

Missouri's Pipeline of Injustice

# From School to Prison



**ACLU**

Missouri



# Table of Contents

About This Report	4
Update with 2015-2016 School Year Data	6
<b><i>Missouri's School-to-Prison Pipeline</i></b>	
Summary	8
Recommendations	11
<b><i>A Systemic Indoctrination: Missouri's Long History of Racial Injustice</i></b>	
Missouri's History	14
Building the Pipeline	16
Cost of Injustice	20
<b><i>Policing the Schools: Discipline in Missouri's Schools</i></b>	
Our Findings	24
Corporal Punishment	25
Suspensions	26
Expulsion	31
Law Enforcement	32
Restraint and Seclusion	36
<b><i>A Path Forward: Creating a More Just Education System</i></b>	
Emerging Issues	38
We Must Act Now	41
In Appreciation	42
Methodology	44
<b><i>Further Reading</i></b>	
Glossary of Key Terms	46
Relevant State Laws and Regulations	48
Additional Resources	52
About the ACLU of Missouri	58
Endnotes	60
<b><i>Parent and Student Toolkit</i></b>	66

# About This Report

Thanks for your interest in our report on Missouri's school-to-prison pipeline.

For years, the disproportionate discipline of students of color and students with disabilities has tarnished Missouri's reputation. Without an adequate education, cycles of poverty remain unbroken and generations of families remain unjustly disadvantaged by a demographic lottery, more at risk of failure because of the ZIP code they live in. All children have an equal right to education. Missouri must offer this opportunity to succeed for all of its young people.

Two years ago, Missouri made national headlines when the Center for Civil Rights Remedies at the University of California-Los Angeles ranked the state No. 1 in the country for the suspension of Black elementary school students in a report on discipline and educational disparities between White and Black students entitled, "Are We Closing the Discipline Gap?"

Given Missouri's centuries-long history of racial tension, it is perhaps no surprise that such blatant evidence was found of systemic bias in the punishments given to students of color.

As we researched this report, we found Missouri's Black students were 4.5 times more likely to be suspended than White students. Students with documented learning or behavioral disabilities under the federal Individuals with Disabilities Education Act (IDEA) were given out-of-school suspensions more than three times as often as non-IDEA students. We also found that between 2011 and 2014, the rate of Missouri students expelled from school doubled.

This report details the history of some of the factors that allow the school-to-prison pipeline to continue to thrive in Missouri, the state's role in ensuring educational opportunity and proposes key recommendations for us all to work toward a more inclusive society that embraces the core ideals of our Constitutional right of equality.

We will show you where Missouri is today, where our biggest challenges persist, and where, together, we can create change.

Your curiosity, passion, and work can help us break the school-to-prison pipeline and create a brighter future for Missouri's children.

Thank you for joining in this discussion.

Sincerely,

Sara Baker  
Legislative and Policy Director  
ACLU of Missouri

*September 2017*

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All children have a Constitutional  
right to an education.

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# Update: July 31, 2018

## *2015-2016 School Year Data*

If Missouri's public schools were graded on how fairly and equitably they use discipline, they would receive some bad marks.

The newest information from the federal Office of Civil Rights and analyzed by ACLU of Missouri demonstrates hows Missouri public schools are again failing students of color and students with disabilities.

Missouri has the 10th highest gap between Black and White K-12 students in the nation for out-of-school suspensions, according to federal data from the Office of Civil Rights collected during the 2015-2016 school year.

This is a significant increase from the last available survey data of the 2013-2014 school year. ACLU of Missouri referenced the this data for our October 2017 report, "From School to Prison: Missouri's Pipeline of Injustice" which you can read on the following pages.

The updated numbers are beyond alarming and indicate that Missouri public schools are not engaging in equitable discipline. Missouri's students deserve equal access to education and learning environments where every child can thrive.

As you will read, Missouri has an established record of punishing Black students and students with disabilities with harsher and more frequent discipline compared to their White peers. The disparities are even greater for Black students with disabilities.

The updated data also shows Black students are five times more likely than their White peers to receive an out-of-school suspension. This is a marked increase over the data we reported on in our initial report.

Missouri is falling far short of its obligation to provide its children with equal access to education by routinely disciplining Black students and students with disabilities harsher and more frequently than their White and non-disabled peers.

The trend begins way before students get to high school. Missouri has the eighth highest gap between Black and White students when it comes to suspensions in preschool. Black preschoolers are more than four times as likely to be suspended compared to White preschoolers; Missouri gives multiple out-of-school suspensions to Black preschoolers more than 44 other states.

In our report's data from the 2013-2014 school year, we found that while Black students made up 14 percent of Missouri's student population, they were given 41 percent of the suspensions as discipline. The new data shows those disparities are getting worse – Black students were 16 percent of the population but received 46 percent of suspensions statewide just two school years later.

Disabled students, who are more than twice as likely to receive an out-of-school suspension compared to their peers.



Missouri's Black students with disabilities are suspended three times more frequently than White students with disabilities. The same category of students was suspended a little over twice as many times as their peers in the 2013-2014 data.

Comparing out-of-school suspensions, the new data shows Black students with disabilities are eight times more likely to receive this discipline than their White peers.

#### **Among the updated findings:**

- Black students are five times more likely than their white peers to receive an out of school suspension, an increase from 4.5 percent from our last report.
- Black students with disabilities are suspended three times more frequently than White students with disabilities. This group was suspended twice as many times as their peers in the 2013-2014 data
- Black students with disabilities are eight times more likely to receive out-of-school suspensions than their White peers.
- Black preschoolers are suspended greater than four times more frequently than White preschoolers.
- Missouri currently gives Black preschoolers multiple out-of-school suspensions more than 44 other states.

When students experience harsh and disproportionate discipline in school, it can put them on a path to interact with the criminal justice system their entire lives, in what's known as the "school-to-prison pipeline." Suspensions can have long-term effects that include time out of class, falling behind on homework and damaged self-worth. It puts far

too many young people on a path that feeds directly into the school-to-prison pipeline.

The consequences of the school-to-prison pipeline have a long-term and far-reaching effect on our society by perpetuating cycles of poverty, low-education attainment, and systemic structural inequalities.

This toxic combination of missed class time and lowered self-esteem creates a damaging cycle the results in classroom disengagement and higher dropout rates. The consequences extend far beyond the classroom, perpetuating cycles of poverty, low-education attainment, and structural inequalities that span generations.

We must take action. That's why we've teamed up to work with school districts, parents, caregivers and students across the state to end the school-to-prison pipeline in Missouri.

Justice doesn't stop at the schoolhouse door. Missouri's schools can do better. Let's get to work.

# Missouri's School-to-Prison Pipeline

## *Summary and Recommendations*

For too many of our children, the hopes for a bright future are often derailed by school discipline practices that unfairly target specific groups of students with harsher, more frequent, and longer penalties, segregating them from the classroom and taking away a critical pathway to greater equality. Across the nation, we see students of color, particularly Black children, being removed from classrooms at rates that far outstrip their White peers, creating a new kind of separate and unequal education. Missouri is no different.

More than 60 years ago, the Supreme Court of the United States ruled that a “separate but equal” education system was unconstitutional in the landmark case, *Brown vs. Board of Education*. This ruling recognized that segregation in schools was unjust and denied children of color equal access to education. Here in Missouri, access to education is a foundational right supported by Article IX of the Missouri Constitution. The unequal application of discipline threatens the ability

of our state to honor this promise to its citizens.<sup>1</sup>

In Missouri, children of color and children with disabilities are punished in school with alarming frequency – and at a disproportionate rate to their peers. School district policies and the biased application of those policies have enormous consequences for students, including lost instructional time and damage to student achievement.

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**Missouri schools expel preschoolers more frequently than 42 other states.**

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Disproportionate and excessive discipline of children not only deprives them of their right to education, but can also put them on a path to prison – what’s known as the school-to-prison pipeline. Students who come in contact



with law enforcement and the criminal justice system because of their in-school behaviors have a greater likelihood of continued interaction with the criminal justice system as they grow up. They are less likely to succeed in school.

The racial discrepancy in school discipline isn't limited to teens. Our youngest and most vulnerable students in preschool and elementary grades are subject to excessive and harsh punishment. Nationwide, Black preschoolers are 3.6 times more likely to be suspended one or more times than White preschool students. Missouri has the eighth highest expulsion rate for preschoolers.<sup>2</sup> From the very start of their education, the youngest students of color already face an uphill battle to stay in school.

The reality that specific students are punished more frequently and with greater severity is deeply troubling. A recent report from the U.S. Department of Education's Office for Civil Rights found during the 2013-2014 school year, Black students across the nation are nearly four times as likely to be suspended than White students.<sup>3</sup> During the same school year in Missouri, Black students were 4.5 times more likely to be suspended than White students. In Missouri, students with documented learning or behavioral disabilities under the federal Individuals with Disabilities Education Act (IDEA) were given out-of-school suspensions more than three times as often as non-IDEA students.

Despite making up only 14 percent of the student population in Missouri, Black, non-IDEA students represented about 17 percent of all referrals to law enforcement and 18 percent of all school-related arrests in the 2013-2014 school year.<sup>4</sup>

In-school referrals to law enforcement are not trivial. A 2015 report from the Missouri Juvenile and Family Division found referrals

from schools represent 21 percent of all law referrals in Missouri for youth. Black children account for 26 percent of all referral types in the state.

We also found an alarming increase of students in Missouri expelled from school. Between 2011 and 2014, the expulsion rate in Missouri doubled. This resulted in a greater number of expulsions for Black students, who faced expulsion at a higher rate than White students.

Another great concern is Missouri's continued use of corporal punishment in school. Across the nation, few states continue to use corporal punishment, yet, in Missouri, Black students are almost twice as likely to be hit in school as their White peers.

This disparity between enrollment rates and discipline rates is not reflected among White students, a population in which discipline rates are consistently below enrollment rates.

Disproportionate discipline has both physical and mental consequences for young people. Beyond missed classroom time, when students, particularly younger students, are singled out for discipline, they are taught that they are "bad." Their peers and educators internalize the same message. Studies show that by the time students move from pre-K to kindergarten, children can identify which of their peers exhibit "problem behaviors." This perception is consistently shared between peers and teachers, creating a label for specific students that follows them throughout their academic careers.<sup>5</sup>

As time goes on, these students fall behind in their studies, become cast as "problematic," and build rap sheets of disciplinary incidents. Rather than working toward their potential, many students succumb to a system that tells them they are worth far less. This systemic failure is illustrated profoundly by a

comprehensive study done in Texas. Thirty-one percent of students who were suspended or expelled from school repeated a grade, in comparison to five percent of other students.<sup>6</sup>

The toxic combination of missed class time and lowered self-esteem creates a damaging cycle that results in classroom disengagement and higher dropout rates. The consequences extend far beyond the classroom, perpetuating cycles of poverty, low-education attainment, and structural inequalities that span generations.

It is clear that if we want Missouri to be a place where all children have an opportunity to succeed, we must change how we do things at every level.

Change will require action from everyone in the community. That's why we've structured our recommendations and resources based on the different roles needed to break the school-to-prison pipeline. On the following pages, you'll find solutions for parents; students; students with disabilities and disability rights advocates; educators; policymakers (school board members and administrators); law enforcement and legislators.

For further reading regarding the following recommendations, please refer to the Additional Resources section in the back of this report.

# Recommendations for Caregivers & Students

## RECOMMENDATIONS

### FOR PARENTS

- Learn your rights and your child's rights at school. Ask educators to clearly explain disciplinary procedures.
- Carefully review your school's written disciplinary policies.
- Learn more about your school's use of school resource officers (SROs).
- Use available resources, such as data from the federal Office for Civil Rights, to learn about disparities in discipline at your child's school.
- Learn how to appeal a school's disciplinary action.
- Parents of students with disabilities should make sure their child's Individual Education Program (IEP) is correct, available to all educators, and implemented.

## RECOMMENDATIONS

### FOR STUDENTS

- Require information be provided about students' rights while in schools. Communication should be clear about behavior expectations and punishments.
- Learn what rights apply when students interact with law enforcement and with school administration.
- Speak to parent or guardian about any perceived disciplinary inequalities in your school.

## RECOMMENDATIONS

### FOR STUDENTS WITH DISABILITIES & DISABILITY RIGHTS ADVOCATES

- Make sure your school has clear policies on restraint and seclusion.
- Know how the disciplinary hearing process is unique for students with disabilities.
- Learn how the appeal process works at school, in case a student with a disability is subjected to disproportionate discipline.

# Recommendations for School Districts

## RECOMMENDATIONS

### FOR EDUCATORS

- Increase use of inclusionary (vs. exclusionary) discipline with an eye toward restorative practices.
- Make sure teachers, staff, and administrators are engaged and informed about the communities they teach in and prioritize understanding what their students' home lives look like, and how that might affect their in-school behavior.
- Inform students of their rights. Clearly explain disciplinary procedures.
- Districts should conduct internal evaluations in partnership with community members to learn more about why students are being disciplined.
- Educators should keep track of discipline data in their classroom for own self-study and correction.
- Eliminate language in the school code of conduct that punishes vague infractions such as "defiance" or "disruptive behavior."
- Educators should pay particular attention to providing equal access for students with disabilities, and ensure disciplinary actions are never taken for behaviors connected to students' disabilities.

