



Via E-mail: [OHCHR.CERD@UN.ORG](mailto:OHCHR.CERD@UN.ORG)

May 13, 2022

UN Committee on the Elimination of Racial Discrimination

*Re: NGO contributions to the development of list of themes for the United States periodic review*

Dear Committee members:

On behalf of 3 million U.S. educators, the National Education Association (NEA-US), urges the Committee to focus on racial discrimination in the US education system as part of its List of Themes for the review of the United States' periodic report under the International Convention on the Elimination of All Forms of Racial Discrimination.

The NEA is the largest professional association and union of educators in the United States, our organization began in the year 1857, and our reflections and recommendations come from the lived experience of public-school teachers and school personnel in every state and region of the country. Additionally, these reflections have been captured in formalized NEA task force studies and work over the years. The NEA advocates for high quality public education at the federal, state, and local school district levels of governance and decision making. Our vision is a great public school for every student.

We believe public education is a fundamental right, one that is central to a functioning civil society. In the United States, public schools educate ninety percent (90%)<sup>1</sup> of America's students. NEA seeks to dismantle systems of oppression that prevent children from accessing a great public education because of their race, gender, sexual orientation, culture, or nationality. For the first time in history (since 2015), public schools are no longer majority white students (not of Hispanic ethnicity). The student population reflects the increasingly diverse demographics of the country and white students currently make up approximately 45% of the student population as of 2020.<sup>1</sup> Hispanic, Black, Asian, Native American/Pacific Islanders, and

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<sup>1</sup> National Center for Education Statistics. *Digest of Education Statics: Percentage distribution of enrollment in public elementary and secondary schools, by race/ethnicity jurisdiction: Fall 2010, fall 2019, fall 2020, Table 203.70* (2001). National Center for Education Statistics. Accessed 5/5/2022. [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_203.70.asp](https://nces.ed.gov/programs/digest/d21/tables/dt21_203.70.asp).

multi-racial students comprise 28, 15, 5.4, 1.3 and 4.5 percent of public-school students respectively.<sup>2</sup>

The educational experience is the first and most important experience to shape a child's view of society and their role in it. With ninety percent of students being educated in the U.S. public education system, addressing racial discrimination in education must be thought of as a first and essential step in dismantling racism more broadly.

In 2014 periodic state review, the Committee's concluding observations for the United States aptly identified several of the issues within the U.S. public education system that required significant attention – namely, school segregation, disparate school discipline, and school funding. While the U.S. government's recent combined tenth to twelfth periodic reports submitted to the Committee briefly lists steps taken to address issues in public education (pp 55-66, 66, 115, 118), this domain requires more focus given that the systemic racial discrimination and racism within the U.S. public education system is stark and worsening.

There are three aspects of racial discrimination in the U.S. education system that we recommend be addressed as Themes in this current review – school diversification and desegregation; school funding; and school discipline and policing.

### **School diversification and desegregation**

Racial segregation and inequality go hand in hand. Indeed, ICERD Article 3 requires State Parties to condemn, prohibit, and eradicate racial segregation. Yet, data today show that racial resegregation in America's public education system is worsening.

Many students attend racially isolated schools that serve disproportionate numbers of students living in poverty and offer inferior educational opportunities,<sup>3</sup> "including fewer qualified, experienced teachers, greater instability caused by rapid turnover of faculty, fewer educational resources, and limited exposure to peers who can positively influence academic learning."<sup>4</sup>

A 2016 report published by the U.S. Government Accountability Office (GAO) found a growing percentage of K–12 public schools in the nation that are hyper-segregated, with student populations that are largely African American or Hispanic and have large numbers of students from low-income families. The report showed that these schools are plagued by challenges, such as resource inequities that undermine educational outcomes.<sup>5</sup>

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<sup>2</sup> Ibid

<sup>3</sup> U.S. Government Accountability Office. *K–12 Education: Better use of information could help agencies identify disparities and address racial discrimination* (2016). <https://www.gao.gov/assets/gao-16-345.pdf>

<sup>4</sup> Darling-Hammond, L. (2018). *Education and the path to one nation, indivisible*. Learning Policy Institute. available at <https://learningpolicyinstitute.org/product/education-path-one-nation-indivisible-brief>

<sup>5</sup> U.S. Government Accountability Office (2016).

