter focuses on requirements under the IDEA relating to FAPE in the least restrictive environment, students with disabilities also have rights under two civil rights laws that prohibit discrimination on the basis of disability—Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II)."

<sup>7</sup> See *Id.* Readers should note that the summary in the text does not fully explore the federal and state requirements. For a more complete review of federal requirements, readers should see OSERS "Dear Colleague" letter, *supra* note 5. The interpretation of these requirements may differ slightly from one state to the next. Further, additional differences may apply for students who were deemed to have a disability pursuant to Section 504 of the Rehabilitation Act of 1973 and under the Americans with Disabilities Act.

<sup>8</sup> Although these data from California are not yet available to researchers as a separate file, the state does post the enrollment numbers by race with disability for every grade, as well as the count of suspensions per 100 for the state and for each district by the following grade configurations: K-3, 4-6, 7-8, and 9-12. We could not provide a district-by-district analysis of those data in this report.

<sup>9</sup> As described in the appendix, we discourage the use of ratios for comparing differences. In purely relative terms the Black White disparity, if described as a relative ratio, is largest between Black and White non-poor students.

<sup>10</sup> As discussed, low income students should not be subjected to ineffective punitive responses more often, even if they misbehave more often, and the higher rates of students from low-income households might also reflect inappropriate class-based bias.

<sup>11</sup> Although beyond the scope of this report, it is also worth looking into the ways that poverty and gender differences may influence disparate outcomes, as well as emerging evidence that LGBTQ youth are also experiencing discriminatory disciplinary removals.

<sup>12</sup> The first ban on disruption/defiance suspensions was for grades K-3 and was implemented in January 2015, but the policy had already been in place for grades K-12 in Los Angeles for several years, as well as in San Francisco and Pasadena. The school board of Oakland Unified School District voted to adopt the policy in 2015, and others have likely followed (Frey, 2015). The many different district-level timetables for the implementation of such policy changes makes it challenging to conduct a statewide before-and-after analysis.

<sup>13</sup> The focus of this report is on the state and district rates and state and local policies. It is worth noting that, when the Trump administration rescinded the guidance, it did not change the federal laws or regulations that informed the guidance. Moreover, the attorney general for the state of California not only opposed the federal policy change but wrote a letter to state education leaders and stated that the laws, and standards for applying them, as described in the rescinded guidance still applied in California.

<sup>14</sup> Therefore, districts remain obligated to protect the civil rights of students that school authorities decide to exclude on disciplinary grounds. California's attorney general, Xavier Becerra, who opposed the rescission, recently reminded school leaders in California that state law was consistent with the interpretation in the rescinded federal discipline guidance and that his office would redouble efforts to protect children from unjust discipline. See Xavier Becerra press release, Attorney General Becerra Issues Alert Reminding California Schools of their Obligations to Protect the Civil Rights of All Students, February 4, 2019, <https://oag.ca.gov/news/press-releases/attorney-general-becerra-issues-alert-reminding-california-schools-their>; also see press release letter from State Attorney General Becerra, <https://oag.ca.gov/news/press-releases/attorney-general-becerra-condemns-education-secretary-devos-plans-rescind>. However, rhetoric used by the Trump administration to justify rescinding the federal school discipline guidance is relevant to understand the contours of the policy change debate. Without providing any empirical evidence, the Trump administration reiterated an implausible connection—which was included in the School Safety Commission report and widely criticized by researchers—that the school discipline guidance was somehow responsible for a White male student's murderous rampage at Marjory Stoneman Douglas High School. See "Final Report of the Federal School Safety Commission," available at <https://www2.ed.gov/documents/school-safety/school-safety-report.pdf>. The federal School Safety Commission's report prompted a review by Jon Valant and Michael Hansen that was very critical of the poor logic driving the School Safety Commission's conclusions. It is available at <https://www.brookings.edu/blog/brown-center-chalkboard/2018/12/21/school-safety-commissions-report-uses-tenuous-logic-to-walk-back-guidance-on-school-discipline/>. The Education for All Handicapped Children Act, now called the Individuals with Disabilities Education Act (IDEA), contains explicit due process protections meant to safeguard against a denial of access to educational opportunity based on disability-related behavior. Any denial of FAPE is considered disability-based discrimination, also termed "denial of FAPE." Under the 1997 version of the IDEA, any suspension or series of suspensions totaling more than ten days triggered a review.

