Eliminating the Achievement gap: Reducing minority overrepresentation in school discipline

A Collaborative Approach

EXECUTIVE SUMMARY

Introduction

Fifty years after the landmark decision in *Brown v. Board of Education*, the goal of equal educational opportunity for all students remains elusive. Desegregation and decades of school reform have failed to bridge the gap between minority and Caucasian students' achievement in education by most measures, including test scores, high school graduation and college admission. Public school systems today face growing pressures from new federal requirements to raise the achievement levels of minority students and others who have historically underperformed on standardized tests.

This report addresses one significant but often overlooked symptom of the nation's educational divide -- the disproportionate exclusion of minority students from school through suspension and expulsion.   If public schools are to meet federal accountability standards, and to serve as an equalizer in a diverse

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society, they can begin by understanding and correcting the practices that result in too many minority children being shut out of the schoolhouse. This report identifies the causes of minority overrepresentation in school discipline, describes the impact on students, schools and society, and proposes concrete, research-tested methods that schools can implement to reduce exclusionary discipline and engage minority children and their families in school. By eliminating this disparity, schools can not only meet federal standards for student achievement but help reach the greater goal of equal educational opportunity for all students.

The Problem

Nationwide, minority students are suspended and expelled from school at two to three times the rate of Caucasian students, and at rates significantly higher than their percentage of the overall school population. The disproportionate rate of school exclusion for minority students cuts across rural and urban districts and has increased in recent years. Research concludes that these higher rates of discipline do not reflect higher rates of disruptive behavior by minority students. In fact, studies show that African American students are more likely to receive harsher discipline, such as suspension or expulsion, than Caucasian students referred for the same or even less serious infractions.

The Causes

Substantial research in recent years has identified the causes of minority overrepresentation in school discipline, which can be grouped into three broad categories: Over-reliance on punitive discipline; cultural/linguistic barriers; and inadequate resources. These causes should not be viewed in isolation. In most cases, as discussed in this paper, numerous factors combine to cause disproportionate discipline, and the presence of certain factors may exacerbate the effects of others – for example, a school's lack of resources may result in an under-qualified teaching staff which, without training or support, may rely on exclusionary discipline to manage classroom behavior.

<u>Punitive Discipline</u>

The relatively recent advent of "zero tolerance" policies, which exact severe punishments for certain school offenses with no flexibility to consider individual circumstances, has increased school suspensions overall while exacerbating the already high rate of minority student suspensions. Ironically, these policies have failed to achieve their

intended purpose of increasing school safety and improving student behavior. Schools with high suspension rates rely heavily on punitive discipline in classroom management. Rather than improving student behavior, harsh discipline such as suspension tends to lead to further suspensions and, in many cases, expulsion or drop out.

Cultural/Linguistic Barriers

In public schools, where the majority of teachers and administrators are Caucasian, minority students often encounter cultural and linguistic barriers that lead to misunderstandings and inappropriate school discipline. Minority students are most often referred for subjective offenses, such as disrespect or aggression, whose interpretation can be influenced by racial or ethnic differences. Simply put, many minority students at school are asked to navigate a world very different from their home communities. Many teachers and administrators do not understand the cultural sources of minority students' learning styles, use of language and behavior. If students and their families speak English as a second language – or do not speak English at all – the opportunities for cultural conflict leading to school exclusion are even greater.

Inadequate Resources

Minority students are disproportionately educated in overcrowded urban schools with less-experienced, under-qualified teachers who lack the training and resources to bridge cultural barriers and manage classroom disruptions in positive, supportive ways. The federal No Child Left Behind Act requires that these same schools improve minority students' test scores or risk significant consequences, placing even greater strain on already overburdened school systems.

The Impact

Exclusionary discipline has a domino effect on minority students. Students already performing poorly in school are those most likely to be suspended. Once suspended, they fall even further behind, leading to negative attitudes about school which can lead, in turn, to dropping out of school altogether. Beyond school, students suspended or expelled are more likely to be unsupervised and engage in self-destructive and delinquent behaviors. Disproportionate school discipline, as one study noted, can have "cumulative and disastrous effects" on minority students.

The Solutions

To end the disproportionate discipline of minority students, schools must first identify the problem by collecting data on suspension and expulsions by race. Applying a commonly used definition, a group of students would be excluded disproportionately if rate at which they are suspended or expelled exceeds their percentage of the school population by 10 percent or more – e.g., if African Americans make up 10 percent of the school population but account for 22 percent of suspensions and expulsions, they are disproportionately excluded. Once the problem is identified, research recommends the following strategies to eliminate the problem:

- Re-examine disciplinary policies to minimize subjective offenses, eliminate the use of "zero tolerance" and reduce the use of exclusionary discipline

- Create opportunities for minority students to form caring relationships with teachers and other adults at school.

- Recruit and retain more minority teachers using scholarships, loan forgiveness, pay bonuses and other incentives. Studies show that minority

and low-income students particularly benefit from being taught by teachers of similar cultural or ethnic background.

- Enhance teacher training to ensure highly qualified teachers in predominantly minority schools.

- Reduce school and class sizes.

- Encourage parent participation by implementing flexible, creative ways to engage poor, working parents who may face cultural or other barriers to school involvement.

- Engage minority students in school by training staff as "cultural brokers" to help minority students navigate school culture and avoid negative behaviors that hinder school success.

Conclusion

Under No Child Left Behind, schools are called to account for the progress of minority students with new standards and potential sanctions. While differences exist regarding the merits of the NCLB approach, there can be no dispute that achieving the goal of an equal education for all students is worthy, and long overdue. Addressing the problem of minority overrepresentation in school discipline is a substantial step toward fulfilling the highest ideals of public school education.

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A. Minority Overrepresentation in Suspensions and Expulsions

 1. A National Examination

  In one of the earliest examinations of school suspensions nationwide, the Children's Defense Fund in 1975 reported higher rates of school suspension for African American students than Caucasian students.[1] At all educational levels, suspension rates for African American students were two to three times higher than suspension rates for Caucasian students.[2] The study found that while 29 states suspended more than 5 percent of their total African American enrollment, only four states suspended 5 percent or more of Caucasian students.[3]

  Since that report, numerous studies have concluded that the overrepresentation of minority students in school disciplinary procedures is frequent and widespread.[4] African American students are more likely to receive harsher discipline than Caucasian peers referred for the same offense.[5] Table 1 summarizes the findings of studies investigating minority overrepresentation in school suspension and expulsion since the Children's Defense Fund Report.[6] These studies, which examine rural and urban districts across the United States, all show a consistent overrepresentation of African Americans in the percentage of students expelled or suspended.

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[1] Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment,* University of Nebraska – Lincoln, Policy Research Report #SRS 1, p. 2 (June 2000).
[2] Id.
[3] Id.
[4] Id.
[5] Id., citing J.F. Gregory, *The Crime of Punishment: Racial and Gender Disparities in the Use of Corporal Punishment in the U.S. Public Schools*, Journal of Negro Education, 64, pp. 454-462 (1996).
[6] Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, University of Nebraska – Lincoln, Policy Research Report #SRS 1, p. 2 (June 2000).

Study	Location & Data Source	Sample	Percentage of Enrollment	Percentage Disciplined
Costenbader & Markson (1998)	1 urban & 1 rural School district; school records	620 Middle & High School Students	Caucasian 50% AA 23% Hispanic 8%	Suspension: Caucasian 12% AA 45% Hispanic 18%
Gordon, Della Piana, & Keleher (2000)	12 major urban districts; suspension and expulsion data	All students suspended or expelled	Percentages Varied : Example- Boston Caucasian 13 % AA 55% Hispanic 23% LA Caucasian 11% AA 14% Hispanic 69%	Suspension & Expulsion Example - Boston Caucasian 9% AA 70% Hispanic 19% LA Caucasian 8% AA 30% Hispanic 19%
Massachu-setts Advocacy Center (1986)	Boston; central administration records	All suspension and expulsion data from 7 middle schools over 3 years	AA 49.8%	Suspension: AA 63.8%
McFadden Marsh, Price & Hwang (1992)	South Florida; discipline files from 1987-88	4,391 disciplined students in K-12	Caucasian 58% AA 22% Hispanic 18% Other 2%	Suspension: Caucasian 35% AA 44% Hispanic 20.6% Other .5% Corporal Punishment Caucasian 33.1% AA 54.1% Hispanic 11.8% Other 1%
Taylor & Foster (1986)	Southeaster US; suspension records of medium district	All suspension records	Elementary AA 44% Secondary AA 45%	Elementary Suspensions AA 67.4% Secondary Suspension AA 59%
Thorton & Trent (1988)	East Baton Rouge, LA; secondary school records	32,210 school suspension records	Caucasian 58.7% AA 42%	Suspensions: Caucasian 33% AA 66%

Table 1

Between 1972 and 2000, the percentage of Caucasian students suspended for more than one day rose from 3.1 percent to 6.14 percent.[7] During the same time, the percentage for African-American students rose from 6 percent to 13.2 percent.[8] The U.S. Department of Education Office for Civil Rights found that approximately one in four African American males was suspended at least once over a three-year period.[9] In 35 states, nine percent or more of African American students were suspended during the 2000-2001 school year.[10]

2. Oregon Examples

In Oregon, neither the state nor most school districts have consistently tracked suspension and expulsion by race. However some districts, including Portland Public Schools (PPS), have chosen to collect this information. The data gathered reveal that the trends documented by national school discipline studies are clearly reflected in the Portland Public Schools.

During the 2002-03 school year, PPS enrolled 52,969 students.[11] The district had 2,324 major disciplinary referrals resulting in suspension or expulsion.[12] While Caucasian students made up 60.3 percent of students enrolled in the district, they accounted for only 38.4 percent of the major disciplinary referrals.[13] Latino students made up 11 percent of the population while accounting for only 10.2 percent of the

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[7] Daniel J. Losen, *Challenging Racial Disparities: The Promise and Pitfalls of the No Child Left Behind Act's Race-Conscious Accountability*, 47 How. L. J. 243, 255 (2004), citing U.S. Department of Education, Office for Civil Rights.

[8] Id., citing U.S. Department of Education Office for Civil Rights.

[9] Id.

[10] Id.

[11] Portland Public Schools Enrollment Report, October 2002.

[12] Portland Public Schools Student Discipline Referrals, 2002-2003.

[13] Id.

referrals.[14] Asian American students constituted 9.9 percent of the population but accounted for only 4.1 percent of the referrals.[15]

In stark contrast, however, African Americans made up only 16.5 percent of the PPS student population, but accounted for 43.5 percent of all major disciplinary referrals.[16] During the 2002-03 school year, 8.13 percent of all African American students in PPS were suspended or expelled compared to only 2.24 percent of Caucasian students.[17] The disproportionate rate at which African Americans are suspended or expelled from PPS is greater than the rates found in any of the studies discussed above.

In 1999, the group Latinos Unidos Siempre, working with the Applied Research Center, a public policy institute focused on race and social change, collected suspension and expulsion data from the Salem-Keizer School District.[18] The Salem-Keizer School District's high schools enrolled a total of 9,403 students and had 1,783 suspensions and expulsions that year.[19] Caucasian students made up 83.4 percent of this enrollment, but represented only 69 percent of suspensions and expulsions.[20] African American students made up just 1.4 percent of this population, but accounted for 3.9 percent of suspensions and expulsions.[21]   Latino students made up 10.4 percent of this population, but represented 22.2 percent of suspensions and expulsions.[22] Both African Americans and Latinos were expelled or suspended in numbers two times greater than their percentage of the high school population.