Further, a recent study published by The Civil Rights Project at UCLA examining national student population fluctuations and patterns found that segregation of Black students has increased in nearly every region across the United States.<sup>6</sup> Orfield and Jarvie (2020) find:

Black students in many of nation's largest school districts have little access to or interaction with White, Asian or middle-class students. While there is substantial Black enrollment in suburban schools, there are also high levels of segregation within them. Several of the nation's largest states, including California, New York and Texas, are among the nation's most segregated in terms of exposure of Black students to their White counterparts.<sup>7</sup>

While schools are becoming more segregated, there is plenty of research based evidence focusing on the benefits<sup>8</sup> of integration<sup>9</sup> in elementary and secondary schools. But segregation in early childhood programs is even more pronounced than in K–12 classrooms, and that separation can lead to missed opportunities for contact and kinship during a critical point in child development.<sup>10</sup>

The Civil Rights Project (2016) report underscores the increasing double segregation for Black and Hispanic students, who face both racial and economic segregation that has severe impacts on their educational access and opportunities:

Since 1970, the public school enrollment has increased in size and transformed in racial composition. Intensely segregated nonwhite schools with zero to 10% white enrollment have more than tripled in this most recent 25-year period for which we have data, a period deeply influenced by major Supreme Court decisions (spanning from 1991 to 2007) that limited desegregation policy. At the same time, the extreme isolation of white

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<sup>6</sup> Orfield, G., & Jarvie, D. (December 2020). *Black segregation matters: School resegregation and Black educational opportunity*. Civil Rights Project, UCLA. available at <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/black-segregation-matters-school-resegregation-and-black-educational-opportunity/BLACK-SEGREGATION-MATTERS-final-121820.pdf>

<sup>7</sup> The Civil Rights Project. (2020, December 17). *Black segregation matters: School resegregation and Black educational opportunity* [Press Release]. <https://www.civilrightsproject.ucla.edu/news/press-releases/press-releases-2020/black-segregation-matters-new-report-from-the-ucla-civil-rights-project-details-status-of-black-students-2013-urges-incoming-biden-administration-to-act-to-confront-pervasive-segregation/research/k-12-education/integration-and-diversity/black-segregation-matters-school-resegregation-and-black-educational-opportunity>.

<sup>8</sup> see Rucker C. Johnson, "Long-run impacts of school desegregation & school quality on adult attainments," *National Bureau of Economic Research Working Paper Series*, 16664 (September 2015). <https://www.nber.org/papers/w16664>

<sup>9</sup> see Orley Ashenfelter et al., "Evaluating the role of Brown vs. Board of Education in school equalization, desegregation, and the income of African Americans," *Princeton Law and Public Affairs Working Paper*, 05-001 (June 21, 2005). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=747485](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=747485)

<sup>10</sup>Greenberg, E. & Monarrez, T. (2019, October 1). *Segregated from the start: Comparing segregation in early childhood and K-12 education*. Urban Institute. <https://www.urban.org/features/segregated-start>

students in schools with 0 to 10% nonwhite students has declined by half as the share of white students has dropped sharply.

This brief shows states where racial segregation has become most extreme for Hispanics and Blacks and discusses some of the reasons for wide variations among states.

The U.S. must effectively attend to the striking rise in double segregation by race and poverty for African American and Hispanic/Latino students who are concentrated in schools that rarely attain the successful outcomes typical of middle-class schools with largely white and Asian student populations.<sup>11</sup>

In a 2018 report the Civil Rights Project also researched the impact that charter schools have on increased segregation, adding to a growing body of research that found charters to be more segregated than traditional public schools<sup>12</sup>. This pattern is worthy of close examination and more research, particularly as charter schools are often funded with public dollars.

Confronting these issues is critical given the strong relationship between racial and economic segregation and inferior educational opportunities clearly demonstrated in research over many decades.