## RECOMMENDATIONS

### FOR POLICYMAKERS (SCHOOL BOARD MEMBERS & ADMINISTRATORS)

- Work to eliminate out-of-school suspension and expulsion.
- Consult with parents, teachers, students and community members when creating or updating discipline policies.
- Require more detailed reporting of student discipline, including information about length of suspension and the reason for taking disciplinary action. This information should be readily accessible to the public. Schools should have internal reports on disciplinary trends that are available to teachers, students, and parents.
- Fund mandatory teacher anti-bias trainings to educate about trauma-informed practices, racial/economic equity, and issues for disabled students.
- Be specific about how and when restraint and seclusion can be used. Take immediate action to reduce the use of restraint and seclusion, particularly for students with disabilities.
- Hire more counselors and implement trauma-informed practices.
- Draft clear MOU agreements to limit role of officers in discipline matters. Review agreements annually with public consultation.



# Recommendations for Lawmakers & Law Enforcement

## RECOMMENDATIONS

### FOR LAW ENFORCEMENT

- Set clear policies for when law enforcement should be involved in student discipline. Limit the involvement of law enforcement to situations that pose a real and immediate threat of serious physical injury.
- Create policies to ensure that the arrest or detention of a student is only used as a last resort. Explore diversion practices.
- Train all school resource officers (SROs) to understand policies and needs relevant to students with disabilities.

## RECOMMENDATIONS

### FOR LEGISLATORS

- Examine Missouri's laws on school policy for language that may cause disparate impact on students of color and students with disabilities. (Example: Missouri law says that students may be suspended for conduct that "tends to impair morale or good conduct of pupils." This language is broad and open to adverse interpretation.)
- Evaluate the benefits of decreasing the length of suspension. (Compared to many states, Missouri has an exceptionally long limit for out-of-school suspensions.)
- State law should be specific about what behaviors fall into the categories of "disruptive behavior" and "disorderly conduct."
- Create a clear path for students to be reinstated to school post-suspension and receive educational services while out of school.
- Identify and eliminate zero-tolerance policies.
- Require schools to adopt student search policies that match Fourth Amendment protections.
- Require school law enforcement officers or security personnel to be trained in child development, as well as require all contracts between school districts and security personnel to establish that security personnel are not responsible for school discipline unless the violation poses an immediate and real danger.

# A Systemic Indoctrination

## *Missouri's Long History of Racial Injustice*

Missouri can trace its troubled history with racism to the Antebellum era, when it was contentiously admitted to the Union as a slave state in the 1820 Missouri Compromise. We need to examine the evidence of bias in Missouri schools within this broader historical context.

Today, parts of Missouri are among the most segregated in the country.<sup>7</sup> Missouri reached this point as a result of critical decisions on citizenship, housing, and discrimination. In 1857, Missouri was the focal point of the Dred Scott decision, a case in which the Supreme Court of the United States ruled that no Black person whose ancestors were brought to this country as slaves, regardless of current status as slave or freeman, was a citizen.

In 1917, the Supreme Court struck down an ordinance that barred St. Louisans from moving to any neighborhood in which 75 percent of the population was of a different race than their own. White residents in

St. Louis and across the state reacted by enshrining discrimination in their housing covenants and prohibiting the sale of houses to Black families.<sup>8</sup> This response embedded race and place in Missouri, a fact made obvious in the 1,200 covenant documents in the Kansas City area alone still containing race-based language, despite the Supreme Court's ruling that such housing covenants are unenforceable.<sup>9, 10</sup>

Today, this shameful legacy continues with the recent gutting of Missouri's Human Rights Act, a law designed to protect Missourians from discrimination on the basis of race, color, religion, national origin, ancestry, sex, disability and age. This year, Missouri's legislature chose to prioritize "business interests" over firm commitments to protecting its residents from discrimination, a decision that prompted the NAACP to issue its first-ever travel advisory for people of color seeking to visit Missouri.<sup>11</sup> Within this broad context, it should come as little surprise that the legacy



of race also echoes loudly through Missouri's school hallways.<sup>12</sup>

While Missouri as a state grappled with race and racial equality, Missouri's schools became a battleground, with state officials resisting integration in the courts with all their legal might. In 1935, Missouri fought in the Supreme Court to maintain segregated education in *Missouri ex rel. Gaines vs. Canada*. The law school at the University of Missouri refused to admit Lloyd Gaines, a Black man. When Missouri offered to pay Gaines' tuition at an out-of-state law school where Blacks were allowed, Gaines refused. The Supreme Court mandated that University of Missouri provide equal education opportunities to Black students within the state. If a separate institution did not exist for Black students, they must be admitted to the White school.

While Missouri directly oversaw the implementation of segregation in state-governed entities, it left desegregation decisions to local government. In 1971, five Black families in the city of St. Louis filed a class-action lawsuit after they learned their children would be sent to school in old buildings far away from their homes. After two decades, the decision in *Liddell vs. Board of Education for the City of St. Louis* resulted in the nation's first voluntary inter-district student transfer program.

Still, despite the fact that the courts have issued at least 29 desegregation orders since 1975, Missouri remains a state where 40 percent of Blacks attend school at which 90 percent of the students are racial minorities.<sup>13</sup>

Kansas City provides a direct illustration of failing integration efforts in *Missouri v. Jenkins*, a 1990 Supreme Court ruling on desegregation. In 1985, a federal judge determined the state of Missouri needed to invest heavily in desegregation in the Kansas

City area. In its legal challenge to the order, the state said desegregation cost too much and that change would come too slow. The district in question – the Kansas City, Missouri School District (now known as Kansas City Public Schools) – argued that the plan didn't give enough time to produce meaningful data on outcomes. The Supreme Court ultimately ruled that the state did not need to continue to fund Kansas City's desegregation plan.<sup>14</sup> By 1996, the district had a minority population of 77.9 percent, with White families leaving the city and draining the district of resources. By 2000, the district lost its accreditation with the state for the first time.<sup>15</sup>

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Within Missouri's historical context, it should come as little surprise that the legacy of racial injustice echoes loudly through Missouri's school hallways.

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Integration is also an issue in the leadership and governance of Missouri's schools. In 2014, the ACLU brought suit against the Ferguson-Florissant School District for its racially discriminatory election processes for its board of education. A federal court found that the election system diluted the African-American vote and violated the Voting Rights Act.<sup>16</sup>

In August 2014, Missouri moved back into the center of the national conversation on racial injustice. The shooting of Michael Brown by a police officer in Ferguson, Missouri, sparked protests about racial bias in policing across the St. Louis region and the nation. Brown's death put a spotlight on police violence in Ferguson and similar communities throughout the U.S., as well as the economic injustices foisted upon Black communities – including a focus on deep inequality in school discipline.

Brown went to Normandy High School, one of the most segregated schools in the nation. The school is 97 percent Black and less than half of Normandy's Black male students graduate.<sup>17, 18</sup> The Ferguson Commission, a group of regional leaders who studied the conditions leading up to Brown's death, specifically highlighted the role unequal school discipline has in fostering racial inequity.<sup>19</sup>

In 2015, the Center for Civil Rights Remedies at the University of California-Los Angeles published a national report on discipline and educational gaps between White and Black students entitled, "Are We Closing the Discipline Gap?" This report found that Black elementary school students in Missouri are more likely to be suspended in Missouri than in any other state.<sup>20</sup>

Disciplinary bias robs certain children of their right to education and deprives them of classroom time and educational opportunities. It reinforces existing historical inequalities in Missouri for communities of color, low-income communities, and those living with disabilities. These realities serve to strengthen the school-to-prison pipeline by which students are moved out of school and into the criminal justice system.

## Building the Pipeline

The "school-to-prison pipeline" describes a vast system of structural inequalities which form a channel that funnels children out of public schools and into the criminal justice system. One common manifestation of the pipeline occurs when certain students' behaviors are interpreted through a biased lens, and they are punished harsher than their peers.

The consequences of unequal treatment in schools are varied and far-reaching, from lowered educational attainment and higher dropout rates, to unemployment or underemployment and incarceration.

# FROM SCHOOL TO PRISON

## What is the School-to-Prison Pipeline?

The ACLU is committed to challenging the "school-to-prison pipeline," a disturbing national trend wherein children are funneled out of public schools and into the juvenile and criminal justice systems. Many of these children have learning disabilities or histories of poverty, abuse, or neglect, and would benefit from additional educational and counseling services. Instead, they are isolated, punished, and pushed out.

"Zero-tolerance" policies criminalize minor infractions of school rules, while growing numbers of cops in schools can lead to students being criminalized for behavior that should be handled inside the school. Students of color are especially vulnerable to push-out trends and the discriminatory application of discipline.

The ACLU believes children should be educated, not incarcerated. This is a right. We are working to challenge numerous policies and practices within school systems and the juvenile justice system that contribute to the school-to-prison pipeline.

For a growing number of students, the path to incarceration includes the "stops" below.

### Poorly Resourced Schools

For most students, the pipeline begins with **inadequate resources in public schools**. Overcrowded classrooms, a lack of qualified teachers, and insufficient funding for "extras" such as counselors, special education services, and even textbooks, lock students into second-rate educational environments. This failure to meet educational needs increases disengagement and dropouts, increasing the risk of later court involvement. Even worse, schools may actually encourage dropouts in response to pressures from test-based accountability regimes such as the No Child Left Behind Act, which create incentives to push out low-performing students to boost overall test scores.

### Zero-Tolerance and Other School Discipline

Lacking resources, facing incentives to push out low-performing students, and responding to a handful of highly-publicized school shootings, schools have embraced **zero-tolerance policies** that automatically impose severe punishment regardless of circumstances. Under these policies, students have been **expelled** for bringing nail clippers or scissors to school. Rates of **suspension** decreased, but racial disparities have not.

Overly harsh disciplinary policies push students down the pipeline and into the juvenile justice system. Suspended and expelled children are often left unsupervised and without constructive activities; they also can easily fall behind in their coursework, leading to a greater likelihood of disengagement and drop-outs. All of these factors increase the likelihood of court involvement.

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As harsh penalties for minor misbehavior become more pervasive, **schools increasingly ignore or bypass due process protections** for suspensions and expulsions. The lack of due process is particularly acute for **students with special needs**, who are disproportionately represented in the pipeline despite the heightened protections afforded to them under law.

### ***Policing School Hallways***

Many under-resourced schools become pipeline gateways by placing **increased reliance on police** rather than teachers and administrators to maintain discipline. Growing numbers of districts employ **school resource officers** to patrol school hallways, often with little or no training in working with youth. As a result, children are far more likely to be subject to **school-based arrests**—the majority of which are for non-violent offenses, such as disruptive behavior—than they were a generation ago. The rise in school-based arrests, the quickest route from the classroom to the jailhouse, most directly exemplifies the criminalization of school children.

### ***Disciplinary Alternative Schools***

In some jurisdictions, students who have been suspended or expelled are sent to **disciplinary alternative schools**.

Growing in number across the country, these systems—sometimes run by private, for-profit companies—are mostly immune from educational accountability standards (such as minimum classroom hours and curriculum requirements) and may fail to provide meaningful educational services to the students who need them the most. As a result, struggling students return to their regular schools unprepared, are permanently locked into inferior educational settings, or are funneled through alternative schools into the juvenile justice system.

### ***Court Involvement and Juvenile Detention***

Youth who become involved in the juvenile justice system are often denied procedural protections in the courts; in one state, up to 80% of court-involved children do not have lawyers. Students who commit minor offenses may end up in secured detention if they violate boilerplate probation conditions prohibiting them from activities like missing school or disobeying teachers.

Students pushed along the pipeline find themselves in **juvenile detention facilities**, many of which provide few, if any, educational services. Students of color — who are far more likely than their white peers to be suspended, expelled, or arrested for the same kind of conduct at school — and those with disabilities are particularly likely to travel down this pipeline.

Though many students are propelled down the pipeline from school to jail, it is difficult for them to make the journey in reverse. Students who enter the juvenile justice system face many **barriers to their re-entry** into traditional schools. The vast majority of these students never graduate from high school.

From American Civil Liberties Union, “School-to-Prison Pipeline”  
Read more: [www.aclu.org/issues/juvenile-justice/](http://www.aclu.org/issues/juvenile-justice/)

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The effects of the pipeline are felt disproportionately by communities of color and students with disabilities. Much of the over-discipline handed down to members of these communities begins in school, and results in an overrepresentation of these same groups in the criminal justice system.

Perhaps the most obvious example of the pipeline occurs when students of color are given suspensions of greater length and with more frequency than their White peers. According to the U.S. Department of Education’s Office for Civil Rights, during the 2013-2014 school year, Black students were suspended three times more often than White students nationwide.<sup>21</sup> In Missouri, we find this same disproportion in both 2013-14 and in preliminary data collected in 2016.

Disproportion dispensation of school discipline often come from the selective and subjective application of discipline policies. Selective discipline occurs when two students are punished differently for the same infraction. Subjective behavioral categorizations, such as “disruptive behaviors,” can lead to disciplinary inequalities, as a student’s actions may be interpreted through a biased lens.