<sup>15</sup> In prior reports and in the book *Closing the School Discipline Gap*, we explore the lack of research to support zero-tolerance policies, including how "broken windows" crime interdiction theory, the myth of the "super predator," and the "war on drugs" have shaped how some schools and districts have attempted to structure their learning environments.

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<sup>16</sup> Dr. Greene runs a nonprofit organization that provides a wide array of resources for educators, parents, psychologists, and others on nonpunitive responses to children. More information is available at <https://www.livesinthebalance.org/>.

<sup>17</sup> One possibility is the rise of vaping among children and possession of the vaping tool known as a jewel, because use or possession of drug-related paraphernalia is an offense that begets a suspension in many schools. If vaping is in fact the reason for the increase, it also represents a health crisis that reflects marketing efforts by adults to encourage children to try a highly addictive substance. It's hard to imagine how suspending students out of school can remedy the harm or mitigate the danger of vaping. In fact, as we recommend in the conclusion of this report, the vaping health crisis is likely made worse by out-of-school suspensions, which cut children off from health education and provide no guarantee that they will be under adult supervision.

<sup>18</sup> Some researchers have been quick to suggest that efforts to limit suspensions or to implement restorative practices aren't working, but as a National Education Policy Center report titled "The Starts and Stumbles of Restorative Justice in Education: Where Do We Go from Here?" points out, the context and integrity of the implementation matters a great deal (Gregory & Evans, 2020). For example, researchers Steinberg and Lacoë (2017) looked at whether reform efforts in Philadelphia, which were supposed to eliminate suspensions for minor misconduct, were successful. They found that suspensions for minor offenses continued in several schools in Philadelphia. In writing up their findings for publication by the Manhattan Institute, the authors stated that in schools serving higher percentages of Black students there were some modest declines in test scores. However, they failed to emphasize the fact that they only found these score declines in the schools that continued to suspend students at a high rate for offenses that were no longer supposed to be grounds for suspension. In other words, the policy change was associated with a negative impact only in schools that failed to implement the changes required by the new policy! This begs the question of whether this research measured the impact of the policy itself or of its failed implementation. Similarly, a RAND study conducted in Pittsburgh's schools that looked at training for teachers in restorative justice responses to student misbehavior and attributed lower middle school math scores to these "reform efforts." After suggesting that the training in restorative practice might have had a negative impact on math scores of students, the limitations section did explain further that not every trained teacher used the practices and that they could not tell "how many or which students experienced restorative practices, nor to what degree." Therefore, the study could not tell whether the lower scoring math students had been in a classroom where restorative justice practices were actually implemented (see Augustine et al., 2018, p. 23).

<sup>19</sup> We restricted the analysis to all districts that reported at least one suspension, and for each subgroup the district had to enroll at least five students from the subgroup. Because one purpose was to give a sense of the distribution for typical districts, Districts labeled County Offices of Education, which only govern specialized schools, were excluded. To determine the results, we divided the number of districts where, for example, Black students lost 25 or more days of instruction per 100 enrolled (n=260) by the total number of districts that enrolled at least five Black students and had no missing data on Black students' days lost of instruction (N=562), arriving at the fact that Black students lost at least this much instruction time in 46% of the districts they attended.

<sup>20</sup> As troubling as the current distribution may appear for Black students, it was worse in 2015-16, when 51% of districts Black students attended had Black lost instruction rates at the highest end of the distribution (Losen & Whitaker, 2017).