In fact, the racial achievement gap in K–12 education closed more rapidly during the peak years of school desegregation in the 1970s and 1980s than it has overall in the decades that followed<sup>13</sup>—when many desegregation policies were dismantled. More recently, black and Latino students had smaller achievement gaps<sup>14</sup> with white students on the 2007 and 2009 NAEP when they were less likely to be stuck in high-poverty school environments.<sup>15</sup> The gap in SAT scores between black and white students continues to be larger in segregated districts, and one study showed that change from complete segregation to complete integration in a district could reduce as much as one quarter of the current SAT score disparity.<sup>16</sup> A recent study from

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<sup>11</sup> Orfield, G., Ee, J., Frankenberg, E., & Siegel-Hawley, G. (2016, May 16). *Brown at 62: School segregation by race, poverty, and state*. Civil Rights Project, UCLA. <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-62-school-segregation-by-race-poverty-and-state/Brown-at-62-final-corrected-2.pdf>

<sup>12</sup> Ayscue, J. et al. (January 2018). *Charters as a driver of resegregation*. The Civil Rights Project & UNC Charlotte. <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/charters-as-a-driver-of-resegregation/Charters-as-a-Driver-of-Resegregation-012518.pdf>

<sup>13</sup> Orfield, G. (July 2001). *Schools more separate: Consequence of a decade of resegregation*. The Civil Rights Project, Harvard University. <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/schools-more-separate-consequences-of-a-decade-of-resegregation/orfield-schools-more-separate-2001.pdf>.

<sup>14</sup> Kahlenberg, R.D. (2012, February 28). *The Future of School Integration*. The Century Foundation. available at <https://tcf.org/content/book/the-future-of-school-integration/?session=1>.

<sup>15</sup> Mantil, Anne G. Perkins, and Stephanie Aberger, “The Challenge of High-Poverty Schools: How Feasible Is Socioeconomic School Integration?” in *The Future of School Integration*, ed. Richard D. Kahlenberg (New York: The Century Foundation, 2012), 155–222.

<sup>16</sup> D. Card and J. Rothstein, “Racial Segregation and the Black-White Test Score Gap,” working paper, The National Bureau of Economic Research, Cambridge, MA, 2006, <https://www.nber.org/papers/w12078>

Stanford's Center for Education Policy Analysis confirmed that school segregation is one of the most significant drivers of the racial achievement gap.<sup>17</sup>

Not only are U.S. schools becoming increasingly more segregated over time, they may become less inclusive and more racially biased given the recent political wave to white-wash American history and omit important historical facts about racism and the contributions of specific racial groups from the public-school curricula.<sup>18</sup>

Inclusivity and diversity are proven and critical strategies necessary for the elimination of racist practices and racist attitudes. These political efforts to make specific racial groups invisible in the teaching of history, has the effect of making these groups invisible and excluded in the present day, thereby actively serving to perpetuate racist attitudes and practices from the earliest ages. Whether these policy proposals win formal passage or not, their effects on teaching practice is immediate and chilling. Teachers now regularly report how fearful they are to teach aspects of American history dealing with slavery or oppression or to even mention race.

Political efforts like those described above run counter to ICERD Article 7. In CERD's General Recommendation 35, the Committee recognizes the crucial role of "teaching, education, culture and information" as an indispensable approach to fostering respect and appreciation for differences and diversity, and combating racial discrimination.

Every effort must be made to ensure that our education system is integrated, diverse and inclusive and that schools having these characteristics are honored and exalted, not stigmatized, segregated, and separated.<sup>19</sup> Special attention and further examination of this disturbing trend is warranted.

