



April 29, 2020

Dear Governor Parson and Commissioner Vandeven:

Liz Sternhell-  
Blackwell, *President*

Robert W. Waugh,  
*Treasurer*

Joseph Stimpfl,  
*Secretary*

Dana Sandweiss,  
*Equity Officer*

Daron Smith,  
*National Board  
Representative*

Brendan Donelon

Josephine Goode  
Evans

Rob King

Diane Levine

Brad Pierce

William E. Raney

Steven Streen

Pam Woodard,

Federal law requires that no child be denied an equal education during a pandemic or otherwise. As Missouri reallocates resources within its budget to combat the COVID crisis and address funding for education overall, we urge you to consider ways to use educational funding to combat the school to prison pipeline. Through your actions you can better serve our children of color, children with disabilities, and low-income communities.

Help may be available beyond the state's own resources. For example, the United States Department of Education (USDOE) is making nearly \$3 billion available in grants to help states "address student needs arising from the COVID-19 related disruption of the current academic year"<sup>1</sup> through its "Governor's Emergency Education Relief Fund."<sup>2</sup> Likewise, the USDOE has created a \$13.2 billion "Elementary and Secondary School Emergency Relief Fund" to provide "local educational agencies... with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation."<sup>3</sup> Grant funds like these should be vigorously pursued and used to address systemic inequalities affecting remote learning during this crisis and pre-existing inequities in the public education system.

As we have shown, Black students in Missouri and students with disabilities were disproportionately subjected to the School to Prison pipeline<sup>4</sup>. During the COVID crisis, these inequities have been further exacerbated. Students with disabilities have experienced reduced access to IDEA resources, students of color, and those from low-income backgrounds have diminished access to online educational resources, and parents who do not speak English have received minimal resources. This must change, and we can start today building from the following recommendations.

Luz María Henríquez  
*Executive Director*

406 West 34<sup>th</sup>  
Suite 420  
Kansas City, Missouri  
64111

906 Olive Street,  
Suite 1130  
St. Louis, Missouri  
63101

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<sup>1</sup> <https://oese.ed.gov/files/2020/04/GEER-Notice-of-Funds-1.pdf> [accessed April 15, 2020].

<sup>2</sup> <https://oese.ed.gov/offices/education-stabilization-fund/governors-emergency-education-relief-fund/> [accessed April 24, 2020].

<sup>3</sup> <https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/> [accessed April 24, 2020].

<sup>4</sup> MISSOURI'S PIPELINE OF INJUSTICE: FROM SCHOOL TO PRISON: <https://www.aclu-mo.org/en/missouris-pipeline-injustice-school-prison>

## **Recommendation # 1: Use Federal Resources to Stop the School to Prison Pipeline**

Prior to the COVID-19 crisis, children in Missouri experienced the School to Prison Pipeline, leading to educational inequalities that disproportionately channel children of color and children with disabilities out of the classroom and into greater contact with the criminal justice system. Research indicates that missing school for prolonged suspensions or expulsions leads to poorer educational outcomes.<sup>5</sup> Today, an entire generation of Missouri's children is experiencing a long-term absence. When they return, we have an obligation to make sure their access to school is uninterrupted. We must prepare to reintegrate students into school once this crisis has passed and we must develop solutions that protect against the racial and economic disparities that were harming students long before COVID struck. As such we propose that DESE take the following steps to protect Missouri's children:

1. **Advise districts to end all suspensions and expulsions currently in place.** Students cannot afford to miss any more class time. The data are clear: exclusionary discipline practices do not improve educational outcomes.
2. **Advise districts to place a moratorium on OSS for PreK-5<sup>th</sup> grade students for a year, and for older students lasting 6 months.** Students will be unpracticed in emotional and behavioral regulation, will be processing trauma, and dealing with the psychological consequences of prolonged stress and uncertainty. Now is not the time to exclude students, but rather to help them navigate their emotions. This can only be accomplished if students remain in school. <sup>6</sup>
3. **Fund resources for trauma-informed, anti-bias/anti-racist, and restorative practices.** Children will return to school with socio-emotional needs that must be appropriately addressed. For example, children may need extra help to cope with toxic stress experienced during the pandemic and to relearn how to manage classroom stressors. We cannot afford to punish students for trauma, nor can we afford to engage in punitive rather than restorative solutions. Schools must also acknowledge the biases that often influence disciplinary decisions and facilitate honest conversations about how to overcome implicit bias. We recommend that all teachers and

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<sup>5</sup> Noltemeyer, A. L., Ward, R. M., & Mcloughlin, C. (2015). Relationship between school suspension and student outcomes: A meta-analysis. *School Psychology Review*, 44(2), 224-240.