<sup>21</sup> Researchers know that it's difficult to tell whether policy changes are working until they've been implemented with integrity for a long period of time (Hachtmann, 2012). For this reason, the Center for Civil Rights Remedies has always provided comprehensive and detailed reviews of discipline disparities in the nation and in California, which include the trends over time. Our prior reports on trends in school discipline in California include *Closing the School Discipline Gap in California: Signs of Progress* (2015), *Lost Instruction: The Disparate Impact of the School Discipline Gap in California* (2016), and *The Unequal Impact of Suspension on the Opportunity to Learn in California: What the 2016-17 Rates Tell Us About Progress* (2018); they can be found at [www.schooldisciplinedata.org](http://www.schooldisciplinedata.org) as well as at [www.civilrightsproject.ucla.edu](http://www.civilrightsproject.ucla.edu).

<sup>22</sup> Our report originally planned to highlight changes for every three years, starting with 2011-12 and ending with 2017-18. However, the data for 2018-19 were released as we were finishing the report, so we added the most recent year. Due to the closing of schools in the spring of 2020, it will be difficult to assess efforts for the 2019-20 school year.

<sup>23</sup> In the interest of full disclosure, one author of this report, Daniel Losen, worked as an independent consultant with the Modesto City Schools (Elementary and High) to support their efforts to reduce the racial disparities in special education identification and in school discipline, beginning in 2011 and continuing for two consecutive years. Losen is not currently under contract with any district in the state of California. Other districts he has worked with directly as an independent consultant on issues of disparity in special education and school discipline include the independent unified districts of West Contra Costa, Irvine, Antelope Valley, and San Francisco.

<sup>24</sup> The agreement was announced in May 2018, and it entails a review of Modesto City Schools Discipline and Behavior Intervention Policies. Due to the settlement, the complaint was not filed, but it had to do with the impact of discipline and transfer policies on African American, Latino, and English learner students. For a full description of the terms of the settlement, see <http://www.crla.org/settlement-reached-implementing-review-modesto-city-schools-discipline-and-behavior-intervention>.

<sup>25</sup> County Offices of Education do not just include disciplinary schools; many provide schools for pregnant teens, continuation students, and students with disabilities. The makeup of the schools can vary from county to county.

<sup>26</sup> Specifically, the Trump administration provided more than \$32 million in federal funds to districts to add security, including hiring more school police officers. At least eight California districts received between \$240,000 and \$500,000 in federal funds in 2019, and it is likely that other districts received state or federal grants in prior years. The districts receiving the federal funds in 2019 were Baldwin Park School Police Department, Chawanakee USD, Corono Norco USD, El Rancho USD, Pasadena USD Police Department, San Joaquin County Office of Education, San Juan USD, and Santa Ana USD Police Department. See School Violence Prevention Program 2019 Awareness, available at [cops.usdoj.gov/svpp-award](https://cops.usdoj.gov/svpp-award); U.S. Department of Justice 2019 COPS School Violence Prevention Program, available at [cops.usdoj.gov/pdf/2019AwardDocs/svpp/Award\\_List.pdf](https://cops.usdoj.gov/pdf/2019AwardDocs/svpp/Award_List.pdf); see also, COPS Fact Sheet, U.S. Department of Justice, 2019 COPS Office School Violence Prevention Program, at page 2, where it provides a summary of "most common elements of awarded projects." It should be noted that before the Obama administration produced the discipline guidance in 2016, it convened the Safe and Supportive School Discipline Initiative, which first met in 2014 and included leading police chiefs, representatives of SROs, school administrators, union leaders, juvenile judges, and civil rights advocates. The initiative released a consensus report that highlighted many promising practices from across the nation but did not call for adding police to schools. See the 2014 School Discipline Consensus Report, available at <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>.

<sup>27</sup> See, for example, Eckholm (2013), describing how, "as school districts across the country consider placing more police officers in schools, youth advocates and judges are raising alarm about what they have seen in the schools where officers are already stationed: a surge in criminal charges against children for misbehavior that many believe is better handled in the principal's office."