### **School Funding Disparities**

ICERD Article 5 outlines the obligation of State Parties to ensure positive rights – free from racial and ethnic discrimination and under equality of law – for everyone to enjoy fundamental human rights and freedoms, and expressly includes in this the right to education. While the United States' public education system has a long history of significant racial and ethnic disparities, current data and research show alarming funding gaps in public education

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<sup>17</sup> Sean Reardon, Demetra Kalogrides, and Kenneth Shores, "The Geography of Racial/Ethnic Test Score Gaps", CEPA Working Paper No.16-10, May 2018. <https://cepa.stanford.edu/content/geography-raciaethnic-test-score-gaps>

<sup>18</sup> Cathryn Stout & Thomas Wilburn, *CRT Map: Efforts to restrict teaching racism and bias have multiplied across the U.S.* (February 2022). Chalkbeat. <https://www.chalkbeat.org/22525983/map-critical-race-theory-legislation-teaching-racism>

<sup>19</sup> Ayscue, J. B., Frankenberg, E., & Siegel-Hawley, G. (2017). The complementary benefits of racial and socioeconomic diversity in schools. Washington, DC: The National Coalition on School Diversity; Mickelson, R. A.

disparately effecting Black and Latinx students resulting in unequal and inequitable public education across the country.

The Century Foundation published a comprehensive study in 2020 that found that U.S. K-12 public schools are annually underfunded by nearly \$150 billion, with wider and more frequent funding gaps in school districts with high concentrations of Latinx and Black students than majority white districts.<sup>20</sup> List below are statistics from the study<sup>19</sup> highlighting the significance of underfunding in predominately Black and Latinx schools and districts:

- Districts that have more than 50 percent Black or Latinx enrollment are nearly twice as likely to have a funding gap than districts with minority enrollment less than 50 percent. Nationally, districts with over 50 percent Black and/or Latinx students face a funding gap of more than \$5,000 per pupil on average.
- Black students are disproportionately concentrated in poorly funded, low-performing districts. While only 8 percent of children in well-funded, high-performing districts are Black, over 20 percent of children in poorly funded, low-performing districts are Black.
- Districts with the largest funding gaps have a high concentration of Latinx students. Only 13 percent of children in well-funded, high-performing districts are Latinx, meanwhile nearly 40 percent of children in poorly funded, low-performing districts are Latinx.
- Among districts of at least 25,000 students (288 districts overall), the ten districts with the largest funding gaps per pupil are all majority Latinx.

Furthermore, a report published in 2019 by EdBuilds analyzed U.S.'s 13,000 traditional public school districts and found<sup>21</sup>:

Overwhelmingly white school districts received \$23 billion more than predominantly nonwhite school districts in state and local funding in 2016, despite serving roughly the same number of children... And while state budgets gave heavily nonwhite districts slightly more money per student than they gave overwhelmingly white districts, in many states it was not enough to erase the local gaps.<sup>22</sup>

Of the traditional public school districts, this report identified roughly 7,600 where more than 75 percent of students were white, and roughly 1,200 where more than 75 percent of students were not white. The nonwhite districts, which included many large cities, were much larger than the white districts, which included many small rural areas. But the two groups each had about the same number of students — 12.8 million children in

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<sup>20</sup> The Century Foundation (2020, July 22). *Closing America's education funding gaps*.

<https://tcf.org/content/report/closing-americas-education-funding/>

<sup>21</sup> Edbuild (February 2019). *\$23 billion*. <https://edbuild.org/content/23-billion/full-report.pdf>

<sup>22</sup> Meckler, L. (2019, February 26). *Report finds \$23 billion racial funding gap for schools*. *The Washington Post*. [https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15\\_story.html](https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15_story.html)



nonwhite districts and 12.5 million in white districts. Nonwhite districts took in about \$54 billion in 2016 in local tax dollars — or about \$4,500 per student. White districts, home to higher incomes and less poverty, collected more than \$77 billion, or just over \$7,000 per student. On average, states added another \$6,900 per student to white districts and almost \$7,200 per student in nonwhite districts. But the overall gap in state and local funding was \$23 billion. White districts, on average, had more than \$2,000 more in funding per student than nonwhite districts.<sup>21</sup>

The disparate racial effect of underfunded U.S. public schools is both a symptom and catalyst of systemic racism. Effectively funding the public school system, with particular focus on those most in need of resources, is necessary to ensure an equitable education for *all* students.

Great schools alone cannot eliminate racial discrimination in the U.S., this goal – set out by ICERD to which the U.S. is party – will remain unmet until equitable, long-term, school funding is secured.

