

# TEST, PUNISH, AND PUSH OUT:



How “Zero Tolerance” and High-Stakes Testing  
Funnel Youth Into the School-To-Prison Pipeline

March 2010 (revised)



...Just Democracy!

## ABOUT US

Advancement Project is an innovative civil rights law, policy, and communications “action tank” that advances universal opportunity and a just democracy for those left behind in America. We believe that sustainable progress can be made when multiple tools—law, policy analysis, strategic communications, technology, and research—are coordinated with grassroots movements.

Advancement Project was founded in 1999 in Los Angeles and Washington D.C. by veteran civil rights lawyers who were looking for new ways to dismantle structural barriers to inclusion, secure racial equity, and expand opportunity for all.

We create change by:

- Promoting and supporting coalitions and organizations that bridge race, culture, and class divisions;
- Building new tools for the national movement for social justice; and
- Effecting reform of public institutions responsible for providing democratic participation, affordable housing, education, and public health and safety.

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## EXECUTIVE SUMMARY

Our tragically low national high school graduation rates should shock the conscience of every American. Reform is clearly needed, but it should start with the policies and practices that have resulted in millions of children not receiving a full and equal chance to receive a high-quality education. While there are many factors that contribute to this sad reality, this report explores the two policies that may pose the most direct threat to the educational opportunities of America's youth: "zero tolerance" school discipline and high-stakes testing.

While they are usually considered separately, these two policies are actually closely related. In fact, zero tolerance and high-stakes testing both share the same ideological roots, and together they have combined to seriously damage the relationships between schools and the communities they serve throughout the country. Rather than helping to provide all students with enriching learning experiences, zero tolerance and high-stakes testing lead to an impoverished education for many young people. Instead of supporting students who are struggling or in need, both needlessly punish young people and limit their opportunities to fulfill their potential and achieve their goals.

Together, zero tolerance and high-stakes testing have turned schools into hostile and alienating environments for many of our youth, effectively treating them as drop-outs-in-waiting. The devastating end result of these intertwined punitive policies is a "school-to-prison pipeline," in which huge numbers of students throughout the country are treated as if they are disposable, and are being routinely pushed out of school and toward the juvenile and criminal justice systems.

***The first section of the report examines the common origins and ideological roots of zero tolerance and high-stakes testing.***

In the 1980s, a movement began to implement far more punitive policies in both the criminal justice and public education systems. Modern zero tolerance (throughout this report, "zero tolerance" is used as shorthand for all punitive school discipline policies and practices) and high-stakes testing policies are the direct result of that movement.

Within criminal justice policy, it was zero tolerance-style policing strategies implemented starting with the "War

on Drugs” that led to the massive expansion of the adult prison population. This “get-tough” approach was eventually exported to schools, leading to a huge increase in the police and security presence in schools and far more harsh responses to student behavior. The results have been devastating, as across the country there have been dramatic increases in the use of lengthy out-of-school suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests. In effect, these policies and practices have blurred the line between the education and criminal justice systems.

In public education, the equivalent to the War on Drugs was the crackdown on so-called “failing schools” following the 1983 publication of “A Nation at Risk.” That led to a push for greater school accountability, which came to mean broader use of standardized tests to measure achievement. As with zero tolerance, over time policy-makers began using these tests punitively, in this case against both students and educators. The No Child Left Behind Act (NCLB) was both a product of this movement and a catalyst for its growth, as it has ushered in a new wave of inflexible, test-based accountability.

Since the passage of NCLB in 2002, both the use of high-stakes tests and the severity of the consequences attached to them have risen dramatically, leading to a rapidly dwindling set of opportunities for students who do not score well on these exams. Moreover, this “test and punish” approach has had a devastating effect on the quality of education being offered at many schools. Because of the severe consequences attached to these tests, many schools have been turned into test-prep factories, with narrowed, distorted, and weakened curricula often dominated by mindless drilling, rote memorization exercises, and “teaching to the test.” This has suffocated high-quality instruction, and made it more difficult than ever for teachers to engage students and create authentic and sustained learning. Thus, this “get-tough” approach to accountability has created an education system that increasingly turns students off to learning and teachers off to teaching.

Despite substantial evidence of the damage caused by zero tolerance and high-stakes testing and the overwhelming body of research supporting alternative approaches, these policies have spread like wildfire due to their easy political appeal. The promoters and defenders of these policies have used the same, undeniably persuasive arguments grounded in principles of accountability and personal responsibility that many Americans associate with success in other fields, such as business. Indeed, the driving ideology behind both high-stakes testing and zero tolerance comes right out of the corporate playbook, as it is based on the notion that problems are solved and productivity is improved through rigorous competition, uncompromising

discipline, constant assessment, performance-inducing incentives, and the elimination of low performers.

While these principles may work in the business world, they are simply a bad fit in the context of public education. They are based on faulty assumptions, fail to create real improvement in schools, ensure that large numbers of students will fail academically, and fall far short of the democratic purposes of our public education system. Nevertheless, zero tolerance and high-stakes testing have followed the same path on their way to being frequently – and inappropriately – substituted for meaningful education reform.

***The second section of the report examines the current state of zero-tolerance school discipline across the country, and includes local, state, and national data.***

School districts around the country have adopted extraordinarily severe discipline policies and practices in recent years. These punitive measures extend far beyond serious infractions; instead, the vast majority of punitive disciplinary consequences tend to result from relatively minor misbehavior or trivial student actions. In fact, the problem in most cases is not the student, but, rather, the adults who react inappropriately to youthful behavior.

Additionally, schools have increasingly devoted huge chunks of their budget to law enforcement personnel and security infrastructure, effectively turning many public schools into well-policed fortresses. The result has been the widespread, and needless, criminalization of students. For example:

- In Pennsylvania, the number of school-based arrests has almost tripled in just seven years.
- In Florida, there were over 21,000 arrests and referrals of students to the state’s Department of Juvenile Justice in 2007-2008, and 69% of them were for misdemeanor offenses.

For a large percentage of school-based arrests, it is inconceivable that the student would have been arrested if not for the close relationship between school staff and law enforcement personnel. Nevertheless, because of the increasingly strong ties between schools and law enforcement, perhaps the most “policed” group in the country right now – outside of prison and jail inmates – is public school students.

Arrests in school represent the most direct route into the school-to-prison pipeline, but out-of-school suspensions, expulsions, and referrals to alternative schools also push students out of school and closer to a future in the juve-

nile and criminal justice systems. The use of these punitive disciplinary measures has risen over time at the national level, and has increased dramatically in many communities. Not coincidentally, that rise has coincided with the passage of NCLB and other test-driven policies. For example, the U.S. Department of Education projected that there were almost 250,000 more students suspended out-of-school in 2006-07 than there were just four years earlier, when NCLB was signed into law. During the same timeframe, the Department projected that the number of students expelled across the country increased 15%.

At the local and state levels, the dramatic expansion of the zero-tolerance approach is even more apparent. For example:

- In Chicago Public Schools, under the leadership of then-Chief Executive Officer and current U.S. Secretary of Education Arne Duncan, the number of out-of-school suspensions district-wide nearly quadrupled in just six years.
- In Texas, over a five-year period, the number of expulsions increased by 23% and the number of out-of-school suspensions increased by 43%. In just one school year, 2007-08, there were over 128,000 referrals of students to alternative disciplinary schools.

While zero tolerance is affecting a greater diversity of communities than ever before, due to continuing biases, disparate treatment, and systemic inequities, students of color are particularly harmed by these policies and practices. In fact, racial disparities in school discipline are getting worse, as the use of suspensions and expulsions for students of color has increased since the passage of NCLB, while it has decreased for White students.

These policies and practices are especially misguided given the clear research showing that zero-tolerance school discipline can turn schools into inhospitable environments that fail to promote either school safety or academic success. For example:

- Removing a student from school appears to predict higher rates of future misbehavior;
- Schools with higher rates of school suspension and expulsion have less satisfactory ratings of school climate;
- Zero-tolerance school discipline is associated with an adverse impact on individual and school-wide academic performance;

- Suspension, expulsion, and school-based arrest are associated with a higher likelihood of school dropout; and
- Suspension and expulsion increase the likelihood that the child or youth will enter the juvenile or criminal justice systems.

In short, these practices are unjust, contrary to sound educational policy, and also represent woefully shortsighted economic policy, as they carry huge short-term and long-term costs for communities.

***The third section of the report presents an overview of high-stakes testing and its effects on students, educators, and schools.***

As with zero tolerance, the use of high-stakes testing has exploded in recent years, fundamentally transforming the educational experiences of countless students and educators. Not only are more standardized tests being used than ever before, the stakes attached to them have been ratcheted up across the country, for both educators and students.

However, high-stakes testing has not been proven effective at improving overall student achievement or closing the achievement gap between White students and students of color. While reports of dramatic gains in state test scores are quite common, they are usually illusory, as scores on independent, relatively low-stakes exams do not show similar increases.

Perhaps more important is the damage done by high-stakes testing to the student experience in school. Not only do formulaic, test-driven reforms neglect the important role schools have to play in helping students become well-rounded citizens, they also turn school into a much less engaging, and even hostile, place for youth by eliminating the components of education they find most interesting. Additionally, the emphasis placed on test results above all other priorities has an alienating and dehumanizing effect on young people, who resent being viewed and treated as little more than test scores.

The effects can accumulate even more when additional consequences are attached to the tests. For example, there is a long record of research demonstrating the consistent association of high-stakes exit exams with decreased graduation rates and increased dropout rates. Additionally, the results from standardized tests are often used to retain students in grade. Yet grade retention has been shown to be the single largest predictor of student dropout.

While high-stakes testing continues its ascendance in the world of education policy, the undeniable fact is that it has had a devastating effect on teaching and learning in many schools, driving teachers out of the profession and students out of school. The impact has been particularly severe for students of color, low-income students, English language learners, and students with disabilities. Nevertheless, U.S. Secretary of Education Arne Duncan has been promoting the broader use of standardized test scores, including using them to determine teacher pay. It can be expected that such a change would lead to an even more test-driven education system.

***The fourth section of the report examines how zero tolerance and high-stakes testing have become intertwined and even mutually reinforcing, combining to push huge numbers of students out of school.***

Zero tolerance and high-stakes testing have joined together to change the incentive structure for educators, putting many teachers and administrators in the unenviable position of having to choose between their students' interests and their own self-interest. Education has become, more than ever, a “numbers game.” The clear message from high-stakes testing policies is that educators' focus should not be on nurturing and educating each child to reach their full potential; their focus should be on getting as many students as possible to reach the level of “proficiency.” The message sent by zero-tolerance policies is that education is not for everyone; rather, it is for those students who “deserve” it. The combined effect is that, within this new system of incentives, individual students matter little.

Because of the focus on test scores and the severe consequences attached to them, if a student acts up in class, it is no longer in educators' self-interest to address it by assessing the student's unmet needs or treating the incident as a “teachable moment.” It is much easier and more “efficient” to simply remove the child from class through punitive disciplinary measures and focus on the remaining students. With so much riding on these tests, being able to transmit as much of the test material as possible often overrides concerns about the impact such practices have on students.

As a result, the practice of pushing struggling students out of school to boost test scores has become quite common. There are a number of widely used strategies for manipulating test scores, such as withdrawing students from attendance rolls, assigning students to alternative schools, coercing or encouraging students to drop out or enroll in General Educational Development (GED) programs, along with using suspensions, expulsions, and referrals to alter-

native schools. These practices are contemptible, but not surprising when one considers that those educators' future employment or salary may be determined by the results of a single test.

The combined effect of these dynamics is that countless students are entering the “school-to-prison pipeline” every day. The criminalization of youthful actions in school described above represents a direct linkage between schools and prisons. But there are also indirect linkages, caused by zero tolerance and high-stakes testing driving students to drop out of school, at which point they become more than eight times as likely to be incarcerated as high school graduates.

Beyond the undeniably negative impact of zero tolerance and high-stakes testing policies on individual students, families, and schools, evidence of more widespread systemic effects is accumulating rapidly. For example, recently-released data show that the nation's graduation rate in 2006 – 69% – was the lowest it has been since before NCLB was passed. Of particular concern is that the rates for Black and Latino students – 51% and 55%, respectively – dropped significantly from 2005 to 2006. Additionally, in 2008, the number of persons taking the GED test was at its highest level since before NCLB. These are all strong indicators of a rampant student pushout problem.

Focusing just on the 100 largest school districts in the country provides an even better sense of the devastating effects recent policies have had on many communities. These large, mostly urban districts together serve about 40% of the nation's Black, Latino, and Native American students. While graduation rates in most of these districts were improving up until NCLB was signed into law, since then they have deteriorated.

- From 1996 until 2002 (when NCLB was signed into law), sixty-eight of the 100 districts experienced rising graduation rates. Twenty-four of those districts achieved double-digit increases in their graduation rates, while only four had double-digit drops during that period.
- However, after the passage of NCLB, seventy-three of the 100 largest districts experienced declining graduation rates from 2002 to 2006. Seventeen of those districts experienced at least a double-digit drop in their graduation rates. Only two districts experienced a double-digit increase.

While these developments cannot be solely attributed to zero tolerance and high-stakes testing, the impact of “get-tough” policies do become apparent when examining individual states. There is a familiar pattern that has

developed in many states in recent years: first, the implementation of greater “accountability” in the form of high-stakes tests; followed by dramatic increases in the use of zero-tolerance school discipline; then the appearance of “collateral damage” such as more students being enrolled in special education programs, more students being retained in grade, more high school dropouts taking the GED exam, and declining teacher morale; and finally, the pushout of huge numbers of students, exemplified by plummeting or abysmally low graduation rates.

While the most well-known example of testing and zero tolerance combining forces to push students out of school happened during former U.S. President George W. Bush’s tenure as Governor (the so-called “Texas Miracle”), the same pattern has been repeated all throughout the country. Examples discussed include Florida, North Carolina, and Virginia; all states where high-stakes testing and zero tolerance have worked in tandem to devastating effect. Nevertheless, these states continue to be used as models for education reform in other states and at the national level.

*The fifth section of the report profiles successful grassroots efforts to eliminate zero tolerance and high-stakes testing, and presents recommendations for replacing policies that drive students out of schools with those that will allow all young people to receive a high-quality pre-K-12 education.*

Over the last few years, there has been a groundswell of grassroots advocacy around these issues. Parents, students, and community leaders have educated policymakers on the destructive impact of punitive education policies. To their credit, many school districts and legislators have responded to this community pressure and recognized the need for changing the policies and practices that have led to student pushout and unhealthy learning environments. Together, grassroots advocates and policymakers have worked hand-in-hand to forge a brighter future together.

This report highlights communities that have implemented the following four key action items for addressing the problems of zero tolerance and high-stakes testing and creating sustainable educational justice in our schools:

**(1) Create more caring and supportive learning environments for students by eliminating policies and practices that unnecessarily push students out of school through the use of suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests;**

**(2) Limit the involvement of law enforcement and security personnel in schools to conduct that poses a serious, ongoing threat to the safety of students or staff;**

**(3) Replace high-stakes testing with policies that will encourage schools to keep students in the learning environment and develop enriched curricula that are engaging and intellectually challenging, ensure deep understanding of content, and are focused on authentic achievement; and**

**(4) Ensure that every student is provided a high-quality pre-K-12 education that includes a full and equal opportunity to fulfill their potential, achieve their goals, improve the quality of their lives, become thoughtful and engaged democratic citizens, and become life-long learners.**

Also included are detailed recommendations for implementation of each action item at the local, state, and federal levels, including through the reauthorization process of the No Child Left Behind Act and the implementation of the American Recovery & Reinvestment Act of 2009 (the “stimulus”).

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The educational opportunities of millions of children across this country are continuously put at risk by zero-tolerance school discipline and high-stakes testing. This new brand of punitive educational policy has brought students of all races, in all 50 states, perilously close to being high school dropouts and/or entering the juvenile and criminal justice systems. This is especially true for students of color and low-income students, who, too often, are being punished for losing a race in which their peers were given a head start.

This report is intended to assist in moving beyond the use of zero tolerance and high-stakes testing policies that have transformed schools into hostile and alienating environments for youth. Just as President Obama has said that “this country needs . . . the talents of every American” and dropping out of school is not an option, so too should pushing students out of school through these punitive policies not be an option.

There is no easy answer to our nation’s “dropout crisis,” but the one thing that absolutely must happen for this problem to be solved is for every student to be given a full and equal opportunity to receive a high-quality education. The solution has to start there. We must eliminate the use of education policies that treat students as if they are disposable, and instead make a smart, long-term investment in our youth by creating a more just educational system for all children.



# INTRODUCTION

How can it be that the richest country in the world graduates fewer than 7 out of every 10 high school students?<sup>1</sup>

How is it that barely half of all Black, Latino, and Native American students in the United States graduate from high school?<sup>2</sup>

How can New York City, Chicago, Los Angeles, and Houston graduate fewer than half of all their students; Philadelphia and Cleveland graduate less than 40% of their students; and Detroit fail to even graduate 3 out of every 10 students?<sup>3</sup>

These figures are shameful, and should shock the conscience of every American. Indeed, answering these questions may be the single most important challenge our public education system faces. Fortunately, the “dropout crisis” has suddenly become a hot topic, as many policymakers are realizing that the current situation is both unacceptable and unsustainable. President Obama even cited the dropout rate as one of the three most pressing issues facing our country in his first address to Congress.<sup>4</sup> Yet, while it is certainly encouraging that policymakers are finally paying attention to this issue, too often, they are looking for answers in the wrong places.

First, they frequently misdiagnose the problem. Low graduation rates are not the problem; they are a symptom of the problem. The real problem is that our education system is not currently designed for every child to succeed. Instead, the educational opportunities of millions of young people are continuously put at risk by policies that set students up to fail.

Second, at the same time as policymakers lament the huge number of dropouts, they continue to adopt misguided policies that push more students out of school and onto a track toward unemployment, under-employment, and prison. Until those destructive policies are reversed, there will be no significant improvement in graduation rates. On the contrary, they will likely get worse.

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Reform is clearly needed, but it should start with the policies and practices that have resulted in millions of children not receiving a full and equal chance to receive a high-quality education. While there are many factors that contribute to this sad reality, the two policies that may pose the most direct threat to the educational opportunities of America’s youth are “zero tolerance” school discipline and high-stakes testing.

While they are usually considered separately, these two policies are actually closely related. In fact, zero tolerance and high-stakes testing share the same ideological roots, and together they have combined to seriously damage the relationships between schools and the communities they serve throughout the country. Rather than helping to provide all students with enriching learning experiences, zero tolerance and high-stakes testing lead to an impoverished school experience for young people. Instead of supporting students who are struggling or in need, both needlessly punish young people and effectively nail shut the doors to educational opportunity for them. Together, zero tolerance and high-stakes testing have turned schools into hostile and alienating environments for many of our youth, effectively treating them as dropouts-in-waiting. The devastating end result of these intertwined punitive policies is a “school-to-prison pipeline,” in which huge numbers of students throughout the country are treated as if they are disposable, and are being routinely pushed out of school and toward the juvenile and criminal justice systems.

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Fortunately, there is cause for optimism. Over the last several years, there has been a wave of grassroots advocacy for educational justice by those who recognize that: every student must be valued, children are more than test scores, and “zero” tolerance is not nearly enough. While many school districts continue to over-use punitive measures, through the tireless work of parents, students, organizers, and advocates working to address these problems, for the first time in years there is actually a critical mass of school districts that are rejecting zero tolerance and implementing more just and effective approaches to school discipline. Additionally, grassroots mobilization against high-stakes testing and for higher-quality learning experiences has intensified, leading to a sense of optimism that the “test-and-punish” approach may soon be retired. Together, these devoted advocates have re-invigorated the idea that a high-quality education is the right of every child; it is not a privilege that should be taken away so easily.

This report is intended to provide an overview of zero-tolerance school discipline and high-stakes testing, how they relate to each other, how laws and policies such as the No Child Left Behind Act (NCLB) have made school discipline even more punitive, and the risk faced if these devastating policies are not reformed. It also profiles grassroots efforts to eliminate zero tolerance and high-stakes testing, and presents recommendations for replacing policies that drive students out of schools with those that will allow all young people to receive a high-quality pre-K-12 education.



## PART ONE: HOW WE GOT HERE

In the 1980s, a movement began to implement far more punitive policies in both the criminal justice field and in public education. Modern zero tolerance (throughout this report, “zero tolerance” will be used as shorthand for all punitive school discipline policies and practices) and high-stakes testing policies are the direct result of that movement. While the use of these policies is justified by claiming that they will create safer and more effective schools, the most significant effect of those reforms has not been higher-quality education, but rather that they have combined to deprive countless young people of opportunities to reach their full potential.

### *Bringing Punitive Measures from the Streets to the Schools*

The rise of zero-tolerance school discipline is directly tied to the law enforcement strategies that have led to the extraordinary increase in the number of Americans behind bars in recent years. From 1987 to 2007, the national prison population nearly tripled, and the United States now has the most incarcerated persons, and the highest incarceration rate, of any country in the world.<sup>5</sup>

The major cause of the dramatic increase was a renewed effort by policymakers to get “tough on crime,” beginning in the 1980s with the Reagan Administration’s declaration of the “War on Drugs.”<sup>6</sup> Three strategies, in particular, brought zero tolerance policing to a new level:

- Mandatory sentencing laws – In 1986, Congress enacted mandatory minimum sentencing laws, requiring fixed sentences for individuals convicted of a drug crime, regardless of culpability or other mitigating factors.<sup>7</sup>
- “Three strikes” laws – These laws, passed by a number of states, require a mandatory and extended period of incarceration following the conviction of a third crime.<sup>8</sup>
- “Broken windows” theory – This is a law enforcement strategy characterized by aggressive policing of traditionally ignored, minor offenses.<sup>9</sup>

These policies contributed to there being more than 2.3 million adults locked up in 2008 in the United States,

meaning more than 1 in every 100 adults was behind bars.<sup>10</sup> Yet despite the many devastating consequences of these policies,<sup>11</sup> they have proliferated, in large part because tough-on-crime stances have been politically triumphant.<sup>12</sup> In fact, for many politicians there is nothing more feared than the “soft on crime” label.<sup>13</sup>

As the types of conduct being “policed” expanded,<sup>14</sup> the population subject to these zero tolerance methods broadened as well. Young people were increasingly targeted by these policies; as a result, the number of youth in custody rose dramatically, and the juvenile justice system followed the trend of the adult system and moved away from rehabilitative approaches and toward more punitive approaches.<sup>15</sup>

Before long, the “get tough” approach made its way from the streets to the schools. A key factor in this expansion was the “superpredator” theory, which held that America was under assault by a generation of brutally amoral young people.<sup>16</sup> Despite the fact that the data showed that school violence was actually in decline,<sup>17</sup> a handful of highly publicized juvenile crimes led to a variety of new laws and policies intended to punish youth offenders more severely, such as the Gun Free Schools Act of 1994<sup>18</sup> and state laws allowing adolescents to be tried within the adult criminal justice system.<sup>19</sup> The tragedy at Columbine High School in 1999 then effectively opened the floodgates to the increased use of zero-tolerance approaches.<sup>20</sup>

Now, in many communities across the country, the “law and order” approach to handling student behavior has been fully embraced by schools. Schools have become a growth industry for law enforcement, as there has been a massive increase in the police and security presence in schools.<sup>21</sup> Many school districts now have their own police departments – some with detective bureaus, SWAT teams, canine units, and armed officers – and an ever-increasing number of schools have metal detectors and surveillance cameras.<sup>22</sup> And while zero-tolerance school discipline policies were initially focused primarily on weapons offenses, they have now become virtually all-encompassing, mandating harsh punishment for even trivial actions.<sup>23</sup> The result is that, outside of prison and jail inmates, perhaps the most policed group in the country right now is public school students.