Some policies are, in theory, racially neutral and adopted without the intent to discriminate, such as clothing policies like “no loose-fitting pants.” But these kinds of policies can create what the federal Office for Civil Rights calls an “unjustified effect of discriminating against students of color based on race.” This is known as “disparate impact” and violates federal law.<sup>22</sup>

The Equity Project at Indiana University notes that the greatest disproportion in discipline for Black students comes with regard to conduct labeled as “defiance” and “disruptive behavior,” both subjective terms found frequently in school discipline policies. There is no evidence to support the theory that Black

students misbehave at a higher rate than their white peers.<sup>23</sup> The disparate impact can be illustrated by looking at discipline statistics for Black girls. Nationally, they are 2.5 times more likely than their White peers to be disciplined for “disobedience” and three times more likely to be disciplined for “disruptive behavior.”<sup>24</sup>

Students with disabilities, especially students of color, are also disproportionately disciplined.

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#### **How the School-to-Prison Pipeline Begins**

“Zero-tolerance” policies criminalize minor infractions of school rules, while police in schools lead to students being criminalized for behavior that should be handled inside the school. Students of color are especially vulnerable to push-out trends and the discriminatory application of discipline.

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Nationally, students with disabilities are twice as likely to be suspended as students without disabilities. During the 2013-2014 school year in Missouri, Black students with disabilities were more than three times more likely to be suspended than White students with disabilities. This pattern has remained consistent through 2016: Black students with disabilities were still more than three times likely to be suspended than White students with disabilities.

#### ***When School Discipline Meets Law Enforcement***

We see a more direct relationship between school discipline and a future in the criminal justice system when looking at school referrals to law enforcement.

Despite only making up 16 percent of public school enrollment nationwide, Black students

account for 27 percent of the referrals to law enforcement and 31 percent of school-related arrests. Students with learning, behavioral, or physical disabilities make up 12 percent of public school enrollment nationwide, but account for 25 percent of school-related arrests.<sup>25</sup>

In Missouri, Black students make up 14 percent of the student body but represent about 18 percent of school-related arrests and 17 percent of referrals to law enforcement.<sup>26</sup> During the 2013-2014 school year, Black students with disabilities made up approximately 16 percent of Individuals with Disabilities Education Act (IDEA) enrollment in the state, but represent roughly 20 percent of IDEA referrals to law enforcement and 22 percent of IDEA arrests.

The imbalance of school-related arrests reflects a similar pattern seen with overall arrests in Missouri.

For example, in 2015, 36 percent of all minors arrested in Missouri were Black, despite Blacks only comprising 14 percent of the state’s population under 18, according to Missouri State Highway Patrol Uniform Crime Statistics data.<sup>27</sup> This means that about five out of every 100 Black children in Missouri were arrested in 2015, compared to about two out of every 100 White children. Overall, Black children were more than three times more likely to be arrested than White children. In 2016, the arrest rate for Black children remained similar.

These problems are compounded by an increased law enforcement presence in schools, in the form of school resource officers (SROs). Officers in schools make it more likely that in-school behaviors will be punished in the criminal justice system, which amplifies disparities in discipline.<sup>28</sup>



In Missouri, 37.6 percent of schools have sworn law enforcement officers patrolling the halls and school cafeterias, compared to 29 percent nationally.<sup>29</sup> A major concern is that these officers are trained only once for their role in schools. Also problematic is the lack of standardization in training, qualifications and reporting lines between individual school districts and law enforcement agencies. Because each district has its own agreement, it can create disparities in how policies are implemented and confusion about who the officer reports to.

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## Low educational attainment and high rates of incarceration affect multiple generations... These disparities lead to intergenerational socio-economic stratification.

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Criminalizing childhood behavior is a problem for every student in the U.S., but it is particularly damaging to students of color and students with learning, behavioral, or physical disabilities (see IDEA graphic on p. 20). The results are even more catastrophic for students who fall into both demographic categories. This report outlines how these students are disproportionately targeted for excessive discipline and increased referrals to law enforcement.

### *Causes of the Pipeline*

The causes of the school-to-prison pipeline are rooted in poverty, discrimination, racism, housing inequality, and lack of representation. Our aim in this report is to focus on what can be done at school to change discriminatory discipline outcomes and make sure all students have equal access to their right to

an education. As a result, this report will highlight causes stemming from policy failures and discrimination.

The U.S. Department of Justice and U.S. Department of Education have identified several discriminatory school practices. These practices send students into the school-to-prison pipeline and include:

Selective enforcement of policies, such as Black students being punished for being “disruptive” when students of other races exhibit the same behavior but aren’t punished in the same way; punishment of students under policies that appear race-neutral but have a disparate impact on students of certain races (especially if there is no sound reason or alternatives exist that aren’t as damaging); and policies that may appear race neutral but are designed to discriminate.<sup>30</sup>

In order to break the pipeline, we must recognize the effects of explicit and implicit bias.

While explicit biases imply conscious prejudice in thoughts and actions, the Kirwan Institute specifies that implicit biases are the “unconscious biases that people are unaware that they hold but influence their perceptions, behaviors, and decision-making.” The Kirwan Institute affirms that, “pervasive societal implicit associations surrounding Blackness (e.g. being dangerous, criminal, or aggressive) can impact perceptions of Black students in ways that affect the discipline they receive.”<sup>31</sup>

Implicit bias is often seen in the judgments educators make about a student’s intentions or abilities. For example, when both White and Black teachers with similar educational experience rated the same set of students, Black students were scored as having fewer academic aptitudes, more stereotypically negative traits, such as being perceived as

argumentative and disobedient, and with worse educational prospects than comparable White students.<sup>32</sup>

Another example of implicit bias is the perception of the age and innocence of Black children. A recent Georgetown University study found that Black girls were more likely to be viewed as older than their age, more knowledgeable about adult topics such as sex, and more likely to take on adult roles and responsibilities than expected for their age. Studies have found similar perception of Black boys.<sup>33</sup> This “adultification” of Black children leads to higher rates of discipline than those of their White peers because they are perceived as less innocent, more responsible for their actions, and less in need of protection.

School environments with inadequate resources and disciplinary policies, compounded with explicit and implicit biases, can cause the school-to-prison pipeline to flourish. This report will put these causes in context, identify troublesome policies and set the stage for improvement.

## Cost of Injustice

Separate but equal education is unconstitutional and unethical. All children have a right to equal access to public education. When groups of students are disproportionately targeted for excessive discipline, their rights are violated and they lose access to the education they both deserve and are legally entitled to.

Discipline inequality puts the academic futures of communities of color and students with disabilities at risk. A 2014 national study showed that fourth graders who missed three days of school in the month before taking a national academic performance exam scored a full grade level lower in reading comprehension.<sup>34</sup> Students who are forced

out of the education system because of out-of-school suspensions or expulsions are up to 10 times as likely to drop out, significantly increasing their likelihood to be incarcerated.<sup>35</sup> The fact that young, Black men without a high school diploma or equivalent are more likely to be incarcerated than employed illustrates the lifetime consequences of excessive school discipline.<sup>36</sup>

Without a doubt, there is an emotional, academic, and physical cost of the school-to-prison pipeline. For each state, there is also a significant economic cost.

The U.S. Department of Education reports that, over the past 30 years, state and local government spending on jails and prisons has outpaced spending growth on elementary and secondary education threefold, despite large decreases in crime rates.

From 1979 to 2012, Missouri’s expenditures on state and local corrections increased by 282 percent — or 183 percent more than the state’s expenditures on pre-K-12 education grew in the same time period.<sup>37</sup> In Missouri, it costs \$89,170 a year to pay for one child in a juvenile justice facility, according to a report from the Justice Policy Institute.<sup>38</sup> By contrast, the cost of education during a school year is just a fraction — \$10,802 per student.<sup>39</sup>

At the other end of the school-to-prison pipeline, the expenses continue to add up. In 2015, Missouri budgeted \$710 million to house 32,330 inmates across the state.<sup>40</sup>

Low educational attainment and high rates of incarceration affect multiple generations. Studies show that suspensions in primary or secondary school are linked with lower high school graduation rates and lower likelihood of achieving middle-income status.<sup>41</sup> The likelihood that a student will pursue college or post-graduate education increases



significantly if one or both parents also attended college immediately following high school.<sup>42</sup>

When students face disproportionate punishment that removes them from school for extended periods, such as suspension, or they drop out of school, their long-term financial stability is threatened. Lower education attainment ultimately means less income over a lifetime.

A Missourian without a high school diploma had a median weekly income of \$488 in 2014, compared with \$668 for those who finished high school. The average weekly income increases to \$1,101 for those with bachelor's degrees.<sup>43</sup>

There are substantial differences in access to post-secondary education, college completion, and earnings among equally qualified Black, White, and Hispanic students later in life. These disparities lead to intergenerational socio-economic stratification, as Black and Hispanic students with parents who didn't go to college drop out at higher rates than White students from similar backgrounds. The combination of these variables – discipline, income, and likelihood of higher education – cements cycles of poverty and low-educational attainment within multiple generations of families.

It is in Missouri's economic interest to encourage higher rates of education completion and actively reduce the dropout rate. In order to make this a reality, Missouri must strive to break the school-to-prison pipeline.

## UNDERSTANDING IDEA

The Individuals with Disabilities Education Act (IDEA) is a federal program requiring schools to address the needs of eligible students with certain learning, behavioral, or physical disabilities.

Schools must evaluate and provide educational opportunities for students to ensure that they have access to free and appropriate public education that is integrated with non-IDEA students wherever possible. However, not every student with these challenges qualifies for IDEA opportunities. Far more remain undiagnosed and underserved.

IDEA covers kids from birth through high school graduation or age 21 (whichever comes first). It provides early intervention services up to age 3, and special education for older kids in public school, including charter schools.

Not every child with one of the covered disabilities qualifies for IDEA.

To be eligible, a student must:

- Have a disability and, **as a result of that disability** need special education in order to make progress in school

## WHAT IDEA COVERS

To qualify, a child must have one of the 13 disabilities IDEA covers. They are:

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment (including ADHD)
- Specific learning disability (including dyslexia, dyscalculia and dysgraphia, and other learning issues)
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness



# Policing the Schools

## *Discipline in Missouri's Schools*

We've shared the historic foundation behind the school-to-prison pipeline. We've illustrated the economic costs that each of us pays for. Now, let's take a look at what's actually happening in our schools.

This section examines our findings regarding eight different types of school discipline in Missouri: corporal punishment, in-school suspension, out-of-school suspension, expulsion, referral to law service, school-related arrest, restraint and seclusion.

We've looked at disparities by the race of student and if they have a learning, behavioral or physical disability under the Individuals with Disabilities Education Act (IDEA), the federal program that requires schools to accommodate the educational needs of students with disabilities.

In the charts that follow, you'll see the racial breakdown for non-IDEA and IDEA students. You will also see a percentage

number in a category called "Discipline Gap for Black Students." This is the measure of the differences between rates of different disciplines – such as suspension or expulsion – for different racial groups. In this case, we're looking at the gap in how often Black students are disciplined in Missouri compared to their White peers.

This gap may be a useful measure in monitoring how discipline is administered over time. If districts or schools track these gaps, they can examine their causes and set goals to reduce the disparities. Such a comparison is how experts across the nation are measuring the disparities in school discipline.

Another category you will see is "Black Risk Compared to White Risk." This is the measure of the relative-risk ratio that Black students face compared to their White peers. It shows how much more likely they are to face discipline – such as suspension or expulsion – than their White peers.

## Corporal Punishment

Missouri is one of 19 states in the nation that still allows corporal punishment in schools.<sup>44</sup>

Corporal punishment involves the use of physical force to punish, such as spanking or slapping a student. State law requires school boards to have a written policy outlining the specific circumstances when corporal punishment may be used for. The policy must be available to parents.<sup>45</sup>

### *Statewide Corporal Punishment Statistics*

Corporal punishment continues to be used at a surprisingly high rate. In Missouri in 2013-2014, there were over 2,700 reported incidents of students being disciplined with physical force. More than 24 percent of those incidents involved Black students.

This means that in Missouri, Black students were almost twice as likely to be hit in school than White students, a marked increase from previous years.

#### **Corporal Punishment Statistics for Students Not Receiving IDEA Services**

##### **2013**

Black Rate Per 100 Students	.59
White Rate Per 100 Students	.32
Discipline Gap for Black Students (%)	.27
Black Risk Compared to White Risk	1.83

##### **2011**

Black Rate Per 100 Students	.65
White Rate Per 100 Students	.56
Discipline Gap for Black Students (%)	.09
Black Risk Compared to White Risk	1.17

##### **2009**

Black Rate Per 100 Students	.38
White Rate Per 100 Students	.22
Discipline Gap for Black Students (%)	.17
Black Risk Compared to White Risk	1.77

Corporal punishment was also used on students receiving IDEA services. In 2013-2014, there were more than 500 reported incidents of IDEA students being hit, meaning roughly one out of every six incidents of corporal punishment involved an IDEA student. Twenty-one percent of those IDEA children experiencing corporal punishment were Black, despite making up only about 16 percent of the IDEA population.

#### **Corporal Punishment Statistics for Students Receiving IDEA Services**

##### **2013**

Black Rate Per 100 Students	.67
White Rate Per 100 Students	.48
Discipline Gap for Black Students (%)	.18
Black Risk Compared to White Risk	1.38

##### **2011**

Black Rate Per 100 Students	.92
White Rate Per 100 Students	.59
Discipline Gap for Black Students (%)	.33
Black Risk Compared to White Risk	1.55

##### **2009**

Black Rate Per 100 Students	.57
White Rate Per 100 Students	.39
Discipline Gap for Black Students (%)	.18
Black Risk Compared to White Risk	1.45

## Suspensions

### *In-School Suspension (ISS)*

In-school suspension is often defined as the removal of a student from the classroom and placement within a separate room for a determined amount of time.