<sup>28</sup> One study by researchers from the American Institutes for Research found that expenditures for “hard” security did not yield the anticipated benefits. The study specifically reports that, after a school principal was shot in Cleveland, the district invested in more police, security cameras, and metal detectors. A year later, members of the school community reported that their sense of safety had not improved and that incidents of serious misconduct continued at the same high level. However, after the Cleveland school district subsequently changed some of their policies, invested in teaching social and emotional learning, and created learning centers to replace in-school suspension rooms, the school environment improved, and suspensions declined. Unfortunately, the Cleveland district lacked the resources to hire the full-time certified teachers the learning centers were designed to have. Osher and colleagues (2015) argue that the statistically significant reduction in misbehavior and improved school climate might have been greater if the learning centers had been staffed by fully certified, experienced teachers.

<sup>29</sup> The American Psychological Association (2008) opposes the practice because it doesn’t deter misbehavior in the long run and can in fact make children more aggressive. The practice also teaches children that using violence is a way to solve problems.

<sup>30</sup> The youth were members of Pomona Student Union, a social action group of *Gente Organizada*. The Student Union reviewed the Pomona school district’s LCAP and asserted that it included an illegal expenditure discussed herein. See <https://www.genteorganizada.org/copy-of-home>, at page 4.

<sup>31</sup> A good recent example of these concerns is presented in the report by Ochi et al. (2020).

<sup>32</sup> Several successful lawsuits have been filed against school districts and school security officers after videos went viral in South Carolina and elsewhere. See, for example, Helm (2018); also see Lee (2015).

<sup>33</sup> See the following three video clips: *Police body cam video shows arrest of 6-year-old at Florida school*, February 27, 2020, retrieved from <https://www.nytimes.com/video/us/10000007002916/police-body-cam-video-shows-arrest-of-6-year-old-at-florida-school.html>; *Video shows resource officer slam child to the ground*, December 15, 2019, retrieved from <https://www.cnn.com/videos/us/2019/12/15/north-carolina-body-slam-resource-officer-vpx.cnn>; and *Police officer resigns after video shows him using excessive force on an 11-year-old girl*, October 24, 2019, retrieved from <https://www.vox.com/identities/2019/10/24/20929397/police-officer-excessive-force-school-11-year-old-girl-new-mexico>. See also Goldstein, D., (2020). Do Police Officers Make Schools Safer or More Dangerous? NY Times. Available here: <https://www.nytimes.com/2020/06/12/us/schools-police-resource-officers.html>

<sup>34</sup> See, Advancement Project, We Came to Learn; A Call to Action for Police-Free Schools at page 70-74,

<sup>35</sup> See the Honorable Steven C. Teske, *Testimony before the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights*, Hearing on “Ending the School to Prison Pipeline” December 12, 2012, retrieved from <https://www.judiciary.senate.gov/imo/media/doc/12-12-12TeskeTestimony.pdf>.

<sup>36</sup> Under LCFF, besides basic funding, the state provides districts with supplemental funds based on the numbers of students who are low-income, English learners, and foster youth, whom it calls “high needs.” Districts with a concentration of more than 55% high-needs students receive funds for serving a high concentration of high-needs students. Districts must demonstrate that the funds spent for high-needs students must be “principally directed” and “effective” in meeting goals for high-need student achievement. The LCAP plan must describe their plans for spending each type of funding. See CAL. Educ. Code Sections 52059.5-5207.

<sup>37</sup> For example, Los Angeles County presiding juvenile court judge Michael Nash wrote in a June 6, 2014, letter to the LAUSD that the LCFF funds should not be diverted to support the district’s own school police force, which has an annual budget of around \$57 million (see Ferris, 2014). According to Judge Nash’s letter, LAUSD designated more than \$13 million in LCFF funds for school policing. Available at <https://www.documentcloud.org/documents/1184803-judge-nash-letter-sup-deasy-20140606-2.html>.

