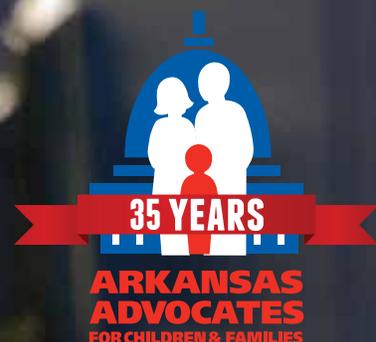


KEEPING KIDS IN CLASS

Fixing Racial Disparities in School Discipline

February 2013



KEEPING KIDS IN CLASS

FIXING RACIAL DISPARITIES IN SCHOOL DISCIPLINE

Jerri Derlikowski

TABLE OF CONTENTS

Executive Summary	3
Introduction	5
What Are Arkansas's School Discipline Policies?	5
Where Does Arkansas Rank?	6
Overall Arkansas Trends in School Disciplinary Actions	7
Racial Disparities in Disciplinary Actions by Arkansas Schools	7
How Do Arkansas Schools Districts Compare to One Another?	8
Emerging National Research and Initiatives on School Discipline	11
Zero Tolerance Policies	10
Out-of-School Suspension Concerns	10
Arkansas Study on Education in the Juvenile Justice System	11
Schott Foundation for Public Education	11
Solutions Not Suspensions Initiative	11
U.S. Department of Justice	11
Corporal Punishment Concerns	12
Black Student's Behavior	13
State Policy Actions to Reduce Suspension	13
Alternative School Discipline Strategies	14
Restorative practices	14
Positive Behavior Intervention and Supports (PBIS)	14
Arkansas Professional Development	15
Teacher Preparation and Training	15
Hot Springs School District	16
Conscious Discipline	16
HealthTeacher Program	16
Conclusions	17
Recommendations	17
About the data	18

Arkansas Advocates for Children and Families
Union Station, Suite 306
1400 West Markham
Little Rock, AR 72201
501-371-9678

Northwest Arkansas Office
614 east emma, suite 107
Springdale, ar 72764
479-927-9800

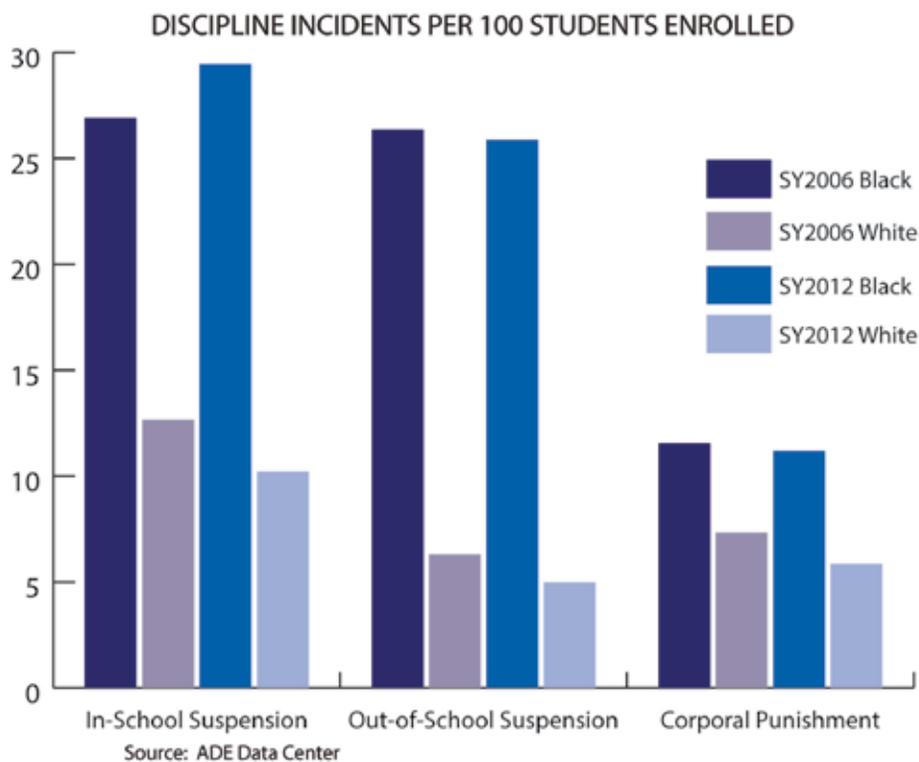
EXECUTIVE SUMMARY

Disparities in School Disciplinary Policies Matter

School boards and school administrators must weigh all the consequences of school discipline policies, including the unintended consequences. When students are not in school, they miss out on education opportunities. School disciplinary policies that disproportionately keep students of color out of school reduce their opportunities to learn and increase gaps in educational achievement. The data presented in this report clearly show that Arkansas schools rely far too often on disciplinary approaches that keep too many of our students out of school, thus limiting their opportunity to learn.