Some educators say that a benefit of in-school suspension is that students are not removed from the school and are still in an educational environment. However, there are ample reports of students being put in ISS rooms where they are left to sit and bide their time, or worse, “calm-down rooms” that are essentially repurposed closets.<sup>46, 47</sup>

The physical presence of a student’s body on school property does not guarantee the opportunity to learn. Also, when a student receives an in-school suspension, they are still marked as in attendance for the period of the punishment. This questionable practice allows the same amount of funding for the school as if the student was in the classroom, which makes it even more important that students still learn while they’re in ISS.

In-school suspension is often used a punishment for lesser infractions and first offenses. However, there are no specific Missouri state laws regulating the use of ISS, allowing individual school districts wide latitude in how such punishments are doled out. We also must note that districts tend to focus less on recording in-school suspension data than out-of-school suspension data. While we consider these numbers in this category alarming, they are likely incomplete and less telling than subsequent statistics on out-of-school suspension.

Each individual school district must have a defined in-school suspension policy, but such guidelines are notoriously vague. Under Missouri law, a student can be removed for any

action that may “impair the morale or good conduct of the pupils.” This broad language allows individual school boards to craft their own interpretation of state law.

### *Statewide In-School Suspension Statistics*

The overall data for the state of Missouri reflects discipline inequality in the use of in-school suspension (see tables on p. 25). During the 2013-2014 school year, over 72,000 in-school suspensions were given to non-IDEA students in Missouri. Black students accounted for 29 percent of all in-school suspensions, despite only being 14 percent of the overall non-IDEA student population.

During the same school year, approximately 19 out of every 100 black students received an in-school suspension, compared to about eight out of every 100 White students. Preliminary data collected by the Missouri Department of Secondary and Elementary Education (DESE) in 2015-2016 shows that these trends continue, with Black students still almost twice as likely to receive an in-school suspension than White students.

The 2015-2016 data also includes information about the length of in-school suspensions. This data indicates that among non-IDEA students, an ISS given to a Black student was more likely to extend beyond a single day, compared to a White student receiving an identical sanction.

During the 2013-2014 school year, Black students are more than 2.5 times more likely than White students to receive an ISS. The situation is particularly bad for Black girls, who received 35 percent of all in-school suspension given to females, though they only represented 14 percent of the female student population.



#### **In-School Suspension Statistics for Students Not Receiving IDEA Services**

##### **2013**

Black Rate Per 100 Students	18.79
White Rate Per 100 Students	7.47
Discipline Gap for Black Students (%)	11.32
Black Risk Compared to White Risk	2.52

##### **2011**

Black Rate Per 100 Students	18.52
White Rate Per 100 Students	8.63
Discipline Gap for Black Students (%)	9.89
Black Risk Compared to White Risk	2.15

##### **2009**

Black Rate Per 100 Students	16.11
White Rate Per 100 Students	6.74
Discipline Gap for Black Students (%)	9.37
Black Risk Compared to White Risk	2.39

#### **In-School Suspension Statistics for Students Receiving IDEA Services**

##### **2013**

Black Rate Per 100 Students	25.86
White Rate Per 100 Students	11.60
Discipline Gap for Black Students (%)	14.26
Black Risk Compared to White Risk	2.23

##### **2011**

Black Rate Per 100 Students	21.61
White Rate Per 100 Students	12.54
Discipline Gap for Black Students (%)	9.07
Black Risk Compared to White Risk	1.72

##### **2009**

Black Rate Per 100 Students	22.22
White Rate Per 100 Students	11.21
Discipline Gap for Black Students (%)	11.01
Black Risk Compared to White Risk	1.98

When looking at students who receive IDEA services, the racial disparities for in-school suspensions are drastic.

During the 2013-2014 school year, over 16,000 in-school suspensions were given to IDEA students, with more than 29 percent of those given to Black IDEA students. However, Black IDEA students only represent 16 percent of the IDEA population in Missouri. That means about 26 out of every 100 Black IDEA students received an in-school suspension, compared to about 12 out of every 100 White IDEA students. Black IDEA students were more than twice more likely to receive an in-school suspension than White IDEA students. The data collected during 2015-2016 indicates that the disparities among IDEA students remain, with Black IDEA students being twice more likely to receive an ISS than White IDEA students.

While in-school suspension is considered preferable to an out-of-school suspension, it is still an exclusionary punishment. Removing a student from the educational environment can result in the deprivation of learning. It is also very troubling that students with disabilities are being removed from the classroom at such high rates, despite more protective federal laws for those with disabilities. We must look at the long-term consequences of how discipline inequality affects students of color and students with disabilities for the rest of their lives.

#### ***Out of School Suspension (OSS)***

Out-of-school suspension requires the removal of a student from school property for a specified amount of time. Out-of-school suspensions can vary in severity and are subject to a greater amount of state-level regulation.

For example, Missouri law states that a school board may, after notifying the parent/guardian and holding a hearing, “suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils...a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil.” Again, this language is sufficiently vague to allow for implicit bias to contribute to disproportionate suspension of students of color and students with disabilities.

State law also specifies that a school principal and school superintendent have the authority to suspend a student.

A principal can suspend a student for up to 10 days. In these cases, a parent/guardian must be notified and a small, informal meeting is held. These meetings are supposed to involve an oral or written presentation of the charges and an opportunity for the student to refute the charges. However, these types of suspensions cannot be appealed. A superintendent’s suspension may last up to 180 days. These suspensions can be appealed to the district’s board of education.

In both cases, a parent or guardian should be notified and can be present at the hearing. However, there is no publicly available data confirming that these procedures are consistently followed.

### ***Statewide Out-of-School Suspension Statistics***

Black students – including those who qualify for IDEA services – continue to be more than three times more likely to receive an out-of-school suspension than White students,

despite the fact that the number of out-of-school suspensions in Missouri has decreased over time.

In the 2015-2016 school year, Black students received 38 percent of the suspensions lasting more than 90 days and 35 percent of the suspensions lasting 11-89 days. The case is worse for Black students with disabilities, who receive 52 percent of the out-of-school suspensions given to students with disabilities lasting more than 90 days and 41 percent of the suspensions lasting between 11-89 days.

During the 2013-2014 school year, more than 43,000 out-of-school suspensions were given in Missouri to non-IDEA students (see table on p. 27). Forty-one percent of these suspensions were meted out to Black students, though they only make up 14 percent of the student population. These findings show a significant disparity between the rate of enrollment and the rate of punishment. This means about 16 out of every 100 Black students received an out-of-school suspension, compared with only about four out of every 100 White students. Black students were over four times more likely to receive an out-of-school suspension.

For out-of-school suspensions, Black boys received the most disproportionate punishment compared to their enrollment rate. About 17 out of every 100 Black boys students received an out-of-school suspension, compared to only about four out of every 100 White boys. This means Black boys are almost four times more likely to receive an out-of-school suspension than Whites.

For girls, we found 11 out of every 100 Black students were given an out-of-school suspension compared to about two out of every 100 White students, making Black girls six times more likely to receive an OSS than White girls.

The most current data from the 2015-2016 school year shows that Black IDEA students are more likely to receive an out-of-school suspension than White IDEA students. Overall, in Missouri, Black male IDEA students are the most likely of all Missouri students to receive an out-of-school suspension. Black, Male IDEA student were over 3 times more likely than White, male idea students to receive an OSS. Even worse, Black male IDEA students were 2.5 times more likely to receive multiple OSS in a single year, translating to even more missed classroom time.

For girls, approximately 23 out of every 100 Black female IDEA students received an out-of-school suspension, compared to approximately five out of every 100 White female IDEA students. Black female IDEA students were nearly five times more likely to receive an out-of-school suspension compared to White female IDEA students.

This trend of biased discipline continued in the 2015-2016 school year. We found Black IDEA students were over three times more likely to be suspended than White IDEA students. Black IDEA students were also more likely to receive out-of-school suspensions lasting longer than a single day. More specifically, Black students with disabilities received 1,010 out-of-school suspensions lasting over 10 days, compared to their White peers, who experienced 784 out of school suspensions in the same period.<sup>48</sup>

#### **Out-of-School Suspensions Statistics for Students Receiving IDEA Services**

##### **2013**

Black Rate Per 100 Students	27.85
White Rate Per 100 Students	8.28
Discipline Gap for Black Students (%)	19.57
Black Risk Compared to White Risk	3.36

##### **2011**

Black Rate Per 100 Students	23.76
White Rate Per 100 Students	7.91
Discipline Gap for Black Students (%)	15.85
Black Risk Compared to White Risk	3.00

##### **2009**

Black Rate Per 100 Students	24.19
White Rate Per 100 Students	6.52
Discipline Gap for Black Students (%)	17.67
Black Risk Compared to White Risk	3.71

Now, let's take a look at the rates of out-of-school suspension by boys and girls.

**Out-of-School Suspensions Statistics for Students Not Receiving IDEA Services by Gender**

2013	Overall	Male	Female
Black Rate Per 100 Students	15.96	16.50	10.93
White Rate Per 100 Students	3.51	4.25	1.79
Times More Likely to be Suspended than White Student	4.54	3.88	6.11
Black-to-White Percentage	12.45	12.25	9.14
<b>2011</b>			
Black Rate Per 100 Students	20.12	25.69	15.16
White Rate Per 100 Students	3.90	5.94	2.02
Times More Likely to be Suspended than White Student	5.16	4.33	7.49
Black-to-White Percentage	16.22	19.75	13.14
<b>2009</b>			
Black Rate Per 100 Students	18.21		
White Rate Per 100 Students	3.20		
Times More Likely to be Suspended than White Student	5.68		
Black-to-White Percentage	15.01		

**Out-of-School Suspensions Statistics for Students Receiving IDEA Services by Gender**

2013	Overall	Male	Female
Black Rate Per 100 Students	27.85	30.12	22.92
White Rate Per 100 Students	8.28	9.88	4.86
Times More Likely to be Suspended than White Student	3.36	3.05	4.71
Black-to-White Percentage	19.57	20.24	18.06
<b>2011</b>			
Black Rate Per 100 Students	23.76	26.29	18.45
White Rate Per 100 Students	7.91	9.86	3.91
Times More Likely to be Suspended than White Student	3.00	2.67	4.72
Black-to-White Percentage	15.85	16.43	14.54
<b>2009</b>			
Black Rate Per 100 Students	24.19		
White Rate Per 100 Students	6.52		
Times More Likely to be Suspended than White Student	3.71		
Black-to-White Percentage	17.67		

## ***In-School Suspension vs. Out-of-School Suspension***

There is ample evidence showing out-of-school suspensions are not associated with better learning outcomes.<sup>49</sup> In fact, out-of-school suspension is correlated with greater misconduct, higher dropout rates, and more frequent contact with the juvenile justice system as children, as well as later criminal justice system contact as adults. Out-of-school suspension is also associated with greater rates of victimization, criminal involvement, and incarceration.<sup>50</sup>

While there are zero-tolerance policies for certain behaviors in Missouri, such as violence or drug offenses, out-of-school suspension is more often used to punish behaviors labeled as defiant and/or insubordinate, and disproportionately applied to students of color.<sup>51</sup>

In response to these findings, many school districts have looked to in-school suspension as an alternative, such as St. Louis Public Schools, a district that in 2016 banned out-of-school suspensions for students from pre-kindergarten through second grade.<sup>52</sup>

In-school suspension has benefits such as keeping the child in an educational environment, and providing an opportunity for restorative practices. However, for ISS to be an effective alternative great care must be taken to ensure that punishments are applied equitably and restoratively.

Too often, an ISS is barely different from disciplinary seclusion, with a student being put aside in a room with no further instructional efforts made. Using in-school suspensions inequitably, and in this manner, does not produce better results.

If appropriate guidelines are in place, replacing out-of-school suspensions with

in-school suspensions can represent a step in the right direction. The Children’s Defense Fund provides a list of recommendations for effective in-school suspension programs, including a suitable room, supportive staff, and, most importantly, a consistent method of evaluation before referring a student for ISS.<sup>53</sup>

## Expulsion

Expulsion involves the removal of a student from school, with re-entry occurring only when reinstated by the local school board. It is relatively uncommon in Missouri schools. When it occurs, students have no viable path for re-entry into a public school.

During the 2013-2014 school year, over 3,700 non-IDEA students were expelled – 16 percent of whom were Black students. Missouri law states that expulsion does not “relieve the duty to educate,” and directs that districts must cover the equal cost of educating that student in an alternative setting. The adequacy of these alternative setting remains a constant point of contention between the state and community. Expulsions are reported under one of three categories: Expulsion with educational services, expulsion without educational services, and expulsion under zero-tolerance policies.

In Missouri, expulsions from zero-tolerance policies have significantly increased.

Zero-tolerance policies can trace their roots to President Ronald Reagan’s tough-on-crime rhetoric, the “War on Drugs” in the 1980s, and the fear of school violence.<sup>54</sup> Since the early 2000s, zero-tolerance policies have been put in place for bullying.<sup>55</sup> Zero-tolerance policies are characterized by a harsh system of punishment for specific offenses, such as possession of drugs or weapons, without consideration of context.