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[14] Id.
[15] Id.
[16] Id.
[17] Id.
[18] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 29 (March 2000).
[19] Id.
[20] Id.
[21] Id.
[22] Id.

B. Causes of Overrepresentation in School Exclusion

While minority overrepresentation in school discipline, particularly suspensions and expulsions, is well documented, less attention has been paid to the causes of the problem. Several recent studies, however, have begun to address the issue.

One study examined the possibility that higher school discipline rates for African-American students were due to higher rates of disruptive behavior by those students, but concluded the evidence did not support that hypothesis.[23] In fact, research suggests that African American students tend to receive harsher punishments for less serious offenses than their Caucasian classmates.[24] In an analysis of the reasons that middle school students in one urban district were referred to the office, one study found that Caucasian students were more

> *… [R]esearch suggests that African American students tend to receive harsher punishments for less serious offenses than their Caucasian classmates.*

often referred to the office for vandalism, smoking, endangerment, drugs and alcohol.[25] African American students were more often referred for loitering, disrespect, excessive noise, and interference.[26] This is just one of many studies concluding that there is no evidence that African American students misbehave at a significantly higher rate than other students.[27] Instead, studies find that harsh disciplinary procedures, cultural and language barriers, and racial bias result in the disproportionate exclusion of minority students from public school.

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[23] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 12 (August 2000).

[24] Id., citing J.D. McFadden et al., *A Study of Race and Gender Bias in the Punishment of Handicapped School Children,* Urban Review, 24, pp. 239-251 (2000).

[25] Id.

[26] Id.

[27] Id.

1. School Dependence on Zero Tolerance Policies

a. History & Application of Zero Tolerance

There is no universal definition of "zero tolerance." The term's meaning and application vary greatly from school district to school district. In general, zero tolerance policies require specific punishments for certain offenses with little or no discretion for school administrators to tailor consequences to individual circumstances. What is clear, however, is that most school districts are implementing such policies. A National Center on Education Statistics report found that 94 percent of all schools have some form of zero tolerance policy in effect.[28]

Zero tolerance policies were first developed in the 1980s in connection with federal anti-drug policy that aimed to punish drug-related behavior severely, no matter how minor.[29] As fear of violence grew in the late 1980s and early 1990s, school districts borrowed the term from drug enforcement to describe the increased use of mandatory punishments, such as school suspensions and expulsions, for certain school offenses, both serious and minor.[30] In 1994, President Clinton signed the Gun Free Schools Act (GFSA), mandating a one-calendar-year expulsion for any student found with a firearm on school property.[31] The original bill covered only firearms, but more recently the law has been amended to include any instrument that may be used as a weapon.[32]

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[28] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 3 (August 2000).
[29] Id. at 2.
[30] Russell J. Skiba, *Zero Tolerance and School Security Measures: A Failed Experiment,* in Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools,* p. 34 (October 2001).
[31] Id. & Gun-Free Schools Act of 1994, 20 U.S.C. §§921-8922 (1995).
[32] Russell J. Skiba. *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 2 (August 2000) & Gun-Free Schools Act of 1994, 20 U.S.C. §§921-8922 (1995).

The GFSA itself is not a zero tolerance law on the subject of expulsion. In fact, the federal law authorizes states to grant local school officials discretion to modify expulsion orders on a case-by-case basis.[33] In Oregon, school superintendents have this discretion.[34] However, many states and school districts have effectively expanded the GFSA by declining to enact the federal case-by-case provision or by expanding the punishable offenses beyond those covered by federal law.[35] One school suspended a student for bringing nail clippers to school, labeling them a weapon.[36] Another school suspended a student for a "verbal attack" when the student said, during morning announcements, that his French teacher wasn't fluent in the language.[37] The extension of serious sanctions to minor misbehavior is not an aberration, but is inherent in the application and philosophy of zero tolerance.[38] As the St. Petersburg Times noted, "bringing a butter knife to school to cut an apple for lunch carries the same expulsion as bringing a loaded magnum."[39]

b. The Rationale for Zero Tolerance

Zero tolerance policies are a response to the public perception that schools have become much more dangerous in recent years.[40] The fatal shootings at Thurston High School and Columbine High School certainly contribute to this perception. Following the Columbine killings, a survey found that 71 percent of respondents believed that a

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[33] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 9 (March 2000).
[34] ORS 339.250(6)(c).
[35] Id.
[36] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 4 (August 2000).
[37] Id. at 6.
[38] Id.
[39] Id. at 5, citing "Zero Sense," *St. Petersburg Times,* p. 16A (October 13, 1998).
[40] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 11 (March 2000).

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school shooting was "likely" to occur in their communities. [41] But this perception is not borne out by the data. The odds of a student dying at school were about 1 in 2 million during the 1998-99 school year.[42] National studies show that school violence has not increased, but has remained stable or even decreased slightly over time.[43]

In 1998, the National Center for Educational Statistics reported that the frequency of incidents, such as threats, attacks, and thefts, reported by high school seniors changed very little between 1976 and 1996.[44] In 1976, for example, 5.7 percent of high school seniors reported being injured by a weapon at school. In 1996, the number of high school seniors reported being injured by a weapon had decreased to 4.9 percent.[45]

> *National studies show that school violence has not increased, but has remained stable or even decreased slightly over time.*

In 2000, Oregon Attorney General Hardy Myers convened an Oregon school and community safety coalition that produced a paper titled "How Safe are Oregon Schools?"[46] The report cited national data showing that schools are becoming safer. The most common crime in schools is theft, and that has been decreasing since 1993.[47] Student weapon carrying and physical fighting has been declining during the same time.[48]

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[41] Reece L. Peterson et al., *School Violence and Prevention: Current Status and Policy Recommendations,* Law and Policy, Vol. 23, No.3, p. 346 (July 2001).

[42] Id.

[43] Id.

[44] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 11 (March 2000).

[45] Id.

[46] Attorney General Hardy Myers, *How Safe Are Oregon Schools? Status and Recommendations*, p. 8 (March 2001).

[47] Id. at 9.

[48] Id.

The Oregon findings are consistent with national statistics demonstrating that school, in general, is a relatively safe place for students.[49]

c. Ineffectiveness of Zero Tolerance

More than fifteen years since school districts began adopting zero tolerance policies, and ten years since the Gun Free Schools Act became law, there is no evidence that these practices and legislation improve school safety.[50] While removing a student from school is clearly necessary in some circumstances for safety reasons, there is no evidence that punishment and exclusion reduce school violence or teach students alternatives to violence.[51] In fact, in one national survey commissioned by the federal government, schools that reported using more components of a zero tolerance approach remained less safe than schools that used fewer components.[52]

In addition, zero tolerance suspensions do not appear to be effective in changing the behavior of the individual students who are suspended. Studies show that up to 40 percent of school suspensions are given to repeat offenders, suggesting that this segment of the

> *After over a decade of experience, there is no evidence that zero tolerance policies or the Gun Free Schools Act have improved school safety.*

school population is "not getting the message."[53] For some students, one study found, suspension is primarily a predictor of further suspension and functions "as a reinforcer … rather than as a punisher."[54]

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[49] Id. at 38.

[50] Reece L. Peterson et al., *School Violence and Prevention: Current Status and Policy Recommendations,* Law and Policy, Vol. 23, No.3, p. 347 (July 2001).

[51] Id.

[52] Russell J. Skiba, *Zero Tolerance and School Security Measures: A Failed Experiment,* in Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, p. 35 (October 2001).

[53] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 13 (August 2000), citing C. Bowditch, *Getting*

Zero tolerance policies do not represent new prohibitions of behavior previously tolerated -- students have never been allowed to bring weapons or drugs to school. Zero tolerance polices simply limit the options that schools have to respond to these problems. There is no evidence that this inflexible approach has improved either school safety or the behavior of suspended students. However, governmental data do suggest that zero tolerance disciplinary polices have contributed to the disproportionate exclusion of minority youth from school.[55] Suspensions are now being used to address what was once considered minor misbehavior, such as verbal insubordination – i.e., talking back to a teacher -- or not following directions.[56] While zero tolerance policies have led to an overall increase in school exclusions, they have also increased the disproportionate rate at which minority youth are suspended or expelled.[57]

> *… [G]overnmental data do suggest that zero tolerance disciplinary polices have contributed to the disproportionate exclusion of minority youth from school.*

2. Cultural Conflict

a. Subjective Offenses

Cross-cultural misunderstandings and conflicts are cited by a number of studies as one of the major causes of minority overrepresentation in suspensions and expulsions. These conflicts come in to play particularly when minority students are referred for subjective offenses. African American students in one study were more often referred for

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Rid of Troublemakers: High School Disciplinary Procedures and the Production of Dropouts, Social Problems, 40, pp. 493-507 (1993).
[54] Id., citing Sugai Tobin et al., *Patterns in Middle School Discipline Records*, Journal of Emotional and Behavioral Disorders, 4(2), pp. 82-94 (1996).
[55] Daniel J. Losen, *Challenging Racial Disparities: The Promise and Pitfalls of the No Child Left Behind Act's Race-Conscious Accountability*, 47 How. L. J. 243, 255 (2004).
[56] Id.
[57] Id.

subjective offenses, such as noncompliance, physical

aggression, and insubordination.[58] How these subjective

offenses are handled depends on how individual teachers and

administrators interpret students' behavior.[59] Too often that

interpretation is affected not only by a student's objective

> *… [T]wo students at Hubbard High School in Chicago were suspended for six days when Caucasian school officials mistook their break-dancing poses for "gang representation."*

behavior, but also by differences of race and ethnicity.[60] For example, two students at

Hubbard High School in Chicago were suspended for six days when Caucasian school

officials mistook their break-dancing poses for "gang representation." [61] When schools

permit suspension for ill-defined subjective offenses, such as "defiance" or "disrespect,"

they create opportunities for bias and cross-cultural misunderstandings to affect the

discipline process.[62]

b. Learning Styles and Expectations

Most educators are aware of the research documenting the differences between

boys' and girls' learning styles, and the difficulties that many boys face in school because

of their greater need for physical activity.[63] Similarly, differences between minority

cultures and school culture can lead to conflicts between student learning styles and

teacher expectations for student behavior.[64] For example, African American students are

accustomed in their homes and communities to engaging in multiple activities at the same

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[58] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 383 (2000).

[59] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 12 (March 2000).

[60] Id.

[61] Id.

[62] Id.

[63] See, for example, Jeanne C. Bleuer and Garry R. Walz, *Are Boys Falling Behind in Academics? Part I*, ERIC Digest (September 15, 2003); and *Boys at School: a Q and A with Dr. Pollack*, a discussion with Dr. William Pollack, a Harvard Medical School psychologist and director of the Center for Men and Young Men at Harvard Medical School, available at http://www.familyeducation.com.

[64] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 12 (March 2000).