<sup>6</sup> If after the moratorium on OSS expires children are suspended or expelled, such disciplined students must continue to be provided with timely access to a high-quality education. Suspension or expulsion "shall not relieve the state or the suspended student's parent or guardians of their responsibilities to educate the student." Mo. Rev. Stat. § 167.164. We encourage you to remind school districts of their respective obligations to provide high-quality alternative education without delay to all students subjected to a suspension or expulsion.

administrators engage in bi-annual anti-bias/anti-racist and trauma-informed practice trainings.<sup>7</sup>

4. **Address the “Digital Divide.”** Many of Missouri’s students do not have access to the internet at home or only have access via mobile phones. Children and families in this situation often use strategies to access the internet that are no longer safe or available (e.g., going to the library). Additionally, as families experience higher rates of un- and underemployment this issue is likely to grow. Schools must absolutely ensure that every single student has safe access to the following resources:
  - Computers/tablets, with built-in or external webcams and microphones
  - Printers, including ink
  - Hardware and related capabilities necessary for high-speed internet access adequate for remote video meetings
  - Free access to remote learning and communications platforms/applications
  - Assistive technology, including hardware (such as screen readers) and software and websites that comply with Web Content Accessibility Guidelines (WCAG) 2.0 Levels AA accessibility standards<sup>8</sup>, so students with disabilities can fully participate in remote learning

**Protect student privacy when using E-learning tools.** In a similar vein, as we increase our use of E-learning tools we must safeguard privacy. In addition to ensuring all students have full and equitable access to remote learning, the state and school districts must ensure every remote learning tool used by students fully protects their privacy and that of their families. Specifically, you should mandate that all contracts and agreements governing products and services used for remote learning, whether they are provided to the government or directly to students and their families, including the following enforceable requirements:

- All computer hardware/software/ISP/EdTech companies that provide remote learning technologies should be prohibited from collecting, using, and retaining any private, personal information about a student or their family members unless doing so is directly necessary for their platforms’ remote learning functionality. Moreover, these companies should be required to expunge all the personal information they gather during this health crisis when it resolves, unless a student’s parent or legal guardian specifically opts-in to it being retained (via a clear, post-

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<sup>7</sup> SCHOOL TO PRISON PIPELINE HANDBOOK: EMPOWERING REFORMERS AND DEMANDING CHANGE: <https://www.aclu-mo.org/en/news/school-prison-pipeline-handbook-empowering-reformers-and-demanding-change>

<sup>8</sup> 28 C.F.R. §§ 35.160. For more information on how to comply with WCAG 2.0 AA, see [https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=%23col\\_customize&versions=2.0](https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=%23col_customize&versions=2.0)

crisis request, and not as part of a broad user agreement they sign now under pressure).

- All companies that provide remote learning technologies should be required to remove or permanently disable any surveillance functions that accompany their products/services, including communications and social media monitoring, search term and browsing history monitoring, keyword alerts, surreptitious access capabilities including video and audio surveillance, facial recognition and other biometric identifying capabilities, and web filtering functions.
- To ensure the computer hardware/software/ISP/EdTech companies abide by these mandates, each should be required to consent to government auditing of their compliance with the above privacy conditions.

5. **Provide equitable educational access to non-English speakers.** For all of the above, providing plain language (English written at a 4th grade reading level or below) and native language (content in the parent/guardian's native language) to help all families navigate the remote learning technology tools provided by schools and their education partners.