In 1994, President Bill Clinton signed the Gun-Free Schools Act, which mandated a one-year expulsion for weapons’ possession on school grounds and obligatory referral to the juvenile justice system. Missouri passed its own Safe Schools Act in 1985, with continuous revision through the ‘90s.<sup>56</sup> From the 2011-2012 school year to the 2013-2014 school year, the frequency of expulsion in Missouri based on zero tolerance jumped nearly 41 percent, from about 400 instances to over 1,100.<sup>57</sup>

## Statewide Expulsion Statistics

While expulsions are relatively rare in Missouri, the state-level data do show slight racial disparities: Black, non-IDEA students are still expelled at a greater rate than for which they are enrolled (see table below).

### Expulsion Statistics for Students Not Receiving IDEA Services

#### 2013

Black Rate Per 100 Students	0.53
White Rate Per 100 Students	0.44
Discipline Gap for Black Students (%)	0.09
Black Risk Compared to White Risk	1.20

#### 2011

Black Rate Per 100 Students	0.18
White Rate Per 100 Students	0.22
Discipline Gap for Black Students (%)	-0.04
Black Risk Compared to White Risk	0.84

#### 2009

Black Rate Per 100 Students	0.16
White Rate Per 100 Students	0.07
Discipline Gap for Black Students (%)	0.09
Black Risk Compared to White Risk	2.43

*Note: Due to the relatively low number of expulsions, the analyses reported do not separate by expulsion type (i.e., without services, with services, or zero tolerance available with Office for Civil Rights data).*



The disparity remains in place for IDEA students, with over 975 expulsions during 2013-2014, of which 17 percent were given to Black IDEA students. Black IDEA students were also 1.12 times more likely to be expelled than White IDEA students.

#### Expulsion Statistics for Students Receiving IDEA Services

##### 2013

Black Rate Per 100 Students	0.94
White Rate Per 100 Students	0.84
Discipline Gap for Black Students (%)	0.10
Black Risk Compared to White Risk	1.12

##### 2011

Black Rate Per 100 Students	0.15
White Rate Per 100 Students	0.32
Discipline Gap for Black Students (%)	-0.17
Black Risk Compared to White Risk	0.47

##### 2009

Black Rate Per 100 Students	0.15
White Rate Per 100 Students	0.13
Discipline Gap for Black Students (%)	0.02
Black Risk Compared to White Risk	1.11

Note: Due to the relatively low number of expulsions, the analyses reported do not separate by expulsion type (i.e., without services, with services, or zero tolerance available with Office for Civil Rights data).

There is an alarming trend indicating growth in the use of expulsion over time, both in number and rate.

During the 2011-2012 school year, approximately 1,600 expulsions were given to non-IDEA students, but by 2013-2014 the number of expulsions doubled. IDEA students also faced a sharp increase in expulsions, with more than 350 given in 2011-2012, and more than twice that number in 2013-2014. In both cases, the increased rate of expulsion has resulted in a greater number of expulsions for Black students, indicating that expulsion may be an emerging area of concern.

## Law Enforcement

More than ever, law enforcement has a presence in public schools. In Missouri, 37.6 percent of schools have sworn law enforcement officers on site, a rate eight percent greater than the national average.

There are two categories used to classify disciplinary contact between Missouri students and law enforcement: Referral to law enforcement and a school-related arrest.<sup>58</sup>

During the 2013-2014 school year, the federal Office for Civil Rights (OCR) defined referral to law enforcement as, “an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken. Citations, tickets, and court referrals are considered referrals to law enforcement.”

OCR defined school-related arrest as, “an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.”

### *Referral to Law Enforcement and Arrest*

The behaviors that can lead to referral or school-related arrest vary. However, they may include damage to school property, theft, fighting, bullying/cyber-bullying, and possession of a controlled substance or a weapon. As part of the Safe Schools Act, certain crimes like harassment, assault, or burglary must be reported to law enforcement. The most common violations cited for referral to the juvenile justice system included assault, “behavior injurious to self or others,” and truancy.<sup>59</sup>



## State-Level Referral to Law Enforcement Statistics

The state-level discipline data again shows a consistent pattern of racial disparities in discipline for Black students.

During the 2013-2014 school year, about 17 percent of all non-IDEA referrals to law enforcement were for Black students, despite their enrollment rate of 14 percent. During the same school year, black students were 1.25 times more likely to be referred to law enforcement than White students. The disparity was greater among Black students receiving IDEA services, who were given 20 percent of all IDEA referrals to law service, despite only making up 16 percent of the IDEA population.

### Referral to Law Enforcement Statistics for Students Not Receiving IDEA Services

#### 2013

Black Rate Per 100 Students	0.50
White Rate Per 100 Students	0.40
Discipline Gap for Black Students (%)	0.10
Black Risk Compared to White Risk	1.25

#### 2011

Black Rate Per 100 Students	0.72
White Rate Per 100 Students	0.47
Discipline Gap for Black Students (%)	0.25
Black Risk Compared to White Risk	1.53

#### 2009

Black Rate Per 100 Students	0.48
White Rate Per 100 Students	0.29
Discipline Gap for Black Students (%)	0.19
Black Risk Compared to White Risk	1.64

### Referral to Law Enforcement Statistics for Students Receiving IDEA Services

#### 2013

Black Rate Per 100 Students	1.14
White Rate Per 100 Students	0.83
Discipline Gap for Black Students (%)	0.31
Black Risk Compared to White Risk	1.38

#### 2011

Black Rate Per 100 Students	1.12
White Rate Per 100 Students	0.77
Discipline Gap for Black Students (%)	0.35
Black Risk Compared to White Risk	1.45

#### 2009

Black Rate Per 100 Students	0.71
White Rate Per 100 Students	0.58
Discipline Gap for Black Students (%)	0.13
Black Risk Compared to White Risk	1.24

## State-Level Arrest Statistics

The discipline data also shows a pattern of discipline inequality against Black students arrested in school. During the 2013-2014 school year, around 18 percent of all non-IDEA school-related arrested students were Black, meaning Black students were 1.34 times more likely to be subject to a school-related arrest than White students. Among IDEA students, the disparity between enrollment and school-related arrest was even greater. During the 2013-2014 school year, Black IDEA students represented 23 percent of the school-related arrests of IDEA students, making them 1.66 times more likely to be arrested.

### Districts Overall Arrest Statistics for Students Not Receiving IDEA Services

#### 2013

Black Rate Per 100 Students	0.19
White Rate Per 100 Students	0.14
Discipline Gap for Black Students (%)	0.05
Black Risk Compared to White Risk	1.34

#### 2011

Black Rate Per 100 Students	0.30
White Rate Per 100 Students	0.10
Discipline Gap for Black Students (%)	0.20
Black Risk Compared to White Risk	3.01

#### 2009

Black Rate Per 100 Students	0.15
White Rate Per 100 Students	0.05
Discipline Gap for Black Students (%)	0.10
Black Risk Compared to White Risk	2.83

### Districts Overall Arrest Statistics for Students Receiving IDEA Services

#### 2013

Black Rate Per 100 Students	0.40
White Rate Per 100 Students	0.24
Discipline Gap for Black Students (%)	0.16
Black Risk Compared to White Risk	1.66

#### 2011

Black Rate Per 100 Students	0.33
White Rate Per 100 Students	0.13
Discipline Gap for Black Students (%)	0.20
Black Risk Compared to White Risk	2.55

#### 2009

Black Rate Per 100 Students	0.34
White Rate Per 100 Students	0.09
Discipline Gap for Black Students (%)	0.25
Black Risk Compared to White Risk	3.89

## More Officers in Schools

Law enforcement officers who work in schools are known as “school resources officers” (SROs). Contact with law enforcement while at school can be expected to increase as these officers become more common.<sup>60, 61</sup>

Each district creates its own policies and agreements to define the role of law enforcement in schools. In addition to SROs, some districts may also have private security. Some schools may even have private security officers who do not meet the same requirements that SROs do.

Missouri law requires officers to complete 40 hours of training before beginning work within schools. Training includes information on the transition from a law enforcement officer outside the school to an SRO, legal operations within an educational environment, intruder training and planning, juvenile law, children’s

mental health, cyber issues, and other relevant topics relating to the job and functions of a school resource officer.<sup>62</sup>

There are two different tracks for SRO training: officers who do the basic 40 hours of training and officers who do a more advanced program that includes training related to students with disabilities. In Missouri, the training of SROs is certified by the Missouri Department of Public Safety's Peace Officer Standards and Training Program. Training includes modules/lessons taught by the Missouri Juvenile Justice Association and the Missouri School Board Association.

The website of the Missouri Resource Officers Association says that students "see the SRO as a friend, an advisor, a positive role model, and someone to turn to in time of need. The SRO also acts as a deterrent to criminal behavior through positive interactions with students and by his or her presence on the school campus."<sup>63</sup>

However, the presence of school resource officers in schools is often controversial.

At times, officers have had overzealous responses to the behavior of children, with what often appears to be little consideration for their age and setting. In September 2016, the ACLU of Missouri filed suit against Kansas City Public Schools for handcuffing 7-year-old Kalyb Wiley Primm. At the time, Kalyb weighed less than 50 pounds and stood shorter than four feet. He was punished for crying out while being bullied.<sup>64</sup>

There is ample room for education when it comes to student interactions with SROs. A lack of clarity with respect to students' rights when dealing with school resource officers can create additional challenges. Students may not understand whether they are officially in custody, and whether they can be

questioned without their parents. Students may not understand how their words, written or spoken, may be used against them in disciplinary or legal settings. There are also questions with respect to students' Miranda rights when interacting with school resource officers and how clearly students and parents understand their right to legal representation.

Perhaps unsurprisingly, a recent study found that even when controlling for demographics, student misbehavior is more likely to be reported to law enforcement if there is a school resource officer on-site.<sup>65</sup>

Thirty-seven percent of Missouri schools have one or more police officer present, which is well above the national average of 29 percent, according to Education Week Research Center. Nationally, 1.6 million students attended schools with police officers present but no school counselors. Those students were more likely to be Hispanic or Black, according to data from the 2013-2014 school year.<sup>66</sup>

In Missouri, 8.7 percent of schools that have a sworn law enforcement officer on campus do not have a full-time counselor. Three percent of Missouri schools for which there was a sworn law enforcement officer on campus have no counselor at all.

These findings call into question spending priorities and further reflect the trend of criminalizing childhood behavior – especially for students of color.

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[For more detailed information on the laws that govern how Missouri schools can use discipline, please review the Relevant State Laws and Regulations section on page 42.](#)

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## Restraint and Seclusion

Students in Missouri can also be subjected to restraint and seclusion while in school. There are two classifications of restraint: Physical restraint and mechanical restraint. Physical restraint is defined as, “personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely,” according to the Civil Rights Data Collection.<sup>67</sup> This term is not meant to encompass touching a student for the purpose of escorting them to another location, but rather touching a student with the intent of fully immobilizing them.

Mechanical restraint is the “use of any device or equipment to restrict a student’s freedom of movement.”

Seclusion is the “involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.” Importantly, seclusion refers to timeouts, or the supervised separation of a student in a non-locked room. However, it is unclear how often what are actually seclusions are instead recorded as in-school suspensions.

Restraint and seclusion are frequently used with students who have disabilities. A 2009 report from the National Disability Rights Network, “School is Not Supposed to Hurt,” documented over 75 harmful instances of seclusion in several states, where schools used closet-sized spaces to seclude students, often without providing adequate safety procedures or even bathroom access.<sup>68</sup>

After the report’s initial release, Missouri Protection & Advocacy Services, the Missouri Planning Council for Developmental Disabilities, and several Missouri families actively publicized the plight of students with disabilities being placed in seclusion rooms. As a result of these efforts, the Missouri Legislature passed a school restraint and

seclusion law in the fall of 2009 requiring restrictions on use as well as accountability. The law has limitations, though. It allows for potentially dangerous restraint techniques when the student is lying prone. It does not limit the use of restraint to trained personnel and does not require notice to parents of restraint or seclusion incidents.

Missouri law states, “school discipline policy under section 160.263 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.” The law requires that all local boards of education have written policies that thoroughly discuss the use of these tactics, which include: defining restraint and seclusion; describing the situations in which they can or cannot be used; and stating the requirements for use (i.e. time limit, facilities, supervision, etc.), as well as how permission, notifications, and documentation will be handled.

### *State-Level Restraint/Seclusion Statistics*

Mechanical restraint is a relatively rare occurrence in Missouri. There were about 180 reported instances in the 2013-2014 school year. As the table on the right shows, there is a slight difference in the rates for Black and White students, but at such small numbers the relative risk is statistically unreliable.

However, physical restraint is a more common incident in Missouri.

In 2013-2014, 960 instances of restraint were reported in Missouri, 28 percent of which were against Black students. A similar racial disparity was found among IDEA students that same year. Of more than 1,400 instances of physical restraint against IDEA students, 20 percent involved Black students.