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time.[65] They are often involved in multiple conversations while eating, studying,

watching television or participating in recreational activities.[66] At school, teachers

usually expect students to individually engage in one activity at a time, as opposed to

managing several tasks and working with others.[67] The school culture may penalize

African American students' need and ability to simultaneously engage in multiple

activities, perceiving it as willfully ignoring directions or being insubordinate.[68]

The task orientation of African Americans may also conflict with mainstream

school culture.[69] African American students frequently

engage in "stage-setting" behaviors before actually

beginning tasks.[70] For example they may have rituals

to help them prepare for a task such as sharpening

pencils, straightening paper, socializing with others, or

going to the bathroom before beginning a task.[71]

> *"I find that lots of my African American boys need movement. So I've talked with these teachers and you know, just because they like to do that, it isn't ADHD or any of those things, this is just a kid who's got to move."*

Teachers, however, may perceive those preparation behaviors as signs of avoidance, and

punish the student for being noncompliant when they do not respond immediately to

directives.[72]

There are many other ways in which African American culture conflicts with the

dominant school culture. One principal interviewed for a study involving seven school

districts near a large Midwestern city elaborated on cultural conflicts: "Sometimes we

tend to put middle class values and expectations on another culture. I find that lots of my

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[65] Id.
[66] Id.
[67] Id.
[68] Id.
[69] Id.
[70] Id.
[71] Id.
[72] Id. at 384.

African American boys need movement. So I've talked with these teachers and you know, just because they like to do that, it isn't ADHD or any of those things, this is just a kid who's got to move." [73] In addition, some African American students see successful school behaviors as "acting white."[74] Wanting to honor and preserve their own culture, they may develop identities that reject the dominant or "white" school culture.[75] Speaking standard English is one behavior often named as "acting white" by African American youth. In response to these cultural conflicts, African American students may behave in ways that alienate them from schools.[76]

For recent Asian American immigrant students, their communication and learning styles may be misinterpreted by teachers unfamiliar with Asian cultures. While many teachers expect students to actively participate in class, many Asian American parents teach their children to sit quietly in class and not question the teacher.[77] Asian students may be accustomed to learning through listening, observing, reading and imitating, and taking tests that require only the recall of factual information.[78] Asian American students may avoid eye contact with teachers, a sign of respect in Asian culture while, in mainstream U.S. culture, making eye contact is viewed positively.[79] These cultural differences may lead to teachers misinterpreting Asian American students' behavior as disrespectful or as signs of learning deficits.[80]

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[73] Russell J. Skiba, *The Context of Minority Disproportionality: Local Perspectives on Special Education Referral,* Indiana Education Policy Center, Indiana University, p. 22 (June 2003).

[74] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 384 (2000).

[75] Id.

[76] Id.

[77] Li-Rong Lilly Cheng, *Enhancing the Communication Skills of Newly Arrived Asian American Students*, ERIC Digests 0889-8049 (1998).

[78] Id.

[79] Id.

[80] Id.

3. Linguistic Barriers

Language differences, both verbal and nonverbal, may lead to other misunderstandings between African American culture and school culture.[81] School staff may misunderstand the meaning or tone of an African American youth speaking nonstandard English.[82] The changing slang popular with African American youth is another factor leading to misunderstanding, especially where the slang expression has a literal meaning completely opposite of its intent.[83] For example, the term "phat" is a positive term used as a compliment by many African American students, but many adults would consider being called "phat" an insult.

Cultural differences in nonverbal communication may also lead to misunderstanding.[84] Many African American students, especially girls, use a great many nonverbal gestures to help communicate and emphasize their point.[85] However, speaking with so much passion and emotion may come across as combative or argumentative to listeners not familiar with the culture.[86] African American students also have a tendency to talk in louder tones than students of other cultures.[87] This style conflicts with the school environment where students are expected to speak more quietly. Thus, the mode of communication used by African American students may appear disrespectful or noncompliant, increasing their risk of suspension or expulsion.[88]

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[81] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 384 (2000).
[82] Id.
[83] Id.
[84] Id.
[85] Id.
[86] Id.
[87] Id.
[88] Id.

4. Negative and Punitive Discipline

An over-reliance on negative and punitive discipline also contributes to the disproportionate representation of minority students in school discipline proceedings.[89] Schools with the highest general rates of suspension also have the highest rates of disproportionate suspension of African American students.[90] Schools with higher rates of suspension tend to rely on negative consequences and punishment in classroom management.[91] Student reactions to a negative climate may be exacerbated by African American culture, which includes a tendency to escape negative environments. [92] In the school setting, this is accomplished either through getting suspended or dropping out.[93] In urban schools, research shows a significant relationship between student perceptions of racial discrimination and high rates of minority drop outs and suspension.[94]

The overuse of punitive discipline in Oregon was the subject of a recent Oregonian article reporting on the high rates of suspension faced by Portland Public middle school students.[95] Data from the 2003-04 school year showed that middle schools in Portland suspended 9.5 percent of their students.[96] Additionally, three middle schools in particular – George, Portsmouth and Whitaker – had suspension rates of nearly 25 percent.[97] These three schools serve a large number of minority students, making

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[89] Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, University of Nebraska-Lincoln, Policy Research Report #SRS 1, p.17 (June 2000).
[90] Id.
[91] Id.
[92] Id.
[93] Id.
[94] Id.
[95] Paige Parker, "Middle Schools' suspension rate tops in Portland," Oregonian (11/23/04).
[96] Id.
[97] Id.

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suspensions at this rate a likely contributor to the earlier
mentioned overrepresentation already occurring in
Portland public schools.[98]

> *… [P]oor and minority students are more likely to be taught by teachers with less experience and expertise in more poorly funded schools.*

5. Lack of Resources

a. Less Experienced Teachers

A lack of resources also plays a role in the disproportionate rate at which
minorities are suspended and expelled from school. The National Research Council
report found that poor and minority students are more likely to be taught by teachers with
less experience and expertise in more poorly funded schools.[99] This report also
concluded that the lack of resources for classroom teachers to effectively manage
disruptive behavior contributes to racial disparities.[100] Teachers who are not equipped to
handle the challenges of disruptive behavior may increasingly adopt an authoritarian
approach to classroom management.[101] This approach may engage students in power
struggles that only escalate disruption.[102] Teachers of minority students in poorly funded
schools with little expertise or help in classroom management often feel they have no
option but to exclude students from their classrooms. Resources to train teachers in
constructive classroom management and link them to mental health professionals can
help create a more supportive classroom environment.[103] As one classroom teacher
stated, "If we had more resources for behavior … we could take care of those problems

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[98] George Middle School has 59.3% minority enrollment, Portsmouth has 55.4% and Whitaker 75.1% according to Portland Public School's enrollment statistics from 2003-04. The total district enrollment of minority students was 40.6%.

[99] Russell J. Skiba, *The Context of Minority Disproportionality: Local Perspectives on Special Education Referral*, Indiana Education Policy Center, Indiana University, p. 8 (June 2003).

[100] Id. at 25.

[101] Russell J. Skiba et al., *The Color Of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, University of Nebraska – Lincoln, Policy Research Report #SRS 1, p. 17 (June 2000).

[102] Id.

[103] Id.

and address those issues in class . . . [If] we could get that

behavior controlled in the classroom, they might not need a

referral."[104]

> *… [O]ne study demonstrated that students in urban schools "receive instruction that is less effective in promoting student learning."*

b. Curriculum

Studies demonstrate that minority and urban

students are at a disadvantage when it comes to curricular development and relevance.[105]

In fact, one study demonstrated that students in urban schools "receive instruction that is

less effective in promoting student learning."[106]   If the curriculum is not relevant or

engaging for minority students, they may be more likely to act out or be off task, leading

to referrals for disciplinary violations.

c. Lack of Minority Teachers

Lack of diversity in teaching staff causes students of

color to feel marginalized.[107]   Nationally, while minority

> *Nationally, while minority students make up 33 percent of all public school children, only 13 percent of teachers are non-Caucasian.*

students make up 33 percent of all public school children, only 13 percent of teachers are

non-Caucasian.[108]   The lack of connection between the every day experiences of children

and their teachers may interfere with teachers' ability to provide suitable coursework,

support students and establish relationships with students and their families.

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[104] Russell J. Skiba, *The Context of Minority Disproportionality: Local Perspectives on Special Education Referral*, Indiana Education Policy Center, Indiana University, p. 26 (June 2003).
[105] Id. at 6.
[106] Id.
[107] Id. at 6-7.
[108] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 22 (October 2001).

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d. Larger Class Sizes

Children in poorer schools are taught in larger classes than children in wealthier schools.[109] U.S. Department of Education statistics show that minority students are 1.7 times more likely than Caucasian students to be in an overcrowded school.[110]

6. Lowered Expectations of Minority Students

Finally, research establishes that minority students are frequently misperceived by teachers and that minority students are aware of this fact.[111] A 1970 study noted that individuals consciously or unconsciously adjust their behavior to some degree to match the expectations and stereotypes they hold.[112] Teachers who hold racially stereotyped views are apt to misperceive their minority students' behavior or performance. [113] These misperceptions result in teachers becoming increasingly alienated from their minority students, which often manifests itself as negativism.[114] Some teachers may lower their goals for certain minority groups, or discount some groups as "unteachable."[115] Negative teacher attitudes affect a student's sense of efficacy, productivity, performance, and involvement in school.[116]

7. Lack of Parental Involvement

Poor communication between schools and students' families and a lack of parent participation in school are other factors that can impede minority students' ability

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[109] Elizabeth Gershoff, *Living at the Edge (Research Brief No. 4): Low Income and the Development of America's Kindergartners*, National Center for Children in Poverty, Columbia University Mailman School of Public Health, p. 7 (November 2003).

[110] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 24 (October 2001).

[111] Rebecca S. Payne, *The Relationship Between Teachers' Beliefs and Sense of Efficacy and Their Significance to Urban LSES Minority Students,* Journal of Negro Education, Vol. 63, No.2. p. 182 (Spring 1994).

[112] Id.

[113] Id.

[114] Id.

[115] Id.

[116] Id.

to succeed in school. Title I schools – those that serve free or reduced lunch to a certain percentage of students – were required in the reauthorization of the Elementary and Secondary Education Act (ESEA) to develop "compacts" with students' families, placing mutual responsibility on schools and families for their children's learning.[117] While this provision is well meaning, encouraging school administrators and teachers to involve families in supporting students, it does not address the underlying reasons for historically low parent involvement in lower-income schools, which include language and cultural differences as well as personal and socioeconomic difficulties. Until the barriers to parent involvement are addressed, this new requirement likely will go unmet for many families in the public schools.

Language differences present an obstacle to many parents' participation in their children's education. If parents do not speak English, they are unlikely to be able to communicate effectively with school personnel. In many instances, children become the primary interpreter between parents and educators, preventing the school-parent relationship from being one between adults making decisions for children based on their best interests. Instead, the conversation may become stilted and diluted because the children are so intimately involved.

Even if parents and educators speak the same language, they may fail to communicate effectively because of cultural differences. Middle-class expectations of what parent involvement should look like -- such as chaperoning school field trips, bringing in treats for birthdays, and visiting the classroom -- may not be how minority parents would choose to or be able to show their support.[118] Adjusting expectations to

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[117] Id.
[118] Id.

better reflect parents' lives and cultures will allow teachers to fashion other, more

creative ways to invite parent participation.