### **Criminalization, Deportation and Policing of Students**

The role of law enforcement in public schools is inextricably tied to the current criminalization crisis. Law enforcements' presence in schools is not new in the U.S.; its origin is largely the result of racial bias and racist responses to desegregation and civil rights expansion for people of color. Currently, studies suggest the reliance on school-based police officers (RSOs) has accelerated over the last several decades despite the mounting evidence of harm this causes. In 1975 just one percent of schools reported a police officer stationed onsite; by the 2003-2004 school year, that figure had risen to 36 percent.<sup>23</sup> Today, the National Association of School Resource Officers proudly asserts that “school-based policing is the fastest-growing area of law enforcement.”<sup>24</sup>

The pipeline describes the ways in which zero-tolerance discipline policies, increased police presence in schools, insufficient services and support, and the failure to address and invest in restorative justice practices push more and more students out of schools and into the juvenile and criminal justice systems. The school-to-prison pipeline disproportionately affects students of color, including those who identify as LGBTQ+, have disabilities, and/or are English Language Learners. As a result, those students are routinely placed in contact with the criminal justice system for infractions of school rules and behavioral matters, subjecting them to punishments that are harsher than those received by their white peers for the same behavior.<sup>25</sup>

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<sup>23</sup> ACLU, *Bullies in Blue: The Origins of School Policing*. (April 2017).

<sup>24</sup> National Association of School Resource Officers, “About NASRO,” <https://www.nasro.org/main/about-nasro/>. Accessed April 19, 2022.

<sup>25</sup> Carter, P., Skiba, R. J., Arredondo, M. I., & Pollock, M., (2014). *You Can't Fix What You Don't look At: Acknowledging Race in Addressing Racial Discipline Disparities*. Bloomington, IN: The Equity Project at Indiana University. Available at [https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/acknowledging-race\\_121514.pdf](https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/acknowledging-race_121514.pdf)

We recognize that national-level data cannot capture the full scope of the problem, which differs from region to region, but affirm it is clear that *color* is the controlling factor in discipline disparity.<sup>26</sup>

We feel it is also important to point out that **the school-to-deportation pipeline** is “part of a larger trend within the school-to-prison pipeline that disproportionately harms Black and Brown youth.”<sup>27</sup> It describes the discipline and policing practices under which immigrants, undocumented children, and people of color are pushed into the criminal justice system, detention, and even deportation proceedings.<sup>28</sup>

Criminalizing the school environment has severe consequences for immigrant youth. There are over 600,000 undocumented K-12 students in the United States, over half from Central and South America but nearly a quarter from Asia.<sup>29</sup> An additional 5.8 million U.S. citizen children live in mixed-status households in which at least one member of the household is undocumented.<sup>30</sup> For these families, any contact with law enforcement can lead to interactions with immigration enforcement, jeopardizing both the student’s safety and their family members’ safety. Even for documented immigrants, certain types of arrests and convictions can trigger negative immigration consequences, either rendering the child ineligible for adjustment of status or leading ICE to place the child in removal proceedings.<sup>31</sup>

Many police departments have forged partnerships with ICE, known as 287(g) agreements, and will alert ICE when they detain someone who is or they merely suspect to be undocumented.<sup>32</sup> School use of police to monitor “gang activity” is especially harmful. SROs and school officials provide police and ICE with information about students they suspect are in gangs.<sup>33</sup> ICE can use that information to detain, question, and deport immigrant youth. Moreover, due to racial

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<sup>26</sup> United States Department of Education Office for Civil Rights, Civil Rights Data Collection Data Snapshot, Issue Brief No. 1 (March 21, 2014) <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>

<sup>27</sup> Advancement Project, “The School-to-Deportation Pipeline Mini-Action Kit,” (Nov. 2017) p. 2: <https://advancementproject.org/wp-content/uploads/2017/11/School-to-Deportation-Pipeline-Action-Kit-FINAL-compressed.pdf>