#### Use of Restraint Statistics for Students Not Receiving IDEA Services

2013	Mechanical	Physical
Black Rate Per 100 Students	0.08	0.24
White Rate Per 100 Students	0.00	0.11
Discipline Gap for Black Students (%)	0.08	0.13
Black Risk Compared to White Risk	30.87	2.20
<b>2011</b>		
Black Rate Per 100 Students	0.01	0.17
White Rate Per 100 Students	0.01	0.12
Discipline Gap for Black Students (%)	0.00	0.05
Black Risk Compared to White Risk	1.25	1.48

#### Use of Restraint Statistics for Students Receiving IDEA Services

2013	Mechanical	Physical
Black Rate Per 100 Students	0.07	1.59
White Rate Per 100 Students	0.09	1.17
Discipline Gap for Black Students (%)	-0.02	0.42
Black Risk Compared to White Risk	0.81	1.35
<b>2011</b>		
Black Rate Per 100 Students	0.12	0.93
White Rate Per 100 Students	0.06	1.20
Discipline Gap for Black Students (%)	0.06	-0.27
Black Risk Compared to White Risk	1.96	0.77

The statistics for seclusion are of greater concern because the use of this disciplinary tactic has increased over time.

Among non-IDEA students, there were more than 450 reported instances of seclusion in 2013-2014, 10 percent of which involved Black students. This is more than double the incidence rate from 2011-2012.

When looking at IDEA students, there were about 510 instances of seclusion in 2013-2014, 16 percent of which involved Black IDEA students. During 2011-2012, more than 245 incidents of seclusion were reported, showing another large increase in frequency.

The uptick in the use of seclusion is worrisome, given the strict circumstances in which it should to be used. More detailed data must be made available so we can begin to understand why educators are choosing to use this punishment more frequently.

#### Use of Seclusion Statistics for Students\*

2013	Non-IDEA	IDEA
Black Rate Per 100 Students	0.04	0.46
White Rate Per 100 Students	0.05	0.45
Discipline Gap for Black Students (%)	-0.01	0.01
Black Risk Compared to White Risk	0.79	1.01
<b>2011</b>		
Black Rate Per 100 Students	0.01	0.20
White Rate Per 100 Students	0.03	0.20
Discipline Gap for Black Students (%)	-0.02	-0.01
Black Risk Compared to White Risk	0.44	0.97

\* The seclusion data reported for Blue Springs R-IV was excluded from these calculations because of questions regarding data accuracy.



# A Path Forward

## *Creating a More Just Education System*

### Emerging Issues

#### ***Charter Schools***

Across the U.S., charter schools have been found to have a suspension rate 16 percent higher than non-charter schools.<sup>69</sup> Additionally, charter schools were found to have a higher suspension gap than non-charter schools for Black students and students with disabilities. Charter schools can also create confusion with respect to readmitting or providing alternative educational opportunities to students that have been suspended or expelled.

Charter schools are publicly funded schools that operate separately from public school districts but are required to follow the same laws as Missouri's public schools regarding school discipline.<sup>70</sup>

Currently, students living in the districts of St. Louis Public Schools or Kansas City Public

Schools may transfer to charter schools.<sup>71</sup> Advocates for charter schools say these schools improve learning through innovation in the classroom and increase equality through school choice. However, there is limited data to support this claim.

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#### **Charter Schools vs. Public Schools**

While the data to evaluate performance in Missouri's charter schools is scarce, a PolitiFact report found that most charter schools in St. Louis and Kansas City are performing no better than traditional schools.<sup>72</sup>

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With school funding formulas based on per-pupil reimbursements, charter schools wind up siphoning funding from traditional schools to charter schools may make disciplinary inequalities in public school worse. Less funding can contribute to the growth of the school-to-prison-pipeline, as schools and teachers with inadequate resources are more likely to engage in exclusionary, as opposed to restorative, disciplinary practices. Under the

new U.S. Secretary of Education Betsy DeVos, and Missouri Governor Eric Greitens, both supporters of charter schools, great attention will need to be paid to the impact of an increase in charter schools on *all* of Missouri's students.<sup>73</sup>

Political leaders such as Governor Greitens and Secretary DeVos, and more specifically, our Missouri legislators, can make a difference in the lives of children when it comes to changing policy. We will now take a look at how several other state legislatures have passed laws to address discipline inequality in public schools.

### ***The Legislative Landscape for School-to-Prison Pipeline Work***

Legislation designed to break the school-to-prison pipeline has gained significant momentum over the past decade. If Missouri chooses to take statewide legislative action, it would join a diverse group of states addressing discipline inequality in different ways.

Fourteen states have already passed measures designed to reduce or eliminate exclusionary discipline practices, such as suspension, especially for the youngest students. Eight of these states passed these reforms in the last three years. Efforts to provide alternatives to arrest, decrease suspension frequency and length, and track the impact of discipline on communities are growing.

Initial reforms focused both on the problem of student arrest and updating laws to encourage schools to seek alternatives to arrest for minor violations. Florida passed its law in 2008. North Carolina passed a similar law in 2011. In both states, lawmakers said exclusionary discipline should apply to offenses that result in a direct safety threat to the school community. In 2016, Rhode Island took it a step further by prohibiting out-of-school

suspensions unless a student poses a “demonstrable threat” to the school community.

The current push for legislative change focuses on stopping suspensions for the youngest students.

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### **Fourteen states have already passed measures designed to reduce or eliminate exclusionary discipline practices.**

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Six states and the District of Columbia have recently limited out-of-school suspensions based on age. The District of Columbia now prohibits suspension and expulsion for students in preschool. Connecticut, New Jersey and Maryland prohibit out-of-school suspensions for students below second grade except in very limited circumstances. Texas and California have similar laws for students below third grade. Oregon limits out-of-school suspensions and expulsions for students below fifth grade, except in very limited circumstances. Proposed legislation in Virginia bans the suspension of students from pre-kindergarten to fifth grade, except in cases involving drugs and alcohol, weapons, or violence. In general, the offenses still punishable under most of these state laws relate to weapons and drug use.

Throughout Missouri, limiting the suspension of young students has also been a popular area of focus. Several districts in St. Louis have made firm commitments to eliminating out-of-school suspension for children through third grade.

While suspension and expulsion bans are now popular, changes to laws addressing vague language and large areas of subjective punishment are gaining ground.

North Carolina updated its laws to include a provision that eliminated long-term suspensions for tardiness and truancy in 2011. California, in 2014, established that no student, regardless of grade, can be expelled for vague terms such “disruption” or “willful defiance.” Instead, California outlined a set list of offenses that can lead to expulsion for all its students through twelfth grade. California expanded its protection of younger students by prohibiting the suspension of any student from kindergarten to third grade for “disruption” or “willful defiance.”

Addressing vague language could be a legislative change worth exploring in Missouri. The current discipline statute punishing “conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils” is broad and sets the stage for discipline inequality.

Beyond setting clear parameters of punishable offenses, several states now have laws discouraging exclusionary discipline.

Colorado and Massachusetts require behavioral plans for students who face removal from school. Oregon makes districts take steps to return students to the classroom and minimize missed instructional days. In 2016, Illinois required that a school exhaust all other interventions before suspending a student for three or more days. That same year, Michigan required schools use restorative justice practices, such as victim-offender mediation.

Other states have sought to clarify the process for suspension and limit the length of suspension a student can face.

In Missouri, an out-of-school suspension can last up to 180 days. In Massachusetts, on the other hand, any student suspended for 10 days must be provided with an education service

plan to allow students to make up assignments and receive credit. In Illinois, schools are required to exhaust all other types of discipline before suspending a student for three or more days. Maryland only allows a student to be suspended for up to five school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be curtailed with alternative intervention. A current legislative proposal in Virginia seeks to limit long-term suspensions to 45 school days.

Another area of growing legislative interest is data collection and analysis.

In 2010, Louisiana required school boards to review discipline data. New York City required reporting on safety and discipline to its city council starting in 2011. Starting in 2012, Massachusetts began to call for all districts to include specific reasons for any suspension or expulsion with their yearly data. In 2016, Rhode Island mandated that each district must examine their discipline data and assess any disparate impact created by district policies. Proposed legislation in Pennsylvania requires its Office of Safe Schools examine school data for discipline disproportions. Delaware legislation calls for data reporting to the state and requires schools to review their discipline policies if the disparity between suspension and enrollment is 20 percent or more.

Missouri will begin to collect more data on school discipline with implementation of the federal Every Student Succeeds Act (ESSA). The new law includes provisions that will help to ensure success for students and schools. However, it was very clear through our research for this report that Missouri has a long way to go in centralizing its discipline data and making information easily accessible.

The legislative victories and proposals presented here represent a snapshot of the diverse, creative, and effective measures across the country. Today's legislative initiatives build on a rich decade of work designed to create a more equitable future for all children. Our lawmakers must continue this work and build on its momentum here in Missouri.

## We Must Act Now

As we've shown in this report, the evidence is clear: We must stop building a pipeline to the criminal justice system and start building a real future for Missouri's children. It is time for Missouri to join the ranks of states across the nation proactively addressing the school-to-prison pipeline.

Disparities in discipline pervade nearly every punishment category in Missouri – and have for years. Black students and students with certain learning, behavioral and physical disabilities receive out-of-school suspensions at alarming high rates. With the increase of student expulsions and school-related arrests, without intervention we are on a path to dim the futures of Missouri's children.

All children have a Constitutional right to an education. We must make this a reality in Missouri, not just a far-fetched ideal, or access for the privileged. Our education system must keep students in school and provide them with an educational foundation so they can succeed as adults and contribute to our communities.

Once policy and practice become institutionalized, they do not change – not without deliberate intervention. Creating better school climates demands action at all levels – within districts, within school communities, and in policymaking.

The education community must get adequate training and resources, as well as foster an inclusive environment for all students. Students need to be knowledgeable about classroom expectations, and know their rights when being disciplined. Parents need to be aware of the policies their children are held to, know their rights when their child is disciplined, and need to have a voice in the development of disciplinary policies. Teachers need to have clear, two-way communications with administrators, and need to have a voice whenever policies that will affect their classrooms are written. Administrators, school boards, and policymakers need to create policies without vague language, adequately fund education in the state, and understand the realities on the ground.

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## All children have a Constitutional right to an education.

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We all have a role to play in creating a brighter future for all of Missouri's children.

# In Appreciation

## *For Those Who Made This Report Possible*

Mildred, Herbert and Julian Simon Foundation

Emily Hanson

Harold Jordan

End Zero Tolerance ([www.endzerotolerance.org](http://www.endzerotolerance.org)), a project of ACLU Pennsylvania

Legal Services of Eastern Missouri

Kimberly Norwood





# Methodology

The data used in this report for the 2009-2010, 2011-2012, and 2013-2014 school years were distributed by the Office for Civil Rights (OCR) in the U.S. Department of Education. OCR collects and releases data about U.S. public schools, including information about enrollment and discipline, every other year. The school years used in this report represent the most recent data available at the time of analysis.

The data used to describe discipline in the 2015-2016 school year was obtained from the Missouri Department of Elementary and Secondary Education (DESE). This data is not directly comparable to OCR data, as it is collected and handled differently. However, the DESE data is useful for looking at overall trends. We were only able to obtain DESE data concerning out-of-school (OSS) and in-school suspension (ISS), which is why data for this school year is not reported in other sections throughout the report.

In our research, we were not able to find any publicly available data of referral to law enforcement by race in public schools. While in search of this data, we made requests to the courts administrator, DESE, Missouri School Resource Officers Association, and Missouri Uniform Crime Reporting.

Data collection on student discipline in Missouri will expand in the coming years, in compliance with the federal Every Student Succeeds Act (ESSA). We expect to have

updated numbers from the Office for Civil Rights by the end of 2017.

In every year studied, data was reported using a rounding procedure that varied across collection years. For example, during the 2009-2010 data collection, numbers ending in two or less were rounded down to 0, and every number ending in a number three or more was rounded up to five. As a result, the data represents approximations of the true disciplinary rate, rather than exact representations. For this reason, we approached the data with caution, especially for disciplinary categories such as expulsion or restraint, where two instances may have been rounded down to zero over many districts, perhaps resulting in large underestimations. There are also mistakes in the OCR data, including over-counting (such as reporting more discipline than students enrolled) we therefore recommend relying on percentages and ratios, as opposed to solely count data. The charts in this report reflect those rounding procedures.

For all years after 2015, we obtained a disciplinary data DVD from OCR. However, over the course of our analysis, we noticed that the statewide sums created from this DVD data often did not match the state-level data reported on the OCR website. The statewide data reported on the OCR website showed the same overall trends as what was found on the DVD. However, the absolute counts for enrollment and discipline tended to be lower.

We opted for a cautious approach. Therefore, the statewide data reported here is, as often as possible, the numbers from the OCR website. There were not statewide reports for restraint and seclusion, so that data come from the DVD.

There are many ways to measure discipline disparities, including subtraction, relative-risk ratios, and composite indexes, each with its own weakness and strengths. We used multiple methods throughout this report to try to gain a full understanding of discipline in Missouri.

The OCR data is more detailed than what is provided online by the Missouri Department of Education and Secondary Education. However, there are substantial pieces of information not reported from both sources that would greatly add to what is known about discipline in schools. Specifically, the available data does not report on the different kinds of suspension (i.e., principal's suspension or superintendent's suspension), but rather counts them all in a single category. There is also no publicly available data about the date a suspension was given or the length of the suspension. These two pieces of data would be useful in determining whether there is also a disparity in the length of suspension given to students of color versus White students.

The suspension data has two categories: single out-of-school suspension and multiple out-of-school suspensions. A student can only be counted one time within each category. For example, if Student A is suspended one time, he/she is tallied in the single, out-of-school suspension category. If the same student is suspended again he/she is then moved into the multiple out-of-school suspension category. To more fully understand disciplinary inequality, it would be useful to know the frequency with which a given student was suspended.