It may also be difficult to bring some minority parents to the table because of

their own experiences in school. If they had unsuccessful school

careers, they may remember school as a place where they were

not accepted or valued. This history, combined with a sense of

failure if their own children are struggling in school, may create

an uncomfortable environment for some parents.

> *If parents do not speak English, they are unlikely to be able to communicate effectively with school personnel. In many instances, children become the primary interpreter between parents and educators, preventing the school-parent relationship from being one between adults making decisions for children based on their best interests.*

Finally, parents living in poverty are likely to have

already overburdened lives. Lack of transportation and

inflexible work schedules may make it nearly impossible for

some families to connect with their children's schools. Many low-income parents have

jobs that do not allow time off during the day for school meetings, and teachers and

administrators may not be available outside regular school hours to communicate with

parents. Last year, only 71 percent of Oregon schools

made adequate yearly progress. More than 330 schools

were identified as "in need of improvement."

> *Last year, only 71% of Oregon schools made adequate yearly progress. More than 330 schools were identified as "in need of improvement."*

8. High Stakes Testing

Both nationally and in Oregon, there is a push to use standardized tests as the

primary measure of academic achievement.[119] The federal law known as No Child Left

Behind, signed into law in 2001, seeks to ensure the success of all children by requiring

states to develop and administer achievement tests, in both reading and math, and using

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[119] No Child Left Behind Act (NCLBA) of 2001, Public Law No. 107-110; ORS 329.485 (2003).

these test scores to determine whether schools are effectively educating their students.[120]

Each state is also required to establish annual benchmarks for student performance on

these tests and these benchmarks are used to measure whether a school has made

"adequate yearly progress" (AYP).[121]

AYP tracks not only the progress of all children within a school as a whole, but

also breaks out subgroups of children who have historically underachieved at higher

rates. This means that racial and ethnic minorities, English Language Learners, students

with disabilities, and students from low-income families all must show progress on state

tests every year for the school to meet requirements under the federal law.[122] Schools

that fail to make AYP for two consecutive years are labeled as "needing improvement,"

and are required to offer students transfers to schools that are making AYP.[123] If the

school continues to fail to meet AYP, the agency overseeing the school must intervene

and harsher penalties ensue.[124]

These requirements are serious and the sanctions are already beginning to

reverberate within Oregon's school systems.[125] Last year, only 71 percent of Oregon

schools made adequate yearly progress. More than 330

schools were identified as "in need of improvement."[126]

Test scores demonstrate a strong correlation

between high poverty communities and low

> *Minority students are performing at lower rates than other students on achievement tests, a result that some experts believe stems from longstanding inequalities in school systems or biases in the standardized tests themselves.*

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[120] NCLBA of 2001, P.L. 107-110, Sec. 1111(b)(2)(D)(ii).
[121] Id.
[122] Id.
[123] Id.
[124] Id.
[125] Id.
[126] Id.

achievement.[127] According to the National Assessment of Educational Progress (NAEP),
urban students perform poorly on standardized tests compared to non-urban peers. Only
43 percent of urban students scored at the "basic" level or above on the NAEP reading
test as compared to 63 percent of students in non-urban schools.[128]

Minority students are performing at lower rates than other students on
achievement tests, a result that some experts believe stems from longstanding inequalities
in school systems or biases in the standardized tests themselves. Since Texas instituted a
high school exit examination in 1990, almost twice as many African American and
Latino students as Caucasian students have been forced to repeat a grade.[129] During that
same time, fewer than 60 percent of minority students progressed from ninth grade to
graduation.[130] These numbers reflect the experiences of other communities that have
implemented high school exit examinations and demonstrate the costs of high-stakes
testing to minority students.[131]

With increased pressure on schools to raise student scores on state and national
standardized tests, advocates for students are beginning to notice a phenomenon labeled
"push out," which refers to the forced withdrawal and exclusion of students by school
officials when a student is deemed unable to meet testing requirements. Some observers
predict that this result will be seen more with minority students and others in subgroups
delineated by NCLB. As Harvard's Civil Rights Project recently noted, "Despite the
great benefits that could accrue from a sound system of subgroup accountability for

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[127] Erwin Flaxman et al., *Trends and Issues in Urban Education*, ERIC Clearinghouse on Urban Education,
p. 7 (October 1998).
[128] Id.
[129] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative,
Applied Research Center, pp. 12-13 (October 2001).
[130] Id. at 13.
[131] Id.

academic achievement, students in these groups are more likely to get pressure to leave when test scores alone determine whether schools and districts are sanctioned."[132]

Schools and districts may find it more cost effective to get rid of students who may lower the test scores rather than invest the resources in programs that will raise their achievement levels, some experts predict.[133] In several school districts, this concern shows signs of becoming a reality. In Birmingham, Alabama, the school board acknowledged in a legal deposition that 522 students were involuntarily withdrawn during the 2000 school year.[134] In New York, 55,000 students were discharged from the city's public high schools during the 2000-01 school year.[135] Five high schools discharged more students than they graduated. Three federal class action lawsuits have been filed on behalf of the discharged New York students.[136]

C. The Effects

1. Effects of School Exclusion

While there is little evidence documenting that school exclusion improves school safety or student behavior, there is a great deal of evidence documenting its harmful effects. Students who are already performing poorly in school are the students most likely to be suspended.[137] These are the very students who can least afford to miss class. Students may not be not given opportunities to continue their school work when

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[132] Gail L. Sunderman and Jimmy Kim, *Inspiring Vision, Disappointing Results: Four Studies on Implementing the No Child Left Behind Act,* The Civil Rights Project, Harvard University, p. 11 (Feb. 2004).

[133] G. Orfield, D. Losen, J. Wald, & C. Swanson, *Losing Our Future: How MinorityYouth are Being Left Behind by the Graduation Rate Crisis*, Cambridge, MA: The Civil Rights Project at Harvard University, p. 14 (2004), Contributors: Advocates for Children of New York, The Civil Society Institute.

[134] Id. at 26.

[135] Id. at 59.

[136] Id.

[137] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 14 (March 2000).

suspended or expelled.[138] The missed class time only places a struggling student further

behind. As one student described the effects of suspension, "You don't learn. You fall

behind. You get a negative attitude about school."[139]

Unfortunately, these negative attitudes lead students to drop out of school

altogether. Discipline practices that alienate students from school, such as suspension,

are clearly associated with higher rates of school withdrawal prior to graduation.[140] Data

from the national "High School and Beyond" survey showed that 31 percent of

sophomores who dropped out of school had been suspended, while only 10 percent of

their peers who stayed in school had been suspended.[141] Another report found that prior

engagement with school discipline was among the strongest predictors of dropout.[142]

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[138] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 382 (2000).

  In Oregon, school boards determine the methods and conditions, if any, under which suspended students' work may be made up. Students must be allowed to make up final, mid-term and unit examinations, but it is within the district's discretion whether to allow students to make up daily assignments, laboratory experiments, class discussions or presentations. *See* OAR 581-021-0065(6). Portland Public School policy states that: "To ensure continuation of learning, students (suspended) are expected to complete schoolwork during their time of suspension. Upon request, a suspended student should be told of assignments during the period of suspension. Students must be given make-up assignments, projects or examinations only when those activities will be graded and used to determine a grade for the course. Teachers are not required to spend additional time in working with a student to prepare the assignments missed because of the student's misbehavior."

[139] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 14 (March 2000).

[140] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 382 (2000), citing L.M. DeRidder, *How Suspension and Expulsion Contribute to Dropping Out*, The Education Digest, pp. 44-47 (1991).

[141] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 13 (August 2000), citing R.B. Ekstrom et al., *Who Drops Out of High Schools and Why*, Teachers College Record, 87, pp. 393-409 (1986).

[142] Id., citing G. Wehlage et al, *Dropping Out: How Much Do Schools Contribute to the Problem?* Teachers College Record, 87, pp. 374-393 (1986).

Suspension and expulsion lead to other harmful effects beyond school drop-out. Typically, suspended or expelled students do not receive instruction regarding appropriate social behavior at school. [143] Instead, when they are excluded from school, students spend unsupervised time on the streets, further jeopardizing their social success.[144] For students already at risk for antisocial behavior, school suspension is unlikely to positively change behavior.[145] Rather, suspension may accelerate and encourage delinquency by giving those students an opportunity to socialize with troubled peers.[146] As one student put it, "When they suspend you, you get in more trouble, (because) you're out on the street."[147] Juvenile delinquency research shows that the strength of the school social bond is an important predictor of whether students will engage in delinquent behavior.[148]

2. Effects of Disproportionality

Both Caucasian and minority urban high school students in one study perceived racism in the administration of discipline. However, while Caucasian students and teachers viewed racial disparity in discipline as unintentional or unconscious, African American students saw it as conscious and deliberate…

Both Caucasian and minority urban high school students in one study perceived racism in the administration of discipline.[149] However, while Caucasian students and teachers viewed racial disparity in discipline as unintentional or unconscious, African American students saw it as conscious and deliberate, stating that

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[143] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 382 (2000).

[144] Id.

[145] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, Indiana Education Policy Center, Policy Research Report #SRS2, p. 14 (August 2000).

[146] Id.

[147] Id., citing C. H. Thornton et al., *School Desegregation and Suspension in East Baton Rouge Parish: A Preliminary Report*, Journal of Negro Education, 57, pp. 482-501 (1988).

[148] Id., citing P.H. Jenkins, *School Delinquency and the School Social Bond*, Journal of Research in Crime and Delinquency, 34, pp. 337-367 (1997).

[149] Russell J. Skiba et al., *The Color Of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, University of Nebraska – Lincoln, Policy Research Report #SRS 1, p. 17 (June 2000).

teachers often used classroom rules arbitrarily to remove students they did not like.[150]

African American students may interpret this disparity as rejection and suffer from lower self-esteem as a result.[151] A collective self-fulfilling prophecy may develop as young African Americans receive the message that they are incapable of abiding by school rules.[152] As one study noted, "phenomena such as overrepresentation in special and remedial classes, suspension, expulsion, and other indicators of school failure can have cumulative and disastrous effects on African Americans."[153]

II. Interventions to Help Reduce Overrepresentation

A. Raise Awareness

Currently, many school districts in Oregon do not collect data on suspensions and expulsions by race. The first step in addressing the issue of overrepresentation of minorities in school disciplinary proceedings is to raise awareness of the problem at state, district, and building levels. School personnel can begin this process by collecting and examining their suspension and expulsion data to determine whether differential discipline is applied disproportionately to any group of students based on race. Applying a commonly used definition, a group of students would be suspended or expelled "disproportionately" if the frequency with which they receive these consequences is greater than their percentage of the overall school population by 10 percent or more.[154] For example, if African Americans compose 20 percent of the school population, they might be expected to receive approximately 18 percent to 22 percent of suspensions.[155]

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[150] Id.
[151] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 382 (2000).
[152] Id. at 383.
[153] Id.
[154] Id. at 381.
[155] Id. at 385.