Not only has the philosophy driving this dramatic change been taken from the criminal justice world, the strategies used to implement it are identical to those that drove the expansion of the adult prison population:

- Mandatory sentencing laws – Many school districts now impose mandatory punishments for a

wide range of student actions. For example, under the discipline policy of Palm Beach County (Florida) Public Schools, schools are required to respond to a wide variety of student conduct with out-of-school suspensions or expulsions, regardless of circumstances.<sup>24</sup> Additionally, of the 80 potential infractions listed in the policy, 38 of them must be reported to law enforcement.<sup>25</sup>

- “Three strikes” laws – Colorado, for example, has a law that allows teachers to permanently remove students from their classroom if they are disruptive three times over the course of a year,<sup>26</sup> and another law that mandates expulsion if a student is suspended three times during a school year for causing a “material and substantial disruption.”<sup>27</sup>
- “Broken windows” theory – Many school districts have discipline policies that attach severe consequences to minor, and even trivial, student actions. In Detroit Public Schools, for example, activity such as “insubordination,” talking or making noise in class, and public displays of affection can result in out-of-school suspension of up to 20 days and removal from the school entirely.<sup>28</sup> Some places, such as Florida and Toledo, Ohio, have laws that actually make classroom disruptions a criminal offense.<sup>29</sup>

Applying criminal justice practices designed for adults to youth is fraught with problems. Such punitive treatment ignores the critically important emotional, psychological, and physical developmental needs of young people.<sup>30</sup> Nevertheless, these get-tough criminal justice theories have changed the face of school discipline, and the results, which will be explored in greater detail in Part Two, have been catastrophic. There have been dramatic increases in the use of lengthy out-of-school suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests. Huge numbers of young people are being unnecessarily pushed out of school and into the juvenile and criminal justice systems. Due to continuing biases, disparate treatment, and systemic inequities, students of color are particularly harmed by these policies and practices.<sup>31</sup> Yet despite the creation of this “school-to-prison pipeline,” research suggests that zero-tolerance policies have not been effective in improving school safety or the quality of the learning environment.<sup>32</sup>

Of course, there may certainly be a need for swift (but flexible) consequences for the most serious student misconduct, and some communities plagued by violence may require a short-term security presence at schools. However, the current state of school discipline practice

in many communities has gone too far, blurring the line between the education and criminal justice systems and creating an on-ramp from schools to prisons.

### ***Punitive Policies Invade the School Curriculum***

Just as overly-harsh criminal justice policies have led to the proliferation of zero-tolerance school discipline, so too has the “get tough” philosophy been infused into education policy in the name of “accountability.” In fact, the dynamics in the two separate issue areas were identical: in both cases, there was an arguably overstated call in the early 1980s to address a social “crisis,” followed by a demand by policymakers for more punitive policies that have since taken hold and fundamentally transformed the public school system.

The high-stakes testing movement was triggered by the 1983 publication of “A Nation at Risk” by the National Commission on Excellence in Education.<sup>33</sup> This report claimed that America’s future as an economic power was at risk unless our public education system was overhauled. While many scholars disagreed with this bleak portrait of the nation’s schools,<sup>34</sup> the report nevertheless sparked an increased focus on raising the academic standards within schools.<sup>35</sup>

Policymakers, often aligned with the business community, used the report to crack down on failing schools by demanding greater accountability through broader use of standardized tests to measure achievement.<sup>36</sup> Over time, policymakers went further by making the tests “high-stakes,” meaning that dramatic and life-changing consequences for students and educators were attached to the results, including determining whether:

- Students are promoted to subsequent grades;
- Students are able to graduate high school with a diploma (“exit exams”);
- Low-scoring students can switch schools;
- Schools have to fund tutoring services for low-scoring students;
- Students have to attend mandatory Saturday school, after-school programs, and summer school;
- Teachers, administrators, and schools receive financial bonuses for high student scores;
- Teachers and administrators can be reassigned or fired for low student scores;

- Schools can be closed or reconstituted (often into charter schools); and
- Schools and their personnel are shamed or commended through public rating systems.<sup>37</sup>

The No Child Left Behind Act was both a product of this movement and a catalyst for its growth, as it has ushered in a new wave of inflexible, test-based accountability. Since the passage of NCLB in 2002, both the use of high-stakes tests and the severity of the consequences attached to them have risen dramatically.<sup>38</sup> All public school students are now subjected to high-stakes tests, and some students face an almost unfathomable number of such tests.<sup>39</sup> In many districts throughout the country, even kindergarten and pre-K students are required to take standardized tests in preparation for the test-driven education that awaits them, though many of these children do not even know how to hold a pencil or read.<sup>40</sup>

The proliferation of testing allows policymakers to claim to be able to identify and crack down on “problem schools” and “under-performing” students. Just as within criminal justice policy, few dare to push back on this trend for fear of being labeled “soft” on failing schools.<sup>41</sup> Yet this “no excuses” approach to education policymaking (which will be discussed in greater detail in Part Three) has had a devastating effect on the quality of education being offered at many schools.<sup>42</sup> Because of the severe consequences attached to these tests, at many schools, what is not tested is not taught. This has essentially turned many schools into test-prep factories, with narrowed, distorted, and weakened curricula.<sup>43</sup> Additionally, young people who do not score well on these tests face a rapidly dwindling set of opportunities. For example, many thousands of students are held back in school or not allowed to graduate simply because they have not scored well enough on a single standardized test.<sup>44</sup>

In short, this “test and punish” movement has resulted in an education system that increasingly turns students off to learning and teachers off to teaching.<sup>45</sup>

### ***Short-Term Politics and Long-Term Damage***

Despite substantial evidence of the damage caused by zero tolerance and high-stakes testing, and the overwhelming body of research supporting alternative approaches, these policies have spread like wildfire. Proponents argue that improving school safety and turning around low-performing schools requires the adoption of these more tough-minded approaches.<sup>46</sup> The rhetoric used is undoubtedly persuasive, as it is grounded in principles of accountability and personal responsibility that many

Americans associate with success in other fields, such as business. Indeed, the ideological roots of high-stakes testing and zero tolerance are right out of the corporate playbook, as they are based on the notion that problems are solved and productivity is improved through rigorous competition, uncompromising discipline, constant assessment, performance-inducing incentives, and the elimination of low performers.

However, while these principles may work in the business world, the corporate approach is simply a bad fit in the context of public education. First, it is based on a “zero-sum” notion of competitiveness in which every encounter will have clear winners and clear losers, and the losers are moved out of the way so the winners can progress. For example, while it is known that zero tolerance will lead to some students facing serious negative consequences (the losers), it is justified by claiming that other students will benefit by having the “disruptive” students out of the classroom (the winners). Similarly, attaching high stakes to standardized tests will result in some students not making the cut and eventually dropping out of school (the losers), but those who do pass will be certified as competent and will receive opportunities for advancement (the winners). Thus, these punitive policies serve a sorting function within schools, separating out those who will succeed from those who will fail. While that approach may be suitable for the marketplace, in the world of public education it results in huge numbers of students being left behind, with no opportunity to succeed.

Second, while accountability and personal responsibility are certainly worthy goals, when those being held accountable are children, it is axiomatic that many, if not most, of them will sometimes fail to measure up. While that may not pose much of a problem in a low-stakes or no-stakes context, when the consequences for students’ slip-ups or academic struggles are as severe as they are currently – including criminalization, grade retention, and denial of a diploma – the expansion of the school-to-prison pipeline becomes inevitable.

Third, in order for this competitive approach to avoid replicating and reinforcing underlying social inequities, it must create a level playing field. In the education context, that means that every child must be provided the support and resources they need to succeed. The reality, however, is that young people in this country are provided radically different opportunities to learn, based on their race, class, and neighborhood.<sup>47</sup> Rather than bridging those “opportunity gaps” and working to ensure that every student is given a full and equal opportunity to achieve their goals, zero tolerance and high-stakes

testing punish those students who face the biggest challenges in getting a high-quality education. The effect is that these policies force students to shoulder the burden for adults’ failures to meet their needs.

Fourth, as appealing as the get-tough rhetoric used to advance zero tolerance and high-stakes testing reforms may be, these sorts of punitive policies do not create real improvement. Zero tolerance does not foster better learning environments; it is a mere temporary fix that ignores the root causes of the offending behavior, fails to teach students appropriate behavior, and often results in more problems down the road for the student and the school. Similarly, the high-stakes testing system confuses the measurement of student achievement with actually improving student achievement, and promotes the misapplication of standardized test score results as the sole indicator of learning.<sup>48</sup> These two policies combine to force educators to focus their energies on an excessively narrow set of goals and exclude those students who are most challenging to teach (and most likely to score poorly on high-stakes tests). Therefore, test scores rise for some children and policymakers can claim success while ignoring the damage caused by the process to achieve those elevated test scores.<sup>49</sup>

Perhaps most concerning is that these punitive policies are at odds with what may be the most important purpose of the American public education system: to ensure that every child is prepared to become a full participant in our democracy. Rather than viewing schools as places where young people should be nurtured, supported, and developed to their full potential, zero tolerance treats students as adversaries or threats to be suppressed or even discarded in the quest for good schools. High-stakes testing regards our youth as products to be tested, measured, and made more uniform.<sup>50</sup> Each of these policies has too often been inappropriately substituted for meaningful education reform.



## PART TWO: ZERO TOLERANCE CIRCA 2009

In 1999, while working in the Mississippi Delta and before zero-tolerance school discipline had become such a widely-recognized problem, Advancement Project heard story after story about the unconscionable treatment of young Black students. Teachers paddled their students and put notches on their paddles to keep a tally of the number of young people they had struck. Children were charged with serious felony offenses for incidents as minor as throwing peanuts on a school bus. And students were regularly given 10-day out-of-school suspensions for “disrespecting authority,” which usually just meant questioning a teacher.

What happened to these youth was symptomatic of a much larger problem: many of the people put in position to support and care for our young people had become increasingly fearful of, and hostile toward them. Because of that mindset, during the last ten years the zero tolerance philosophy has spread across the country, fundamentally transforming school culture and the way young people are viewed. In the process, this punitive disciplinary approach has caught millions of students and their families in its wake, robbing young people of their education and irrevocably damaging countless lives.

### *Zero Tolerance in Action*

Schools have become increasingly intolerant of young people, and the results are often absurd or outrageous:

- In Richardson, Texas, a 14-year-old boy with Asperger's syndrome was given a \$364 police citation in May 2009 for using an expletive in his classroom.<sup>51</sup>
- In October 2009, a six-year-old student in Newark, Delaware was so excited about joining the Cub Scouts that he brought his camping utensil to school to use at lunch. Because the tool had a small knife, he was suspended and referred to an alternative school for 45 days.<sup>52</sup>
- A 12-year old student in Stuart, Florida, was arrested in November 2008 for “disrupting a school function.” The “disruption” was that the student had “passed gas.”<sup>53</sup>

- In November 2009, 25 Chicago middle-school students were rounded up, arrested, taken from school, and put in jail after a food fight in the school cafeteria.<sup>54</sup>
- In May 2007, an 8th-grader in Norfolk, Virginia, was suspended and ordered into a program for substance abusers after she got some Tylenol from a classmate to deal with a headache.<sup>55</sup>
- In April 2007, a 13-year-old girl in New York City was removed from her school in handcuffs for writing the word “Okay” on her desk.<sup>56</sup>
- After the election of President Obama in November 2008, a Black student in Calhoun City, Mississippi, was paddled for repeating the campaign slogan “Yes We Can.” Another Black student in Pearl River, Mississippi, was suspended for two days for merely speaking the name of the President-elect at lunchtime.<sup>57</sup>

These incidents are not anomalies, but rather examples of an oppressive school discipline culture that frequently and unnecessarily turns children’s lives upside-down. This is the face of school discipline today, and it has two separate, but equally important prongs that have combined to ratchet up the consequences for youth: (1) overly harsh school discipline policies and practices, and; (2) an expansion of the role of law enforcement in enforcing school discipline and the school security infrastructure.

### ***Intolerance of Youth***

Many school districts have adopted extraordinarily harsh school discipline policies and practices in recent years. These punitive measures extend far beyond serious infractions, such as acts of extreme violence or bringing weapons to school. For example:

- In Akron, Ohio, a student can be expelled for being late to class, having cigarettes, or uttering profanity.<sup>58</sup>
- In St. Louis, Missouri, under the 2008-09 Student Code of Conduct, tardiness could result in a 10-day suspension, “disruption” or “disrespect” could lead to a 10-day suspension and placement in an alternative school, and the potential consequences for “physical displays of affection” and dress code violations include expulsion.<sup>59</sup>
- In Houston, Texas, district policy permits the placement of a student in an alternative school for smoking, defiance of authority, fighting, “disrespect,” use of profanity, or name-calling.<sup>60</sup>

The absurdity of it is that most adults can recall multiple instances in which they committed these same sorts of acts when they were in school. Most of them subsequently learned their lesson without suffering serious consequences. Yet examples abound of districts that either mandate or endorse extraordinarily harsh punishments for behavior that – while it may need to be addressed – is actually quite typical and age-appropriate. As a result, the vast majority of punitive disciplinary consequences tend to result from relatively minor misbehavior or trivial student actions. The problem in most cases is not the student but rather the adults who react inappropriately to youthful behavior. Indeed, in a great many schools, it is seemingly no longer acceptable for young people to act their age.

This widespread use of zero tolerance also represents a fundamental misunderstanding of child and adolescent development. It is simply a normal part of childhood and adolescence to question authority, be especially susceptible to peer influence, and not fully consider or understand the consequences of one’s actions.<sup>61</sup> Yet students are continually given extremely harsh punishments for doing exactly what adults should expect them to do.

In fact, it is increasingly the youngest and most vulnerable children who are being subjected to the blunt force of these policies and practices.<sup>62</sup> For instance, the rate of expelling children from preschools is over three times higher than it is for K-12 students.<sup>63</sup> Or consider the examples of five-year-old Dennis Rivera, five-year-old Ja’eisha Scott, and six-year-old Desre’e Watson, all kindergarten students who were handcuffed, arrested, and taken away from school in police cars for throwing temper tantrums in class.<sup>64</sup> Desre’e Watson’s wrists were so small that the handcuffs had to be placed around her biceps.<sup>65</sup> Sadly, it is not unusual for such small children to be treated as hardened criminals. As the Chief of Police who arrested Desre’e said when questioned, “Do you think this is the first six-year-old we’ve arrested?”<sup>66</sup>

The inescapable message is that schools and the police see even very young children as threats, as being unworthy of tolerance and understanding, or both. As a result, because seemingly every misstep can result in a potentially calamitous disruption in education and even arrest, every child’s education is at risk due to zero tolerance.

### ***What about More Significant Incidents?***

Even behavior that may be regarded as more serious now typically leads to inappropriate reactions by school personnel. For example, in many school districts across the country, common fights between children now automatically result in a lengthy out-of-school suspension

and frequently lead to expulsion or referral to the police.<sup>67</sup> Yet this approach has not been shown to result in fewer fights; on the contrary, it has led to more students getting punished more harshly for fights.<sup>68</sup> In effect, by ratcheting up the consequences for such behavior, young people are set up for failure. A more appropriate response to fights in which no weapons were used and no one was seriously hurt would be to assess what led to the fight, address those underlying problems, and help the students learn how to resolve their differences without fighting.

Similarly, the punitive approach is ill-suited – though very common – for many alcohol or drug offenses. Certainly, the sale of drugs on school grounds threatens the well-being of other students and demands a swift, firm response. However, evidence that a student is using or intending to use drugs or alcohol should be a sign to intervene with guidance or support, not cast the young person out of school.<sup>69</sup> The zero-tolerance approach ignores students’ well-being, likely alienates them even further, and does little if anything to address the underlying behavior.<sup>70</sup> In fact, pushing them out of school and into the street or an unsupervised home may increase the likelihood of additional alcohol or drug use. It is also a missed opportunity to help a young person address a problem early on, rather than potentially having it haunt them into adulthood. Alternatively, strategies such as parental outreach, referral to a counselor or social worker, and treatment services can actually help reduce the frequency of drug and alcohol abuse without unnecessarily cutting off students’ educational opportunities.<sup>71</sup>

While behavior such as fighting and drug or alcohol use should have consequences, the standard punitive responses in many school districts needlessly jeopardize students’ futures. It is simply not a winning strategy to push students out of school – and even criminalize them – for their youthful mistakes.

### ***Race and the Pipeline***

While school districts have made dramatic changes to their disciplinary practices over the last two decades, leading to huge increases in the use of out-of-school suspensions, expulsions, and school-based arrests, one thing has remained constant: students of color disproportionately bear the burden of harsh school discipline. There are two key components to that inequity: unequal treatment at the individual level, and unequal use of zero tolerance at the systemic level.

At the individual level, investigations of student behavior, race, and discipline around the country have yielded

no evidence that the over-representation of students of color among suspended students is due to higher rates of misbehavior.<sup>72</sup> If anything, studies have shown that students of color are punished more severely for less serious or more subjective infractions.<sup>73</sup>

At the systemic level, it is also frequently the case that schools with large populations of students of color rely more on exclusionary discipline than predominantly White schools.<sup>74</sup> As a result, it is not uncommon for the same behavior that triggers little to no response in many predominantly White communities to result in severe consequences in communities of color.

The combined effect is that because of unconscious biases, discriminatory treatment, and systemic racism, the already unjust system of zero tolerance is particularly devastating for the educational opportunities of students of color.

### ***Turning Schools into Prisons***

In schools across the country, young children – almost always Black and Latino children – are made to walk around the school with their hands folded across their chests, along straight, painted lines, one after the other down the hall. There is only one other place where people are treated this way: prison.

Metal detectors; security cameras around every corner; and armed police patrolling the halls. For most of us, these descriptions evoke images of prisons. For many young people, however, this describes their daily experience in an American public school. School districts have increasingly adopted sophisticated security measures and invited law enforcement personnel into their schools, spending millions of dollars to turn public schools into well-policed fortresses. For example:

- In 2005, 68% of students around the country between ages 12 and 15 reported the presence of security guards and/or assigned police officers in their schools (an increase from 54% in 1999).<sup>75</sup>
- In North Carolina, the number of school resource officers has nearly doubled over the last decade.<sup>76</sup>
- In Texas, 163 school districts now have their own police departments.<sup>77</sup>
- Los Angeles Unified School District has its own police department with a staff of 530 personnel, including detectives and canine patrols.<sup>78</sup>



- New York City’s budget for police and security equipment in schools has increased by 65% since 2002, to more than \$221 million.<sup>79</sup> As of 2008, the New York City police department employed and supervised more than 5,000 school safety agents (SSAs) in the public school system, 1,600 more than 10 years ago.<sup>80</sup> It supplied an additional 200 armed police officers to patrol schools.<sup>81</sup> This immense presence has resulted in the police department’s school safety division being larger than the entire police force of Washington D.C., Detroit, Boston, and Las Vegas.<sup>82</sup>

Students’ perception of school as an increasingly punitive and unwelcoming environment is also fed by the expanded use of metal detectors, surveillance cameras, locked campuses, and other techniques associated with prisons. For example, between 1999 and 2006, the percentage of schools nationwide using one or more video surveillance cameras increased from 19% to 43%.<sup>83</sup> Outfitting schools with extensive safety infrastructure is especially common in schools attended by students of color:

- In New York City, on any given day, over 93,000 children – predominantly students of color – have to pass through security stations with metal detectors, bag-searches, and pat-downs administered by police personnel before getting to class.<sup>84</sup>
- Nationwide, schools with large populations of students of color are far more likely than other schools to employ metal detector checks.<sup>85</sup>
- Schools with large populations of students of color are much more likely to lock their doors during the day.<sup>86</sup>

The inescapable fact is that our public schools – and particularly those in communities of color – look more like prisons with each passing school year.

### ***The Intersection of Harsh School Discipline Policies and Expanded School Security***

*“At first glance, it appeared that crime in the schools skyrocketed, but after further study it became evident that the major cause of the increase in reporting was a result of law enforcement (SROs) within the schools.”<sup>87</sup>*

- Clayton County (GA) Blue Ribbon Commission on School Discipline

As the presence of law enforcement and security officials has expanded, school personnel have delegated more of

their responsibility for school discipline to the police. The frequent result is that students are criminalized for minor incidents that would formerly have been handled by school personnel, not the police and juvenile courts.

When police are in a school, they bring with them the power to arrest and the power to intimidate. Their mere presence makes them more likely to become involved in disciplinary matters that they otherwise would have never known about. In fact, for a large percentage of school-based arrests, it is inconceivable that the student would have been arrested if not for the close relationship between school staff and law enforcement personnel. Having police nearby transforms the daily school experience into a minefield of potential crimes: fighting in the hallway becomes a “battery” or even “aggravated battery”; swiping a classmate’s headphones can be classified as “theft” or “robbery”; and talking back to an officer or a teacher is “disorderly conduct.” Because there is now often an officer present and available, and criminal laws are so broad and vague, school discipline merges seamlessly into arrest.

In fact, schools are increasingly utilizing the police to enforce even the most basic student infractions, such as tardiness and school attendance. In many communities, students and/or their parents are ticketed by police – resulting in fines or other sanctions – for skipping school or arriving late to school.<sup>88</sup> For example, in Los Angeles, students are given \$225 truancy tickets not only if they skip school, but if they are even one minute late to school.<sup>89</sup> If students are caught being tardy three times, the ticket rises to \$985.<sup>90</sup> These students are also often suspended from school, and then must miss additional class time to go to court.<sup>91</sup> In short, because of the close relationship between schools and law enforcement, the simple act of being late to school can bring students into contact with the juvenile justice system, lead students to fall behind in school, and result in economic hardship to their families.

### ***Consequences of the Zero-Tolerance Approach***

Zero-tolerance policies operate under the assumption that removing students who engage in misconduct will deter such behaviors and allow others to continue learning, making schools safer and creating an improved climate for those students who remain. However, that assumption has not been borne out by the research. In 2006, a task force of the American Psychological Association (the “task force”) published an evidentiary review of studies over the last 10 years evaluating the impact of zero-tolerance school discipline. They found that zero-tolerance policies had not been shown to im-

prove school safety.<sup>92</sup> In fact, according to the study, schools are not any safer or more effective in disciplining students than they were before zero-tolerance policies were implemented.<sup>93</sup>

Additionally, schools with higher rates of school suspension and expulsion had less satisfactory ratings of school climate.<sup>94</sup> While it is commonly assumed that out-of-school suspension and expulsion deter future misbehavior, there are no data showing that the use of these practices reduces the likelihood of future student disruption.<sup>95</sup> Indeed, disciplinary removal appears to have negative effects on future student behavior.<sup>96</sup> In addition, zero-tolerance discipline can make students feel less “connected” to school, which is linked to increased likelihood of engaging in risky behaviors, violence, and alcohol or substance abuse.<sup>97</sup>

The task force also found that zero-tolerance school discipline can have a negative impact on academic performance. Their research showed that suspension and expulsion are associated with a higher likelihood of school dropout and failure to graduate on time.<sup>98</sup> In fact, other research has found that students suspended three or more times by the end of their sophomore year of high school are five times more likely to drop out than students who have never been suspended.<sup>99</sup>

The impact of harsh school discipline is felt not only by the students being disciplined, but by the whole school. Research indicates that the use of school suspension and expulsion is associated with lower school-wide academic achievement, even when controlling for demographics such as socioeconomic status.<sup>100</sup>

In short, zero-tolerance school discipline can turn schools into inhospitable environments that, not surprisingly, fail to promote either school safety or academic success. Zero tolerance is also linked to even more serious outcomes. For example, suspension and expulsion increase the likelihood that the affected children and youth will become involved with the juvenile or criminal justice systems.<sup>101</sup> In fact, a study in Texas found that the single most important predictor of involvement in the juvenile justice system is a history of disciplinary referrals at school.<sup>102</sup> In Kentucky, state officials report “it is unusual to find a youthful offender among the state’s population of incarcerated youth who has not been suspended from school.”<sup>103</sup>

The effects can be even more disastrous when students are arrested or referred to law enforcement for incidents in school. Students who are arrested or ticketed by law enforcement can face a variety of consequences, including being detained, having to miss school to go to court,

being fined, having to agree to other sanctions such as probation, and possibly being suspended or expelled by their school.<sup>104</sup> They may also find that a juvenile record will haunt them when they apply to college, apply for financial aid or a government grant, try to enlist in the military, or attempt to find a job.<sup>105</sup> These ramifications can be devastating, as can the psychological effects resulting from school-based arrest: public humiliation, diminished self-worth, distrust of the police, distrust of the school, and further alienation. Not surprisingly, research shows that students who are arrested in school and appear in court are more likely to drop out of school.<sup>106</sup>

The evidence is clear: zero-tolerance school discipline exposes all students to great risk for personal hardship and academic failure.