# Glossary of Key Terms

**504:** Refers to Section 504 of the Rehabilitation Act of 1973. Section 504 mandates that people with disabilities cannot be excluded, or denied equal benefits from any program that receives federal funding. In schools, this would require that the needs of students with disabilities that may or may not fall under IDEA classification must be addressed equally with those of students without disabilities.

**Average Daily Attendance Rate:** Average number of students attending school each day of a given month. School funding decisions are often made using this statistic.

**Charter Schools:** Publicly funded schools that are separate from traditional schools and subject to different, and often less stringent regulations.

**Corporal Punishment:** Involves the use of physical force to punish a student, such as spanking or slapping. (See RSMO 160.261)

**Disciplinary Alternative Schools:** A public school which provides alternative education for students that cannot attend a typical school. This does not include special or vocational education.

**Expulsion:** When a student is removed from school for the school year or longer. An expulsion can occur under zero tolerance policies, meaning a mandatory expulsion resulting from the student behaving violently or bringing a weapon to school. Expulsions can

also occur with educational services, such as home tutoring and transfer to an alternative or virtual school, or without services.

**Expulsion with Educational Services:** This is a category defined by the federal Office for Civil Rights data. Expulsion with services is an action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the continuation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy.

**Expulsion without Educational Services:** This is a category defined by the federal Office for Civil Rights data. Expulsion without educational services is an action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the cessation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy.

**IDEA:** Children who receive specialized educational services due to a disability under the federal Individuals with Disabilities Education Act (IDEA). A student's specific needs will be laid out in their Individualized Education Program (IEP) or an Individual Family Service (IFS) plan. Some of the disabilities which fall in this classification include: intellectual disabilities; visual, hearing, speech or language impairment;

serious emotional disturbance; orthopedic impairment; autism; and traumatic brain injury.

**Implicit Bias:** Stereotypes that can unconsciously affect behavior.

**Individualized Education Plan (IEP):**

A plan created to ensure every student with IDEA disabilities is provided with the specialized services they required to have equal access to education.

**In-School Suspension (ISS):** When a student is temporarily removed from classroom for a least half a day, but remains on school property.

**Long-Term Suspension:** A suspension lasting more than 10 consecutive days and/or 10 days cumulatively that are judged to be part of pattern of suspension.

**Memorandum of Understanding (MOU):**

An agreement between a school and law enforcement and/or security companies to establish the nature and scope of their relationship with respect to school resource officers and other law enforcement officials.

**Out-Of-School Suspension (OSS):** When a student without disabilities or a student with disabilities under Section 504 is temporarily removed from school for a period of between half a day and 180 days. Out-of-school suspension can be given with or without alternative educational services. For students with disabilities under IDEA, an out-of-school suspension for less than 10 days can include suspensions with no IEP services provided, or suspensions in which services are provided.

In all cases, a suspension of less than 10 days does not require educational services. However, any services that are provided must be given equally to students with and without disabilities. Any student receiving a

suspension over 10 days long is still entitled to educational services. Students with disabilities must receive all services required to achieve an equal education under their IEP or 504 plan.

**Principal's Suspension:** A school principal may suspend a student for up to 10 days.

A parent/guardian must be notified and a meeting must be held to provide for students' due process rights.

**School Resource Officer (SRO):** A law enforcement officer who works full time in schools.

**School-to-Prison Pipeline:** The system by which students' in-school behaviors result in punitive contact with law enforcement and the criminal justice system, resulting in greater likelihood of continued interaction with the criminal justice system through adulthood.

**Short-Term Suspension:** A suspension lasting less than 10 consecutive and/or cumulative days.

**Superintendent's Suspension:** A superintendent may suspend a student for up to 180 days. A parent/guardian must be notified, and a hearing held to allow for due process rights. Superintendent's suspensions may be appealed to the district's board of education.

**Zero-Tolerance Policies:** Policies, such as the state's Safe Schools Act, which mandate that students been suspended for a year, or expelled, as result of violent actions or bringing a weapon to school. (See RSMO 160.261.1 for more information on the Safe Schools Act and Zero Tolerance Policies in Missouri.



# Relevant State Laws and Regulations

## ***RSMO 167.161. 1.***

The school board may suspend or expel any student for “conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils,” or if the student poses a threat. The school board may suspend a student if that student is known to have been charged, convicted, or pled guilty to a felony crime in state or federal court. In all cases, a hearing should be held, and a parent or guardian should be notified and, if possible, present.

The language presented above concerning prejudicial conduct or behavior that may impair the morale or conduct of other students does not provide sufficient clarity for enforcement to be reliable across administrators, schools or teachers. This vague language leaves the door open for unintended biases to result in disciplinary actions taken against vulnerable populations at greater frequency.

## ***RSMO 160.261. 1.***

This law, known as The Safe Schools Act, states:

The board of education in every district must have a clear, written policy on the use of discipline. A copy of this policy must be given to every student students and parents/legal guardians in the district at the beginning of

each school year and must be available to the public in the district superintendent’s office. All district employees must have annual trainings, “related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.”

School administrators are required to report acts of school violence to teachers and district employees who are “directly responsible for the student’s education or who otherwise interact with the student on a professional basis.” Acts of school violence and violent behavior are defined as, “the exertion of physical force by a student with the intent to do serious physical injury as defined in section 556.061 to another person..”

The policy requires that school administrators report any of the following crimes committed in school property to law enforcement: murder, kidnapping, first and second degree assault, first and second degree rape, sodomy, burglary, robbery, distribution of drugs, arson, voluntary and involuntary manslaughter, felonious restraint, property damage, possession of a weapon, child molestation, sexual misconduct involving a child, sexual abuse, harassment or harassment in the first degree, and stalking.

Any student that is found to have brought a weapon (e.g. firearm, knife) to school, is required to be either be suspended for no less than a year, or expelled.

The zero tolerance policy established in this statute follows a national trend, that has been proven to disproportionately affect students of color.

However, it must be noted that this statute goes on to say that the Superintendent has discretion to suspend for less time and even to not suspend at all. It must also be understood that even expulsion does not affect a student's right to an alternative education.

#### ***RSMO 162.208.1***

This statute states that if a school district has a website, the currently policy manual must be posted on the website.

#### ***RSMO 167. 164.***

This statute states that, "suspension or expulsion not to relieve duty to educate," and mandate that districts must pay the cost of alternative education. It also notes that, "School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school." This section also references another that points to what an alternative education should look like. Recent court decisions hold that districts are not given carte blanche authority to design an alternative education plan however they wish.

#### ***RSMO 167. 171. 1.***

The school board may authorize suspensions of students by principals for not more than 10 school days, and by a superintendent for no more than 180 days. A student or a student's

parents/guardians may appeal a suspension over 10 days long.

A pupil cannot be suspended unless (1) oral or written notice is given of the charges against the student, (2) if the student denies that charge, a written explanation must be provided of the facts underlying the suspension, (3) the student must be given a chance to share their version of events, and (4) if the suspension is more than 10 days, if the students wishes to appeal then the suspension is stayed until the board decides. However, the superintendent has discretion to determine not to implement the stay of the suspension during the appeal if the superintendent determines that the student's "presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process".

Finally, "no school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence... whether or not such act was committed at a public school or at a private school in this state." Further, any student trying to enroll in a school district during a suspension or expulsion for another district, whether in or out of state, a hearing can be held to determine whether the student would have been equally punished in the district they wish to enroll in.

#### ***RSMO 160.263. 1.***

This section requires all school districts in the state of Missouri to develop a policy on the use of seclusion and restraint. This policy limits the confinement of a student and mandates that the student remain supervised. Each school board must create a policy on restraint for their district in line with best practices.

### ***RSMO 160.261***

This section requires that each school board that incorporates corporal punishment into its discipline policies must have a written policy.

### ***RSMO 160.263***

This section prohibits the confinement of a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel. This statute also requires school districts to adopt a policy on restrictive behavior interventions in line with best practices.



# Additional Resources

*The following resources correspond to many of the recommendations made on pages 9–11 of this report. Each section is aimed at specific groups that may find these materials most relevant.*

## ***For Parents***

Learn about your rights and your child’s rights at school, see model questions regarding disciplinary procedures, evaluate discipline data and learn how to process your child’s discipline policy in our ACLU Toolkit at the back of this report.

Learn about what arrangements between law enforcement and schools should look like:

[“Model School Policy - Avoiding Criminalization in School Discipline,”](http://www.dignityinschools.org/files/code/ModelCode_Section3.2a.pdf) Dignity in Schools Campaign. [http://www.dignityinschools.org/files/code/ModelCode\\_Section3.2a.pdf](http://www.dignityinschools.org/files/code/ModelCode_Section3.2a.pdf)

[“Parent’s Checklist for SROs in Your Child’s Schools,”](http://strategiesforyouth.org/sfysite/wp-content/uploads/2016/09/ParentGuide-SROs-InSchool_011817.pdf) Strategies for Youth. [http://strategiesforyouth.org/sfysite/wp-content/uploads/2016/09/ParentGuide-SROs-InSchool\\_011817.pdf](http://strategiesforyouth.org/sfysite/wp-content/uploads/2016/09/ParentGuide-SROs-InSchool_011817.pdf)

## ***For Students***

Learn about your rights, see model questions regarding disciplinary procedures, and more in our ACLU Toolkit at the back of this report.

Learn about your rights when interacting with

law enforcement:

[“Know your Rights: What to do when encountering the police \(for youth\),”](https://www.aclu.org/know-your-rights/what-do-when-encountering-police-youth) American Civil Liberties Union, 2016. <https://www.aclu.org/know-your-rights/what-do-when-encountering-police-youth>

## ***For Students with Disabilities and Disability Rights Advocates***

Learn more about Missouri-specific guidelines for students with disabilities:

[“Discipline for Children with Disabilities,”](https://dese.mo.gov/special-education/professional-development/discipline-children-disabilities) Missouri Department of Elementary and Secondary Education, 2017. <https://dese.mo.gov/special-education/professional-development/discipline-children-disabilities>

Learn more about the use of restraint in seclusion in discipline policies:

[“Fact Sheet: Restraint and Seclusion of Students with Disabilities,”](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf) U.S. Department of Education, 2016. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

Review regulations related to federal Section 504:

[“Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools,”](https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf) U.S. Department of Education, 2016. <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>



## ***For Educators***

[“St. Louis schools look to change school culture with new approach to discipline,”](http://www.stltoday.com/news/local/education/st-louis-schools-look-to-change-school-culture-with-new/article_4dd4fd8f-7b0d-5ee6-ac06-ba7cc384cec3.html) St. Louis Post Dispatch, 2017. [http://www.stltoday.com/news/local/education/st-louis-schools-look-to-change-school-culture-with-new/article\\_4dd4fd8f-7b0d-5ee6-ac06-ba7cc384cec3.html](http://www.stltoday.com/news/local/education/st-louis-schools-look-to-change-school-culture-with-new/article_4dd4fd8f-7b0d-5ee6-ac06-ba7cc384cec3.html)

[“Counselors Not Cops: Ending the Regular Presence of Law Enforcement in Schools,”](http://www.dignityinschools.org/counselors-not-cops) Dignity in Schools, 2013. <http://www.dignityinschools.org/counselors-not-cops>

[“From Punitive to Restorative: Advantages of using trauma-informed practices in schools,”](http://kirwaninstitute.osu.edu/wp-content/uploads/2016/04/From-Punitive-to-Restorative1.pdf) Kirwan Institute, 2015. <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/04/From-Punitive-to-Restorative1.pdf>

[“Guides to Collecting and Interpreting Discipline Data,”](http://www.endzerotolerance.org/single-post/2017/06/26/Becoming-a-Civil-Rights-Data-Advocate) End Zero Tolerance, 2017. <http://www.endzerotolerance.org/single-post/2017/06/26/Becoming-a-Civil-Rights-Data-Advocate>

[“Measuring Discipline Disparities,”](http://supportiveschooldiscipline.org/learn/reference-guides/measuring-discipline-disparities) National Discipline Disparities, 2002. <http://supportiveschooldiscipline.org/learn/reference-guides/measuring-discipline-disparities>

[“Fact Sheet: Preventing Racial Discrimination in Special Education,”](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-racedisc-special-education.pdf) U.S. Department of Education, 2016. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-racedisc-special-education.pdf>

## ***For School Board Members and Administrators***

Limiting or eliminating out-school suspension is a common policy measure taken to help disrupt the school-to-prison pipeline. Learn about states that are taking legislative steps to mitigate out-of-school suspension. These changes can also be made on a local level.