<sup>38</sup> The relationship between police and racial inequity in lost instruction due to discipline has taken on added importance because the Trump administration recently rescinded federal civil rights guidance on school discipline, and it has made other policy decisions that limit the scope of federal civil rights enforcement in public schools. The rescinded federal school discipline guidance also made it clear that each school district is responsible for the behavior and treatment of the law enforcement officers they employ or call for assistance (see DeVos et al., 2018).

<sup>39</sup> The Honorable Steven C. Teske Chief Judge, Clayton County Juvenile Court, Georgia Testimony supra note 35.

<sup>40</sup> Please refer to section 2 of the appendix for a detailed explanation on additional cleaning of the data, methods used, and variable construction.

<sup>41</sup> We also looked at the relationship of Black rates of lost instruction in Model 1 and overall rates of lost instruction in Model 2. All of our results were consistent with the findings highlighted in the report.

<sup>42</sup> In this case, CCRR made an exception to our standard policy of not reporting district data known to be erroneous because we are intentionally trying to raise awareness of the serious problem of the ongoing inaccurate data reporting. Interested readers will be able to find rates for secondary level students for every district in our soon to be released national report. In addition, the K-12 raw numbers of reported referrals and arrests, disaggregated by race can be found for 2015-16 on OCR’s website available at: [ocrdata.ed.gov](http://ocrdata.ed.gov). The data for the 17-18 school year are expected sometime in 2020.

<sup>43</sup> A failure to meet the federal reporting obligations is considered a form of non-compliance with federal Civil Rights Law. Each district superintendent must certify that the CRDC data are accurate when they submit their data to the U.S. Department of Education. LAUSD did comply and report school-based arrests in 17-18 and in 2013-14. The reason for LAUSD’s non-compliance in 2015-16 is beyond the scope of this report.

<sup>44</sup> In the course of contracted work with OCR we confirmed that when OCR provides data to the public it does not indicate a district’s failure to report a data element, and often has allowed districts to supply a zero instead. See also, U.S. Department of Education, Civil Rights Data Collections, 2015-16 Data Notes (under Response Rates and Auto Zeros) available at: [ocrdata.ed.gov/Downloads/Data-Notes-2015-2016-CRDC.pdf](http://ocrdata.ed.gov/Downloads/Data-Notes-2015-2016-CRDC.pdf).

<sup>45</sup> The referral and arrest data are only currently collected and reported for the state and districts in California by the U. S. Department of Education and 2009-10 was the first year their collection was mandatory. Usually the first-year that data are required there are reporting errors. In the data notes for that year, OCR acknowledges the concern. The notes state, “Additionally, some districts, unable to report complete and accurate data for school-related arrests and referrals to law enforcement, may have reported zero students in these categories. As a result, these data may be underestimated.” See, U.S. Department of Education, Civil Rights Data Collection: State and National Estimation Data Notes. Available at: [ocrdata.ed.gov/DataNotes](http://ocrdata.ed.gov/DataNotes). As our forthcoming national review of disciplinary exclusion points out, there are numerous large districts that failed to report any school-based arrest data for 2015-16. On the other hand Congress made the reporting of these same data a mandatory state and district report card element as part of the Every Student Succeeds Act of 2016.

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<sup>46</sup> See press release, Attorney General Becerra Issues Alert Reminding California Schools of their Obligations to Protect the Civil Rights of All Students, February 4, 2019, available at <https://oag.ca.gov/news/press-releases/attorney-general-becerra-issues-alert-reminding-california-schools-their>. Also see press release letter from State Attorney General Becerra, available at <https://oag.ca.gov/news/press-releases/attorney-general-becerra-condemns-education-secretary-devos-plans-rescind>.

<sup>47</sup> Over a six-year period, a district could increase its use of suspension by many percentage points every other year, for a large net increase, but would not consistently be coded red, as long as it showed a reduction every other year. Equally problematic is that a district with a very high suspension rate needs to reduce its rate by only 0.3 percentage points, or 3.6 percentage points over 6 years, to avoid a code red in any year. We believe that districts with the highest rates should be required to show more progress each year than districts where the rates are just slightly over 6%, the threshold rate currently used by the state.