When African Americans are suspended more than 22 percent of the time, they are disproportionately suspended.[156]   This information should be gathered by each state, district, and school building and distributed to all school personnel as a first step toward implementing strategies to combat the problem.

B. Create Caring Relationships and Positive Role Models

"Reciprocal caring, respectful, and participatory relationships are the critical determining factors in whether a student learns . . . and ultimately whether a youth feels he or she has a place in this society," according to a recent report published by the U.S. Department of Health and Human Services.[157]   Students who viewed their teachers as providing both academic and emotional support were less likely to experience alienation from school or emotional distress.[158] When school personnel create caring relationships with all students, they are likely to minimize the conflicts and misunderstandings that lead to exclusionary discipline and to the overrepresentation of minorities in suspensions and expulsions. There are several steps that a school can take to increase caring relationships and positive role models for all their students.

1. Create Opportunities. for Students to Connect with Adults

Many African American students who are suspended believe they have poor relationships with their teachers.[159]   To reduce the use of exclusionary discipline, schools can foster caring relationships with all students, while especially making efforts to connect with students who have a history of school referrals.[160] Students at highest risk

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[156] Id.
[157] U.S. Department of Health and Human Services, *Protective Processes Within Schools.*
http://www.mentalhealth.org/schoolviolence/part1chp14.asp .
[158] Id.
[159] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 387 (2000).
[160] Id. at 388.

for being suspended are low-achieving African American males from low-income families in urban areas.[161] Educators must make genuine efforts to understand these students.[162] African American male high school students participating in focus groups in one study suggested that teachers get to know them and what their lives are like outside of school.[163] Those students suggested that school personnel take surveys, talk more with students, and show an interest in their extracurricular activities.[164]

Several schools in Oregon are creating opportunities for school personnel to get to know their students better. The FOCUS program at Madison High School in the Portland Public School District is a small program targeting "at-risk" students.[165] The program begins each morning with a "counselor" class, which brings a small number of students together with a teacher to eat breakfast and share different concerns. Unfortunately, the FOCUS program is only open to 60 students, leaving the majority of students without the

> *Several schools in Oregon are creating opportunities for school personnel to get to know their students better. The FOCUS program at Madison High School in the Portland Public School District is a small program targeting "at-risk" students. The program begins each morning with a "counselor" class, which brings a small number of students together with a teacher to eat breakfast and share different concerns.*

same opportunity for these connections.[166] Both Marshall and Roosevelt High Schools, also in the Portland Public School District, have created similar programs.[167] However, as at Madison, both the Marshall and Roosevelt programs are limited to a small percentage of students. Expanding programs to connect students with caring adults one-

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[161] Id.
[162] Id.
[163] Id.
[164] Id.
[165] Interview with Eddy Shuldman, Madison FOCUS Program, by Jessica Hendricks, Juvenile Rights Project, June 7, 2004.
[166] Id.
[167] This is in addition to the changes made by these two schools discussed on pp. 35-36.

on-one or in small groups can foster the positive connections that research shows students need to succeed in school.

At Rex Putnam High School in Milwaukie, Oregon, a school-wide assessment in 1993 led to the conclusion that students needed a more personalized education.[168] To achieve this, the school instituted a daily "access period" during which each student is assigned to a teacher for extra help. In addition, the freshman and sophomore classes are arranged into "houses" that keep groups of students with the same core teachers for two years.[169] These changes foster strong relationships between students and teachers.[170]

In Ronan, Montana, the public school district responded to poor attendance and high drop out rates among Native American students by implementing an elementary school program to forge relationships between students and teachers.[171] Faculty members meet daily with groups of eight to ten students and lead off-campus activities such as rafting, rock climbing and community service projects. Statistics show that the retention rate among these students is improving.[172]

2. Ensure High Quality Teachers for All Students

Students perform better in schools with more fully certified teachers.[173] Teacher education, experience and expertise are the most significant factors in student performance, outweighing all other factors, including race and poverty.[174] Unfortunately, one out of every four new teachers nationwide begins teaching on an emergency or

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[168] Northwest Regional Educational Laboratory, *Increasing Student Attendance*, Strategies from Research and Practice (June 2004).
[169] Id.
[170] Id.
[171] Id.
[172] Id.
[173] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 19 (October 2001).
[174] Id.

substandard license.[175] These under-credentialed teachers disproportionately end up teaching in large urban areas with the highest concentration of minority and low-income students and the greatest difficulty hiring highly qualified teachers.[176] Therefore, minority students are often being taught by teachers who lack the training and classroom management skills to create positive classrooms. Instead, these teachers often rely on exclusionary discipline to maintain control of their classrooms.

Placing highly qualified teachers with expertise in classroom management in urban schools can help decrease the number of suspensions and expulsions in those schools – and now, under NCLB, schools are subject to new rules regarding teacher qualifications. Under NCLB, in schools receiving Title I funding, all newly hired teachers must already be "highly qualified" before entering the classroom.[177] By the end of the 2005-06 school year, all teachers in core academic areas must be "highly qualified," a term defined by NCLB as holding at least a bachelor's degree from a four-year institution, full state certification and demonstrated competence in their subject areas.[178]

To meet these new federal requirements, schools must redouble their efforts to recruit and retain highly qualified teachers in underperforming schools. Doing so can bring the added benefit of decreasing the disproportionate exclusion of minority students

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[175] Id. In Oregon, only 2 percent of teachers were teaching without a standard license in 2001-02, compared with rates as high as 17 percent in other states. *See* U.S. Dept. of Education Office of Postsecondary Education, *Meeting the Highly Qualified Teachers Challenge: The Secretary's Second Annual Report on Teacher Quality* (2003).

[176] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 19 (October 2001).

[177] U.S. Dept. of Education Office of Postsecondary Education, *Meeting the Highly Qualified Teachers Challenge: The Secretary's Second Annual Report on Teacher Quality* (2003).

[178] Id. Core subjects are English, reading or language arts, mathematics, science, foreign language, civics and government, economics, arts, history and geography.

by placing teachers who are better trained to manage classroom disruptions in these schools.

3. Hire a Diverse Teacher Base

The benefits to children of a more diverse teaching staff are tremendous. Minority students stay in school longer and perform better when they have teachers who look like them.[179] There are several explanations for this result. First, minority teachers encourage success in school by acting as role models, showing children examples of adults who have been successful, particularly in school.[180] Second, by having higher expectations for all students, teachers of color raise the level of achievement in the classroom. A recent study by the National

> *Minority students stay in school longer and perform better when they have teachers who look like them.*

Bureau of Economic Research found that students score better on exams when taught by teachers who share their racial background.[181] This was found to be particularly beneficial to students of color and low-income students.[182] Third, minority teachers can bring cultural relevance to the classroom. Teacher who share cultural and life experiences with their students can help develop and implement curriculum that better reflects what is relevant to the students' lives. In addition, because of their shared cultural background, these teachers can also serve as mediators between the school and parents.[183] Finally, teachers of color are more likely to remain at these schools than

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[179] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 21 (October 2001).
[180] Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 20 (March 2000).
[181] Id. at 21.
[182] Id.
[183] Id.

Caucasian teachers.[184] This continuity for children and the school itself is deeply important to creating and maintaining a high functioning school.

The ERASE Initiative makes two recommendations for increasing the number of minority educators.[185] First, states and school districts must aggressively institute programs to recruit, train, and retain more minority teachers.[186] This can be done through focused recruitment, scholarships, low-interest loans, well-funded mentoring programs for new minority teachers, and pay incentives for teachers who stay at hard-to-staff schools.[187] Second, states and school districts should reexamine barriers experienced by prospective minority teachers, including standardized tests such as the CBEST, which have no demonstrated connection to teaching

> *… [S]tates and school districts must aggressively institute programs to recruit, train, and retain more minority teachers. This can be done through focused recruitment, scholarships, low-interest loans, well-funded mentoring programs for new minority teachers …*

performance but disproportionately eliminate minorities from teaching.[188] The hiring of more minority teachers, at least to a level that reflects the minority school population, will help to engage minorities in school. When more minority youth are engaged in school, their rates of suspensions and expulsions are likely to decrease.

Hood River High School in Hood River, Oregon has reaped the benefits of its efforts to hire a teaching staff that matches its student population. Hood River has a Latino student population of 30 percent with a Latino teaching staff of 24 percent.[189] In

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[184] Id. at 20.
[185] Id.
[186] Id.
[187] Id.
[188] Id.
[189] Interviews of Lorena Manzo, ESL Migrant Instructional Assistant, Fred Trujillo, ESL Department chair, and Steve Fist, co-principal, by Jessica Hendricks, Juvenile Rights Project, May 27, 2004.

turn, Hood River has fewer referrals, suspensions, and expulsions of Latino students.[190]

Lorena Manzo, a Latina instructional assistant, described how her bond with students is enhanced by their similar cultural backgrounds. Ms. Manzo stated that Latino students are more likely to connect with her and take advice from her because of their similar backgrounds.[191]

> *Hood River High School in Oregon has a Latino student population of 30 percent with Latino teaching staff of 24 percent. In turn, Hood River has fewer referrals, suspensions, and expulsions of Latino students.*

The Forest Grove School District in Forest Grove, Oregon, has seen its Latino enrollment grow from 10 percent in 1990 to nearly 30 percent today.[192] To better serve non-English speaking families, the district has increased its hiring of bilingual staff; currently, approximately 15 percent of all teachers are bilingual.[193] A community liaison calls and visits the homes of at-risk Latino students and an alternative program targets Latino students who are on the verge of dropping out, or already have done so.[194]

4. Smaller Schools/ Smaller Class Sizes

The benefits of smaller classes and smaller schools are well documented. Research demonstrates that small schools experience increased academic achievement and more positive relationships between students and teachers.[195] Small schools have also been shown to diminish the rates of violence and drop outs while increasing college

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[190] Id.
[191] Id.
[192] Oregon School Board Association, *Breaking Barriers to Close the Gap* (2004).
[193] Id.
[194] Id.
[195] Beatrice L. Bridglall and Edmund E. Gordon, *Raising Minority Academic Achievement: The Department of Defense Model*, ERIC Digests 480919, p.3 (October 2003).

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admission.[196] Small schools seem to particularly benefit minority children and those from lower-income homes.[197]

The benefits found in smaller classes are likely due to the strong bonds teachers are able to create with individual students, increasing each student's chances of school success. With fewer students, teachers' time with students can be both longer and more meaningful in content. Reducing class size gives each student the opportunity for more meaningful adult contact during the school day. When students feel connected to an adult at school, they are more likely to achieve at higher rates and less likely to experience behavioral problems. These relationships allow students to trust someone at school who can have a positive impact on their lives.

> *…Department of Education statistics indicate that students of color are 1.7 times more likely than Caucasian students to be in overcrowded schools.*

Unfortunately, Department of Education statistics indicate that students of color are 1.7 times more likely than Caucasian students to be in overcrowded schools.[198] Creating smaller classes and schools will foster opportunities for minority students to form positive, caring relationships with school personnel. These relationships, which research links with improved school performance and behavior, will help decrease the disproportionate rate at which minorities are excluded from school.

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[196] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 47 (October 2001).
[197] Beatrice L. Bridglall and Edmund E. Gordon, *Raising Minority Academic Achievement: The Department of Defense Model*, ERIC Digests 480919, p.3 (October 2003).
[198] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 46 (October 2001).