<sup>28</sup> *Ibid*

<sup>29</sup> “At least 600,000 K-12 undocumented students need a pathway to citizenship. Most are ineligible for Deferred Action for Childhood Arrivals (DACA),” *FWD.us*, Aug. 19, 2021: <https://www.fwd.us/news/k-12-undocumented-students/>

<sup>30</sup> “Immigration reform can keep millions of mixed-status families together,” *Fwd.us*, Sept. 9, 2021: <https://www.fwd.us/news/mixed-status-families/>

<sup>31</sup> “Immigration Consequences of Crimes Summary Checklist,” *Immigration Defense Project*, (Jun. 2017): <https://www.immigrantdefenseproject.org/wp-content/uploads/Imm-Consq-checklist-2017-v3.pdf>

<sup>32</sup> Angelika Albaladejo, “Biden Promised to Protect Sanctuary Cities. So Why Is ICE Still Partnering with Local Cops?” *VC Star* (Apr. 1, 2022): <https://www.vcstar.com/story/news/2022/04/01/why-ice-still-partnering-local-cops/7247514001/>.

<sup>33</sup> Advancement Project, “The School-to-Deportation Pipeline Mini-Action Kit,” (Nov. 2017) p. 3: <https://advancementproject.org/wp-content/uploads/2017/11/School-to-Deportation-Pipeline-Action-Kit-FINAL-compressed.pdf>



profiling by law enforcement personnel, youth of color, especially Latin(o/a/x) youth, are more likely to be suspected of gang activity.<sup>34</sup>

Harsh school discipline and behavioral policies and practices are directly and indirectly contributing to a crisis of criminalization and policing of U.S. youth that creates educational trauma and lost opportunities for students – but disproportionately harm Native students and students of color.

These policies and practices include school discipline that overuses suspension and expulsion; zero tolerance that strip administrators’ discretion to tailor school discipline to the circumstances of a student’s misconduct; increased policing and surveillance in schools, creating prison-like environments within schools; and over-reliance on disciplinary referrals to law enforcement and juvenile justice authorities for school-based misconduct.

National research shows that these policies specifically have a disparate impact on Native, Black, and Latinx students, including those who identify as LGBTQ+, have disabilities, and/or are English Language Learners. Regionally, Asian, Middle Eastern and North African, Pacific Islander, and Multiracial students experience harm and disparate outcomes as a result of such policies and practices.

Students of color are in greater jeopardy in schools with a presence of police and law enforcement as schools with police presence rely more heavily on exclusionary discipline, which falls disproportionately on Black students and students of color.

When school resource officers and police are present at a school, the overall rates of arrests and referrals to law enforcement increase. A study found that for every SRO hired, there were 2.5 more in-school arrests of students ages seven to 14 annually. When law enforcement is present in school, educators tend to rely on law enforcement to handle student misconduct.<sup>35</sup>

Not only do students of color and students with disabilities face higher rates of referrals to law enforcement and arrest, but they are also frequently the target of violent assaults by SROs. The Advancement Project catalogued over 150 assaults by SROs, including both physical and sexual assaults that have made the news since 2007.<sup>36</sup> SROs have shot and killed students, tackled and punched students, sprayed students with pepper spray, choked students, thrown students to

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<sup>34</sup> *Ibid*

<sup>35</sup> Mowen, T. J. (2020, February 5). Sociologist presents research behind headlines about school safety. BG Independent News. <https://bgindependentmedia.org/sociologist-presents-research-behind-headlines-about-schoolsafety/>

<sup>36</sup> Advancement Project response letter (2021, July 23), page 6. [https://advancementproject.org/wp-content/uploads/2021/07/AP-AEJ\\_Request-for-Information-Regarding-the-Nondiscriminatory-Administration-of-School-Discipline.pdf](https://advancementproject.org/wp-content/uploads/2021/07/AP-AEJ_Request-for-Information-Regarding-the-Nondiscriminatory-Administration-of-School-Discipline.pdf)

the ground, and thrown students against walls and lockers.<sup>37</sup> Nearly as disturbing as the violence itself is the trend of officers reacting with anger and violence to completely non-violent behaviors and infractions, such as talking on a cell phone, wearing a hat indoors, or going to the bathroom without a pass.<sup>38</sup>