[“House Bill 674,”](http://www.legis.state.tx.us/tlodocs/85R/billtext/html/HB00674S.htm) Texas State Legislature, 2017. <http://www.legis.state.tx.us/tlodocs/85R/billtext/html/HB00674S.htm>

[“Assembly Bill 420,”](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420) California State Legislature, 2014. [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB420](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420)

[“Senate Bill 995,”](http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995) Virginia General Assembly, 2017. <http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995>

[“A Model Code on Education and Dignity,”](http://www.dignityinschools.org/files/Model_Code_2013.pdf) Dignity in Schools, 2013. [http://www.dignityinschools.org/files/Model\\_Code\\_2013.pdf](http://www.dignityinschools.org/files/Model_Code_2013.pdf)

School data is a fruitful area for legislative reform. Louisiana, New York City and Rhode Island have additional data requirements established by legislation:

[“Act Number 136,”](http://www.njln.org/uploads/digital-library/Louisiana-Commits-to-Improved-Behavior-and-Discipline-Plans-in-Schools-SB-527.pdf) Louisiana State Legislature, 2010. <http://www.njln.org/uploads/digital-library/Louisiana-Commits-to-Improved-Behavior-and-Discipline-Plans-in-Schools-SB-527.pdf>

[“Senate Bill 2168,”](http://webserver.rilin.state.ri.us/BillText16/SenateText16/S2168.pdf) Rhode Island State Legislature, 2016. <http://webserver.rilin.state.ri.us/BillText16/SenateText16/S2168.pdf>

[“Local Law 2015/093,”](http://legistar.com) New York City Council, 2015. <http://legistar.com>

council.nyc.gov/LegislationDetail.aspx?ID=2253272&GUID=9BACC627-DB3A-455C-861E-9CE4C35AFAAC&Options=&Search=

A resource that shows how school discipline can affect students for a lifetime:

[“Breaking School Rules: A Statewide Study of how School Discipline Relates to Students’ Success and Juvenile Justice Involvement,”](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf) Justice Center and Public Policy Research Institute, 2011. [https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf)

Factors such as implicit bias can increase disparate outcomes in discipline:

[“Understanding Implicit Bias,”](http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/) Kirwan Institute, 2015. <http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/>

This fact sheet contains information on restraint and seclusion practices:

[“Fact Sheet: Restraint and Seclusion of Students with Disabilities,”](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf) U.S. Department of Education. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

Missouri recognizes the need to create trauma-informed schools. Review and assess current policies, as well as research additional opportunities:

[“Trauma-Informed Schools Initiative,”](https://dese.mo.gov/traumainformed) Missouri Department of Elementary and Secondary Education, 2017. <https://dese.mo.gov/traumainformed>

[“From Punitive to Restorative: Advantages of using trauma-informed practices in schools,”](http://kirwaninstitute.osu.edu/wp-content/uploads/2016/04/From-Punitive-to-Restorative1.pdf) Kirwan Institute, 2015. <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/04/From-Punitive-to-Restorative1.pdf>

The guide details how to limit the role of law enforcement in schools:

[“Developing a Governing Document for Police in Schools,”](https://www.aclu.org/other/policing-schools-developing-governance-document-school-resource-officers-k-12-schools) ACLU, 2009. <https://www.aclu.org/other/policing-schools-developing-governance-document-school-resource-officers-k-12-schools>

### ***For Law Enforcement***

[“It Is Time To Get Real About School Policing”](http://www.huffingtonpost.com/harold-jordan/it-is-time-to-get-real-ab_b_12361376.html?1475696512) Harold Jordan, 2016. [http://www.huffingtonpost.com/harold-jordan/it-is-time-to-get-real-ab\\_b\\_12361376.html?1475696512](http://www.huffingtonpost.com/harold-jordan/it-is-time-to-get-real-ab_b_12361376.html?1475696512)

States such as Florida, North Carolina and Rhode Island limit the involvement of law enforcement to incidents based on immediate threats:

[“Senate Bill 1540”](http://www.njjn.org/uploads/digital-library/Florida-Reins-in-Zero-Tolerance-Law-SB-1540.pdf) Florida Senate, 2009. <http://www.njjn.org/uploads/digital-library/Florida-Reins-in-Zero-Tolerance-Law-SB-1540.pdf>

[“Session Law 2011-282,”](http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-282.pdf) General Assembly of North Carolina, 2011. <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-282.pdf>

[“Senate Bill 2168,”](http://webserver.rilin.state.ri.us/BillText16/SenateText16/S2168.pdf) General Assembly of Rhode Island, 2016. <http://webserver.rilin.state.ri.us/BillText16/SenateText16/S2168.pdf>

[“School Discipline and Security Personnel: A Tip Sheet for Advocates on Maximizing School Safety and Student Success,”](http://www.njjn.org/our-work/school-discipline--security-personnel) National Juvenile Justice Network, 2015. <http://www.njjn.org/our-work/school-discipline--security-personnel>

Diversion practices are another way to keep students from early entry into the criminal justice system:

[“Keeping Kids in School and Out of Court,”](http://www.stoneleighfoundation.org/sites/default/files/SchoolDiversionProgram-Spreads.pdf) Office of Juvenile Justice and Delinquency Prevention, 2014. <http://www.stoneleighfoundation.org/sites/default/files/SchoolDiversionProgram-Spreads.pdf>

Learn more about categories to include in school resource officer (SRO) disability awareness training:

[“Training for School Resource Officers on Disability Awareness,”](https://www.kennedykrieger.org/sites/default/files/community_files/disability-training-poster-aucd-2010.pdf) Maryland Center for Developmental Disabilities, 2010. [https://www.kennedykrieger.org/sites/default/files/community\\_files/disability-training-poster-aucd-2010.pdf](https://www.kennedykrieger.org/sites/default/files/community_files/disability-training-poster-aucd-2010.pdf)

### ***For Legislators***

Language revisions in statewide policy are a trend in combating the school-to-prison pipeline across the nation. States such as California and North Carolina have eliminated specific words from their statutes that cause disparate outcomes.

[“Assembly Bill 420,”](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420) California State Legislature, 2014. [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB420](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420)

[“Session Law 2011-282,”](http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-282.pdf) General Assembly of North Carolina, 2011. <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-282.pdf>

Compared to many states, Missouri has an exceptionally long limit for out-of-school suspensions. See Virginia for proposed legislation limiting duration of suspensions:

[“Senate Bill 995,”](http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995) Virginia General Assembly, 2017. <http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995>

[exe?171+sum+SB995](http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995)

Some states strictly limit which behaviors fall under broad categories of misbehavior, such as California. Other states very specifically define what a student can be suspended or expelled for, such as Oregon, the District of Columbia, and proposed legislation in Virginia.

[“Assembly Bill 420,”](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420) California State Legislature, 2014. [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB420](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB420)

[“Senate Bill 553,”](https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB553) Oregon Legislative Assembly, 2015. <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB553>

[“B21-0001 - Pre-K Student Discipline Amendment Act of 2015,”](http://lims.dccouncil.us/Legislation/B21-0001) Council of the District of Columbia, 2015. <http://lims.dccouncil.us/Legislation/B21-0001>

[“Senate Bill 995,”](http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995) Virginia General Assembly, 2017. <http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB995>

Oregon mandates that schools create specific policies for students to make up missed work and regain ground after a suspension. Colorado and Massachusetts require school districts to establish behavioral plans:

[“Senate Bill 553,”](https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB553) Oregon Legislative Assembly, 2015. <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB553>

[“House Bill 12-1345,”](http://www.leg.state.co.us/CLICS%5CCLICS2012A%5Ccsl.nsf/fsbillcont3/EF8C872579CD00625FE2?Open&file=1345_enr.pdf) General Assembly of the State of Colorado, 2012. [http://www.leg.state.co.us/CLICS%5CCLICS2012A%5Ccsl.nsf/fsbillcont3/EF8C872579CD00625FE2?Open&file=1345\\_enr.pdf](http://www.leg.state.co.us/CLICS%5CCLICS2012A%5Ccsl.nsf/fsbillcont3/EF8C872579CD00625FE2?Open&file=1345_enr.pdf)

“An Act Relative to Student Access to

Educational Services and Exclusion from School,” Massachusetts State Legislature.,” 2012. <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter222>

Several states have taken legislative steps to limit zero-tolerance practices. Illinois requires that districts exhaust all other options before suspending or expelling a student. Michigan requires the use of restorative practices.

“[Senate Bill 0100,](http://ilga.gov/legislation/publicacts/fulltext.asp?name=099-0456&GA=99&SessionId=88&DocTypeId=SB&DocNum=0100&GAIID=13&Session=)” Illinois General Assembly, 2016. <http://ilga.gov/legislation/publicacts/fulltext.asp?name=099-0456&GA=99&SessionId=88&DocTypeId=SB&DocNum=0100&GAIID=13&Session=>

“[Public Act 361,](http://www.legislature.mi.gov/(S(vmxwibcccbonqbg4hxn55u3d))/mileg.aspx?page=getObject&objectName=mcl-380-1310c)” Michigan Legislature, 2016. [http://www.legislature.mi.gov/\(S\(vmxwibcccbonqbg4hxn55u3d\)\)/mileg.aspx?page=getObject&objectName=mcl-380-1310c](http://www.legislature.mi.gov/(S(vmxwibcccbonqbg4hxn55u3d))/mileg.aspx?page=getObject&objectName=mcl-380-1310c)

Developing consistent policies when it comes to law enforcement and schools is critical when addressing the school-to-prison pipeline:

“[Policing in Schools: Developing A Governance Document for School Resource Officers in K-12 Schools,](https://www.aclu.org/other/policing-schools-developing-governance-document-school-resource-officers-k-12-schools)” American Civil Liberties Union, 2009. <https://www.aclu.org/other/policing-schools-developing-governance-document-school-resource-officers-k-12-schools>

This fact sheet contains information concerning restraint and seclusion practices:

“[Fact Sheet: Restraint and Seclusion of Students with Disabilities,](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf)” U.S. Department of Education. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

## ***For further reading on the School-to-Prison-Pipeline***

[“Breaking the School to Prison Pipeline for Students with Disabilities,”](https://www.ncd.gov/publications/2015/06182015) National Council on Disability, 2015. <https://www.ncd.gov/publications/2015/06182015>

[“Are We Closing the School Discipline Gap?,”](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf) The Center for Civil Rights Remedies at the Civil Rights Project, 2015. [https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap\\_FINAL221.pdf](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf)

[“The Civil Rights Data Collection Data Snapshot,”](https://ocrdata.ed.gov/DataSummary) 2014. <https://ocrdata.ed.gov/DataSummary>

[“School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System,”](https://csgjusticecenter.org/youth/school-discipline-consensus-report/) The Council of State Governments Justice Center, 2014. <https://csgjusticecenter.org/youth/school-discipline-consensus-report/>

[“The High Cost Of Harsh Discipline and Its Disparate Impact,”](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf) The Center for Civil Rights Remedies at the Civil Rights Project, 2016. [https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA\\_HighCost\\_6-2\\_948.pdf](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf)

[“A Generation Later: What We’ve Learned about Zero Tolerance,”](https://storage.googleapis.com/vera-web-assets/downloads/Publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools/legacy_downloads/zero-tolerance-in-schools-policy-brief.pdf) Vera Institute of Justice, 2013. [https://storage.googleapis.com/vera-web-assets/downloads/Publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools/legacy\\_downloads/zero-tolerance-in-schools-policy-brief.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools/legacy_downloads/zero-tolerance-in-schools-policy-brief.pdf)

[“Exclusionary School Discipline: An Issue Brief and Review of the Literature,”](https://www.law.berkeley.edu/files/BMOC_Exclusionary_School_Discipline_Final.pdf) Earl Warren Institute on Law and Social Policy, 2013. [https://www.law.berkeley.edu/files/BMOC\\_Exclusionary\\_School\\_Discipline\\_Final.pdf](https://www.law.berkeley.edu/files/BMOC_Exclusionary_School_Discipline_Final.pdf)

[“How America Outlawed Adolescence. At Least 22 States Make it a Crime to Disturb School in Ways That Teenagers are Wired To Do. Why Did This Happen?,”](https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149/) The Atlantic, 2016. <https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149/>

[“Addressing the Out-of-School Suspension Crisis: A Policy Guide for School Board Members,”](http://www.nsba.org/sites/default/files/0413NSBA-Out-Of-School-Suspension-School-Board-Policy-Guide.pdf) National Opportunity to Learn Campaign, the National School Board Association, et al., 2013. <http://www.nsba.org/sites/default/files/0413NSBA-Out-Of-School-Suspension-School-Board-Policy-Guide.pdf>

[“Girlhood Interrupted: The Erasure of Black Girls’ Childhood,”](http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf) Georgetown Law Center on Poverty and Inequality, 2017. <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf>

[“Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior: A Summary of the Literature,”](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior_031214.pdf) The Equity Project at Indiana University, March 2014. [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior_031214.pdf)

[“Discipline Disparities: Myths and Facts,”](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Myths_and_Facts_031214.pdf) The Equity Project at Indiana University, 2014. [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Myths\\_and\\_Facts\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Myths_and_Facts_031214.pdf)

# About ACLU of Missouri and the American Civil Liberties Union

An affiliate of the national American Civil Liberties Union, ACLU of Missouri preserves and expands the constitutional rights and civil liberties of all Missourians as guaranteed in the Missouri and U.S. Constitutions, with a focus on the Bill of Rights, the first ten Amendments.

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country.

Whether it's achieving full equality for LGBT people, establishing new privacy protections for our digital age of widespread government surveillance, ending mass incarceration, or preserving the right to vote or the right to have an abortion, the ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach.

With more than 2 million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., to safeguard everyone's rights.

The ACLU is nonprofit and nonpartisan. We do not receive any government funding. Member dues as well as contributions and grants from private foundations and individuals pay for the work we do.

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To help us protect the rights of all Missourians as a member of the ACLU of Missouri:

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[@aclumo](https://www.instagram.com/aclumo)





# ENDNOTES

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