The Applied Research Center urges educators, parents, activists and students to implement three strategies to reduce school size: Reform existing schools, create entirely new schools and declare a moratorium on large schools. [199]

Existing schools can be reformed in three broad ways.[200] First, schools can be organized into "house plans," allowing students and teachers to remain together for a greater portion of the day, minimizing the number of class and teacher changes for students.[201] House plans usually mirror the structures of the schools that host them, which may limit the ability to create significant change with this reform method.[202] Another reform alternative is to create "schools-within-schools" that are separate, autonomous units with their own personnel, budget, and programs.[203] These entities operate within larger schools, sharing resources and reporting to the school principal on matters of safety and building operation.[204] The final way to reform existing schools is to create entirely new small schools housed in existing school buildings.[205] Somewhat like a school-within-a-school, these schools are entirely new, separate, and independent schools with their own organization, instructional programs, budget, and staff that merely occupy the same building as other schools.[206]

Several of Portland Public's high schools have created programs that replicate the schools-within-a-school approach. Madison High School's FOCUS program and Roosevelt High School's Two Rivers School are both examples of smaller programs

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[199] Id. at 48.
[200] Erwin Flaxman et al., *Trends and Issues in Urban Education*, ERIC Clearinghouse on Urban Education, p. 31 (October 1998).
[201] Id.
[202] Id.
[203] Id.
[204] Id.
[205] Id.
[206] Id.

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within a large high school with their own staff and curriculum.[207] FOCUS and Two

Rivers have had success working with at-risk youth and both report low rates of

exclusionary discipline.[208] Again, these programs are currently available only to a small

number of students. However, in the 2004-05 school year, three Portland public high

schools -- Roosevelt, Marshall, and Jefferson -- plan to divide into several smaller

schools. This will have a much larger impact, affecting all students who attend those

schools. Seven other Oregon high schools have also received grants from the Bill and

Melinda Gates Foundation to transform large schools into several schools with no more

than 400 students each: Lebanon High School, Liberty High School in Hillsboro,

Newberg High School, North Medford and South Medford High Schools, North Eugene

High School and Woodburn High School.

Beyond reforming existing schools, the Applied Research Center proposes

creating entirely new schools in collaboration with community-based organizations

throughout a city.[209] The Center recognizes that, although this strategy has a strong

potential for fostering community-school alliances, it must be combined with reforming

existing schools in order for change to occur for all students.[210] Finally, the Applied

Research Center calls for school districts to declare a moratorium on building large

schools.[211]

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[207] Interview by Jessica Hendricks, Juvenile Rights Project, with Eddy Shuldman (Madison FOCUS program), June 7, 2004, and with Amy Ambrosio (head teacher, Roosevelt Two Rivers program) on May 28, 2004. The FOCUS program is comprised of Portland Public School Staff whereas the Two River's School is a completely independent small school run by an outside organization.
[208] Id.
[209] Tammy Johnson et al., *Racial Profiling and Punishment in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 48 (October 2001).
[210] Id.
[211] Id.

Several major cities – New York, Philadelphia, and Chicago – have begun to implement these strategies, investing a great deal of money in reducing school size, and many more small schools are being planned.[212] Given the research showing the many benefits flowing from smaller schools, there is reason to be optimistic about the potential of these smaller schools to improve the educational experience for all students and help decrease minority overrepresentation in school discipline.[213]

5. Encourage Parental Involvement in Schools

Another strategy for decreasing disproportionate school discipline is for schools to create caring relationships with students by developing relationships with their families. To prevent school suspensions and expulsions, schools need to involve parents as problem-solvers and decision-makers.[214] A survey in South Los Angeles revealed that both African American and Latino respondents felt that schools have biases based on race, class, immigration status, and language that stand in the way of quality relationships between parents and schools.[215] Improving relationships between minority parents and schools will give schools another tool in their efforts to decrease the suspension and expulsion rates for minority youth.

The survey of South Los Angeles parents showed that minority parents want cultural inclusion, engagement, and accountability from their schools.[216] Schools that are culturally inclusive demonstrate beliefs, attitudes, and actions ensuring that all members

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[212] Erwin Flaxman et al., *Trends and Issues in Urban Education*, ERIC Clearinghouse on Urban Education, p. 32 (October 1998).
[213] Id.
[214] CADRE and Justice Matters, *We Interrupt this Crisis with Our Side of the Story; Relationships between South Los Angeles Parents and Schools*, A Report Preview, p. 2 (June 2004).
[215] Id.
[216] Id.

of a school community share power and influence.[217] Parents stated that they do not want to be stereotyped or treated like children. Instead, they want schools to understand the cultural roots of their communities.[218]

Hood River High School in Oregon has taken this type of comprehensive, culturally sensitive approach in connecting with Latino families.[219] The school created an annual "Latino Parent Night," bringing families to school in an environment where they can feel comfortable. Families are able to ask questions and form relationships with school personnel while learning about credits and graduation requirements. Hood River also developed an evening program to teach English to youth ages 16 to 21 who cannot attend school.[220] This program was expanded as youth began bringing family members to the evening classes. Hood River has welcomed parents, siblings, aunts, and uncles into the classes, and truly included the Latino culture and community in the school. Hood River's efforts at engaging students and families clearly are paying off: the Latino dropout rate is only 2.4 percent, compared to a national average of 34 percent and the statewide average of 11 percent.[221]

> *Hood River High School in Oregon has taken this type of comprehensive, culturally sensitive approach in connecting with Latino families. The school created an annual "Latino Parent Night," bringing families to school in an environment where they can feel comfortable. Families are able to ask questions and form relationships with school personnel while learning about credits and graduation requirements. Hood River also developed an evening program to teach English to youth ages 16 to 21 who cannot attend school. This program was expanded as youth began bringing family members to the evening classes.*

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[217] Id. at 3.
[218] Id. at 2.
[219] Interviews by Jessica Hendricks, Juvenile Rights Project, with Lorena Manzo, ESL Migrant Instructional Assistant, Fred Trujillo, ESL Department chair, and Steve Fist, co-principal (May 27, 2004).
[220] Id.
[221] Id.

The South Los Angeles survey also revealed that parents want schools to provide a range of opportunities for parents to meaningfully participate in decision making for their children.[222] Schools must ensure that parents are informed about how and when their participation is required.[223] Schools need to welcome and listen to parent input at all times.[224] Again, Hood River High School has put this kind of recommendation into practice. The high school has a "Spanish line" that is answered only by Spanish-speaking school personnel.[225] Parents can leave a message on the line any time, which accommodates parents that work during school hours. A parent's phone call will always be returned. This encourages Spanish speaking parents to call the school and share their concerns. Teachers and other staff at Hood River High School are also willing to meet with students' families at any time, including weekends and evenings.[226]

In the Ontario, Oregon school district, each elementary and middle school has a full-time bilingual Parent Center Coordinator, who helps parents feel more comfortable and facilitates their involvement in their children's schools.

The Harold Oliver SUN School hosts family craft nights, where parents and children can make holiday decorations together.

The Clear Creek Middle SUN School encourages parent participation in such events as Bring Your Parent To School Day and a community-wide Cinco de Mayo celebration.

Finally, the South Los Angeles survey revealed that parents want accountability from schools.[227] The first step in creating accountability is to ensure that parents have the tools, opportunities, and power

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[222] CADRE and Justice Matters, *We Interrupt this Crisis with Our Side of the Story; Relationships between South Los Angeles Parents and Schools*, A Report Preview, p. 3 (June 2004).

[223] Id.

[224] Id.

[225] Interviews by Jessica Hendricks, Juvenile Rights Project, with Lorena Manzo, ESL Migrant Instructional Assistant, Fred Trujillo, ESL Department chair, and Steve Fist, co-principal (May 27, 2004).

[226] Id.

[227] CADRE and Justice Matters, *We Interrupt this Crisis with Our Side of the Story; Relationships between South Los Angeles Parents and Schools*, A Report Preview, p. 3 (June 2004).

to resolve issues regarding their children's right to a quality education – and not when it is too late.[228] Parents want schools to respond to their concerns, especially when more than one parent has the same complaint.[229]

In the Ontario, Oregon school district, each elementary and middle school has a full-time bilingual Parent Center Coordinator, who helps parents feel more comfortable and facilitates their involvement in their children's schools.[230] In the district's Spanish-English immersion programs, Spanish-speaking students and their parents are paired with English-speaking families to build a supportive community.[231] In Jackson County, Oregon, the "Listo" program begins at the pre-school level to help Latino children develop early literacy skills so critical to later school success.[232] The program provides Spanish language literacy and English as a Second Language classes for adults, as well as Spanish literacy classes for older siblings, with the goal of creating family support for school success.[233]

Multnomah County, Oregon is striving to increase parental involvement through its SUN Community Schools Program. SUN, which stands for Schools Uniting Neighborhoods, provides programs at 46 schools throughout Multnomah County.[234] Working with community partners, each school designs programs best suited to the needs of its student population. The Rigler Elementary SUN School has engaged parents through such events as monthly parent teas and back-to-school picnics, and by hiring a

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[228] Id.

[229] Id.

[230] Oregon School Board Association Report, *Breaking Barriers to Close the Gap*, (2004).

[231] Id.

[232] Interview by Meyer Goldstein, Juvenile Rights Project, with Nancy Holly, Listo program secretary (September 27, 2004).

[233] Id.

[234] http://www.communityschools.org/Articles/SA12_FunInSUN.html.

Latino outreach worker to assist with Latino family-school partnerships.[235] The Clear

Creek Middle SUN School encourages parent participation in such events as Bring Your

Parent to School Day and a community-wide Cinco de Mayo celebration.[236] The Harold

Oliver SUN School hosts family craft nights, where parents and children can make

holiday decorations together.[237] All of these schools try to engage families through

innovative ideas that make school a more comfortable, informal, and relaxing place for

all types of families.