## **Recommendation # 2: Preserve civil rights protections for students with disabilities**

The federal Department of Education issued a fact sheet on March 21<sup>st</sup> to address concerns about providing free and appropriate public education (FAPE) to students with disabilities during this pandemic.<sup>9</sup> It is not acceptable to pursue any strategy that leaves students with disabilities behind. We propose that DESE take the following steps to preserve the rights of children with disabilities:

1. **Fund resources to provide accessible telehealth services, therapies, and one-on-one meetings.** For students with disabilities, access to technology is not just a mechanism for enabling remote learning, but a critical tool in continuing to fulfill obligations to provide a Free and Appropriate Education (FAPE),<sup>10</sup> and continuing the work of special

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<sup>9</sup> Supplemental Fact Sheet Addressing Serving Children with Disabilities during COVID-19 national emergency:

<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

<sup>10</sup> The state's obligation to ensure that students with disabilities receive a FAPE, including through specialized services as required by IEP or 504 plans, is not suspended during the COVID-19 pandemic. See Department of Education, Questions, and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 2020), <https://sites.ed.gov/idea/files/qa-covid-19-03-12-2020.pdf>, page 2.

education plans. Federal funds should be used to hire additional staff and technologies like videoconferencing must be used to provide services and supports, including one-on-one support and curricular modifications, speech and language therapy, mental health services, and sign language interpreters. And it can and should be used to conduct remote reconvenings of IEP and 504 teams to modify plans and identify how goals can be revised given the constraints of COVID-19 and school closures. Plans must also account for students who cannot access or engage with online education (e.g., students who cannot type, read, hear, or speak).

2. **Develop the parameters that will apply to determine plans for compensatory services for students with disabilities.** As many of the services discussed above are best administered offline, schools must develop plans to provide compensatory services upon reopening. Any services students miss during the quarantine must be carefully tracked and made up for in the future. These plans should be developed in cooperation with parents and, when appropriate, the students themselves.
3. **Protect parents' rights to be informed and involved in IEP meetings.** Parents must remain involved in IEP meetings and educational planning for their children. This may involve online meetings, and if the parent is an essential worker, meeting during the hours when they are home. If the parent is not an English speaker, translation services must be provided.
4. **Invest in compliance with the Americans with Disabilities Act.** Educational outcomes and disciplinary practices for students with disabilities, and especially students of color who also have disabilities, were not equal to their peers prior to this crisis. We should work to address these inequities as students return to school and create a more just Missouri. We should be prepared to educate students in need of IDEA services remotely in case of any resurgence.
5. **Immediately eliminate seclusion rooms and update parent notification practices.** DESE should immediately issue guidance to ban the use of seclusion rooms. Prior to this crisis, the data made clear that seclusion rooms were disproportionately used on students with disabilities. Students will be returning to school having experienced an unprecedented social moment, it should be expected that some may struggle to cope. We cannot afford to rob children with disabilities of more class time, nor can we truly care for their socio-emotional needs by locking them in closets. Under present law, schools are not required to inform parents when children are subjected to seclusions or restraint while at school. This too must change immediately. We must require that all schools inform parents of the use of these practices within 24 hours.

In this time of great uncertainty, we cannot let Missouri's children fall behind. We must act to protect children from the School to Prison Pipeline and to preserve civil rights protections for children with disabilities. DESE has the ability to use the

requested federal funds to bring about a more equitable Missouri. We urge you to support these recommendations and we look forward to working together to protect our children during this crisis and beyond.

We hope to be partners in this effort to bring about a more equitable Missouri.

Sincerely,

A handwritten signature in black ink that reads "Luz María Henríquez". The signature is written in a cursive style with a large, stylized initial "L".

Luz María Henríquez  
Executive Director  
American Civil Liberties Union of Missouri

Lisa Benson  
Founder  
Winning Truths International, LLC

Diane Bosilevac  
CEO  
Global Alliance for the Education of Nations

Cynthia Corn  
Educational Consultant

David Dwight  
Executive Director  
Forward Through Ferguson

Julie Hahn  
Assistant Superintendent  
Ritenour School District

Kevin Jay Kinsella  
Discipline ReDesign Facilitator  
Global Alliance for the Education of Nations

Adelaide Lancaster  
Executive Director  
We Stories

Matthew Moore  
Justice system chairman  
NAACP

Edgar Palacio  
President & CEO (Founder)  
Latinx Education Collaborative

Adolphus M. Pruitt, II  
President  
St Louis City Branch NAACP

Joshua Saleem  
Program Director  
American Friends Service Committee

Ave Stokes  
KC Director  
Alive and Well Communities

Catina Taylor  
Founder  
DREAMS KC

Pam Washington, Ph.D.  
Gifted Coordinator  
Webster Groves School District

Cecil Wattree  
ACLU Volunteer

Erica Williams  
Executive Director  
A Red Circle