<sup>48</sup> On the other hand, the system appropriately coded the Yuba City Unified district yellow for progress made, based on a noteworthy decline from the previous year's rates. Although this one-year decline also occurred after a large increase two years earlier, unlike South Monterey, the Yuba City decline was slightly larger than the prior increase. Yuba City had a net decline in suspension rates over a three-year period, whereas South Monterey had a net increase.

<sup>49</sup> See California School Dashboard for South Monterey County Joint Union High, available at <https://www.caschooldashboard.org/reports/2766068000000/2019/conditions-and-climate-suspension-rate>.

<sup>50</sup> Lois Beckett, June 2, 2020, Minneapolis public school board votes to terminate its contract with police, in the Guardian available at: <https://www.theguardian.com/us-news/2020/jun/01/minneapolis-public-school-end-police-contract>. See also Edgar Campuzano, June 4, 2020 the Oregonian, Portland superintendent says he's 'discontinuing' presence of armed police officers in schools. Available at: <https://www.oregonlive.com/education/2020/06/portland-superintendent-says-hes-discontinuing-school-resource-officer-program.html>. Since the completion of the writing of this report Denver Public Schools and other districts have taken similar measures.

<sup>51</sup> Advocates in some districts have raised concerns that MOUs are often not followed, and if not fully monitored and enforced can risk giving the impression to the public that they are setting limits, without actually helping reduce the involvement of security and law enforcement in discipline. In other cases, some have criticized the content of the MOUs themselves for failing to provide clear enough limits and accountability. Depending on the context, and based on the aforementioned qualitative research and the testimony of Judge Teske, we recommend that where they are being developed or revised to serve as a tool to reduce police involvement in school discipline, members of the entire school community, including students and representatives of the groups most often disciplined, should review the federal guidance, the ACLU's Model MOU, and other relevant sources and collaboratively develop an MOU that, consistent with the federal guidance, "clearly defines and formalizes roles and areas of responsibility to govern student and school interaction with school resource officers or other security or law enforcement personnel." See U.S. Department of Justice & U.S. Department of Education. (2014). *The nondiscriminatory administration of school discipline* (Letter to colleagues)(at Appendix C). Retrieved from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>. The ACLU's model MOU contains detailed recommendations and a list of specific discipline issues where involvement of security/law enforcement would not be appropriate. Both the ACLU model and the federal guidance letter follow these two core principles: 1) School district administrators and teachers, (not security or police) are responsible for addressing school discipline issues. 2) Preventing serious crime is primarily the responsibility of the police department. The ACLU's model MOU is available at: [aclusocal.org/sites/default/files/appendix-d-model-mour.pdf](http://aclusocal.org/sites/default/files/appendix-d-model-mour.pdf). The referenced letter to Congress, "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates," now has a total of 295 signatories and is available at <http://civilrightsdocs.info/pdf/education/School-Climate-Principles.pdf>

<sup>52</sup>Our initial construct included the combined total number of security guards and sworn law enforcement officers. However, the sworn law enforcement officer's indicator question was mistakenly carried over from the 2013-14 data collection to 2015-16. OCR categorized this as an error for many schools. The data element was skipped for more than 69,000 schools, which was approximately 72% of the entire national dataset. In our California analysis, for the all students' days of lost instruction analysis, 56.0% of the sample had high schools that fell under this mistake, while in the black days of lost instruction analysis, 57.7% had this error. It is important to note that we ran the analysis with the combined security staff construct that included both security guards and sworn law enforcement officers, while also eliminating all erroneous schools, and results were found to be similar to the models presented in this report. That is, our correlations found on staffing and days of lost instruction were statistically significant. We decided, ultimately, to include the larger sample and take out the sworn law enforcement officer's indicator, given the degree of error found in that variable.