### *Is Adding Security Worth the Cost?*

*“Schools that rely on security guards and metal detectors to create safety may end up creating an environment that is so repressive that it is no longer conducive to learning.”<sup>107</sup>*  
- Pedro Noguera

There are also important questions to be asked about the role of law enforcement personnel, security guards, and security equipment in schools. Although many schools have been calling for more school resource officers, metal detectors, and surveillance cameras in recent years,<sup>108</sup> research has not demonstrated that such initiatives result in safer schools or a more satisfactory school climate.<sup>109</sup> On the contrary, in some communities, they seem to be having the opposite effect. For example, in New York City, 64% of teachers reported that school-based police officers rarely or never make students feel safe.<sup>110</sup> Only 6% believed that police officers always make students feel safe.<sup>111</sup>

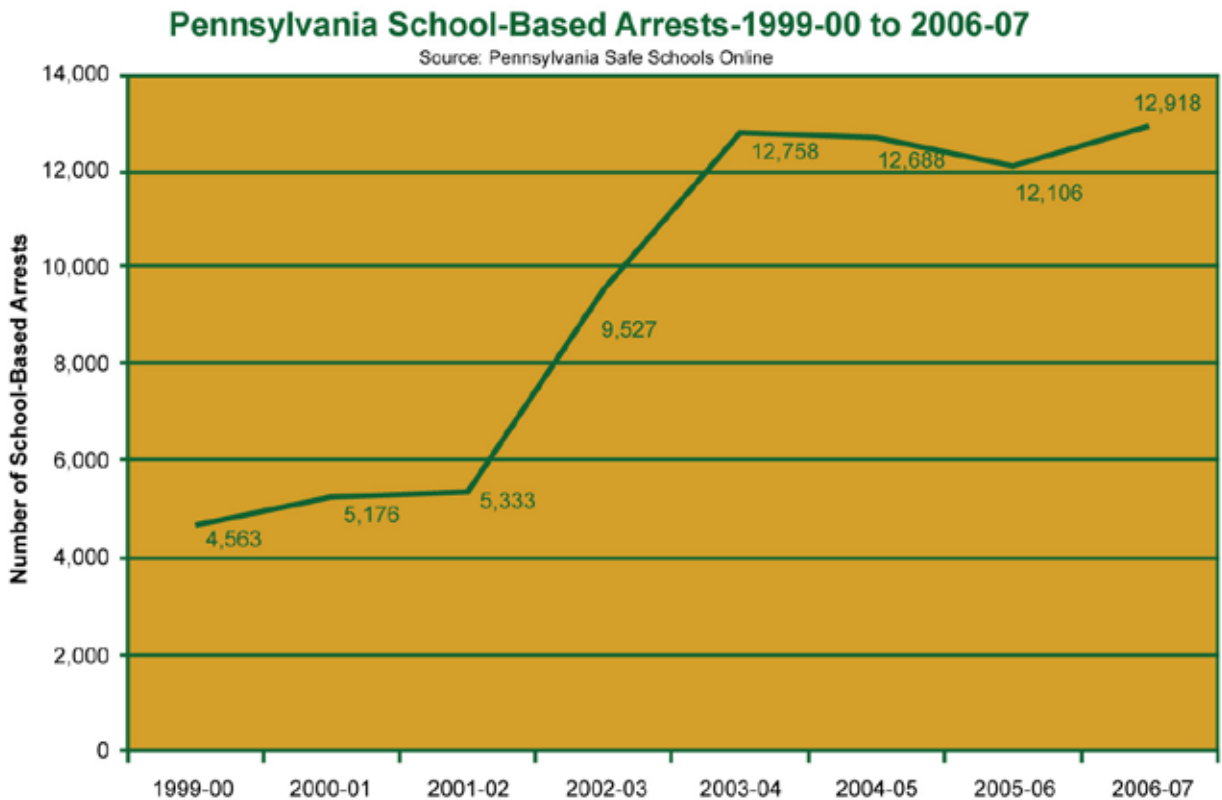
The presence of police, security guards, security cameras, and metal detectors can negatively affect learning environments. This is particularly true in communities in which there already may be a strained relationship with police.<sup>112</sup> By building up the fortress of schools, and outfitting them with personnel and technology that is better at catching students committing a crime than preventing crime, the message to students is that their schools are afraid of them or expect them to do something wrong. Quite reasonably, students can grow to resent that fear and distrust, which can make them feel as if they are viewed as criminals-in-waiting. Therefore, decisions such as whether to assign police officers or security guards to a school and whether to outfit a school with metal detectors and other security equipment demand careful inquiry and extensive input from all stakeholders, especially parents and students.

**Some Arresting Data**

The magnitude of the school-to-prison pipeline becomes apparent upon examination of data from around the country. Prior Advancement Project reports have extensively documented the overuse of school-based arrests, yet excessive reliance upon this form of punitive discipline continues, especially for minor incidents. For example:

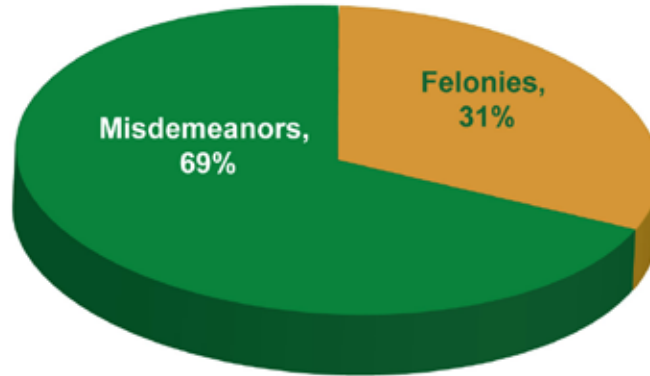
- In Pennsylvania, the number of school-based arrests almost tripled from 1999-00 to 2006-07, from 4,563 to 12,918.<sup>113</sup>
- In Florida, there were 21,289 arrests and referrals of students to the state’s Department of Juvenile Justice in 2007-2008.<sup>114</sup> Almost 15,000 of them – or 69% – were for misdemeanor offenses.<sup>115</sup>
- In North Carolina, there were 16,499 delinquency referrals to juvenile court directly from school in 2008-09.<sup>116</sup>

- In Colorado, there were 9,563 referrals of students to law enforcement in 2006-2007.<sup>117</sup> The vast majority of these referrals were for relatively minor offenses such as “detrimental behavior” and “violations of codes of conduct.”<sup>118</sup>
- Just in the School District of Philadelphia, there were 4,361 individuals taken into police custody in 2007-08.<sup>119</sup>
- Within Baltimore City Public Schools, a district of just over 80,000 students, there were 1,699 arrests and referrals to law enforcement in 2007-2008.<sup>120</sup> Well over half of the arrests and referrals were in elementary and middle schools.<sup>121</sup> Again, most of the incidents did not involve serious misconduct.<sup>122</sup>



**Florida School-Based Delinquency Referrals - 2007-2008**

Source: Florida Department of Juvenile Justice

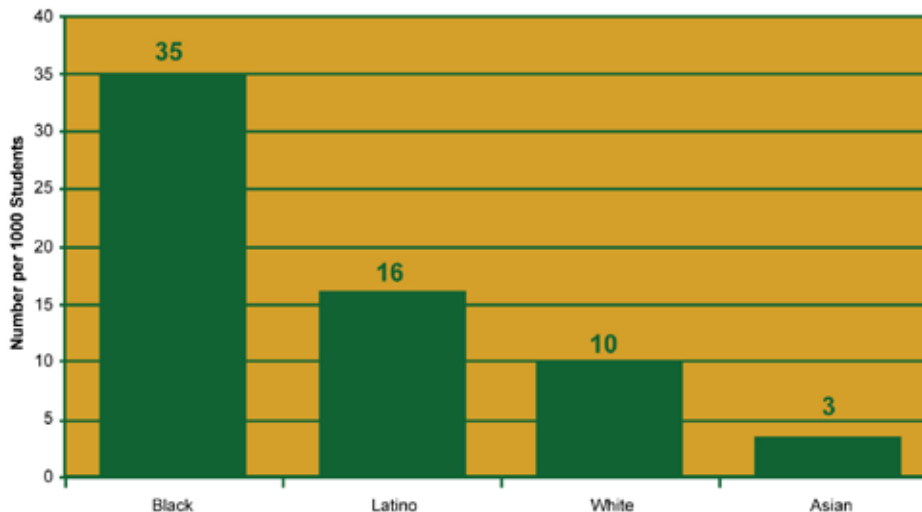


This data depicts mass criminalization of relatively common childish and adolescent behavior. To be sure, students of all races and socioeconomic statuses are being affected by these policies and practices. Nevertheless, the burden on students of color is particularly acute. For example:

- In Florida, Black students were two-and-a-half times as likely as White students to be arrested and referred to the state's Department of Juvenile Justice in 2007-2008.<sup>123</sup>
- In Colorado, Black students were over twice as likely as White students to be referred to law enforcement.<sup>124</sup> Latino students were 50% more likely than White students to be referred to law enforcement.<sup>125</sup>
- In Philadelphia, a Black student was three-and-a-half times more likely to be taken into police custody than a White student.<sup>126</sup> Similarly, a Latino student was 60% more likely to be taken into police custody than a White student.<sup>127</sup>

**School District of Philadelphia  
Individuals Taken Into Police Custody - 2007-08**

Source: School District of Philadelphia



While police involvement may be necessary for truly serious conduct that threatens the safety of other students or staff, it simply makes no sense to arrest students for acting their age when the implications for students’ futures are so severe. Nevertheless, many districts continue to rack up huge numbers of arrests, particularly of students of color.

**Suspensions, Expulsions, and Referrals to Alternative Schools**

Arrests in school are the most direct route into the school-to-prison pipeline, but as discussed above, there are others, such as out-of-school suspensions, expulsions, and referrals to alternative schools. Like arrests, they are often unwarranted and frequently result in young people getting pushed out of school.

An analysis of available data from across the country reveals two key findings: (1) the use of punitive disciplinary measures has risen over time at the national level, and has increased dramatically in many communities; and (2) racial disparities in school discipline continue to exist across the country, and are getting worse.

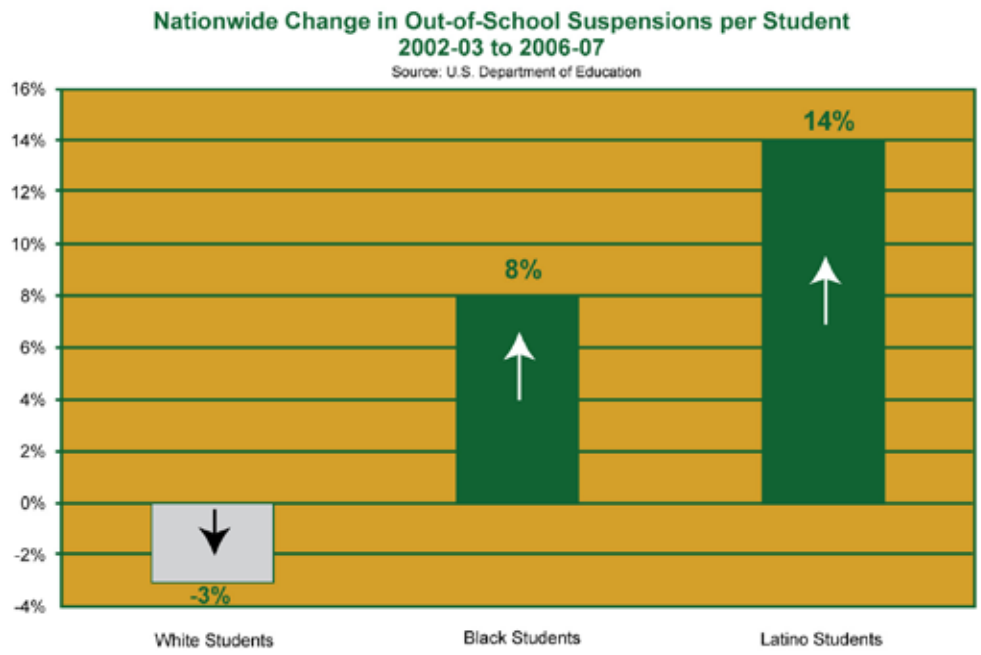
Not coincidentally (and as will be discussed in Part Four), the increased use of punitive discipline has coincided with the passage of NCLB and other test-driven policies. For example, the U.S. Department of Education projected that there were almost 250,000 more students suspended out-of-school in 2006-07 than there were just

four years earlier, when NCLB was signed into law.<sup>128</sup> During the same timeframe, the Department projected that the number of students expelled across the country increased 15%.<sup>129</sup>

Additionally, the impact of out-of-school suspensions and expulsions is clearly falling most heavily on students of color. In 2006-07, Black students were over three times more likely to be suspended out-of-school than their White peers.<sup>130</sup> Latino students and Native American students were 42% and 66% more likely than their White peers to be suspended out-of-school, respectively.<sup>131</sup>

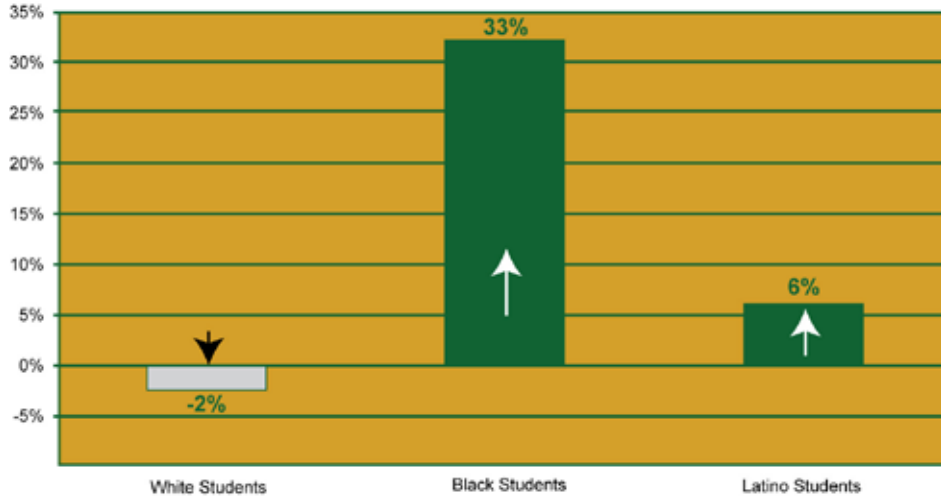
The disparities are even worse for expulsions. Black students were almost three-and-a-half times as likely to be expelled as White students in 2006-07, and Latino and Native American students were over one-and-a-half times as likely to be expelled.<sup>132</sup>

The disparate racial impact of these policies and practices is also worsening. While the number of suspensions per Black student from 2002-03 to 2006-07 increased by 8% and the number of suspensions per Latino student rose by 14%, the number of suspension per White student actually decreased by 3%.<sup>133</sup> Similarly, while the number of expulsions per Black student increased 33% in just four years, and expulsions per Latino student increased by 6%, the number of expulsions per White student decreased by 2%.<sup>134</sup>



**Nationwide Change in Expulsions per Student  
2002-03 to 2006-07**

Source: U.S. Department of Education



Examining state-level data confirms that racial disparities are indeed a national problem. In fact, in 2006-07, there was no state in which Black students were not suspended more often than White students.<sup>135</sup> The worst disparities were in Wisconsin, where Black students were over seven times more likely to be suspended than their White peers.<sup>136</sup> The other states with the worst racial inequities were Minnesota, Nebraska, Iowa, and Pennsylvania,

where Black students were between four-and-a-half and six times as likely to be suspended as White students.<sup>137</sup>

Similarly, for Latinos, there were racial disparities in 40 states and the District of Columbia, with the worst disparities evident in Connecticut, Massachusetts, Wisconsin, and Utah, where Latino students were almost three times as likely to be suspended as White students.<sup>138</sup>

**15 States with the Worst Racial Disparities in  
Out-of-School Suspensions in 2006-07 - Black  
Students Compared to White Students**

Source: U.S. Department of Education

| State        | Number of Suspensions per Black Student for Every One Suspension of a White Student |
|--------------|---|
| Wisconsin    | 7.27  |
| Minnesota    | 5.95  |
| Nebraska     | 4.91  |
| Iowa         | 4.70  |
| Pennsylvania | 4.54  |
| Missouri     | 4.41  |
| Texas        | 4.39  |
| Connecticut  | 4.28  |
| Illinois     | 3.85  |
| Kansas       | 3.82  |
| South Dakota | 3.68  |
| North Dakota | 3.38  |
| New Jersey   | 3.37  |
| Ohio         | 3.20  |
| Utah         | 3.19  |

**15 States with the Worst Racial Disparities in  
Out-of-School Suspensions in 2006-07 - Latino  
Students Compared to White Students**

Source: U.S. Department of Education

| State         | Number of Suspensions per Latino Student for Every One Suspension of a White Student |
|---------------|--|
| Connecticut   | 2.84   |
| Massachusetts | 2.83   |
| Wisconsin     | 2.77   |
| Utah          | 2.74   |
| New Hampshire | 2.26   |
| Maryland      | 2.24   |
| South Dakota  | 2.23   |
| Minnesota     | 2.20   |
| North Dakota  | 2.12   |
| Pennsylvania  | 2.09   |
| Texas         | 1.98   |
| Nebraska      | 1.97   |
| Rhode Island  | 1.89   |
| New Jersey    | 1.88   |
| Colorado      | 1.79   |

In many states and districts, the rise in the use of punitive disciplinary measures in recent years is simply staggering.

**Pennsylvania**

- From 1999-00 to 2006-07, the number of expulsions in Pennsylvania schools increased by 30% and the number of out-of-school suspensions rose by 117%.<sup>139</sup>
- Referrals to alternative educational placements during that timeframe jumped 164%, from 2,956 to 7,809.<sup>140</sup>

**Ohio**

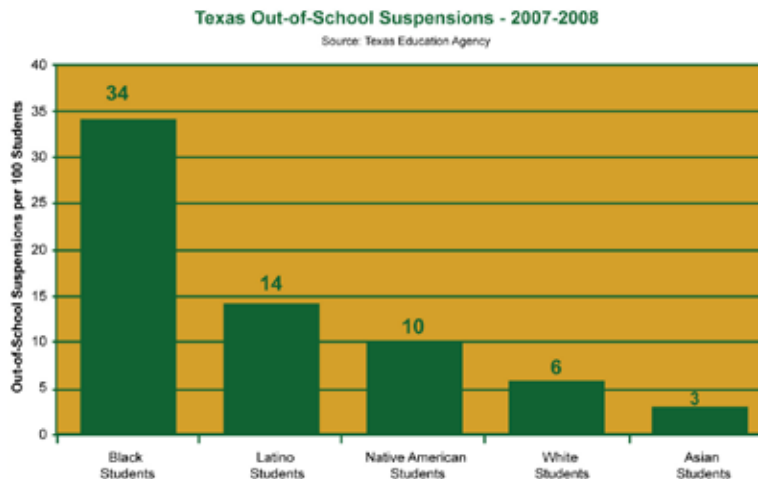
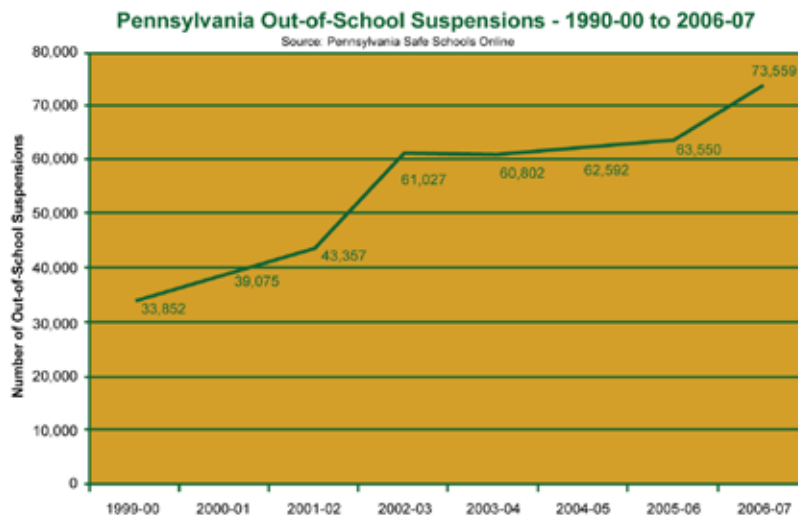
- Like the country as a whole, racial disparities in Ohio have gotten worse in recent years. The number of out-of-school suspensions per Black student increased by 34% in just three years, from 2004-05 to 2007-08.<sup>141</sup> During the same period, out-

of-school suspensions per White student decreased by 3%.<sup>142</sup> The resulting difference is that by 2007-08, Black students were nearly five-and-a-half times more likely to be suspended out-of-school than White students.<sup>143</sup>

- The other sub-group that has been particularly affected in Ohio has been students with disabilities. For example, statewide these students were twice as likely to be suspended out-of-school as their peers in 2007-08.<sup>144</sup>

**Texas**

- In Texas, the use of punitive disciplinary measures has reached extremely high levels. From 2002-03 to 2007-08, the number of expulsions from Texas schools increased by 23%, and the number of out-of-school suspensions increased by 43%.<sup>145</sup> In just one academic year, 2007-08, there were 9,899 expulsions and 644,853 out-of-school suspensions in Texas.<sup>146</sup>



- Students in Texas are also frequently referred to alternative schools called Disciplinary Alternative Education Programs (DAEPs) for alleged school misconduct. In fact, in 2007-08, there were over 128,000 removals of students from their regular schools into a DAEP.<sup>147</sup>
- This punitive discipline has hit students of color especially hard. In 2007-08, compared to their White peers statewide, there were over 50% more out-of-school suspensions per Native American student, over twice as many per Latino student, and over five times as many per Black student.<sup>148</sup> These disparities are also getting worse over time.<sup>149</sup>
- Students with disabilities also are disproportionately affected by exclusionary discipline. For example, in 2005-06, students enrolled in special education in Texas accounted for 11% of the student population but 26% of all out-of-school suspensions.<sup>150</sup>

**Illinois**

- In Illinois, the number of out-of-school suspensions increased by 38% from 2001-02 to 2007-08.<sup>151</sup>
- The punitive approach to school discipline was especially acute in Chicago Public Schools, under the direction of then-Chief Executive Officer and current U.S. Secretary of Education Arne Duncan. During that time, Chicago Public Schools became

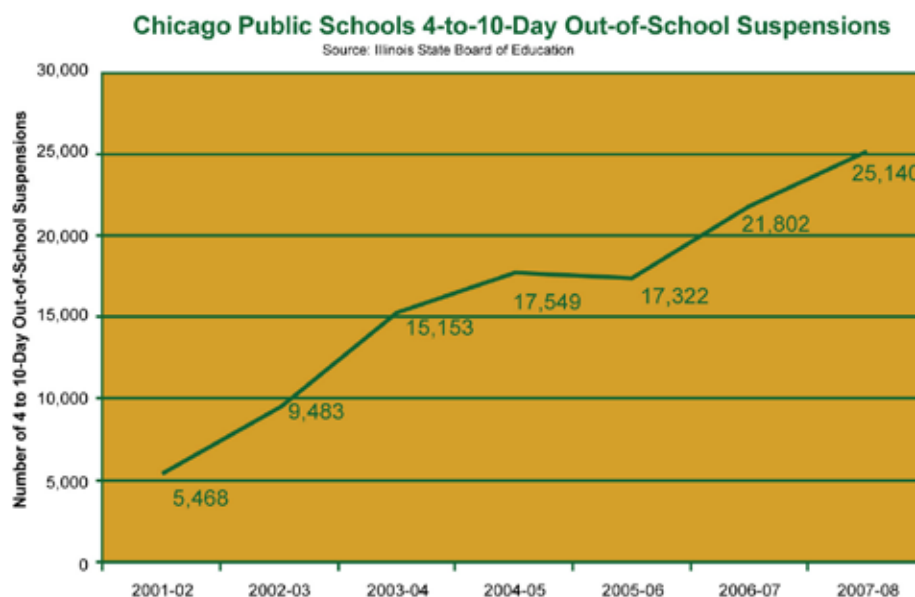
infamous for the use of punitive discipline.<sup>152</sup> In fact, in just six years, from 2001-02 to 2007-08, the number of out-of-school suspensions in the district nearly quadrupled, from 23,942 to 93,312.<sup>153</sup> Even more dramatic was the increase in longer suspensions (4 to 10 days) from 5,468 to 25,140.<sup>154</sup>

- There were also significant racial disparities in Chicago. By 2007-08, Black students were more than three-and-a-half times as likely to be suspended as White students.<sup>155</sup>

**Other**

The examples above are emblematic of trends all across the country. For example:

- In New York City, between 2000 and 2005, the number of superintendent suspensions (lasting between six days and a year) rose by 76%, from 8,567 to 15,090.<sup>156</sup>
- In California, the number of suspensions increased by almost 85,000 in just two years, from 739,290 in 2005-06 to 824,231 in 2007-08.<sup>157</sup>
- In 2006-07, Latino students in Colorado were more than twice as likely as White students to be suspended out-of-school.<sup>158</sup> Black students were more than three-and-a-half times as likely as White students to be suspended out-of-school.<sup>159</sup>