C. Engage All Students in School

1. Positive and High Expectations of All Students

The extent to which teachers believe that they can affect a student's performance

is a powerful indicator of learning outcomes for that child.[238] If teachers firmly believe

that they can teach and that students can learn, teachers are less likely to engage in

negative instructional practices and behaviors.[239] A 1983

study found that teachers with a high sense of personal

efficacy are more confident and at ease in their classrooms,

and demonstrate more positive communication with students,

such as smiling and praising.[240] They also are better

classroom managers, less defensive, more accepting, and

they produce greater student achievement as a result.[241] A

> *[T]eachers with a high sense of personal efficacy are more confident ...at ease in their classrooms ... demonstrate more positive communication with students ... are better classroom managers, less defensive, more accepting and they produce greater student achievement...*

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[235] http://www.sunschools.org.
[236] Id.
[237] http://www.communityschools.org/Articles/SA12_FunInSUN.html.
[238] Rebecca S. Payne, *The Relationship between Teachers' Beliefs and Sense of Efficacy and Their Significance to Urban LSES Minority Student,* Journal of Negro Education, Vol. 63, No.2, p. 183 (Spring 1994).
[239] Id.
[240] Id.
[241] Id.

journal article in *Teachers Expectancies* argued that effective teachers are those that

believe ability is not limited to a select few, but that all students are capable of

learning.[242] These teachers communicate their high expectations to students in as many

ways as possible, and this influences student motivation.[243] This has great impact on

minority students for whom motivating factors are frequently absent.[244]

Districts can improve teachers' expectations by both hiring positive teachers and

training existing teachers. Staff hiring should be based on criteria that include such

qualities as openness, willingness to learn, empathy, internal locus of control, concern for

others, creativity, motivation, and social awareness.[245] School districts' strategic plans

should include a clear vision of the type of teachers they want and then actively recruit

them.[246] Districts should focus staff development projects on fostering open, positive

attitudes and behaviors among teachers currently on staff.[247]

Teachers themselves can improve their attitudes and expectations by identifying

their own beliefs, values, and experiences related to schooling.[248] They can identify their

beliefs about families, cultural traditions, expectations, and other differences between

themselves and their minority students.[249] By understanding the differences that exist

among ethnic groups, teachers can identify behavioral styles that may cause conflict

between their own experiences and beliefs and those of their minority students.[250]

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[242] Id. at 184, citing Meyer, W., *Summary Integration and Prospective*, In J. Disek (Ed.), Teacher Expectations pp. 353-368 (1985).
[243] Id.
[244] Id.
[245] Id. at 193.
[246] Id.
[247] Id.
[248] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 385 (2000).
[249] Id.
[250] Id.

2. Classroom Management and Instruction

Teachers must take care to engage with their minority students in ways that go beyond discipline and management.[251] A 1989 study analyzed statements that teachers made to their students in inner city and suburban classrooms.[252] In the suburban classroom, the majority of teacher statements revolved around academics, while in the urban classroom, the majority involved behavioral management commands.[253] To ensure that minority students are not treated differently than Caucasian students, the study suggests teachers observe the rates at which they make positive statements to students, call on students, and academically engage students.[254] She also suggests that teachers use colleagues as coaches to videotape them in the classroom and give feedback in a non-threatening manner.[255]

A 1999 study recommends that teachers change their teaching styles to respond to the learning and communication styles of African American students.[256] According to this study, there is much documentation that African American children have a propensity for more physical movement than Caucasian children.[257] Therefore, it recommends that instruction involve academic and social activities that promote physical movement for these students. Some examples include collaborative or cooperative learning groups and peer tutoring which incorporate tasks allowing for student movement.[258] Another technique is active learning, which allows students to assume

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[251] Id.
[252] Id.
[253] Id. at 386.
[254] Id.
[255] Id.
[256] Id.
[257] Id.
[258] Id.

roles and responsibilities that utilize their strengths.[259] Finally, the study suggests that African American children can benefit from school lessons that incorporate verse and rhythm by varying instructional strategies and pacing.[260]

3. Encourage Participation in School Activities

African American students who have struggled in school settings are less likely to participate in school clubs and organizations, with the exception of sports teams.[261] Often, a special invitation by a teacher or principal to join a school activity gives students the confidence and desire to participate.[262] School personnel should become familiar with students' interests and strengths so they can match students with groups that will connect them to school and create a sense of belonging.[263] Participation in these groups gives students the opportunity to be viewed more positively by school staff.[264] Engaging minority youth in school groups and connecting them to school can help decrease the rates at which they receive disciplinary referrals leading to suspension and expulsion.

These recommendations may be applied to other minority student groups. Century High School in Hillsboro, Oregon has taken steps to better engage Latino students in the school through such activities as a girls' dance program and a drama club specifically for Latino students.[265] Parents are invited to performances throughout the year, providing teachers and parents with a "non-threatening community setting" to talk about the importance of school attendance and success.[266]

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[259] Id.
[260] Id.
[261] Id. at 388.
[262] Id.
[263] Id.
[264] Id.
[265] Oregon School Board Association, *Breaking Barriers to Close the Gap* (2004).
[266] Id.

4. Increasing Minority Interest and Relevance

One study highlights the need for educators to develop creative techniques for gaining insight into the lives of their African American students.[267] That knowledge should be used to supplement and enhance the traditional curriculum, making it more meaningful to those students.[268] For example, knowing that students are highly adept at video games and pride themselves on mastering the games can be useful in planning a class curriculum.[269] To motivate students to learn new skills, a teacher could demonstrate a use for those skills in the popular market of video games.[270] Video game magazines could be used to stimulate an interest in reading for pleasure.[271] Teachers could teach math skills in the context of operating a video game rental business.[272] Teachers should get to know the culture and interests of the youth in their classroom and incorporate that knowledge into the curriculum.

D. Create a Culturally Sensitive Staff

1. Training "Cultural Brokers"

Minority students' school failure is often a result of "cultural discontinuity," the sense that the beliefs and expectations in school are in conflict with those they experience at home and in their communities.[273] African American students, for example, must be familiar with both minority and dominant cultures, while Caucasian students need only be familiar with the dominant culture.[274] In order to maintain their identities, minority

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[267] Id.
[268] Id.
[269] Id.
[270] Id.
[271] Id.
[272] Id. at 389.
[273] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions,* Exceptional Children, Vol. 66, No. 3, p. 386 (2000).
[274] Id.

students may reject values that typify the dominant culture.[275] Schools must attempt to minimize this sense of cultural conflict and reduce students' resistance to behaviors that lead to school success.[276]

Districts should provide staff training on the unique experiences and values of the minority cultures located in the district. Schools should then incorporate cultural considerations around relationship building, communication styles and learning styles into their schools and classrooms.[277] As teachers gain insight into unique cultural differences, they can place classroom lessons in context and reduce students' cultural discomfort at school. A journal article in *Education and Urban Society* suggested that educators become "cultural brokers" who are familiar with both mainstream and minority cultures.[278] A cultural broker should identify minority student experiences that can serve as starting points from which to relate mainstream cultural expectations.[279] These starting points should be used particularly when teaching less familiar skills or concepts.[280]

2. Train Staff to Minimize Linguistic Barriers

School staff should also receive training on the patterns, dialect and meanings of slang popular among minority youth. The expectation that they will speak standard English in school is another source of "cultural discontinuity" for some minority students.[281] When teaching standard English, teachers acting as cultural brokers could

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[275] Id.
[276] Id.
[277] Id.
[278] Id. at 387, citing Gay G., *Building Cultural Bridges: A Bold Proposal for Teacher Education*, Education and Urban Society, 25(3), pp. 45-51 (1993).
[279] Id.
[280] Id.
[281] Brenda L. Townsend, *The Disproportionate Discipline of African American Learners: Reducing School Suspensions and Expulsions*, Exceptional Children, Vol. 66, No. 3, p. 387 (2000).

explain language as a setting-specific skill and help students learn to "code switch," or adapt the way they speak to fit the setting.[282] Teachers could explain the differences between language expected at school and language expected at home, and help students bridge the gap between the two settings.[283]

School personnel should also receive training on unique cultural aspects of language and communication found among their minority populations. For example, "call and response" is an African American tradition that encourages listeners to actively and verbally respond to speakers.[284] African American students who engage in call and response at school may be viewed as being rude or interrupting the speaker, while in their culture it demonstrates that they are engaged in the material being presented.[285] A teacher acting as a cultural broker can acknowledge call and response as a valid part of learning, while setting limits with students.[286] For example, a teacher could allow for both structured and unstructured time with a speaker, or allow students to immediately write down their responses to the speaker.[287] By training teachers as cultural brokers, minority overrepresentation in exclusionary discipline is likely to decline as students feel more included in school culture.

E. Re-examine Current Disciplinary Policy

1. Minimize Subjectivity of Offenses

Where minority overrepresentation exists, schools should examine the types of offenses for which minority students are referred. When schools define misbehavior in

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[282] Id.
[283] Id.
[284] Id.
[285] Id.
[286] Id.
[287] Id.

subjective terms, such as "insubordination," "disrespect" or "defiance," discipline is strongly influenced by how individual teachers interpret a student's behavior.[288] Discipline codes with too much room for arbitrary interpretation allow for teachers' conscious or unconscious beliefs about minority students to influence their discipline strategies.[289] By creating rules with clear definitions and little room for interpretation, it will allow both teachers and students to know exactly when a rule is broken.

Schools should also examine standards for both referrals and disciplinary action.[290] Schools should make sure that rules or policies contain clear standards for when students should be referred.[291] In a typical school policy, the decision whether to punish the behavior in class or refer the student to the office is left to the discretion of the staff member witnessing the offense.[292] The absence of standards for referrals may result in differing treatment of students based upon individual staff members' prejudices and level of comfort with the offense.[293] In examining standards for disciplinary actions, schools should consider whether policies allow for alternatives to suspension for the less serious offenses for which minority students are disproportionately excluded from school.[294] A district can communicate its intent to reduce the disproportionate suspension of minority students by identifying and explaining disciplinary alternatives.

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[288]Rebecca Gordon at al., *Facing the Consequences: An Examination of Racial Discrimination in U.S. Public Schools*, ERASE Initiative, Applied Research Center, p. 12 (March 2000).
[289] Id.
[290] Id.
[291] Id.
[292] Id.
[293] Id.
[294] Id.

2. **Eliminate Zero Tolerance Policies and Reduce Dependence on Exclusionary Discipline**

The harmful results of zero tolerance policies and school exclusion, as well as their ineffectiveness in reducing school violence or improving student behavior, are documented in Section II. In response to this evidence, schools should replace rigid one-size-fits-all disciplinary models with more graduated systems.[295] An example of a graduated school discipline system is the "early response" model.[296] This approach shares with zero tolerance policies the belief that minor school disruptions, if left untreated, will lead to more serious disruptions and violence.[297] However, the early response model has a different goal. While zero

> *Some school districts have found it helpful to develop annual plans for addressing disciplinary disparities, drawing attention to specific aspects of the problem and helping distribute resources to achieve goals.*

tolerance seeks to make an example of potential wrongdoers, the goal of early response is to defuse minor incidents before they escalate into more serious offenses.[298] Early response involves teaching all students appropriate alternatives to disruption and violence for resolving personal problems, shifting the focus of discipline from merely reacting to problems to promoting comprehensive preventive efforts.[299] Schools should eliminate zero tolerance policies and reduce the use of exclusionary discipline by instituting programs that create a more positive school climate, attend to early warning signs, and effectively respond to disruption and violence with a wide variety of strategies.[300]

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[295] Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,* Indiana Education Policy Center, Policy Research Report #SRS2, p. 16 (August 2000).

[296] Id.

[297] Id.

[298] Id.

[299] Id.

[300] Id. For more information on strategies see The Institute on Violence and Destructive Behavior at the University of Oregon (http://darkwing.uoregon.edu/~ivdbl) and the Safe and Responsive Schools Project at the Indiana Education Policy Center (http://www.indiana.edu/~safeschl/).