Disparities in school discipline, encounters with School Resource Officers (SROs), and referrals to law enforcement and into the juvenile and criminal justice systems have lifelong negative repercussions for the harmed students. Even a single-day suspension increases the risk of dropping out of school altogether; in turn, students who drop out are at greater risk of ending up in the juvenile justice or prison system. The invariable results of the shocking disparities in disciplinary actions are disparities in high school graduation rates, the rates youth are subjected to the juvenile justice and criminal justice systems, and in the life trajectories of our students.” Research also shows a direct connection between suspension and academic achievement and attainment, and have a significant negative impact on life after school.<sup>39</sup>

No student can reach their full potential in schools that criminalize and police students. Between the 2015-2016 school year and 2017-2018 school year, referrals to law enforcement increased by 12%, school-related arrests increased by 5%, expulsions with educational services increased by 7%. But data also show that certain groups of students are systematically shut out of educational opportunity because of their race or ethnicity, the language they speak, their disability, or their sexual and gender identity. The most recent data collected on school disciplinary trends by the U.S. Department of Education’s Office of Civil Rights (OCR) find that:<sup>40</sup>

- Black students comprise only 15.1% of enrollment but 28.7% of referrals to law enforcement and 31.6% of school arrests.
- Black students with disabilities who received services under the Individuals with Disabilities Education Act (IDEA) were just 2.3% of total enrollment but 8.4% of referrals and 9.1% of arrests; they also received 6.2% of in-school suspensions and 8.8% of out-of-school suspensions.

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<sup>37</sup> Advancement Project & Alliance for Educational Justice, *We came here to learn* [Toolkit], page 38.

<https://advancementproject.org/wp-content/uploads/ActionKitView/docs/Action-Kit-FINAL.pdf?reload=1536825255172>

<sup>38</sup> *Id.*

<sup>39</sup> Skiba, R. J., Arredondo, M. I., & Rausch, M.K., (2014). *New and Developing Research on Disparities in Discipline*. Bloomington, IN: The Equity Project at Indiana University. Available at [https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/disparity\\_newresearch\\_full\\_040414.pdf](https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/disparity_newresearch_full_040414.pdf)

<sup>40</sup> U.S. Dep’t. of Ed., Office of Civil Rights, *An Overview of Exclusionary Discipline Practices in Public Schools for the 2017-18 School Year* (June 2021): <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-exclusionary-school-discipline.pdf>

- Black girls made up 7.4% of the student population but 11.2% of in-school suspensions and 13.3% of out-of-school suspensions—almost twice their rate of enrollment. Black boys were suspended at rates three times higher than their share of enrollment.
- Students with disabilities represent a quarter of the students who are referred to law enforcement or subjected to school-related arrests, while representing just 12% of the student population. These students were arrested at a rate 2.9 times that of students without disabilities. In some states, they were 10 times more likely to be arrested than their counterparts.

The school-to-prison and school-to-deportation pipelines are the result of these myriad policies and practices fed by institutional racism that disproportionately place students of color into the juvenile and criminal justice systems for minor school infractions and disciplinary matters, subjecting them to harsher punishments than their white peers for the same behaviors. These policies and practices diminish students' educational opportunities and life trajectories and it can be eradicated with the elimination of harsh school discipline policies and over-policing.

The Committee's concerns regarding the school-to-prison pipeline expressed in its observations in the 2014 U.S. periodic review warrant further examination by the Committee this review cycle with a specific focus on the expanding presence and role of police/law enforcement in schools, and a closer examination of related deportation concerns as well.

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In conclusion, NEA appreciates the opportunity to submit this information and encourages the Committee to include racial discrimination and racial disparities in the U.S. public education system – particularly regarding growing school segregation based on race and class; inequitable school funding; and the criminalization and deportation concerns related to over-policing in schools – in its list of themes to be addressed during the state review in August.

Sincerely,



Daaiyah Bilal-Threats  
National Education Association  
Senior Director, Education Policy and Implementation Center