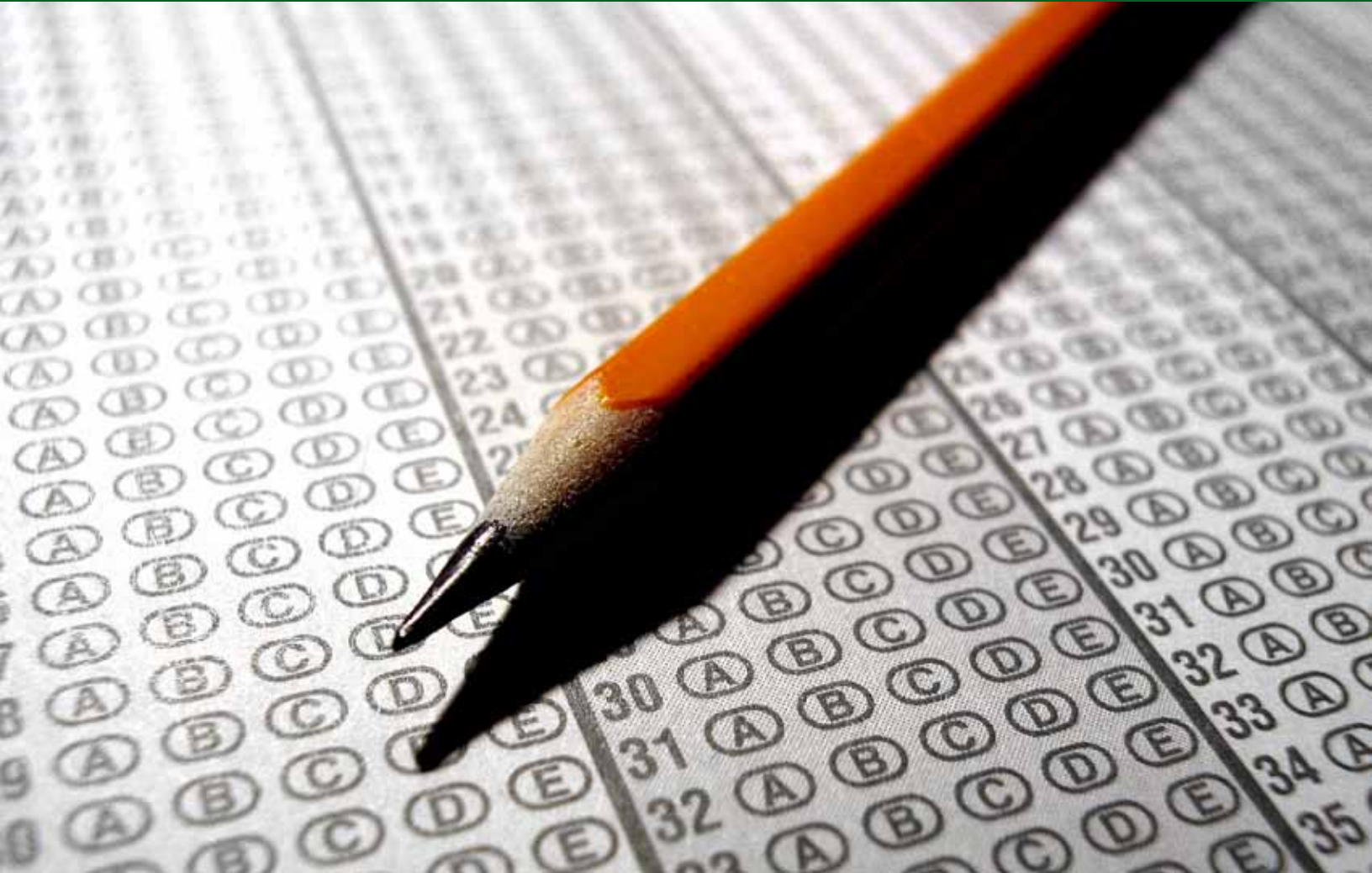


The existence of the school-to-prison pipeline raises basic questions of morality, fairness, and justice. Simply put, depriving young people of their education for extended periods of time and pushing them into the juvenile and criminal justice systems for their youthful actions is morally indefensible and unjust. Yet the staggering numbers of young people being removed from school is also holding back academic progress by creating unhealthy school climates and unnecessarily excluding students from the learning environment. Thus, in order to improve student learning, it is critically important to curtail the overuse of these harsh disciplinary measures.

Moreover, not only is zero-tolerance school discipline unjust and educationally unsound, it represents poor economic policy. As the security infrastructure in many schools becomes even more sophisticated, it also be-

comes much more expensive to use this approach. For some communities, those funds may be better spent in other ways, such as by hiring additional teachers or support staff, or investing in proven prevention and intervention programs, among many other possibilities.

More broadly, there are huge long-term costs to communities that exclude students from school through the use of these policies and practices.<sup>160</sup> When young people are disposed of through punishment, pushout, and prison, it is taxpayers who are left with the unseen costs of supporting them. These communities will ultimately collect less tax revenue and face more government spending on health, crime, and welfare than communities that do a better job of educating their youth.<sup>161</sup> Thus, zero-tolerance policies are bringing communities across the country down a road to ruin, and are simply no longer sustainable.



## PART THREE: HIGH STAKES TESTING CIRCA 2009

As with zero tolerance, the use of high-stakes testing has exploded in recent years, fundamentally transforming the educational experiences of countless students and educators. It is simply startling that this dramatic change has occurred when there is overwhelming evidence of the damage caused by high-stakes testing and scant evidence of its effectiveness in achieving sustained improvements in teaching and learning.

### *Rising Stakes*

Not only are more standardized tests being used than ever before, the stakes attached to them have been ratcheted up across the country. In this respect, the impact of the No Child Left Behind Act is undeniable. From 2001 until 2008, the number of states that used test results to sanction schools rose from 14 to 32.<sup>162</sup> Because of the new federal law, those sanctions also became increasingly severe. For example:

- From 2003 to 2008, the number of states that sanctioned schools by turning them over to private management increased from 6 to 16.<sup>163</sup>

- During the same period, the number of states that threatened conversion of low-scoring schools into charter schools rose from 4 to 15.<sup>164</sup>
- From 2002 to 2008, the number of states whose sanctions include the option of “reconstituting” schools (such as by firing everyone on staff) increased from 15 to 29.<sup>165</sup>

In short, the number of educators whose very livelihood rides on the outcomes of standardized tests has surged in recent years. However, they are not the only ones affected by this radical shift in philosophy; the consequences faced by students have also increased dramatically.

For example, the number of states requiring the passage of high-stakes exit exams for high school graduation has risen dramatically over the last 20 years. In 1981, there was only one state that was using a high school exit exam.<sup>166</sup> By 2008 that number had shot up to 23 states, with another three planning to implement their exit exams by 2012.<sup>167</sup>

Notably, the states using exit exams constitute most of the lowest-performers nationally with regard to graduation rates.<sup>168</sup> Nevertheless, the trend continues to be toward broader use of these policies.

### ***The Impact of High-Stakes Testing on Teaching and Learning***

The impact of high-stakes testing on the classroom has been well-documented.<sup>169</sup> Test-driven reforms have had a significant narrowing effect on school curricula, leading to un-tested subjects like science, social studies, art, and physical education being excluded or de-emphasized.<sup>170</sup> Because so much is riding on the outcome of standardized tests, meaningful instruction that supports the development of higher-order skills like critical thinking is suffocated and often replaced by “drill and kill” techniques, rote memorization exercises, and teaching to the test.<sup>171</sup> In fact, the impact of testing on the classroom has become so great that some teachers report spending a quarter of their time or even more than half their time preparing for and administering standardized tests.<sup>172</sup>

High-stakes testing also has a stultifying effect on teachers. Indeed, a recent national survey of teachers found that testing was the most cited cause of job dissatisfaction.<sup>173</sup> Because of the emphasis on test scores and strictly-regimented curricula, teachers have many fewer opportunities to offer in-depth instruction, tailor curricula to meet individual needs, build on students’ interests, make connections to students’ cultures or communities, or engage in community building activities.<sup>174</sup> As Arthur Costa has said: “What was educationally significant but hard to measure has been replaced by what is educationally insignificant but easy to measure.” This has the effect of draining the joy out of teaching and learning, producing a classroom climate in which it is exceptionally difficult to engage students and create real and sustained learning.<sup>175</sup>

These changes are justified on the ground that mastery of subjects like reading and math is the first priority of K-12 education. However, high-stakes testing has not even been proven effective at improving student achievement in the subjects on which it focuses. While reports of dramatic gains in state test scores are quite common, they are usually illusory, as scores on independent, relatively low-stakes exams such as the National Assessment of Educational Progress (NAEP) do not show similar increases.<sup>176</sup> In fact, with few exceptions, the rate of improvement in reading and math scores from 2004 to 2008 slowed compared with previous, pre-NCLB periods.<sup>177</sup> This indicates that real learning has not improved

in a sustainable way. Additionally, the high-stakes testing approach has not been shown to close the achievement gap between White students and students of color.<sup>178</sup>

Additionally, the overwhelming focus of NCLB and state-level high-stakes testing systems on reading and math appears to have had a negative effect on students’ performance in other subjects. For example, the NAEP science scores of 8th-graders dropped from 1996 to 2005.<sup>179</sup> Additionally, in an international assessment of science, American 4th- and 8th-graders both scored lower than they had prior to NCLB.<sup>180</sup>

Perhaps more important is the damage done by high-stakes testing to the student experience in school. Not only do formulaic, test-driven reforms neglect the important role schools have to play in helping students become well-rounded citizens, they also turn school into a much less engaging, and even hostile, place for youth by eliminating the components of education they find most interesting.<sup>181</sup> Additionally, too many children continue to be labeled academic failures even though they are making progress. These students are shamed by their peers, their teachers, and their communities because of the impact their test results can have on school assessment.<sup>182</sup> The effect of these reforms has been that students are often viewed as little more than test scores, which has had a profoundly alienating and dehumanizing effect on many young people.<sup>183</sup>

The effects can accumulate even more when additional consequences are attached to the tests. For example, there is a long record of research demonstrating the consistent association of high-stakes exit exams with decreased graduation rates and increased dropout rates.<sup>184</sup> Nevertheless, these policies continue to spread and states have even been moving to make their exit exams more difficult. While many early exams purported to test “minimum competency,” more rigorous comprehensive exams have become common in recent years.<sup>185</sup> Those comprehensive exams have even more of a negative effect on graduation rates, as demonstrated by recent studies out of California, Massachusetts, and New Jersey.<sup>186</sup>

Additionally, the results from standardized tests are often used to retain students in grade. Yet grade retention has been shown to be the single largest predictor of student dropout.<sup>187</sup> Unless accompanied by targeted and intensive supports and interventions, student retention fails to produce academic gains for the retained students and makes it more likely that the students will experience future behavioral problems.<sup>188</sup> Nevertheless, many states continue this practice on a large scale.<sup>189</sup>

While high-stakes testing continues its ascendance in the world of education policy, the undeniable fact is that it has had a devastating effect on teaching and learning in many schools, driving teachers out of the profession and students out of school.<sup>190</sup>

### ***Disparate Impact***

The disparate impact high-stakes testing has on students of color, low-income students, English language learners, and students with disabilities is also well-documented. While less than half of the nation’s states – 23, to be exact – currently impose high school exit examinations on their students, those states contain 74% of the country’s students of color.<sup>191</sup> Thus, solely on the basis of where they live, students of color are more likely than their White peers to have their educational opportunities limited by high-stakes exit exams.<sup>192</sup>

These same groups of students are also disproportionately affected because they are more likely to be in under-resourced schools, less likely to have highly qualified teachers, and more likely to be affected by out-of-school factors that significantly affect health and learning opportunities.<sup>193</sup> Thus, these students are at a comparative disadvantage in taking high-stakes tests, and are more likely to be retained in grade and have their diploma withheld.<sup>194</sup> This reinforces underlying resource inequities, causing these students to receive a double dose of punishment for policymakers’ failure to address educational inequities.<sup>195</sup>

In fact, the punitive consequences can often pile on a third dose of punishment since the schools attended by students of color and low-income students are also those that are most likely to be sanctioned under high-stakes testing systems.<sup>196</sup> Of course, narrowly-tailored interventions may be appropriate if the school is truly underperforming. However, too frequently, the interventions used are not customized for the challenges individual schools face.<sup>197</sup> Moreover, punishing schools on the basis of their test scores may be quite inappropriate if those schools are educating their students well but those gains do not translate into improved performance on standardized tests.<sup>198</sup> Standardized tests are simply inadequate to fairly assess the quality of education being offered at a school, yet the reforms schools are forced to adopt on the basis of test scores often work to the detriment of students in those schools, meaning students of color and low-income students often receive the most narrowed and least engaging educations.<sup>199</sup>

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The shift toward high-stakes testing across the country has been dramatic, and shows no signs of abating. In fact, U.S. Secretary of Education Arne Duncan has been promoting the broader use of standardized test scores, including using them to determine teacher pay.<sup>200</sup> Based on the experience of the last two decades, and particularly the years since the No Child Left Behind Act, it can be expected that such a change would lead to even more educators feeling forced to forego providing their students with full, rich, engaging learning experiences in favor of focusing on test preparation.



## PART FOUR: WORKING IN TANDEM TO PUSH STUDENTS OUT OF SCHOOL

While zero-tolerance school discipline and high-stakes testing have each experienced a meteoric rise in recent years, it would be a mistake to view them as being unrelated. As discussed in Part One, these two policies share the same origins and are both products of the same misplaced corporate principles. They are also intimately related in the ways they change the dynamics between schools and the communities they serve. Indeed, zero tolerance and high-stakes testing have become intertwined and even mutually reinforcing, with each helping the other to thrive.

For example, the pressure to improve test scores applied by the No Child Left Behind Act and the high-stakes testing movement makes the public more tolerant of widespread use of zero tolerance and the criminalization of young people by their schools. These policies create the perceived imperative to remove the “bad kids” who prevent the “good kids” from learning. Moreover, there appears to be a direct relationship between the consequences attached to test results and the severity of school disciplinary practices, meaning districts that face the most test pressure will be the most inclined toward punitive measures.

Likewise, zero tolerance becomes the tool used to address the inevitable student backlash from the daily grind of filling in test-booklet bubbles and being subjected to a narrowed, lackluster curriculum.<sup>201</sup> Just as the surest way to avoid student misbehavior is to engage young people with rich course material, perhaps the quickest path toward classroom disruption is to bore students with practice tests and rote memorization exercises.<sup>202</sup> Thus, zero tolerance allows schools under test pressure to quickly remove students who are unwilling or unable to sit quietly in their seats.

These punitive policies have combined to change the incentive structure for educators, putting many teachers and administrators in the unenviable position of having to choose between their students’ interests and their own self-interest. Education has become, more than ever, a “numbers game.” The clear message from high-stakes testing policies is that educators’ focus should not be on nurturing and educating each child to reach their full potential; their focus should be on getting as many students as possible to reach the level of “proficiency.”<sup>203</sup> The message sent by zero-tolerance policies is that education is not for everyone; rather, it is for those students

who “deserve” it. The combined effect is that, within this new system of incentives, individual students matter little.

Because of the focus on test scores and the severe consequences attached to them, if a student acts up in class, it is no longer in educators’ self-interest to address it by assessing the student’s unmet needs or treating the incident as a “teachable moment.” Within this business model, it is much easier and more “efficient” to simply remove the child from class through punitive disciplinary measures and focus on the remaining students. With so much riding on these tests, being able to transmit as much of the test material as possible often overrides concerns about the impact such practices have on students.<sup>204</sup>

As a result, the practice of pushing struggling students out of school to boost test scores has become quite common.<sup>205</sup> There are a number of widely used strategies for manipulating test scores, such as withdrawing students from attendance rolls, assigning students to alternative schools, coercing or encouraging students to drop out or enroll in General Educational Development (GED) programs, along with using suspensions, expulsions, and referrals to alternative schools.<sup>206</sup> These practices are contemptible, but not surprising when one considers that those educators’ future employment or salary may be determined by the results of a single test.

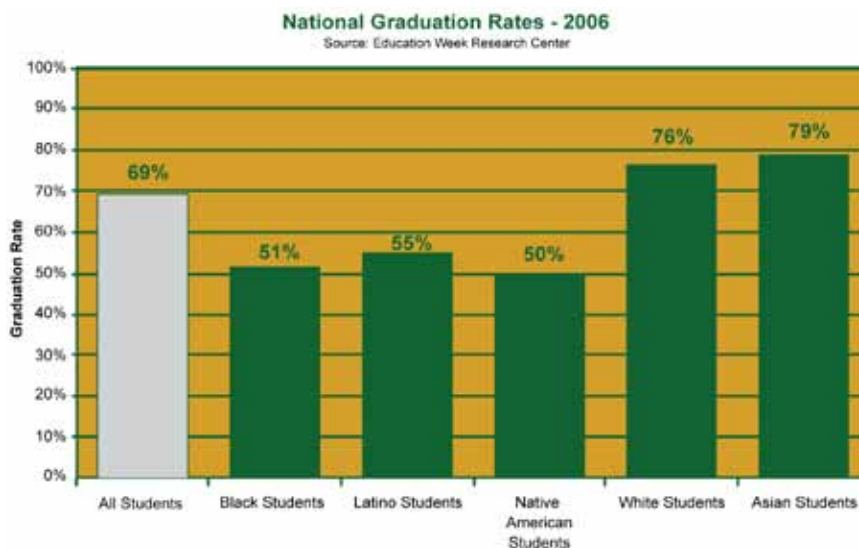
The upshot is that because of zero tolerance and high-stakes testing policies, there is simply no academic safety net for many students. Instead, the existing incentive structure encourages educators to allow huge numbers of students to fall through the cracks of the school system.<sup>207</sup>

### **The Many Roads to Student Pushout**

The combined effect of these dynamics is that countless students are entering the “school-to-prison pipeline” every day. The criminalization of youthful actions in school described above in Part Two represents a direct linkage between schools and prisons. But there are also indirect linkages, caused by zero tolerance and high-stakes testing driving students to drop out of school,<sup>208</sup> at which point they become more than eight times as likely to be incarcerated as high school graduates.<sup>209</sup> This can happen in a variety of ways, such as:

- Students are suspended or expelled and then become more likely to fall into additional trouble and less likely to stay on track academically;
- Students are discouraged and ashamed by their low standardized test scores and act out in school until they are removed through suspension, expulsion, or referral to an alternative school;
- As a result of their standardized test scores, students are retained in grade, making them more likely to drop out;<sup>210</sup>
- Students are simply bored by the test-driven curricula and disrupt class, leading to removal from school through punitive discipline; and
- Students are denied a diploma because of a high school exit exam.

Through a variety of means, the get-tough approaches to discipline and accountability can put students on a path



toward academic failure that is often difficult to interrupt and has devastating long-term consequences.

**The National Picture**

Beyond the undeniably negative impact of zero tolerance and high-stakes testing policies on individual students, families, and schools, evidence of more widespread systemic effects is accumulating rapidly. For example, recently-released data show that the nation’s graduation rate in 2006 – 69% – was the lowest it has been since before NCLB was passed.<sup>211</sup> Of particular concern is that the rates for Black and Latino students – 51% and 55%, respectively – dropped significantly from 2005 to 2006.<sup>212</sup> Additionally, in 2008, the number of persons taking the GED test was at its highest level since before NCLB.<sup>213</sup> These are all strong indicators of a rampant student pushout problem.

Focusing just on the 100 largest school districts in the country (for which there is now comparable graduation rate data for 1996 through 2006<sup>214</sup>) provides an even better sense of the devastating effects recent policies have had on many communities.<sup>215</sup> These large, mostly urban districts together serve about 40% of the nation’s Black, Latino, and Native American students. While graduation rates in most of these districts were improving up until NCLB was signed into law, since then they have deteriorated.

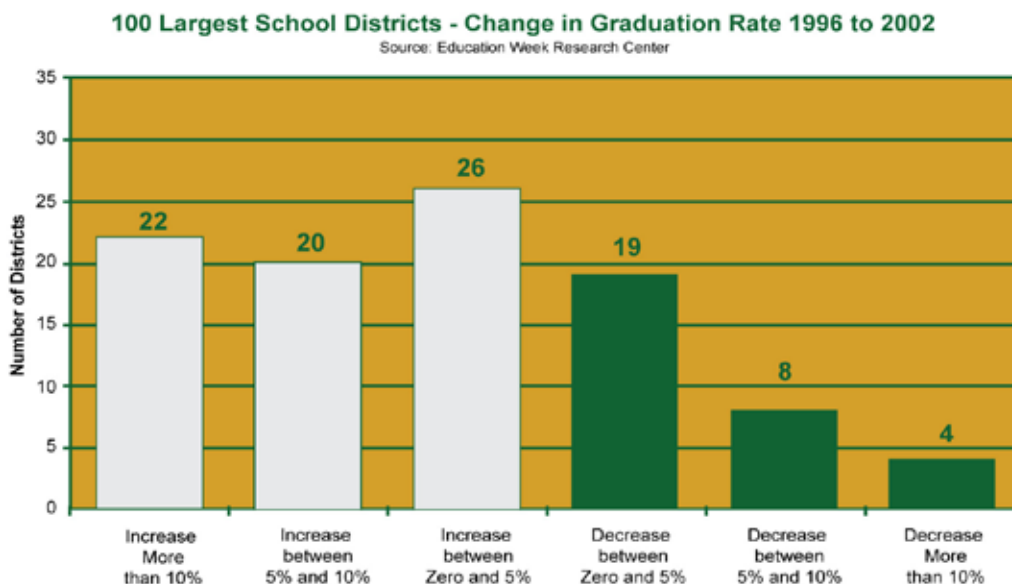
From 1996 until 2002 (when NCLB was signed into law), sixty-eight of the 100 districts experienced rising graduation

rates.<sup>216</sup> Twenty-four of those districts achieved double-digit increases in their graduation rates, while only four had double-digit drops during that period.<sup>217</sup>

From that point on, however, the trends have been in the opposite direction. From 2002 until 2006, seventy-three of the 100 largest districts experienced declining graduation rates.<sup>218</sup> Seventeen of those districts experienced at least a double-digit drop in their graduation rates.<sup>219</sup> Only two districts experienced a double-digit increase.<sup>220</sup>

Not only are these districts trending in the wrong direction, their overall graduation rates are now shamefully low. Only 10 of those 100 districts graduated even 80% of their students in 2006.<sup>221</sup> Sixty-seven out of 100 failed to graduate two-thirds of their students, and twenty-five of the districts graduated less than half of their students.<sup>222</sup> Thus, the national disgrace represented by these dismal graduation rates has gotten progressively worse during the NCLB years.

While these developments cannot be solely attributed to zero tolerance and high-stakes testing, the impact of “get-tough” policies do become apparent when examining individual states. There is a familiar pattern that has developed in many states in recent years: first, the implementation of greater “accountability” in the form of high-stakes tests; followed by dramatic increases in the use of zero-tolerance school discipline; then the appearance of “collateral damage” such as more students being enrolled in special education programs, more students



being retained in grade, more high school dropouts taking the GED exam, and declining teacher morale; and finally, the pushout of huge numbers of students, exemplified by plummeting or abysmally low graduation rates.

While the most well-known example of testing and zero tolerance combining forces to push students out of school happened during former U.S. President George W. Bush’s tenure as Governor (the so-called “Texas Miracle”<sup>223</sup>), the same pattern has been repeated elsewhere.