3. Create District and Building Plans Addressing Disciplinary Disparities

Some school districts have found it helpful to develop annual plans for addressing disciplinary disparities, drawing attention to specific aspects of the problem and helping distribute resources to achieve goals. [301] Plans should include components, such as:

- A review of the data that identifies the sources of the disparities by school and offenses[302]

- A discussion of the annual numerical goals for reducing disparities[303]

- A list of policies and rules that will be considered for revision[304]

- A list of district level programs that will be used to address the problem[305]

- A list of available resources and support available to schools in addressing local sources of disparity[306]

A building plan can provide similar focus and resources for individual schools. Because the nature, level, and causes of disparities can vary among school buildings, it is important for each building to develop its own annual plan.[307] The plan can be very similar to that of the district plan and should include:

- A review of building data that identifies the offenses and teachers leading to the disparities within the building.[308]

- Specific numerical goals for reducing disparities, including specific goals for reducing target offenses.[309]

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[301] Jurious Williams, *Reducing the Disproportionately High Frequency of Disciplinary Actions Against Minority Students*, Equity and Excellence, Vol. 24, No. 2, p. 35 (1989).
[302] Id.
[303] Id.
[304] Id.
[305] Id.
[306] Id.
[307] Id.
[308] Id. at 36.

- Identification of policies, procedures, referral standards, and disciplinary actions that will be reviewed and possibly revised.[310]

- Identification of special programs or strategies that the building will implement.[311]

- Resources needed to implement the building plan.[312]

- The names of administrators responsible for formulating, implementing, and evaluating the building plan.[313]

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[309] Id.
[310] Id.
[311] Id.
[312] Id.
[313] Id.

III. Larger Context and Conclusion

This paper has examined the root causes of minority overrepresentation in disciplinary systems in the nation's and Oregon's public schools; a pervasive problem that leads to multifaceted, negative outcomes for minority children. Because minority overrepresentation in school discipline stems from individual and systemic problems, including racial bias, we have suggested comprehensive, culturally appropriate solutions to help schools eliminate the barriers between minority students and successful participation in school.

Although this paper is focused on minority over-representation in school discipline, this issue should not be viewed in isolation. Minority overrepresentation is a society-wide phenomenon reaching far beyond the schoolhouse. In child welfare, for example, African-American children account for 44 percent of children in foster care, although they represent only 15 percent of all U.S. children.[314] In Oregon, African-American children represent 2.4 percent of the population, but 6.1 percent of reported child abuse victims.[315] In the juvenile justice system, minority youth are disproportionately arrested, adjudicated and incarcerated.[316] Minority youth represent one third of juveniles in the general population, but two thirds of those in secure detention.[317] Similarly, African-American youth ages 6 to 21 make up 14.8 percent of the general population but 20.2 percent of special education students.[318] African-American youth are

> *Minority overrepresentation is a society-wide phenomenon reaching far beyond the schoolhouse.*

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[314] Cynthia Godsoe, *Caught between Two Systems: How Exceptional Children in Out-of-Home Care are Denied Equality in Education* Yale Law and Policy Review (2000).

[315] Oregon Department of Human Services. Statistics available on-line.

[316] Office of Juvenile Justice and Delinquency Prevention. (OJDDP). Data from 1997-98.

[317] Id.

[318] Twenty Second Annual Report to Congress on the Implementation of IDEA. US Dept. of Education, Office of Special Education Programs (OSEP) (2000).

overrepresented in 10 of the 13 special education disability categories.[319] Compared to

Caucasian children, they are 2.9 times as likely to be labeled mentally retarded, 1.9 times as likely to be labeled emotionally disturbed, and 1.3 times as likely to be labeled learning disabled.[320]

> *[P]rograms to reduce suspensions and exclusions can help schools avoid the downward spiral of over-reliance on punitive discipline, in which a single suspension leads to multiple suspensions, student-teacher relationships deteriorate, teacher satisfaction plummets, and the sense of community at school is damaged.*

Although the reasons for minority

overrepresentation in these other areas are complex, as with school discipline, racial and

cultural conflicts and bias clearly play a substantial role.

But why should school officials – already burdened by state and federal mandates

for achievement and accountability – consider this broader, more complicated picture?

The reason is rooted in the original goals of the nation's public school systems, as

discussed in the introduction to this paper. Teachers, school administrators and parents

all recognize that public schools were created not merely to help children perform at

prescribed levels on standardized tests, but to prepare them to take their places in society

as functioning, self-sufficient adults.   By understanding the role that minority

overrepresentation plays in many aspects of society, educators and administrators are

better equipped to take the steps necessary to eliminate the problem in their schools, and

to help achieve the goals of educational opportunity and successful lives for all children.

The disproportionate discipline of minority children in school sets up a cascading

chain of events that can lead to their exposure to increasingly negative risk factors and

harmful results. Disciplinary referrals and exclusions directly result in increased student

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[319] National Alliance of Black School Educators (NABSE) & Iliad Project, (2002). *Addressing Over-Representation of African- American Students in Special Education: The Prereferral Intervention Process—An Administrator's Guide.* Arlington, VA: Council for Exceptional Children, and Washington, DC: NABSE.
[320] Id.

absence and drop-out, delinquency, substance abuse, sexual promiscuity, and poor nutrition.[321] These results decrease school and community safety, teacher satisfaction, and student commitment to school participation. Once out of school, young people penetrate the juvenile justice and adult corrections system, become single parents, and require public assistance for survival.[322] Reliance on public services exacts enormous social and economic costs to our communities. Early behavioral intervention and support for minority youth may stem the flow into much costlier public domains. If children are successful at school and feel part of their communities, they are less likely to be excluded from school and face the lure of risky and delinquent behavior. Community safety and livability can be achieved when we support our youth's successful maintenance in school and their transition to adulthood.

Validated, research-tested programs to reduce suspensions and exclusions can help schools avoid the downward spiral of over-reliance on punitive discipline, in which a single suspension leads to multiple suspensions, student-teacher relationships deteriorate, teacher satisfaction plummets, and the sense of community at school is damaged. Studies have identified "protective" factors that help immunize schools against these negative effects, including limits on suspension, positive student-adult interactions, high expectations for students and staff, additional help for students who need it, student participation in school policy, active hands-on teaching style, smaller enrollments, staff collegiality and morale, supportive school administration, positive behavior management,

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[321] Robin Goodman, *Zero Tolerance Policies: Are they too tough or not tough enough?* www.aboutourkids.org/articles/zerotolerance.html (March, 2001)
[322] Jay P. Greene, *High School Graduation Rates in the United States* Black Alliance for Educational Options (November, 2001) Available on-line: http://www.manhattan-institute.org/html.cr_baeo.htm.

and family involvement.[323] All of these factors contribute to schools in which students, teachers, administrators, and families support and promote learning, and all have a stake in the school community's well-being.

The crisis in school funding in Oregon and nationwide in recent years presents an obvious challenge to putting these recommendations into practice. As Oregon Attorney General Hardy Myers' School/Community Safety Coalition noted in a March 2001 report, Oregon schools are struggling to implement discipline and safety programs because of inadequate funding for staff training and planning, and for systems to evaluate the programs once in place.[324] As a result, teachers and other staff feel hamstrung -- without enough time for professional development to acquire and implement new methods to raise cultural awareness and reduce school exclusions, there tends to be reliance on disciplinary referrals, suspension and expulsion. Given the widespread negative fallout to individual students and society at large, the highest priority must be placed on adequately funding teacher training and other programs to eliminate minority overrepresentation in school discipline.

But responsibility for school success does not rest with teachers and school officials alone. Minority overrepresentation, whether in child welfare, juvenile justice, special education or school discipline, is a community concern, and requires a coordinated community response involving families, juvenile justice, child welfare, community advocates, youth service programs, and youth themselves. This collaborative

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[323] Christie, C.A., Nelson, C.M., Jolivette, K. (2003). School Characteristics related to suspension. EDJJ Notes 2(4), 1-5. On-line at: http://www.edjj/edjjnotes/volume2number4.pdf.
[324] *How Safe are Oregon Schools? Status and Recommendations*, Attorney General's School/Community Safety Coalition. Hardy Myers, Attorney General, March 2001. Available on-line at www.doj.state.or.us/

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approach will ensure that all children receive equal access and equal footing within our public schools.

 We, the authors, challenge ourselves as advocates for children and youth to work toward achieving equal educational opportunity for all students. We challenge teachers, administrators, parents and others concerned about our children to commit themselves to identifying and eliminating the

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prejudices and practices in their schools that lead to minority overrepresentation in school disciplinary procedures. We encourage them to seek out community partners to help them achieve these goals. In this way, we will steer the next generation toward success in education and in society.
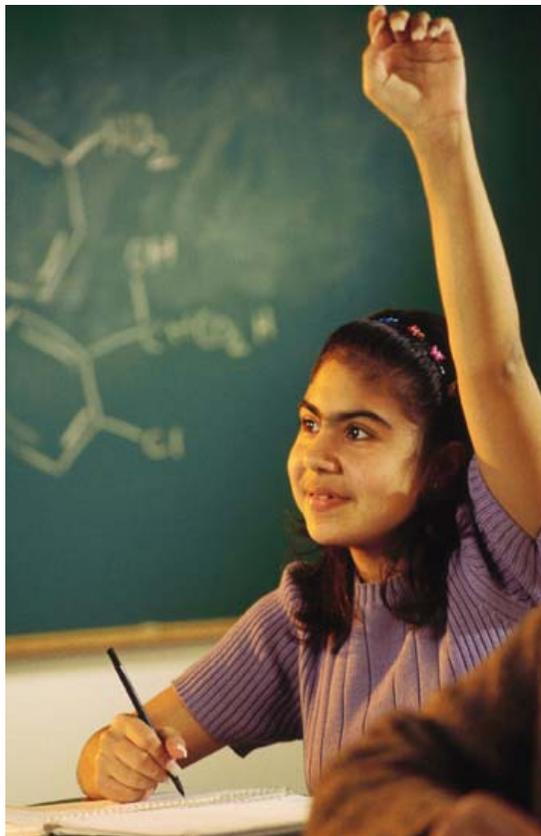
Juvenile Rights Project, Inc. (JRP) was started in 1975 in Portland, Oregon as a project of Multnomah Legal Aid Services in order to better serve youth in the juvenile court system. JRP was established as an independent, non-profit law and advocacy firm in 1985. JRP's purpose is to provide high quality legal services to children and families, without the means to retain counsel, through individual representation in juvenile court and school proceedings, and through class-wide advocacy in the courts, the legislature and public agencies serving children and families. JRP represents individual children in Multnomah County, Oregon, who are in the foster care and juvenile delinquency systems. On behalf of these children and others like them around the state of Oregon, JRP works toward the improvement of public systems – education, health and mental health, child welfare, juvenile justice and others – upon which Oregon's most vulnerable children rely for their safety, well-being and development. It is the success or failure of these systems which often dictate whether these children become self-reliant adults or, conversely, spend their adult lives under the criminal justice and/or social welfare systems.

JRP received juvenile violence prevention grants from the Oregon Criminal Justice Commission, administered by its Juvenile Justice Advisory Committee, in 2001-2002, 2003 and 2004. The first two years of the grant were used to provide individual representation to racial and ethnic minority students in grades six through nine in the Portland Public School District who were facing suspension and expulsion. These efforts on behalf of individual students were highly successful in keeping these students in school. JRP attorney Brian Baker worked with school principals and other PPS staff to employ alternate strategies to school exclusion, such as referral to alternative school programs, special education services, including positive behavioral interventions, and other creative disciplinary strategies. These efforts culminated in the development of this monograph in 2004.

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