**Florida**

After campaigning on tough school accountability and zero tolerance,<sup>224</sup> Jeb Bush was elected Governor of Florida in 1998 and immediately instituted a dramatic expansion of high-stakes standardized testing in Florida’s public schools.<sup>225</sup> The use of punitive school discipline proceeded to rise dramatically: from 1999-00 through 2003-04, the number of out-of-school suspensions in Florida schools rose from 385,365 to 453,403, an 18% increase.<sup>226</sup> There was a clear link between the increased use of harsh discipline and the expansion of the testing system, as research found that schools suspended low-scoring students for longer periods around the time of the test.<sup>227</sup>

During Bush’s tenure, the state also passed its highly punitive zero-tolerance law, and Florida became perhaps the most notorious state in the country for criminalizing its students.<sup>228</sup> For example, in 2004-05, over 28,000 students were arrested and referred to the Florida Department of Juvenile Justice.<sup>229</sup> Sixty-three percent of

those arrests and referrals were for misdemeanor offenses,<sup>230</sup> and the impact of these policies was particularly severe for students of color.<sup>231</sup>

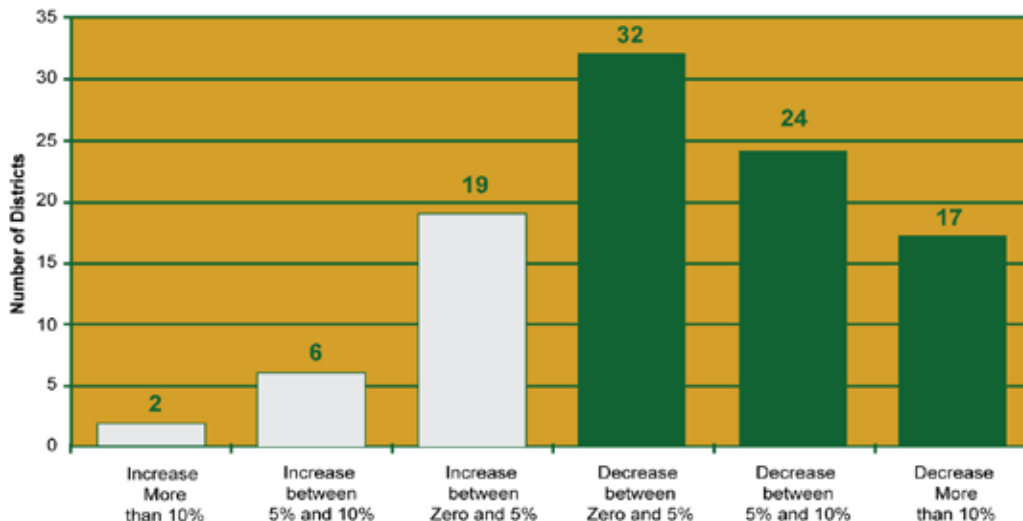
Florida’s high-stakes testing system has affected the education system in a variety of ways. For example, research has demonstrated that the use of high-stakes tests in Florida led schools to classify more students as having disabilities to avoid having those students’ low scores affect overall school performance.<sup>232</sup> Additionally, following the 2002 passage of a state law requiring 3rd-graders to pass the state test before advancing to 4th grade, the number of students retained in 3rd grade more than quadrupled immediately, to more than 27,000 students.<sup>233</sup> The number of retained students is still more than twice as high as it was prior to the law’s passage.<sup>234</sup> In fact, holding so many students back may have itself contributed to the rise in suspension rates.<sup>235</sup>

Some other troubling indicators may also be the indirect result of the high-stakes testing system. For example, a 2006 survey in Florida found that 52% of teachers reported considering leaving the profession in the previous year.<sup>236</sup> Additionally, the number of Floridians who took the GED test increased by 25% from 2003 to 2007.<sup>237</sup>

The end result of Florida’s education reforms is that by 2006 it had the fourth-lowest graduation rate of any state in the country at 57%.<sup>238</sup> The graduation rates for Black and Latino students were even worse: 43% and 54%, respectively.<sup>239</sup> Nevertheless, Governor Jeb Bush won national awards for his education reforms, and Florida’s policies have been cited as models for other states.<sup>240</sup>

**100 Largest School Districts - Change in Graduation Rate 2002 to 2006**

Source: Education Week Research Center





## ***North Carolina***

North Carolina introduced high-stakes tests at the elementary and middle school levels in 1996,<sup>241</sup> and has since developed a massive testing system.<sup>242</sup> The consequences riding on the results of these tests are extensive, including: grade promotion; student grades; monetary awards for schools; monetary awards for staff; whether schools are identified as “low performing”; whether schools can be closed, have their accreditation revoked, or be taken over by the state; and whether school personnel can be fired.<sup>243</sup>

It was clear from the beginning that North Carolina teachers were aware of the negative effects of testing. For example, a 1998 survey of teachers found that 70% did not believe the testing program would improve education in their schools, and many reported that their colleagues had developed negative attitudes toward low-performing students.<sup>244</sup>

Students also immediately felt the effects of the new system. Following the introduction of high-stakes testing, the number of students retained in grade increased dramatically, from 44,504 in 1994-95 to 67,971 in 2001-02, an increase of 53%.<sup>245</sup>

Over time, North Carolina classrooms have changed dramatically. In fact, according to some experts, North Carolina “seems to be winning the race toward having schooling be only about test preparation, with school days devoid of genuine instruction.”<sup>246</sup> Survey results found that 80% of elementary teachers reported spending more than 20% of their total teaching time practicing for high-stakes tests.<sup>247</sup> Moreover, 28% of those teachers

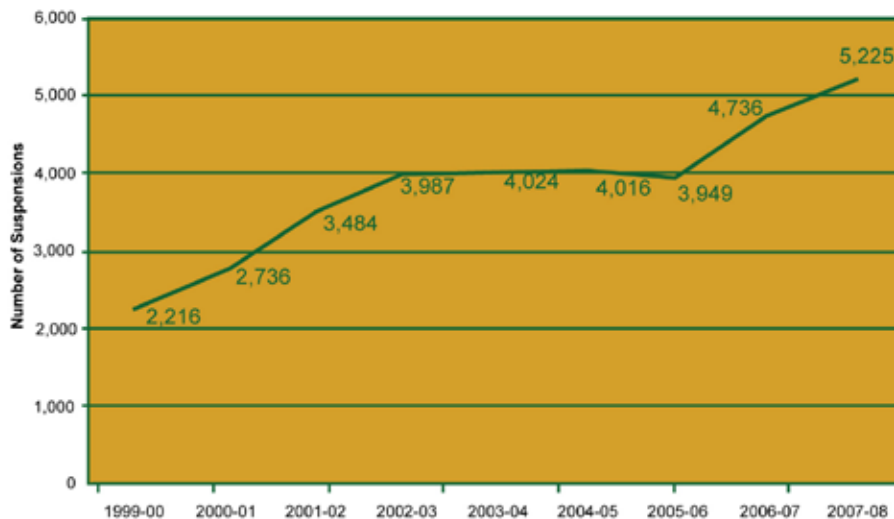
reported spending more than 60% of their students’ time practicing for tests.<sup>248</sup> And schools have eliminated time devoted to other subjects, such as social studies and science, along with physical education and recess.<sup>249</sup>

After the passage of NCLB, the pressure on teachers and students increased even more, with predictable results. The number of short-term suspensions (10 days or fewer) rose by 41% from 2000-01 to 2007-08.<sup>250</sup> The increase in the number of long-term suspensions (more than 10 days) statewide was even more dramatic; from 1999-00 to 2007-08, suspensions shot up by 135%.<sup>251</sup> Also, as mentioned above in Part Two, there were 16,499 referrals to the juvenile court from schools in 2008-09, and the number of school resource officers across the state nearly doubled during the last decade, thus reinforcing the punitive disciplinary approach to complement the punitive testing approach.<sup>252</sup> The effects of these policies were felt by all students, but especially by students of color. For example, racial disparities in out-of-school suspensions have worsened over time, such that by 2007-08, Black students were three-and-a-half times as likely as White students to be given a short-term suspension.<sup>253</sup>

As in Florida, there have been additional signs of possible collateral damage caused by North Carolina’s high-stakes testing system. For example, the state found itself in the midst of a teacher shortage, as nearly half of new teachers in the state were leaving the profession by the end of their fifth year.<sup>254</sup> Additionally, the number of state residents who took the GED test increased by 12% from 2003 to 2007.<sup>255</sup>

**North Carolina Long-Term Suspensions - 1999-00 to 2007-08**

Source: North Carolina Department of Public Instruction



After 10 years of test-driven reforms in North Carolina, the State’s 2006 graduation rate was 63%, the ninth worst in the country, and the lowest it had been since 2000.<sup>256</sup> For Black and Latino students, graduation rates were even worse – 45% and 50%, respectively.<sup>257</sup> Of course, those rates only measure students who begin ninth grade, and there is strong evidence indicating that there are far more North Carolinians who never even make it to high school than there are in any other state. Indeed, more than 40% of those who took the GED test in 2007 had not made it past middle school, which is over twice as many as the next highest state.<sup>258</sup>

Nevertheless, North Carolina’s testing system has been honored as “the best in the country.”<sup>259</sup> And in spite of the declining graduation rates, North Carolina has continued to make its testing system more demanding. For example, students graduating high school in 2010 will be required to pass end-of-course exams in Algebra I, English I, U.S. history, civics and economics, and biology.<sup>260</sup>

### Virginia

High-stakes testing began in Virginia in 1995, but the test pressure on schools was repeatedly increased so that by 2003 it had one of the most punitive testing systems in the country.<sup>261</sup> Simultaneously, Virginia also passed a number of severe school discipline laws,<sup>262</sup> and the use of zero-tolerance school discipline rose accordingly. From 2002-03 to 2006-07, the number of short-term suspensions went up 17%, the number of long-term suspensions increased by 29%, and expulsions rose by 39%.<sup>263</sup>

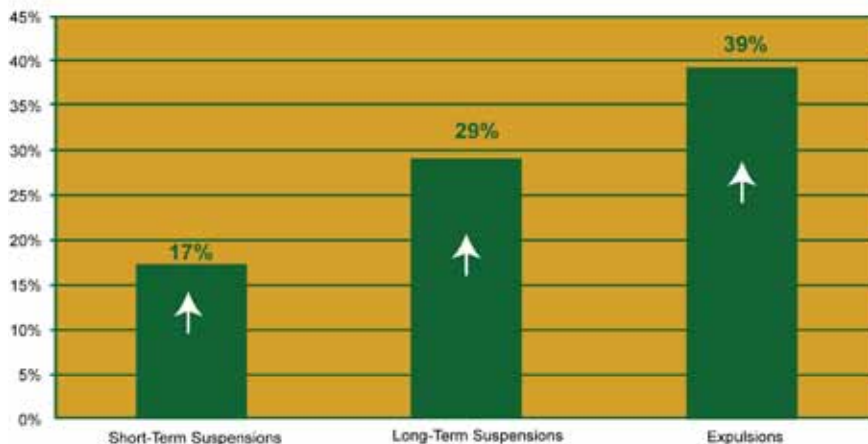
High-stakes testing has also had a profound effect on Virginia’s teachers, as many reportedly responded to the new system by seeking early retirement, transferring to private schools, or transferring to grades that are not tested.<sup>264</sup> Additionally, the number of Virginians who took the GED jumped 40% from 2003 to 2007.<sup>265</sup>

Virginia’s graduation rate began to decline in 2003, as the testing system became increasingly punitive. By 2006 it had reached 69%, which is the lowest graduation rate for the state since at least 1993 (the earliest data maintained by Education Week).<sup>266</sup> For Black and Latino students, statewide graduation rates were 55% and 57%, respectively.<sup>267</sup> Yet Virginia has continued to increase the rigor of its testing system, so that students who now wish to receive a standard diploma are required to pass six end-of-course exams, while students getting an advanced diploma are required to pass nine such tests.<sup>268</sup>

More research on the relationship between zero tolerance and high-stakes testing is necessary, but it is nonetheless clear that these policies are working hand-in-hand to create an education system in which test scores are dramatically over-valued and it is considered acceptable to exclude hundreds of thousands of young people from schools every year. Nevertheless, other states continue to adopt these policies, putting even more communities on this devastating “race to the bottom” in which the trend has been to promote policies that track students to prison, rather than expanding opportunity for all young people.

**Virginia School Discipline  
2002-03 to 2006-07**

Source: Virginia Department of Education





## PART FIVE: COMMUNITY PUSHBACK

The educational opportunities of millions of children across this country are continuously put at risk by zero-tolerance school discipline and high-stakes testing. This new brand of punitive educational policy has brought students of all races, in all 50 states, perilously close to being high school dropouts and/or entering the juvenile and criminal justice systems. This is especially true for students of color and low-income students, who, too often, are being punished for losing a race in which their peers were given a head start.

To be clear, nothing in this report is meant to suggest that violence and disruptive behavior are not real problems in schools, nor that public schools should not be held accountable for their performance. On the contrary, it is undeniable that many schools are plagued by unhealthy learning environments, and the public has a right to know how schools are educating their children. However, current efforts to address these challenges – namely, zero tolerance and high-stakes testing – have been misguided, resulting in:

- A downward spiral of punitive treatment and alienation of students; and
- A downward spiral of measurement and assessment that suffocates high-quality teaching and learning.

As described above, these spirals are interlocking, and combine to move us farther away from the democratic purposes of education. In fact, given the many ways in which zero tolerance and high-stakes testing create unhealthy or even toxic learning environments, it is reasonable to ask how policymakers can expect students and educators to continually subject themselves to such conditions.

Four key actions must be taken to address the problems of zero tolerance and high-stakes testing and create sustainable educational justice in our schools. These efforts require implementation of reforms at the local, state, and federal levels, including through the reauthorization process of the No Child Left Behind Act and the implementation of the American Recovery & Reinvestment Act of 2009 (the “stimulus”). Fortunately, over the last few years there has been a groundswell of grassroots advocacy for educational justice. Parents, students, and community leaders have educated policymakers on the destructive impact of punitive education policies. To their credit, many school districts and legislators have responded to this community pressure and recognized the need for changing the policies and practices that have led to student pushout and unhealthy learning environments. Together, grassroots advocates and policymakers have worked hand-in-hand to forge a brighter future together. This report highlights several promising changes.

## **ACTION ITEM ONE:**

**Create more caring and supportive learning environments for students by eliminating policies and practices that unnecessarily push students out of school through the use of suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests.**

While zero-tolerance school discipline has not improved school safety or student behavior, there are a number of alternative prevention and intervention strategies being implemented around the country that have been proven successful.<sup>269</sup>

### **Denver, Colorado**

Since 2003, the parents, students, and community organizers at *Padres y Jovenes Unidos*,<sup>270</sup> with assistance from Advancement Project, have led a campaign to change disciplinary policies and practices within Denver Public Schools. After years of organizing, research, public education, and advocacy, they convinced the district to collaborate on the creation of new discipline policies that eliminate the unnecessary suspension, expulsion, and ticketing of students. The revised policies – drafted by a working group of teachers, principals, parents, community members, and staff from *Padres y Jovenes Unidos* and Advancement Project – were implemented at the beginning of the 2008-09 school year, and include the following significant changes:

- School officials are directed to handle minor acts of misconduct within the school setting;
- Students may only be suspended out-of-school, expelled, or referred to the police for serious misconduct;
- Schools are required to eliminate racial disparities in discipline;
- The due process rights of parents and students are clarified and expanded; and
- Individual schools and the district are required to report discipline data.

*Padres y Jovenes Unidos* and Advancement Project have also worked with the school district to implement restorative justice programs – which are alternatives to zero tolerance that focus on developing community and managing conflict by repairing harm and restoring relationships<sup>271</sup> – in middle and high schools across the district.

Even before full implementation of the new discipline policies and practices, the organizing and advocacy

efforts had led to a 63% reduction in referrals to law enforcement within Denver Public Schools, and a 43% reduction in the use of out-of-school suspensions.<sup>272</sup>

### **Los Angeles, California**

Advocates and parents from Community Asset Development Re-Defining Education (CADRE)<sup>273</sup> have been working to change the culture of discipline in the Los Angeles Unified School District from one of over-punishment to one that is based on student support and preventive discipline. In 2007, they were successful in getting passed a district-wide school discipline policy designed to provide teachers, administrators, students, and parents the resources they need to prevent misbehavior from occurring, and to resolve problems that arise, as much as possible, without removing students from the classroom. The new policy, based on Positive Behavioral Interventions & Supports (PBIS), a research-based alternative to zero tolerance, is structured so that all district schools will have the support and tools to implement tailored, site-based discipline plans that include the following strategies:

- Teaching, modeling, and reinforcing appropriate behaviors;
- Involving all stakeholders, especially parents, in collaborative and early intervention to de-escalate inappropriate behaviors;
- Supporting students’ needs and addressing root causes of misbehavior;
- Setting up consequences that are fair, age appropriate, and match the conduct being addressed; and
- Utilizing alternatives to suspensions and transfers.<sup>274</sup>

### **Connecticut**

In 2006-07, Connecticut students lost over 250,000 days of class time due to out-of-school suspensions, mostly for low-level “school policy violations.”<sup>275</sup> This affected Black and Latino students in particular, as they were four-and-a-half and three times as likely, respectively, to be suspended out-of-school as their White peers.<sup>276</sup> How-

ever, in 2007, the Connecticut state legislature passed a law intended to limit the use of out-of-school suspensions. Though the law has not yet been implemented, it would require all student suspensions to automatically be in-school suspensions rather than out-of-school suspensions unless it is determined that the student poses “such a danger to people or property, or causes such a disruption of the educational process” that out-of-school suspension is necessary.<sup>277</sup>

### **Indiana**

Following years of research and advocacy around the destructive impact of zero tolerance on Indiana schools,<sup>278</sup> in May 2009 the state legislature passed a law requiring school districts to work with parents to develop disciplinary policies and practices that utilize positive behavioral supports, mental health services, and alternatives to punitive disciplinary measures. It also requires extensive data collection, review, and reporting.<sup>279</sup>

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Additionally, just within the last two years, there have been community-led discipline reform campaigns in the New Orleans Recovery School District,<sup>280</sup> a major suspension-reduction program in Milwaukee Public Schools,<sup>281</sup> and new regulations passed in Pennsylvania that require more supportive discipline of students with disabilities.<sup>282</sup> Baltimore City Public Schools has also adopted a new discipline policy – as a result of advocacy by the Open Society Institute-Baltimore and its partners, including Advancement Project – that produced 39% fewer out-of-school suspensions in 2008-09 than just two years earlier.<sup>283</sup>

### **Specific Recommendations**

**(1)** At the local level, create working groups of stakeholders within the community – including parents, students, teachers, principals, and other community members – to craft school discipline policies and alternatives that meet the community’s needs.

**(2)** Limit the use of expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests to conduct that poses a serious, ongoing threat to the safety of students and staff.

**(3)** Limit out-of-school suspensions to serious misconduct or to when low-level misconduct has become habitual.

- a. Use a graduated approach to assigning consequences.
- b. Place caps on the duration of suspensions, especially for low-level infractions.

- c. Ensure that students are provided academic work during suspension periods and are not penalized academically for suspensions.
- d. Limit the use of suspensions for conduct that occurs away from school.
- e. Substitute in-school suspensions for out-of-school suspensions.
- f. Implement programs that are alternatives to zero tolerance, such as restorative justice or Positive Behavioral Interventions and Supports (PBIS).<sup>284</sup>
- g. Use data to develop alternative programs tailored to the disciplinary issues that exist.

**(4)** Hold school officials accountable for reducing the use of out-of-school suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests, such as by including such indicators in their evaluations.

**(5)** Hold school officials accountable for eliminating racial disparities in disciplinary measures for students of color, such as by including such indicators in their evaluations.

- a. Additionally, cultural competency training should be made mandatory where racial disparities exist.

**(6)** Increase or divert funding for more guidance counselors, social workers, and school psychologists who are available to address students’ academic and behavioral issues.

**(7)** Expand teacher training and professional development on classroom management, conflict resolution, disciplinary alternatives, and student engagement through challenging and culturally relevant curricula.

- a. For example, the American Federation of School Administrators supports the inclusion of conflict resolution training in the certification process of school administrators.<sup>285</sup>

**(8)** Emphasize the protection of parents’/guardians’ and students’ due process rights during disciplinary proceedings, especially around parental notification, disciplinary hearings, and appeals processes.

**(9)** Collect and report school discipline data, including referrals to law enforcement and school-based arrests, disaggregated by offense, age, gender, grade, race, ethnicity, disability, school, teacher/school staff, and disposition.

**(10)** Establish school discipline oversight committees, which would include school personnel, parents, students, and interested community members. The responsibilities of these committees could include: handling complaints about school discipline practices; handling complaints about the conduct of security and police officers; reviewing discipline and arrest statistics; and evaluating the school district’s efforts to maintain safety in a fair and nondiscriminatory manner.

## **ACTION ITEM TWO:**

**Limit the involvement of law enforcement and security personnel in schools to conduct that poses a serious, ongoing threat to the safety of students or staff.**

A number of communities are pushing back on the criminalization of students by limiting the role of law enforcement personnel within schools and adopting alternative methods of addressing student behavior.

### **Clayton County, Georgia**

Over the last several years, Clayton County, Georgia has made substantial progress in reducing the number of students being sent from schools to the juvenile justice system. This improvement resulted from collaboration among members of the juvenile justice system, law enforcement, the local school system, and social services groups. They adopted a cooperative agreement aimed at limiting the number of school referrals to juvenile court and reducing the disproportionate contact students of color have with school discipline and the juvenile justice system.

Consequently, there has been a 47% reduction in juvenile court referrals from schools in just three years. The biggest drops have been for misdemeanor offenses like fighting, disruption, and disorderly conduct to the juvenile court, and the referrals of Black students, in particular, have decreased dramatically. There has also been significant improvement in the relationships between police officers and students, and graduation rates in Clayton County have improved by 20% since 2004.<sup>286</sup>

Clayton County’s reforms have already served as a model for Birmingham, Alabama, which has instituted a similar effort to reduce the referrals of students – and especially students of color – to the juvenile court after minor incidents.<sup>287</sup>

### **Florida**

Since 2005, the Florida State Conference of the NAACP,<sup>288</sup> in partnership with Advancement Project, has been working to eliminate Florida’s school-to-prison pipeline. The NAACP and Advancement Project, along with the NAACP Legal Defense and Educational Fund, Inc., held a series of public hearings throughout the state to discuss the issue and call for reform. After publishing the findings,<sup>289</sup> the NAACP and Advancement Project worked with superintendents and senior staff from six large, urban school districts across the state to develop solutions to the problems that had been identified.

Additionally, following advocacy by the NAACP, Advancement Project, and other allies at the state level, the

Florida legislature amended the state’s zero-tolerance law in April 2009. The new law is designed to cut down on expulsions and referrals of students to law enforcement and, instead, encourage schools to use alternatives such as restorative justice.<sup>290</sup> Even before the law had taken effect, the years of advocacy on the issue of excessive school-based arrests has resulted in nearly 7,000 fewer referrals to the state Department of Juvenile Justice from schools in just three years, a 24% reduction.<sup>291</sup>

### **San Francisco, California**

In response to advocacy by organizations such as La Raza Centro Legal and Legal Services for Children,<sup>292</sup> San Francisco Unified School District changed their policy on law enforcement within schools because it recognized “the serious potential consequences for youth of juvenile court involvement” and wanted to avoid “unnecessary criminalization” of its students.<sup>293</sup> The policy limits police involvement to situations where it is: necessary to protect the physical safety of students and staff; required by law; or appropriate to address criminal behavior of persons other than students.<sup>294</sup> The policy also states that “[p]olice involvement should not be requested in a situation that can be safely and appropriately handled by the District’s internal disciplinary procedures” and that “[d]isproportionate use of police intervention in inappropriate situations shall be cause for corrective action by the District.”<sup>295</sup>

Additionally, there are many examples of schools that are taking a different approach to building a safe learning environment. For example, North Lawndale College Prep High School, located on the west side of Chicago, diverted funding previously spent on metal detectors and security guards and instead hired counselors and social workers.<sup>296</sup> Students teach each other alternatives to violence, and are expected to intervene if an altercation occurs.<sup>297</sup>

District of Columbia Public Schools has also been exploring alternative approaches. The Chancellor has considered reducing school security staff, saying that students feel less safe in schools filled with armed guards.<sup>298</sup> In her view, resources are better spent on peer mediation and conflict management programs.<sup>299</sup>

### **Specific Recommendations**

**(1)** Provide resources for the formation of local councils comprised of parents, youth, and representatives from

school systems, juvenile courts, law enforcement agencies, social service agencies, and non-profit community organizations that would be charged with developing comprehensive strategies for addressing the school-to-prison pipeline in particular communities. The councils should consider whether reallocation of resources across agencies and programs would help reduce the over-criminalization and pushout of youth.

**(2)** Clarify the roles and responsibilities of school police through a memorandum of understanding between the school district and police department.

- a. Limit police involvement to felony offenses that pose an ongoing, serious threat to the safety of students or staff.
- b. Require that school resource officers receive training on child and adolescent development, conflict resolution, cultural competence, and restorative justice.

**(3)** Hold law enforcement officials accountable for reducing the use of school-based arrests for school disciplinary matters, such as by making funding for school-based law enforcement contingent on reductions in arrests.

**(4)** Hold law enforcement officials accountable for eliminating racial disparities in school-based arrests, such as by making funding for school-based law enforcement

contingent on the reduction of racial disparities.

- a. Additionally, cultural competency training should be made mandatory where there are racial disparities.

**(5)** Reduce the use of school resource officers, security guards, and security equipment within schools.

- a. Divert funding used for law enforcement and security infrastructure to proven prevention and intervention programs like restorative justice and other educational purposes, such as additional guidance counselors, social workers, and school psychologists.

**(6)** Train school staff and school resource officers on the consequences of an arrest.

**(7)** Develop cooperative agreements between schools, juvenile courts, and local law enforcement agencies to reduce the number of students who enter the juvenile justice system for school-based offenses.

**(8)** Increase communication with, and utilization of, social service organizations, diversion programs, and other programs that are alternatives to school-based arrests.

**(9)** Collect and report data on referrals to law enforcement and school-based arrests, disaggregated by offense, age, gender, grade, race, ethnicity, disability, school, officer, and disposition.

## **ACTION ITEM THREE:**

**Replace high-stakes testing with policies that will encourage schools to keep students in the learning environment and develop enriched curricula that are engaging and intellectually challenging, ensure deep understanding of content, and are focused on authentic achievement.**

There are several proven strategies for avoiding the perverse incentives around high-stakes testing and making school accountability more meaningful. For example, research has found that states that use multiple-measure assessment systems rather than systems based solely on test scores have improved instruction as well as student performance.<sup>300</sup> Research has also demonstrated that portfolio and performance assessments are better able to evaluate higher-order skills, like critical thinking, that are not adequately measured on multiple-choice and short answer tests.<sup>301</sup> Such systems can incorporate more authentic tasks like extended writing assignments, scientific inquiries, and in-depth research projects that require planning, data collection, and analysis.<sup>302</sup> These assessments also encourage teachers to learn and use formative assessment strategies, which have been shown to offer a particularly powerful means of improving student learning, especially for low-performing schools.<sup>303</sup> In contrast to states that rely solely on tests, states using these types of multiple-measure approaches have also experienced stable or increasing graduation rates.<sup>304</sup>

Many jurisdictions have successfully implemented such approaches, eliminating the over-reliance on standardized tests and ending the policies and practices contributing to student pushout.

### ***New York***

After an eight-year struggle against high-stakes testing and the impact it was having on the educational process, in 2005, a coalition of 40 high schools in New York State received an exemption for their students from the required battery of graduation exams.<sup>305</sup> The group, called the New York Performance Standards Consortium, regards assessment as a complex, whole-school based accountability system that should be based on active learning, a focus on professional development for teachers, and the provision of multiple ways for students to express and exhibit learning.<sup>306</sup>

In these schools, each student must produce an analytic literary essay, a social studies research paper, an original science experiment with an oral defense of research findings, and a real-life application of higher-level mathematics.<sup>307</sup> Assessments of students' work are done by teachers and by external evaluators, who also evaluate the schools' overall progress.<sup>308</sup> Overall, these schools

have developed a rigorous accountability system that is structured around high-level student learning, not standardized tests.

### ***New Jersey***

In 2008, after a year-long campaign by advocates and stakeholders, the New Jersey State Board of Education passed a resolution to retain and reform the Special Review Assessment, the alternative high school assessment used in recent years by about 12% of New Jersey students to earn a high school diploma (and which has contributed to New Jersey having the highest graduation rate in the country).<sup>309</sup> The Board's action was a victory for efforts to keep multiple measures and alternative assessments as part of New Jersey graduation and assessment policies, and not rely solely on standardized tests to make those decisions.<sup>310</sup> Research demonstrated that preserving this additional pathway to graduation will have positive effects on the state's high school graduation rates, especially for students of color, English language learners, and immigrant students.<sup>311</sup>

### ***Florida***

After many years of advocacy around the impact high-stakes testing was having on Florida schools, in 2008, the state passed a new law that changes the school accountability system to put less emphasis on standardized test results and more on graduation rates and preparing students for college.<sup>312</sup> Schools are also to be assessed on the graduation rates for students who have previously scored poorly on standardized tests, thus decreasing the incentive to push struggling students out of school.<sup>313</sup>

### ***Miami, Florida***

After extensive advocacy around the issues of zero-tolerance school discipline and low graduation rates, the Miami-Dade County Public Schools adopted an accountability system that took account of these problems. Under this system, the performance of school principals is based, in part, on progress in reducing the use of harsh disciplinary measures like suspensions and improving graduation rates.<sup>314</sup> This creates incentives for schools to take additional steps to keep students within the learning environment as much as possible.



### **Specific Recommendations**

**(1)** Design accountability systems that are aligned with the recommendations of the Forum for Education and Democracy<sup>315</sup> and the Forum on Educational Accountability.<sup>316</sup>

- a. Accountability in public schooling should flow in two ways: local, state, and federal education policymakers should be held accountable for providing equitable, high-quality learning conditions for every student, and schools should be held accountable for student growth and academic success.
- b. Provide a comprehensive picture of students' and schools' performance by using multiple indicators of student learning and school progress, across all subject areas. These indicators should rely on classroom-based evidence and actual student performances, and assess qualitative factors as well as quantitative evidence (while still being disaggregated by race, ethnicity, gender, special education, and English-language learner status). For example, as suggested by the Broader, Bolder Approach to Education Campaign, states should institute an inspection program where well-trained experts visit schools periodically to assess the many characteristics of education that cannot be measured on a standardized test.<sup>317</sup>
- c. Where standardized measures of student success are utilized, they should not be used in isolation, or as final determinants of student advancement or school-level interventions.
- d. Standardized tests should be formative and not punitive, meaning they should be used to provide useful diagnostic information to improve teaching and learning, not to punish low performers.
- e. Allow schools and districts to measure progress by using students' learning progress as

well as their performance in relation to pre-determined levels of academic proficiency.

- f. Assessment systems should be valid and appropriate for a diverse student population, including English-language learners and students with disabilities.
  - g. Decrease the testing burden on states, schools, and districts by allowing states to assess students annually in selected grades in elementary, middle, and high schools.
  - h. School-level interventions should be narrowly tailored to meet clearly identified needs.
  - i. Fund research and development of more effective accountability systems that better meet the goal of supporting high-quality learning for all children.
- (2)** Evaluate academic achievement based on the entire cohort of students who entered school together, to avoid any incentive to retain students in grade and artificially boost achievement levels.
- (3)** Ensure that accountability systems do not encourage the pushout of students by making the improvement of graduation rates a significant factor.
- a. The target graduation rates must be set at a reasonable level, with either excellent performance or steady improvement required over time.
  - b. Graduation rates should be disaggregated on the basis of race, ethnicity, gender, special education, and English language learner status, so that school improvement benefits all students.
  - c. Consider following the lead of Florida and assessing schools and districts on the basis of graduation rates for students who have previously scored poorly on standardized tests.
- (4)** Hold schools accountable for reducing the use, or maintaining a low level of out-of-school suspensions, expulsions, referrals to alternative schools, referrals to law enforcement, and school-based arrests.

## **ACTION ITEM FOUR:**

**Ensure that every student is provided a high-quality pre-K-12 education that includes a full and equal opportunity to fulfill their potential, achieve their goals, improve the quality of their lives, become thoughtful and engaged democratic citizens, and become life-long learners.**

Grassroots organizations around the country are taking a stand against educational inequities and are working to ensure that students of color and low-income students have the same high-quality opportunities as their peers.

### **Los Angeles, California**

A city-wide alliance of around 30 organizations called Communities for Educational Equity (CEE) – which included youth-based organizations such as InnerCity Struggle<sup>318</sup> and Community Coalition<sup>319</sup> – came together in Los Angeles to address the inequitable access to a high-quality curriculum that prepares students for college and desirable jobs.<sup>320</sup> The campaign galvanized students, parents, and the broader community, and in 2005, they were successful in getting a school district policy passed that would provide all high school students access to a college preparatory curriculum.<sup>321</sup>

### **Alexandria, Virginia**

Tenants and Workers United (TWU)<sup>322</sup> has been working for several years to address inequitable educational opportunities provided to students of color and low-income students within Alexandria City Public Schools. In partnership with Advancement Project, TWU proposed implementation of “Personalized Educational Action Plans,” under which every student would have an individualized course of study to meet his or her goals. These plans would: provide individualized attention to students, ensure all students have access to high-level academic opportunities, create a better academic “safety net” for struggling students, and improve collaboration among students, staff, and parents. After several years of advocacy, the district is currently working with TWU and Advancement Project to implement their recommendations.<sup>323</sup>

### **Specific Recommendations**

**(1)** Make high-quality public education the civil right of every child.

**(2)** Address our “education debt”<sup>324</sup> by eliminating the country’s historic inequities in educational and economic opportunities and ensuring that schools have sufficient resources to provide high-quality learning experiences to every child. Equal outcomes cannot be expected from schools without making the resources they are provided more equitable,<sup>325</sup> and stellar performance cannot be expected without sufficient investment.

**(3)** At the local and state levels, create Opportunity to Learn Commissions, which would include parents, students, teachers, and other stakeholders in the community. These commissions would be charged with identifying and presenting recommendations to address policies and practices that are leading to inequitable educational opportunities for students, especially students of color, low-income students, English language learners, students with disabilities, and any other students that have been historically under-served. Special attention should be paid to:

- a. Inequitable resource distribution (including funding, as well as access to high-quality school buildings and learning materials) among and within schools;
- b. Access to a rich, engaging, culturally relevant, and college-preparatory curriculum;
- c. School disciplinary policies and practices;
- d. The impact of high-stakes testing on teaching and learning;
- e. Academic tracking of students of color and low-income students into low-level classes;
- f. English language acquisition programs that fail to provide both high-level language instruction and high-level academic content;
- g. Special education programs that fail to meet students’ identified needs;
- h. Under- and over-identification of students of color and low-income students in special education programs;
- i. Excessive retention of students in grade;
- j. Inequitable distribution of experienced and effective teachers;
- k. Underrepresentation of students of color and low-income students in high-level academic programs like Talented and Gifted programs and Advanced Placement classes;
- l. Insufficient provision of academic supports and information necessary to prepare students for higher education and careers;
- m. Overcrowded classrooms and schools;
- n. Inadequate academic “safety nets” for students who are struggling academically; and
- o. Out-of-school factors such as comprehensive health care, housing, employment, and community safety.

**(4)** As recommended by the Forum on Educational Accountability and the Schott Foundation for Public Education, create comprehensive indicator systems at the state and federal level to provide evidence on a range

of school factors such as those listed above in #3, along with; the distribution of school staff; class size; material resources; school climate; opportunities for parental engagement; learning outcomes; college readiness, enrollment, and progress; employment; and civic participation. This information should be reported publicly, and should be used to develop strategies for overcoming any identified inequities and deficiencies.<sup>326</sup>

**(5)** As suggested by the Forum for Education and Democracy, invest in a new “Marshall Plan” for teachers and school leaders that will ensure there are educators who are well-prepared to effectively provide a high-quality education to diverse learners and foster a supportive learning environment in every classroom and every school.<sup>327</sup>

**(6)** Work with all students and their parents/guardians to create personalized learning plans that ensure that every student is provided individualized attention, has access to a college-preparatory curriculum, is encouraged to achieve their goals and fulfill their potential, and receives timely support if they encounter academic difficulties.

**(7)** Place increased emphasis on providing meaningful opportunities for students, parents, families, and communities to engage in school decision-making and school improvement activities.

a. Invest in parent, family, and community engagement in schools, and enforce existing laws (such as Title I of the Elementary and Secondary Education Act) that require schools and districts to involve parents, families, and communities in school policy-making.

**(8)** Implement reforms aligned with those suggested by the Broader, Bolder Approach to Education Campaign.<sup>328</sup>

a. Provide developmentally appropriate and high-quality early childhood, pre-school, and kindergarten care and education to all children.

b. Address children’s health, including routine pediatric, dental, hearing, and vision care for all infants, toddlers, and schoolchildren, through means such as full-service school clinics.

c. Improve the quality of students’ out-of-school time by increasing investments in community schools and other after-school and summer programs.<sup>329</sup>



## CONCLUSION

Too many students – and far too many students of color – are leaving our nation’s public schools without a diploma. Instead of designing our schools to meet the needs of students, policymakers have implemented a series of zero-tolerance and high-stakes testing policies that punish students and schools in the vain hope that they will “shape up.” It is time to stop. After years of devastation caused by these policies, we should have learned that the solution is not to be “tough” on crime and schools, but to be smart.

We must not allow zero tolerance and high-stakes testing to continue to pit students and families against teachers and administrators, eroding the trust that is at the very heart of good schooling. By placing students, parents, educators, and law enforcement in adversarial positions, these policies reinforce the “us vs. them” pathology in which each group feels undervalued and under-respected and blames the others. The reality, of course, is that everyone has a stake in, and a responsibility toward, the success of our schools. Yet because of zero tolerance and high-stakes testing, it has become increasingly difficult for schools and communities to come together in pursuit of the same goals.

Thus the school-to-prison pipeline, which makes the journey through school increasingly punitive and isolating for its travelers, must be eliminated. Young people must be given the opportunities and provided the skills to correct problematic behavior. Because of zero tolerance, rather than being included in their community, students are being alienated from it. While there has been progress over the past few years in reducing the criminalization of students in many communities, in others, the problems continue to worsen. Schools must assess whether harsh accountability systems are lowering their tolerance for students and whether racial disparities in school discipline are the result of discriminatory

treatment and racial biases. Together, schools and their communities must work to ensure that all students have an educational environment in which they can feel safe, cared for, and respected at the same time.

So, too, must high-stakes testing, which has impoverished the educational experiences of so many students and teachers, be ended. Educating a child must include more than what is on standardized tests, and quality teaching must extend beyond endless drills and test preparation. Student assessment should not contribute to the school-to-prison pipeline, and thus the “test-and-punish” approach must be replaced with systems that provide more enriching instruction for every student and more meaningful accountability for every school. The failure to do so would truly be “high-stakes,” bringing into question our nation’s ability to develop the engaged citizens necessary to sustain our democracy.

We must move beyond the use of these policies that have transformed schools into hostile environments for youth, unnecessarily limiting their educational and career opportunities. Just as President Obama has said that “this country needs . . . the talents of every American” and dropping out of school is not an option,<sup>330</sup> so, too, should pushing students out of school through zero-tolerance school discipline and high-stakes testing not be an option.

There is no easy answer to our nation’s abysmal graduation rates, but the one thing that absolutely must happen for this problem to be solved is for every student to be given a full and equal opportunity to receive a high-quality education. The solution has to start there. We must eliminate the use of education policies that treat students as if they are disposable, and, instead, make a smart, long-term investment in our youth by creating a more just educational system for all children.

## ENDNOTES

<sup>1</sup> Education Week Research Center. (2009). *EdCounts database*. [Data File]. Retrieved July 4, 2009, from <http://www.edweek.org/rc/2007/06/07/edcounts.html>. Note that this represents the four-year graduation rate.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Obama, President B. [Speaker]. (2009, February 24). *Remarks of President Barack Obama – Address to Joint Session of Congress*. Retrieved March 30, 2009, from [http://www.whitehouse.gov/the\\_press\\_office/remarks-of-president-barack-obama-address-to-joint-session-of-congress/](http://www.whitehouse.gov/the_press_office/remarks-of-president-barack-obama-address-to-joint-session-of-congress/).

<sup>5</sup> The Pew Center on the States. (2008). *One in 100: Behind bars in America 2008*, 5. Retrieved April 2, 2009, from [http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS\\_Prison08\\_FINAL\\_2-1-1\\_FORWEB.pdf](http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf).

<sup>6</sup> See, e.g., The Sentencing Project. (2007, September). *A 25-year quagmire: The War on Drugs and its impact on American society*, 3. Retrieved March 30, 2009, from [http://www.sentencingproject.org/Admin/Documents/publications/dp\\_25yearquagmire.pdf](http://www.sentencingproject.org/Admin/Documents/publications/dp_25yearquagmire.pdf).

<sup>7</sup> As a result, more than 80% of the increase in the federal prison population from 1985 to 1995 was from drug convictions. The Sentencing Project. (2007, September); see also Drug Policy Alliance Network. (n.d.). *What's wrong with the War on Drugs*. Retrieved March 30, 2009, from <http://www.drugpolicy.org/drugwar/mandatorymin/>.

<sup>8</sup> See, e.g., The Sentencing Project. (2007, March). *Changing direction? State sentencing reforms 2004 – 2006*, 2. Retrieved April 4, 2009, from <http://sentencingproject.org/Admin/Documents/publications/sentencingreformforweb.pdf>.

<sup>9</sup> See, e.g., The Sentencing Project. (2005, September). *The war on marijuana: The transformation of the War on Drugs in the 1990s*, 14-16. Retrieved April 3, 2009, from [http://www.sentencingproject.org/Admin/Documents/publications/dp\\_waronmarijuana.pdf](http://www.sentencingproject.org/Admin/Documents/publications/dp_waronmarijuana.pdf).

<sup>10</sup> Pew Center on the States. (2008), 3-5.

<sup>11</sup> See, e.g., Drug Policy Alliance Network. (2009); The Sentencing Project. (2007, September); The Sentencing Project. (2005). *Incarceration and crime: A complex relationship*. Retrieved April 3, 2009, from [http://www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Cinc\\_iandc\\_complex.pdf](http://www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Cinc_iandc_complex.pdf).

<sup>12</sup> See, e.g., Stuntz, W. J. (2008, June). Unequal justice. *Harvard Law Review*, 121, 2003-2010 (“Crime policy was not a means of addressing crime - and the policy’s consequences for the poor blacks who were both victimized by crime and punished for it were, politically speaking, irrelevant. Each side supported punitive policies because the other side had done so, and because changing course seemed politically risky.”)

<sup>13</sup> *Id.*

<sup>14</sup> See, e.g., Stuntz, W. J. (2001, January). O.J. Simpson, Bill Clinton, and the transsubstantive Fourth Amendment. *Harvard Law Review*, 114, 854-855 (“Criminal law is not static; like other areas of law, it is constantly changing. Unlike other areas of law, it tends to change in one direction only: legislatures regularly add new crimes but rarely repeal old ones. Each new crime grants more authority to police and prosecutors, because each new crime gives them another legally valid reason to search, arrest, and prosecute.”)

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<sup>16</sup> See, e.g., Advancement Project. (2003, May). *Derailed! The schoolhouse to jailhouse track*, 10. Retrieved April 3, 2009, from <http://www.advancementproject.org/reports/Derailedrepcor.pdf>.

<sup>17</sup> In fact, between 1992 and 2000 – the same period that political pressure was growing for more school discipline – the incidence of school violence decreased incrementally each year. National Center for Education Statistics. (2002, November). *Indicators of school crime and safety 2002*, 49-52. [Data File]. Retrieved March 30, 2009, from <http://www.ojp.usdoj.gov/bjs/pub/pdf/iscs02.pdf>.

<sup>18</sup> See Clinton, President W. J. (1995, October 26). *Statement on the Gun Free Schools Act*. Retrieved March 30, 2009, from [http://bulk.resource.org/gpo.gov/papers/1995/1995\\_vol2\\_1686.pdf](http://bulk.resource.org/gpo.gov/papers/1995/1995_vol2_1686.pdf) (“I’m very pleased to announce that our message of zero tolerance has been made a reality around the country.”)

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<sup>20</sup> Advancement Project. (2003, May); Advancement Project. (2005, March). *Education on Lockdown: The schoolhouse to jailhouse track*. Retrieved July 1, 2009, from <http://www.advancementproject.org/reports/FINALEOLrep.pdf>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> School District of Palm Beach County. (n.d.). *School board policy 5.1813*. Retrieved March 30, 2009, from <http://www.palmbeach.k12.fl.us/policies/>.

<sup>25</sup> *Id.*

<sup>26</sup> Colo. Rev. Stat. § 22-32-109.1 (2)(a)(II) (2008).

<sup>27</sup> Colo. Rev. Stat. § 22-33-106 (1)(c.5)(II) (2008).

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<sup>30</sup> The University of Texas at Austin, LBJ School of Public Affairs. (2009), 13-18.

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<sup>32</sup> American Psychological Association (APA) Zero Tolerance Task Force. (2006, February 1). *Are zero tolerance policies effective in the schools? An evidentiary review and recommendations*. Retrieved March 30, 2009, from <http://www.apa.org/releases/ZTTFReportBODRevisions5-15.pdf>.

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<sup>34</sup> See, e.g., Rothstein, R. (1998). *The way we were? The myths and realities of America's student achievements*. New York: Century Foundation Press.

<sup>35</sup> See, e.g., Meier, D. (2000). *Will standards save public education?*, 9-10. Boston: Beacon Press.

<sup>36</sup> See Emery, K. (2002). [Doctoral Dissertation]. *The business roundtable and systemic reform: How corporate-engineered high-stakes testing has eliminated community participation in developing educational goals and policies*, 48-54. Retrieved on April 3, 2009, from [http://www.educationanddemocracy.org/Emery/Emery\\_Dissertation\\_all.pdf](http://www.educationanddemocracy.org/Emery/Emery_Dissertation_all.pdf). For a more recent example, the American Diploma Project – which includes the National Alliance of Business, among others – has been pursuing more rigorous exit exams to complement their standards-based reform recommendations. American Diploma Project. (2004, February). *Ready or not: Creating a high school diploma that counts*. Retrieved July 16, 2009, from <http://www.achieve.org/node/552>.

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<sup>42</sup> In discussing the reauthorization of NCLB in 2007, then-President Bush articulated the rationale this way: “Here’s what the principal [] says – and this is an important part of excellence – ‘We never give up. There are no excuses.’ Sometimes if you don’t measure, you can find all kinds of excuses. And it’s just not in schools, it’s life. The easy position sometimes is the default – saying, well, I just didn’t have what was necessary to get the job done, or something like that. This is a no excuses school. That means high standards. Low standards are a place where people find excuses; high standards, there is no excuse, and there’s a focus on what’s right for each child.” Whitehouse.gov Press Release. (2007, March 2). Retrieved March 7, 2009, from <http://www.whitehouse.gov/news/releases/2007/03/20070302-8.html> (on file with authors).

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- <sup>81</sup> *Id.*
- <sup>82</sup> *Id.*
- <sup>83</sup> National Center for Education Statistics. (n.d.). *School survey on crime and safety: 2005-2006*, Table 25. [Data File]. Retrieved July 1, 2009, from [http://nces.ed.gov/surveys/ssocs/tables/all\\_2006\\_tab\\_25.asp](http://nces.ed.gov/surveys/ssocs/tables/all_2006_tab_25.asp); National Center for Education Statistics. (n.d.). *School survey on crime and safety: 1999-2000*, Table 28. [Data File]. Retrieved July 1, 2009, from [http://nces.ed.gov/surveys/ssocs/tables/all\\_2000\\_tab\\_28.asp](http://nces.ed.gov/surveys/ssocs/tables/all_2000_tab_28.asp).
- <sup>84</sup> New York Civil Liberties Union. (2007, March). *Criminalizing the classroom: The over-policing of New York City Schools*, 7. Retrieved July 4, 2009, from [http://www.nyclu.org/pdfs/criminalizing\\_the\\_classroom\\_report.pdf](http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf).
- <sup>85</sup> 11.1% of majority minority schools employed random metal detector sweeps, compared to 1.2% of schools with a 5% to 20% minority enrollment and 3.6% of schools with a 20% to 50% minority enrollment. National Center for Education Statistics. (2007, December). *Indicators of school crime and safety 2007*, Table 20.1. [Data File]. Retrieved March 30, 2009, from [http://nces.ed.gov/programs/crimeindicators/crimeindicators2007/tables/table\\_20\\_1.asp](http://nces.ed.gov/programs/crimeindicators/crimeindicators2007/tables/table_20_1.asp).
- <sup>86</sup> *Id.*
- <sup>87</sup> Clayton County Public Schools, Blue Ribbon Commission on School Discipline. (2007, January), 47. *A written report presented to the Superintendent and Board of Education, Clayton County Public Schools*. Retrieved April 4, 2009, from <http://www.clayton.k12.ga.us/departments/student-services/handbooks/BlueRibbonExecutiveReport.pdf>.
- <sup>88</sup> See, e.g., PBS Online Newshour. (2009, February 3). *New Orleans schools try new ways to combat truancy*. (describing punitive methods being used in New Orleans to combat truancy). Retrieved April 4, 2009, from [http://www.pbs.org/newshour/bb/education/jan-june09/nolaschools\\_02-03.html](http://www.pbs.org/newshour/bb/education/jan-june09/nolaschools_02-03.html); Associated Press. (2007, January 1). *Flint City Council passes daytime curfew for children*. (describing Flint's policy of punishing students who are out of school during the daytime). Retrieved April 4, 2009, from [http://www.wzzm13.com/news/news\\_article.aspx?storyid=69047](http://www.wzzm13.com/news/news_article.aspx?storyid=69047).
- <sup>89</sup> L. Adler (personal communication, February 12, 2009); Adler, L. (2009, March 19). Ticketing towards prisons: LAUSD's truancy tickets and the pre-prisoning of our youth. [Msg 1]. *Message posted to* <http://www.thestrategycenter.org/blog/2009/03/19/ticketing-towards-prisons-laUSD%E2%80%99s-truancy-tickets-and-pre-prisoning-our-youth>.
- <sup>90</sup> *Id.*
- <sup>91</sup> *Id.*
- <sup>92</sup> APA Zero Tolerance Task Force. (2006, February 1), 113.
- <sup>93</sup> *Id.*
- <sup>94</sup> *Id.* at 4.
- <sup>95</sup> *Id.* at 5.
- <sup>96</sup> Tobin, T., Sugai, G., & Olvin, D. (1996). Patterns in middle school discipline records. *Journal of Emotional and Behavioral Disorders*, 4(2), 82-94.
- <sup>97</sup> Blum, Robert W. & Reinhart, P.M. (2001). Reducing the risk: Connections that make a difference in the lives of youth. Retrieved December 14, 2009, from [http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/15/00/c1.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/00/c1.pdf).
- <sup>98</sup> *Id.*
- <sup>99</sup> National Center for Education Statistics. (2006, June 1). *The conditions of education 2006*, Table 27-2. [Data File]. Retrieved July 4, 2009, from [http://nces.ed.gov/pubs2006/2006071\\_App1.pdf](http://nces.ed.gov/pubs2006/2006071_App1.pdf).
- <sup>100</sup> APA Zero Tolerance Task Force. (2006, February 1), 5.
- <sup>101</sup> *Id.*, at 20.
- <sup>102</sup> The Public Policy Research Institute. (2005). *Study of minority overrepresentation in the Texas juvenile justice system final report*. Retrieved March 30, 2009, from <http://DMCFinalReport.tamu.edu>.
- <sup>103</sup> Kentucky Center for School Safety. (n.d.). *School characteristics related to the use of suspension*, 1. Retrieved March 30, 2009, from <http://www.kysafeschools.org/pdfs-docs/clearpdf/issuesbriefs/EDJResearch.pdf>.
- <sup>104</sup> Advancement Project. (2005, March), 12.
- <sup>105</sup> *Id.*
- <sup>106</sup> Sweeten, G. (2004). Who will graduate? Disruption of high school education by arrest and court involvement. *Justice Quarterly*, 23(4), 462-480. Retrieved April 4, 2009, from <http://www.masslegalservices.org/node/23739>.
- <sup>107</sup> Noguera, P. (2004, June 2). Re-thinking school safety. [Electronic Version]. *In Motion Magazine*. Retrieved April 4, 2009, from [http://www.inmotionmagazine.com/er/pn\\_re\\_safety.html](http://www.inmotionmagazine.com/er/pn_re_safety.html).

<sup>108</sup> See, e.g., Fetter, D. (2009, March 8). Schools want aid to raise security. *AugustaChronicle.com*. Retrieved April 2, 2009, from [http://chronicle.augusta.com/stories/2009/03/08/met\\_513950.shtml](http://chronicle.augusta.com/stories/2009/03/08/met_513950.shtml); Tharp, R. (1996, April 23). Arlington schools seek more police: City, district officials to discuss request today. *Fort Worth Star-Telegram*. (on file with authors).

<sup>109</sup> For example, the National Association of School Safety and Law Enforcement Officers has recommended against the use of fixed metal detectors stationed at a school's entry, saying the practice does not work and can lead to complacency and inconsistencies in application. See also Bach, L. (2008, March 12). School shootings: Metal detectors suggested. *The Las Vegas Review Journal.com*. Retrieved April 4, 2009, from <http://www.lvrj.com/news/16591341.html>; APA Zero Tolerance Task Force. (2006, February 1).

<sup>110</sup> National Economic and Social Rights Initiative. (NESRI). (2008). *Teachers talk: School culture, safety, and human rights*, 23. Retrieved April 4, 2009, from [http://www.nesri.org/Teachers\\_Talk.pdf](http://www.nesri.org/Teachers_Talk.pdf).

<sup>111</sup> *Id.*

<sup>112</sup> For example, a recent survey in Chicago by the Black Youth Project found that 79% of Black youth believe that “the police discriminate much more against Black youth than they do against White youth.” Almost as striking, 72% of Latinos and 63 % of White students agreed with this statement. Attitudes toward police can also differ greatly across races. For instance, a 2004 national study found that 36% of Black respondents and 27% of Latino respondents believe that police officers often stop people on the streets of their neighborhood without good reason. Only 7% of White respondents agreed. Black and Latino respondents were also much more likely to report that police use insulting language when speaking to people in their neighborhoods, and that police use excessive force against people in their neighborhood. Black Youth Project. (n.d.). *Fact sheet: Racial attitudes*. Retrieved April 4, 2009, from [http://blackyouthproject.uchicago.edu/writings/fact\\_sheet\\_racial\\_attitudes.pdf](http://blackyouthproject.uchicago.edu/writings/fact_sheet_racial_attitudes.pdf); see also Weitzer, R. & Tuch, S. (2004, June 26). *Final technical report: Rethinking minority attitudes toward the police*. (Document No. 207145). Submitted to National Institute of Justice, Department of Justice. Retrieved April 4, 2009, from <http://www.ncjrs.gov/pdffiles1/nij/grants/207145.pdf>.

<sup>113</sup> Pennsylvania Safe Schools Online. (n.d.). *School safety annual reports*. [Data File]. Retrieved July 12, 2009, from <https://www.safeschools.state.pa.us>.

<sup>114</sup> Florida Department of Juvenile Justice. (2009, February). *Delinquency in Florida's schools: A four-year study*, 11. Retrieved March 30, 2009, from [http://www.djj.state.fl.us/Research/School\\_Referrals/2007-2008\\_Delinquency\\_School\\_Analysis.pdf](http://www.djj.state.fl.us/Research/School_Referrals/2007-2008_Delinquency_School_Analysis.pdf). Fortunately, due largely to grassroots advocacy described in Part Five of this report, delinquency referrals in Florida have decreased in recent years. Nevertheless, thousands of young people are still being criminalized for their youthful indiscretions.

<sup>115</sup> *Id.* at 12.

<sup>116</sup> Advocates for Children's Services. (2009, December.). *Zero tolerance for the school-to-prison pipeline in Wake County: Magnitude of the crisis*. Retrieved December 14, 2009, from [http://www.legalaidnc.org/public/learn/Statewide\\_Projects/ACS/ACS\\_Publications/TheSchool-to-PrisonPipelineInWakeCo\\_IssueBrief\\_ACS\\_Dec2009.pdf](http://www.legalaidnc.org/public/learn/Statewide_Projects/ACS/ACS_Publications/TheSchool-to-PrisonPipelineInWakeCo_IssueBrief_ACS_Dec2009.pdf).

<sup>117</sup> Colorado Department of Education. (n.d.). *2006-2007 safety and discipline indicators*. [Data File]. Retrieved March 30, 2009, from <http://www.cde.state.co.us/cdereval/download/PDF/2006-07SDI/NumSuspendExpfoRAllStudents.pdf>. As with Florida, grassroots advocacy such as that which is described in Part Five of this report has resulted in a drop in referrals to law enforcement in recent years. Again, though, thousands of students continue to be criminalized for low-level infractions.

<sup>118</sup> Colorado Department of Education. (2008, May). *A brief analysis of K-12 student discipline incidents*, 3. Retrieved March 30, 2009, from [http://www.cde.state.co.us/cdereval/download/PDF/StudentDisciplineIncidents/CDE\\_SDI.Analysis\\_2006.2007.pdf](http://www.cde.state.co.us/cdereval/download/PDF/StudentDisciplineIncidents/CDE_SDI.Analysis_2006.2007.pdf). “Other Violations of Code of Conduct” includes the following:

Behaviors that are not specifically required to be reported by statute are aggregated and reported in one category called “Other Violations of Code of Conduct.” This category is intended to account for all conduct resulting in disciplinary action so that 100% of incidents are counted. Behaviors could include such things as violations of the dress code, use of inappropriate language, unspecified property crimes (other than felonies), being in the hallway without a pass, gang-related behavior if not captured by one of the other categories, or a multitude of other behaviors. Each school would know which specific behaviors this category captures, unique to a local district's Code of Conduct.

*Id.* at 1. “Detrimental behavior” includes “behavior on school property that is detrimental to the welfare or safety of other students or of school personnel, including behavior that creates a threat of physical harm to the student or to other students.” Colorado Department of Education. (n.d.). *2008-2009 safety and discipline indicators definitions*. [Data File]. Retrieved July 2, 2009, from [https://cdeapps.cde.state.co.us/sdi\\_field\\_definitions.htm](https://cdeapps.cde.state.co.us/sdi_field_definitions.htm).

<sup>119</sup> Documents Obtained from School District of Philadelphia Pursuant to Public Records Request. (on file with authors).

<sup>120</sup> Documents Obtained from Baltimore City Public Schools Pursuant to Public Records Request. (2008). (on file with authors). Note that there is some inconsistency in the data received; on one sheet it seems to indicate that there were 1,773 arrests and referrals in 2007-08.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Florida Department of Education. (n.d.). *Student membership by category 2007-08*. [Data File]. Retrieved March 30, 2009, from [http://www.fldoe.org/eias/eiaspubs/xls/fsir/2007-08/Mem\\_Category\\_Dist\\_0708.xls](http://www.fldoe.org/eias/eiaspubs/xls/fsir/2007-08/Mem_Category_Dist_0708.xls); Florida Department of Juvenile Justice (2009, February), 11.

<sup>124</sup> Colorado Department of Education. (n.d.). *2006-2007 safety and discipline indicators*; Colorado Department of Education. (n.d.). *Pupil counts by racial/ethnic group*. [Data File]. Retrieved March 30, 2009, from <http://www.cde.state.co.us/cdereval/download/spreadsheets/2006PM/State/2.xls>.

<sup>125</sup> *Id.*

<sup>126</sup> Documents Obtained from School District of Philadelphia Pursuant to Public Records Request. (on file with authors); School District of Philadelphia. (2009). *About us*. Retrieved April 1, 2009, from <http://www.phila.k12.pa.us/about/>.

- <sup>127</sup> *Id.*
- <sup>128</sup> National Center for Education Statistics. (n.d.). *School characteristics and climate, Table A-28-1. Number and percentage of students who were suspended and expelled from public elementary and secondary schools, by sex and race/ethnicity: 2002, 2004, and 2006.* [Data File]. Retrieved July 4, 2009, from <http://nces.ed.gov/programs/coe/2009/section4/table-sdi-1.asp>.
- <sup>129</sup> *Id.*
- <sup>130</sup> United States Department of Education. (n.d.). *Civil rights data collection for 2006.* [Data File]. Retrieved July 6, 2009, from <http://ocrdata.ed.gov/ocr2006rv30/wdsdata.html>; National Center for Education Statistics. (2004, September). *Digest of Education Statistics, Table 95: Public elementary and secondary school students, by racial/ethnic enrollment concentration of school: Fall 1995 and fall 2002.* [Data File]. Retrieved July 4, 2009, from [http://nces.ed.gov/programs/digest/d04/tables/dt04\\_095.asp](http://nces.ed.gov/programs/digest/d04/tables/dt04_095.asp); National Center for Education Statistics. (2008, September). *Digest of Education Statistics, Table 97: Public elementary and secondary school students, by racial/ethnic enrollment concentration of school: Fall 1995, fall 2000, and fall 2006.* [Data File]. Retrieved July 4, 2009, from [http://nces.ed.gov/programs/digest/d08/tables/dt08\\_097.asp](http://nces.ed.gov/programs/digest/d08/tables/dt08_097.asp).
- <sup>131</sup> *Id.*
- <sup>132</sup> *Id.*
- <sup>133</sup> *Id.*
- <sup>134</sup> *Id.*
- <sup>135</sup> United States Department of Education. (n.d.).
- <sup>136</sup> *Id.*
- <sup>137</sup> *Id.*
- <sup>138</sup> *Id.*
- <sup>139</sup> Pennsylvania Safe Schools Online. (n.d.).
- <sup>140</sup> *Id.*
- <sup>141</sup> Ohio Department of Education. (n.d.). *Shared reports.* [Data File]. Retrieved March 30, 2009, from [http://ilrc.ode.state.oh.us/PublicDW/asp/Main.aspx?server=mstris2&project=ILRC&evt=3002&uid=guest&pwd=&persist-mode="8"](http://ilrc.ode.state.oh.us/PublicDW/asp/Main.aspx?server=mstris2&project=ILRC&evt=3002&uid=guest&pwd=&persist-mode=).
- <sup>142</sup> *Id.*
- <sup>143</sup> *Id.*
- <sup>144</sup> *Id.*
- <sup>145</sup> Texas Education Agency. (n.d.). *Disciplinary reports.* [Data File]. Retrieved March 30, 2009, from [http://ritter.tea.state.tx.us/adhocrpt/Disciplinary\\_Data\\_Products/Disciplinary\\_Reports.html](http://ritter.tea.state.tx.us/adhocrpt/Disciplinary_Data_Products/Disciplinary_Reports.html).
- <sup>146</sup> *Id.*
- <sup>147</sup> *Id.*
- <sup>148</sup> *Id.*; Texas Education Agency. (n.d.). *2007-2008 statewide enrollment reports.* [Data File]. Retrieved March 30, 2009, from [http://ritter.tea.state.tx.us/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.addispatch.sas&major=st&minor=e&endyear=08&linespg=60&charsln=120&format=W&selsumm=ss&key=TYPE+HERE&grouping=e](http://ritter.tea.state.tx.us/cgi/sas/broker?_service=marykay&_program=adhoc.addispatch.sas&major=st&minor=e&endyear=08&linespg=60&charsln=120&format=W&selsumm=ss&key=TYPE+HERE&grouping=e).
- <sup>149</sup> For example, there were 27% more suspensions per Black student in 2007-08 than there were in 2002-03, and 21% more suspensions per Latino student, compared to only 12% more for White students. *Id.*; Texas Education Agency. (n.d.). *Disciplinary reports.*
- <sup>150</sup> Texas Appleseed. (2007, October). *Texas' school-to-prison pipeline dropout to incarceration: The impact of school discipline and zero tolerance*, 5. Retrieved April 4, 2009, from <http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf>.
- <sup>151</sup> Illinois State Board of Education. (n.d.). *End-of-year suspension reports.* [Data File]. Retrieved September 20, 2009, from [http://www.isbe.net/research/htmls/eoy\\_report.htm](http://www.isbe.net/research/htmls/eoy_report.htm).
- <sup>152</sup> Advancement Project. (2005, March).
- <sup>153</sup> Illinois State Board of Education. (n.d.).
- <sup>154</sup> *Id.*
- <sup>155</sup> *Id.*; Illinois State Board of Education. (2008, September). *Fall housing reports.* [Data File]. Retrieved September 20, 2009, from [http://www.isbe.net/research/htmls/fall\\_housing.htm](http://www.isbe.net/research/htmls/fall_housing.htm).
- <sup>156</sup> Sullivan, L. (2008, February 11).
- <sup>157</sup> California Department of Education, Dataquest. (n.d.). *Student misconduct and intervention.* [Data File]. Retrieved March 30, 2009, from <http://dq.cde.ca.gov/dataquest/>. (on file with authors).
- <sup>158</sup> Colorado Department of Education. (n.d.). *Colorado education statistics.* [Data File]. Retrieved March 30, 2009, from [http://www.cde.state.co.us/index\\_stats.htm](http://www.cde.state.co.us/index_stats.htm); Colorado Department of Education. (n.d.). *Pupils counts by racial/ethnic group.*
- <sup>159</sup> *Id.*
- <sup>160</sup> Levin, H., Belfield, C., Muennig, P., & Rouse, C. (2007, January). *The costs and benefits of an excellent education for all of America's children.* New York: Center for Benefit-Cost Studies of Education, Teachers College, Columbia University. Retrieved March 30, 2009, from [http://www.cbcse.org/media/download\\_gallery/Leeds\\_Report\\_Final\\_Jan2007.pdf](http://www.cbcse.org/media/download_gallery/Leeds_Report_Final_Jan2007.pdf); APA Zero Tolerance Task Force. (2006, February 1),
- <sup>161</sup> *Id.*
- <sup>162</sup> Education Week Research Center. (2009).
- <sup>163</sup> *Id.*
- <sup>164</sup> *Id.*
- <sup>165</sup> *Id.*
- <sup>166</sup> Warren, J.R., Jenkins, K., & Kulick, R. (2006, Summer). High school exit examinations and state-level completion and GED rates, 1975 through 2002. *Educational Evaluation and Policy Analysis*, 28, 133.

- <sup>167</sup> *Id.*; Center on Education Policy. (2008, August 13). *State high school exit exams: Moving toward end-of-course exams*. Retrieved July 4, 2009, from <http://www.cep-dc.org/index.cfm?fuseaction=Page.viewPage&pageId=500&parentID=481>; Education Week Research Center. (2009).
- <sup>168</sup> Of those 23 states, 17 were ranked among the 19 states with the lowest graduation rates in the country in 2006 (the most recent year for which there is comparable graduation rate data for all states). Education Week Research Center. (2009).
- <sup>169</sup> Two excellent sources that have compiled this research are Nichols, S. & Berliner, D. (2007) and Fine, et al. (2007, August), Appendix C.
- <sup>170</sup> American Federation of Teachers. (2009). (discussing an AFT survey indicating that more than 80% of their members agree that “there is too much testing,” and 87% said testing “has pushed other important subjects and activities out of the curriculum.”); Center on Education Policy. (2005, June); Center on Education Policy. (2007, December); Darling-Hammond, L. (2006, January 16); FairTest. (2007, December 17); Fine, et al., (2007, August), Appendix C; Forum for Education and Democracy. (2008, April), 38; Justice Matters. (2007); Nichols, S. & Berliner, D. (2007), 132-141; RAND Corporation. (2005, April); RAND Corporation. (2006, April).
- <sup>171</sup> Nichols, S. & Berliner, D. (2007); Fine, et al., (2007, August), Appendix C; Center on Education Policy. (2005, June); Darling-Hammond, L. (2006, January 16); Forum for Education and Democracy. (2008, April); RAND Corporation. (2005, April); RAND Corporation. (2006, April).
- <sup>172</sup> Fine, et al., (2007, August), Appendix C; see also Kozol, J. (2005), 113; Nichols, S. & Berliner, D. (2007), 123.
- <sup>173</sup> Public Agenda. (2009, October). *Teaching for a living: How teachers see the profession today*. Retrieved October 19, 2009, from <http://www.publicagenda.org/pages/teaching-for-a-living>.
- <sup>174</sup> American Federation of Teachers. (2009); Center on Education Policy. (2005, June); Center on Education Policy. (2007, December); Darling-Hammond, L. (2006, January 16); Fine, et al., (2007, August), Appendix C; Justice Matters. (2007); Kozol, J. (2005), 70-81; Nichols, S. & Berliner, D. (2007); RAND Corporation. (2005, April); RAND Corporation. (2006, April).
- <sup>175</sup> Darling-Hammond, L. (2006, January 16); Forum for Education and Democracy. (2008, April); Justice Matters. (2007); Meier, D. (2000); Nichols, S. & Berliner, D. (2007).
- <sup>176</sup> See, e.g., Berliner, D. (2009, October 5); FairTest. (2009, April 28). *NAEP results produce more evidence of NCLB's failure*. Retrieved July 6, 2009, from <http://www.fairtest.org/naep-results-produce-more-evidence-nclbs-failure>; The Civil Rights Project at UCLA. (2009, April). *Why high stakes accountability sounds good but doesn't work – and why we keep on doing it anyway*, 7. Retrieved July 6, 2009, from [http://www.civilrightsproject.ucla.edu/research/esea/study\\_nclb\\_sanctions\\_2009.pdf](http://www.civilrightsproject.ucla.edu/research/esea/study_nclb_sanctions_2009.pdf); Nichols, S., Glass, G., & Berliner, D. (2006, January). *High-stakes testing and student achievement: Does accountability pressure increase student learning?*, 20.
- <sup>177</sup> FairTest. (2009, April 28).
- <sup>178</sup> *Id.*; Ravitch, D. (2009, June 10). Time to kill ‘No Child Left Behind.’ *Education Week*. Retrieved September 23, 2009, from [http://www.edweek.org/login.html?source=http://www.edweek.org/ew/articles/2009/06/04/33ravitch\\_ep.h28.html&destination=http://www.edweek.org/ew/articles/2009/06/04/33ravitch\\_ep.h28.html&levelId=2100](http://www.edweek.org/login.html?source=http://www.edweek.org/ew/articles/2009/06/04/33ravitch_ep.h28.html&destination=http://www.edweek.org/ew/articles/2009/06/04/33ravitch_ep.h28.html&levelId=2100).
- <sup>179</sup> National Center for Education Statistics. (n.d.). *NAEP State Comparisons*. [Data File]. Retrieved July 14, 2009, from <http://nces.ed.gov/nationsreportcard/nde/statecomp>.
- <sup>180</sup> Ravitch, D. (2009, June 10).
- <sup>181</sup> See, e.g., Nichols, S. & Berliner, D. (2007), 57-78, 145-170; Kozol, J. (2005), 113-115.
- <sup>182</sup> See, e.g., Nichols, S. & Berliner, D. (2007), 156-161.
- <sup>183</sup> See, e.g., Kozol, J. (2005), 109-134.
- <sup>184</sup> Fine, et al. (2007, August), Appendix C.
- <sup>185</sup> Center on Education Policy. (2008, August 13).
- <sup>186</sup> Viadero, D. (2009, April 29). Scholars probe diverse effects of exit exams. *Education Week*. Retrieved April 30, 2009, from [http://www.edweek.org/login.html?source=http://www.edweek.org/ew/articles/2009/04/29/30exit\\_ep.h28.html&destination=http://www.edweek.org/ew/articles/2009/04/29/30exit\\_ep.h28.html&levelId=2100](http://www.edweek.org/login.html?source=http://www.edweek.org/ew/articles/2009/04/29/30exit_ep.h28.html&destination=http://www.edweek.org/ew/articles/2009/04/29/30exit_ep.h28.html&levelId=2100). (on file with author); Fine, et al. (2007, August).
- <sup>187</sup> Edley, C. & Wald, J. (2002, December 16). The grade retention fallacy. *Boston Globe*. Retrieved October 20, 2009 from [http://www.civilrightsproject.ucla.edu/research/articles/retention\\_edley.php](http://www.civilrightsproject.ucla.edu/research/articles/retention_edley.php).
- <sup>188</sup> *Id.*; General Educational Development (GED) Testing Service of the American Council on Education (ACE). (2007). *Differences between students who were and were not retained in grade*. Retrieved September 23, 2009, from <http://www.acenet.edu/Content/NavigationMenu/gcd/pubs/Differences.pdf>.
- <sup>189</sup> For example, over 16,000 third-graders were retained in Florida in 2006-07. Office of Program Policy Analysis & Government Accountability. (2008, June). *The Department of Education has taken initial steps to improve student progression data*. Retrieved July 12, 2009, from <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0842rpt.pdf>.
- <sup>190</sup> Darling-Hammond, L. (2004), 13; FairTest. (2007, December 17); Fine, et al. (2007, August), Appendix C; Nichols, S. & Berliner, D. (2007), 90, 166.
- <sup>191</sup> Center on Education Policy. (2008, August), 12.
- <sup>192</sup> *Id.* Overall, 68% of all students are in these 23 states.
- <sup>193</sup> FairTest. (2007, December); Fine, et al. (2007, August), Appendix C; Nichols, S. & Berliner, D. (2007); see also The Great Lakes Center for Educational Research and Practice. (2009, March). *Poverty and potential: Out-of-school factors and school success*. Retrieved April 4, 2009, from [http://www.greatlakescenter.org/docs/Policy\\_Briefs/Berliner\\_NonSchool.pdf](http://www.greatlakescenter.org/docs/Policy_Briefs/Berliner_NonSchool.pdf).
- <sup>194</sup> FairTest. (2007, December); Fine, et al. (2007, August), Appendix C; Nichols, S. & Berliner, D. (2007).
- <sup>195</sup> *Id.*

<sup>196</sup> *Id.*; see also Kozol, J. (2005), 109-134; The Civil Rights Project at Harvard University. (2006, October). *School accountability under NCLB: Aid or obstacle for measuring racial equity?* Retrieved April 4, 2009, from [http://www.civilrightsproject.ucla.edu/research/esca/NCLB\\_Policy\\_Brief\\_Final.pdf](http://www.civilrightsproject.ucla.edu/research/esca/NCLB_Policy_Brief_Final.pdf).

<sup>197</sup> Forum on Educational Accountability. (2007, August). *Assessment and accountability for improving schools and learning*, 32-34. Retrieved April 30, 2009, from <http://www.edaccountability.org/AssessmentFullReportJUNE07.pdf>.

<sup>198</sup> For example, renowned educator Deborah Meier has spoken often about how her schools, which have been repeatedly honored for their outstanding quality and results, did not typically score exceptionally well on tests.

<sup>199</sup> See, e.g., FairTest. (2007, December 17); Fine, et al. (2007, August), Appendix C; Nichols, S. & Berliner, D. (2007), 109-144; See also Thompson, G. (2009, March 14). Where education and assimilation collide. *The New York Times*, p. A1. Retrieved March 30, 2009, from [http://www.nytimes.com/2009/03/15/us/15immig.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2009/03/15/us/15immig.html?_r=1&pagewanted=all) (describing how some teachers of English language learners are encouraged to teach to the test.). Note that these negative effects can also impact many students who score well on tests. If these high-scoring students happen to attend schools under pressure to raise their test scores, they fall victim to the same narrowed curricula and limited teaching practices. If the same students attended comparatively high-scoring schools, testing would be largely a non-factor for them. Their teachers could continue to provide a rich, engaging curriculum and make sure they had what they needed for college and the workforce, free from the overwhelming pressure to radically improve test scores. But because their school's overall scores are low, they receive a relatively impoverished education.

<sup>200</sup> For example, the regulations for the Race to the Top Fund require states to not have any barriers in using standardized test scores to evaluate teachers. Federal Register. (2009, November 18). *Race to the Top Fund*. (Document ID: ED-2009-OESE-0006). Retrieved December 14, 2009, from <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a58fd>.

<sup>201</sup> See, e.g., Kozol, J. (2005), 125-126.

<sup>202</sup> See, e.g., Duffrin, E. (2005, October). Survey: Recess, gym class shortchanged. *Catalyst Chicago*. Retrieved March 30, 2009, from <http://www.catalyst-chicago.org/news/index.php?item=1775&cat=30> (citing the academic and disciplinary benefits of physical activity for students); Skiba, R. (2004). Zero tolerance: The assumptions and the facts. *Education Policy Briefs*, 2(1), 2 (finding that small numbers of often inexperienced teachers are often responsible for the majority of office referrals.)

<sup>203</sup> See, e.g., Ryan, J. (2004, June). The perverse incentives of No Child Left Behind. *New York University Law Review*, 79, 944-946.

<sup>204</sup> Due to intense external pressure placed on the Bush Administration, there have been some changes to the No Child Left Behind accountability system that affected these incentives somewhat. For example, in 2005, the Administration began allowing some states to implement “growth models,” which are intended to measure not just how many students achieve proficiency but how much each student's test scores improve in a given year. U.S. Department of Education. (2005, November). *Secretary Spellings announces growth model pilot*. [Press Release]. Retrieved March 30, 2009, from <http://www.ed.gov/news/pressreleases/2005/11/11182005.html>.

<sup>205</sup> Nichols, S. & Berliner, D. (2007), 57-63; Fine, et al. (2007, August), Appendix C.

<sup>206</sup> *Id.*; Nichols, S. & Berliner, D. (2007), 57-63.

<sup>207</sup> This has also changed somewhat in the last year as the Bush Administration, again under intense pressure from advocates, passed in 2008 a regulation that strengthened the requirements states will face with regard to graduation rates. U.S. Department of Education. (2008, December 22). *High school graduation rate non-regulatory guidance*. Retrieved March 30, 2009, from <http://www.ed.gov/policy/elsec/guid/hsgguidance.pdf>. This is certainly a step in the right direction, though there is still work to be done, as many state testing systems still do not place any importance on actually keeping students in school or helping individual students achieve their potential. Alliance for Excellent Education. (2009, March). *Every student counts: The role of federal policy in improving graduation rate accountability*. Retrieved April 4, 2009, from [http://www.all4ed.org/files/ESC\\_FedPolicyGRA.pdf](http://www.all4ed.org/files/ESC_FedPolicyGRA.pdf).

<sup>208</sup> See, e.g., University at Buffalo. (2009, August 31). *UB education expert urges schools to help their students feel more involved*. [News Release]. Retrieved September 21, 2009, from <http://www.buffalo.edu/news/10410?print=1>.

<sup>209</sup> Fight Crime: Invest in Kids New York. (2008). *School or the streets: Crime and New York City's dropout crisis*. Retrieved September 20, 2009, from <http://www.fightcrime.org/reports/fcik-dropout-ny.pdf>.

<sup>210</sup> See, e.g., Office of Program Policy Analysis & Government Accountability. (2008, June).

<sup>211</sup> Education Week Research Center. (2009).

<sup>212</sup> *Id.*

<sup>213</sup> American Council on Education. (2008, August 4). *GED testing sees its highest test-taker increase in seven years, new report finds*. [Press Release]. Retrieved July 12, 2009, from <http://www.acenet.edu/AM/Template.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=28458>.

<sup>214</sup> Education Week Research Center. (2009). Note that for four districts – Aldine, Cleveland, Detroit, and Pasco – graduation rate data for some of the analyzed years was missing. In each case, the nearest available year was used for the following analysis.

<sup>215</sup> National Center for Education Statistics. *Statutes and trends in the education of American Indians and Alaskan Natives, Table A-2.1b: Number and percentage distribution of public elementary and secondary students, by race/ethnicity and locale: 2005-06*. [Data File]. Retrieved September 20, 2009, from [http://nces.ed.gov/pubs2008/nativetrends/tables/table\\_A\\_2\\_1b.asp](http://nces.ed.gov/pubs2008/nativetrends/tables/table_A_2_1b.asp). For this analysis, the Puerto Rico Department of Education was replaced with the 101<sup>st</sup> largest district, Corona-Norco Unified in California.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> Education Week Research Center. (2009).

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

222 *Id.*

223 See, e.g., Schemo, D. & Fessenden, F. (2003, December 3). A miracle revisited: Measuring success; gains in Houston schools; How real are they? *The New York Times*. Retrieved March 30, 2009, from <http://query.nytimes.com/gst/fullpage.html?res=9C0CE2D61F3AF930A35751C1A9659C8B63>; CBS News. (2004, August 25). The 'Texas miracle.' [Television Series Episode, Electronic Version]. In *60 Minutes II*. New York: CBS Broadcasting Inc. Retrieved March 30, 2009, from <http://www.cbsnews.com/stories/2004/01/06/60II/main591676.shtml>; Hancy, W. (2000, August 19). The myth of the Texas Miracle in education. *Education Policy Analysis*, 8(41); Winerip, M. (2003, August 13). The "zero dropout miracle:" Alas! Alack! A Texas tall tale. *The New York Times*. Retrieved March 30, 2009, from <http://www.nytimes.com/2003/08/13/education/13EDUC.html>; Advancement Project. (2003, May), 16, Appendix II; Freiberg, H. J. & Reyes A. (2008). Zero tolerance: A reconsideration of practice and policy. In T. Good (Ed.), *21<sup>st</sup> century education: A reference handbook* (pp. 149-157). Thousand Oaks, CA: Sage Publications.

223 *Id.*

223 *Id.*

223 *Id.*; CBS News. (2004, August 25). Hancy, W. (2000, August 19); Winerip, M. (2003, August 13). Indeed, the man who blew the whistle in Houston, Robert Kimball, testified that this was what happened in Houston: "On almost a daily basis I observed school administrators telling students to withdraw because of their attendance or behavior problems. Almost all of the students that were being pushed out were at-risk students and minorities." Capellaro, C. (2004, Fall). Blowing the whistle on the Texas Miracle: An interview with Robert Kimball. *Rethinking Schools Online*, 19(1). Retrieved March 30, 2009, from [http://www.rethinkingschools.org/archive/19\\_01/tex191.shtml](http://www.rethinkingschools.org/archive/19_01/tex191.shtml).

223 See, e.g., Advancement Project. (2003, May), 16, Appendix II; Freiberg, H. J. & Reyes A. (2008).

224 See PBS Online Newshour. *Vote 2002, profile of Governor Jeb Bush*. Retrieved April 3, 2009, from [http://www.pbs.org/newshour/vote2002/races/fl\\_bush.html](http://www.pbs.org/newshour/vote2002/races/fl_bush.html); Dunkelberger, L. (1998, August 16). Politicians home in on school violence. *Lakeland Ledger*, p. A15. (on file with authors).

225 See Center for Education Reform. (1999, April 29). *Summary of the Florida A plus plan*. [Press Release]. Retrieved April 3, 2009, from [http://www.edreform.com/Press\\_Box/Press\\_Releases/?Summary\\_Of\\_the\\_Florida\\_A\\_Plus\\_Plan&year=1999](http://www.edreform.com/Press_Box/Press_Releases/?Summary_Of_the_Florida_A_Plus_Plan&year=1999).

226 Florida Department of Education. (n.d.). *Statewide reports on school safety and discipline data*. [Data File]. Retrieved July 12, 2009, from <http://www.fldoe.org/safeschools/sesir.asp>. Beginning in 2005, a statewide advocacy effort around zero tolerance began, leading to a drop in suspension and arrest numbers. See Part Five for more information.

227 Figlio, D. (2003, November). *Testing, crime and punishment*. Gainesville: University of Florida. Retrieved July 12, 2009, from <http://bear.cba.ufl.edu/figlio/>.

228 Florida State Conference NAACP, et al. (2006, Spring).

229 Florida Department of Juvenile Justice. (2006, April). *School-related referrals 2004-2005*. Retrieved September 22, 2009, from [http://www.djj.state.fl.us/Research/School\\_Referrals/04-05\\_School\\_Referral.pdf](http://www.djj.state.fl.us/Research/School_Referrals/04-05_School_Referral.pdf). Data for previous years is unavailable, according to Mark Greenwald, the author of the study.

230 *Id.*

231 Florida State Conference NAACP, et al. (2006, Spring).

232 Figlio, D. & Getzler, L. (2002). *Accountability, ability and disability: Gaming the system?*. (Working Paper 9307). Cambridge, MA: National Bureau of Economic Research. Retrieved July 12, 2009, from <http://bear.cba.ufl.edu/figlio/>.

233 Office of Program Policy Analysis & Government Accountability. (2008, June).

234 *Id.*

235 See, e.g., General Educational Development (GED) Testing Service of the American Council on Education (ACE). (2007).

236 Nichols, S. & Berliner, D. (2007), 166.

237 GED Testing Service of the ACE. (n.d.). *Annual statistical reports*. Retrieved July 12, 2009, from [http://www.acenet.edu/Content/NavigationMenu/ged/pubs/GED\\_Archived\\_Annual\\_h.htm](http://www.acenet.edu/Content/NavigationMenu/ged/pubs/GED_Archived_Annual_h.htm) and [http://www.acenet.edu/Content/NavigationMenu/ged/pubs/GEDTS\\_Pubs.htm](http://www.acenet.edu/Content/NavigationMenu/ged/pubs/GEDTS_Pubs.htm).

238 Education Week Research Center. (2009).

239 *Id.*

240 For example, in 2007 he was given the "Urban Innovator" Award by the Manhattan Institute for his work on education reform. See Manhattan Institute for Policy Research. (n.d.). *Urban Innovator Award recipients*. Retrieved April 3, 2009, from [http://www.manhattan-institute.org/html/ui\\_winners.htm](http://www.manhattan-institute.org/html/ui_winners.htm).

241 Nichols, S., et al. (2006, January 4), 20.

242 North Carolina Department of Public Instruction. (2008-09).

243 16 N.C.A.C. 06D.0504; 16 N.C.A.C. 06D.0505; 16 N.C.A.C. 06D.0305; 16 N.C.A.C. 6G.0306; 16 N.C.A.C. 06D.0307; N.C. Gen. Stat. § 115C-105.36, 105.37, 105.37A, 105.38A, 105.39 (2008).

244 Nichols, S. & Berliner, D. (2007), 166.

245 North Carolina Public Schools. (n.d.). *Statistical Profiles*. [Data File]. Retrieved August 3, 2009, from <http://www.ncpublicschools.org/fbs/resources/data/>.

246 Nichols, S. & Berliner, D. (2007), 123.

247 *Id.*

248 *Id.*

249 Offen, N. (2001, May 13). High-stakes tests raise anxiety, questions; state-mandated exams often put students, parents, teachers on edge; critics say the ABCs are overemphasized. *Chapel Hill Herald*, p.1. (on file with authors).

- <sup>250</sup> North Carolina Department of Public Instruction. (n.d.). *Annual studies of suspensions and expulsions*. [Data File]. Retrieved March 30, 2009, from <http://www.dpi.state.nc.us/research/discipline/reports/#consolidated>.
- <sup>251</sup> *Id.*
- <sup>252</sup> Advocates for Children's Services. (2009, December.); North Carolina Department of Juvenile Justice and Delinquency Prevention. (2008). *Annual school resource officer census 2007 – 2008*, 3. Retrieved March 30, 2009, from [http://www.ncdjjdp.org/cpsv/pdf\\_files/SRO\\_Census\\_07\\_08.pdf](http://www.ncdjjdp.org/cpsv/pdf_files/SRO_Census_07_08.pdf).
- <sup>253</sup> North Carolina Department of Public Instruction. (n.d.). *Annual studies of suspensions and expulsions*; North Carolina Department of Public Instruction. (n.d.). *2007-08 facts & figures*. Retrieved March 30, 2009, from <http://www.dpi.state.nc.us/docs/fbs/resources/data/factsfigures/2007-08figures.pdf>. In comparison, in 2000-01, Black students were three times as likely as White students to receive a short-term suspension. North Carolina Department of Public Instruction. (n.d.). *Annual studies of suspensions and expulsions*; North Carolina Department of Public Instruction. (2001, July). *2000-01 facts & figures*. Retrieved March 30, 2009, from <http://www.dpi.state.nc.us/docs/fbs/resources/data/factsfigures/2000-01figures.pdf>. Note that to match the 2000-01 figures, Black and Multiracial suspension figures were added together in the 2007-08 figures.
- <sup>254</sup> Morrison, C. (2006, January 9). Three Rs not enough as schools struggle with teacher retention. *The Asheville Citizen-Times*, p. 1A. (on file with authors).
- <sup>255</sup> GED Testing Service of the ACE. (n.d.).
- <sup>256</sup> Education Week Research Center. (2009).
- <sup>257</sup> *Id.*
- <sup>258</sup> GED Testing Service of the ACE. (n.d.).
- <sup>259</sup> Brinson, L. (2002, July 14). The pressure to pass test: End-of-grade testing opens new market for preparation books. *Winston-Salem Journal*, p.15. (on file with authors).
- <sup>260</sup> North Carolina Department of Public Instruction. (2008-09).
- <sup>261</sup> Nichols, S., et al. (2006, January 4), 20.
- <sup>262</sup> See, e.g., Va. Code Ann. § 22.1-279.3:1, 277.2, 277.08 (2009).
- <sup>263</sup> Virginia Department of Education. (n.d.). *Discipline, crime, & violence: Annual reports*. [Data File]. Retrieved March 30, 2009, from <http://www.doe.virginia.gov/VDOE/Publications/>.
- <sup>264</sup> Seymour, L. (2001, July 17). SOL tests create new dropouts. *The Washington Post*, p.A01. (on file with authors).
- <sup>265</sup> GED Testing Service of the ACE. (n.d.).
- <sup>266</sup> Education Week Research Center. (2009).
- <sup>267</sup> *Id.*
- <sup>268</sup> Virginia Department of Education. (2006, September 7). *Regulations establishing standards for accrediting public schools in Virginia, 8 VAC 20-131 9*. Retrieved July 8, 2009, from <http://www.doe.virginia.gov/VDOE/Accountability/soaful.txt.pdf>.
- <sup>269</sup> APA Zero Tolerance Task Force. (2006, February 1), 85.
- <sup>270</sup> See [www.padresunidos.org](http://www.padresunidos.org) for more information.
- <sup>271</sup> See [www.saferschools.org](http://www.saferschools.org) and [www.restorativejustice.org](http://www.restorativejustice.org) for more information.
- <sup>272</sup> This reflects data through 2008-09 for suspensions, but only 2007-08 for tickets, as updated information has not yet been made available. Colorado Department of Education. (n.d.). *Colorado education statistics*. [Data File]. Retrieved September 22, 2009, from [http://www.cde.state.co.us/index\\_stats.htm](http://www.cde.state.co.us/index_stats.htm); Denver Public Schools. (2009, July 16). *2008-2009 longitudinal summary of out of school suspensions and expulsions*. (on file with authors).
- <sup>273</sup> See [www.cadre-la.org](http://www.cadre-la.org) for more information.
- <sup>274</sup> See [www.stopschoolstojails.org](http://www.stopschoolstojails.org) for more information.
- <sup>275</sup> Connecticut Voices for Children. (2008, August). *Missing out: Suspending students from Connecticut schools*. Retrieved September 15, 2009, from <http://www.ctkidslink.org/publications/edu08missingout.pdf>.
- <sup>276</sup> *Id.*
- <sup>277</sup> See [www.ctjja.org](http://www.ctjja.org) for more information.
- <sup>278</sup> See, e.g., [www.iub.edu/~safeschl/ChildrenLeftBehind/](http://www.iub.edu/~safeschl/ChildrenLeftBehind/) for information on the Children Left Behind Project, a collaboration of the Indiana Youth Services Association and the Center for Evaluation and Education Policy at Indiana University.
- <sup>279</sup> See [www.stopschoolstojails.org/content/model-legislation](http://www.stopschoolstojails.org/content/model-legislation) for more information.
- <sup>280</sup> See [www.jjpl.org](http://www.jjpl.org) for more information.
- <sup>281</sup> Borsuk, A. (2009, March 16). Going in circles puts students on path to better choices. *JSOnline*. Retrieved March 30, 2009, from <http://www.jsonline.com/news/education/41350367.html>.
- <sup>282</sup> See [www.elc-pa.org](http://www.elc-pa.org) for more information.
- <sup>283</sup> See [www.stopschoolstojails.org](http://www.stopschoolstojails.org) for more information.
- <sup>284</sup> See [www.pbis.org/](http://www.pbis.org/) for more information.
- <sup>285</sup> See Letter from Jill S. Levy, International President, American Federation of School Administrators, to Congressman Kendrick Meek (2008, March 24). (on file with authors).
- <sup>286</sup> See [www.stopschoolstojails.org](http://www.stopschoolstojails.org) for more information.
- <sup>287</sup> *Id.*
- <sup>288</sup> See [www.flanaacp.org](http://www.flanaacp.org) for more information.
- <sup>289</sup> Florida State Conference NAACP, et al. (2006, Spring).
- <sup>290</sup> See [www.stopschoolstojails.org](http://www.stopschoolstojails.org) for more information.

- <sup>291</sup> Florida Department of Juvenile Justice. (2009, February); Florida Department of Juvenile Justice. (2006, April).
- <sup>292</sup> S. Sandler (personal communication September 15, 2009). (Sandler works with Justice Matters Institute).
- <sup>293</sup> San Francisco Unified School District. (n.d.) *Student and parent/guardian handbook 2008-09*, 67. Retrieved March 30, 2009, from [http://portal.sfusd.edu/data/pupil/SFUSD\\_StudentHandbook\\_2008-2009\\_ENGLISH.pdf](http://portal.sfusd.edu/data/pupil/SFUSD_StudentHandbook_2008-2009_ENGLISH.pdf).
- <sup>294</sup> *Id.*
- <sup>295</sup> *Id.*
- <sup>296</sup> Tackle what’s dragging kids, schools down. [Editorial]. (2008, September 5). *Chicago Sun Times*. Retrieved April 4, 2009, from <http://www.suntimes.com/news/commentary/1146197,CST-EDT-skuledit05.article>.
- <sup>297</sup> *Id.* For additional examples of schools using alternatives, see New York Civil Liberties Union, et al. (2009, July). *Safety with dignity: Alternatives to the over-policing of schools*.
- <sup>298</sup> Turque, B. (2008, November 21). Rhee seeks new way to avert violence. *The Washington Post*. Retrieved April 4, 2009, from [http://www.washingtonpost.com/wp-dyn/content/article/2008/11/20/AR2008112003586\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/11/20/AR2008112003586_pf.html).
- <sup>299</sup> *Id.*
- <sup>300</sup> Darling-Hammond, L. (2006, September). *Analysis and recommendations for alternatives to the Washington Assessment of Student Learning*, 15. Palo Alto, CA: School Redesign Network, Stanford University School of Education. Retrieved April 4, 2009, from <http://www.srnleads.org/data/pdfs/wasl.pdf>.
- <sup>301</sup> *Id.*
- <sup>302</sup> *Id.* at 17.
- <sup>303</sup> *Id.* at 18.
- <sup>304</sup> *Id.*
- <sup>305</sup> Foote, M. (2005, October). *Performance-based assessment*. Boston: FairTest. Retrieved March 30, 2009, from <http://www.fairtest.org/performance-based-assessment>; Knecht, D. (2007). The consortium and the commissioner: A grassroots tale of fighting high-stakes testing in New York. In C. Willie, S. Ridini, & D. Willard (Eds.). *Grassroots Social Action*. Lanham, MD: Rowman & Littlefield; Olson, L. (2006, April 25). An alternative approach to gauging readiness: Coalition of small schools in N.Y. uses performance assessments. *Education Week*. (on file with authors). Note that students are still required to take one of the tests, the English language test.
- <sup>306</sup> *Id.*
- <sup>307</sup> *Id.*
- <sup>308</sup> *Id.*
- <sup>309</sup> Education Week Research Center. (2009); Education Law Center. (2008, March 24). *State board votes to retain alternative route to graduation*. [Press Release]. Retrieved March 30, 2009, from [http://www.edlawcenter.org/ELCPublic/elcnews\\_080324\\_StateBoardVotes.htm](http://www.edlawcenter.org/ELCPublic/elcnews_080324_StateBoardVotes.htm).
- <sup>310</sup> *Id.*
- <sup>311</sup> *Id.*
- <sup>312</sup> Fla. Stat. § 1008.34 (2008).
- <sup>313</sup> *Id.*
- <sup>314</sup> See, e.g., The Broad Prize for Urban Education. (n.d.). *District profile: Miami-Dade County Public Schools*. Retrieved March 30, 2009, from <http://www.broadprize.org/asset/1177-tbp2008miami-dadefactsheet.pdf>.
- <sup>315</sup> See [www.forumforeducation.org](http://www.forumforeducation.org) for more information.
- <sup>316</sup> See [www.edaccountability.org](http://www.edaccountability.org) for more information.
- <sup>317</sup> See [www.boldapproach.org](http://www.boldapproach.org) for more information.
- <sup>318</sup> See [www.innecitystruggle.org](http://www.innecitystruggle.org) for more information.
- <sup>319</sup> See [www.cocosouthla.org](http://www.cocosouthla.org) for more information.
- <sup>320</sup> Oakes, J. & Rogers, J. (2006). *Learning Power: Organizing for education and justice*. New York: Teachers College Press. Retrieved March 30, 2009, from [http://innecitystruggle.org/editor/media/2006/11/75\\_LearningPower\\_Oakes.pdf](http://innecitystruggle.org/editor/media/2006/11/75_LearningPower_Oakes.pdf).
- <sup>321</sup> *Id.*
- <sup>322</sup> See [www.tenantsandworkers.org](http://www.tenantsandworkers.org) for more information.
- <sup>323</sup> See [www.tenantsandworkers.org](http://www.tenantsandworkers.org) and [www.advancementproject.org](http://www.advancementproject.org) for more information.
- <sup>324</sup> Ladson-Billings, G. (2006). From the achievement gap to the education debt: Understanding achievement in U.S. schools. *Educational Researcher*, 35, (7).
- <sup>325</sup> Forum for Education and Democracy. (2009). *Equity and access*. Retrieved March 30, 2009, from <http://www.forumforeducation.org/our-issues/equity-access>.
- <sup>326</sup> Forum for Educational Accountability. *Empowering schools and improving learning: A joint organizational statement on the federal role in public schooling*. Retrieved September 21, 2009, from [http://www.edaccountability.org/Empowering\\_Schools\\_Statement.html](http://www.edaccountability.org/Empowering_Schools_Statement.html).
- <sup>327</sup> Forum for Education and Democracy. (2008, April).
- <sup>328</sup> See [www.boldapproach.org](http://www.boldapproach.org) for more information.
- <sup>329</sup> *Id.*
- <sup>330</sup> Obama, President B. (2009, February 24).