Major Disparities in Arkansas School Disciplinary Actions

According to an August 2012 report by Losen and Gillespie, Arkansas ranks 15th in the nation in the use of out-of-school suspension for all students, and 13th in the gap between black and white students in out-of-school suspensions. The study found black students in Arkansas were suspended at a risk factor (the number of students suspended at least once as a percentage of their enrollment in the state) of 18.5 percent while white students had a risk factor of 5.3 percent with a gap of 13.2 percent.¹ In other words black students were suspended about 3.5 times as often as white students. According to the Center for Effective Discipline, 19 states permit schools to use corporal punishment while 31 states and Washington D.C. prohibit it. In the 2006-2007 school year, black students made up 17.1 percent of the nationwide student population, but 35.6 percent of those paddled. Arkansas permits corporal punishment.



According to recent Arkansas Department of Education data, after three years of statewide declines in the use of in-school and out-of-school suspensions from SY2008 to SY2011, there was an increase in suspensions from SY2011 to SY2012. In-school-suspension declined by 12.2 percent and then went up 4.1 percent. Out-of-school suspension went up four percent in 2012 after declining by 12.2 percent. Expulsion declined from 2008 to 2012 by 9.3 percent. In contrast, the use of corporal punishment has continued to decline slightly since SY2009.

The disparity in school disciplinary actions has increased for in-school suspension, out-of-school suspension and corporal punishment. In 2012 black students received in-school-suspension almost three times as often as white students, out-of-school suspension more than five times as often as white students, and corporal punishment almost twice as often as white students.

How Do Arkansas School Districts Compare to One Another?

There are significant racial disparities in school disciplinary actions in some Arkansas school districts, but not in others. In the use of suspension, for example, ninety-seven school districts (42 percent) suspend black students at the same level or less than white students. Over five percent of the districts (13) report a disparity of 25 percent or higher in the rate of out-of-school suspension for black students. Districts also varied in their use of corporal punishment. In SY2012, thirty-five districts with minority students reported no corporal punishment incidents for white, black, or Hispanic students. These are large districts and represent over one-third (36 percent) of the student population. Seventy-one (40 percent) districts' incidents of corporal punishment for black students are at the same level or less than white students. Over 12 percent (22) of the districts included in the analysis report a disparity of over 25 percent between blacks and whites.

In some cases, districts that are similar in terms of their size, income and percentage of minority students have very differing rates of discipline disparity. This raises serious questions about whether the disciplinary practices in some districts unfairly treat minority students. As suggested in the national research by Losen and Gillespie, it also should cast heavy doubt on any assumption that different suspension rates between groups merely reflect differences in their behavior.”²

Arkansas Policy and Recommendations to Reduce Disparities

Arkansas school districts have great flexibility in the development of school discipline policies. State regulations direct districts to involve a diverse group of individuals to provide broad representation within the district. In addition to guidelines for the offenses to be included and the resulting penalties, a procedure is required for parent and student notification of school policies and for due process when discipline measures are applied.

The data in this report suggest that some state policy changes may be in order. This report makes the following recommendations.

Corporal Punishment – Arkansas should join the enlightened states that prohibit the use of corporal punishment in all school districts, and provide educators with extensive training and support for effective, non-abusive discipline techniques.

Changes in Suspension and Expulsion Practices, such as prohibiting the use of out-of-school suspension for truancy; directing schools to use out-of-school suspension only as a measure of last resort (Connecticut); and developing alternative discipline strategies to replace school expulsion, and offer educational options when expulsion may be necessary.

Alternative Strategies, including:

- Requiring schools and districts to (1) adopt rehabilitative measures for students (Maryland), (2) develop disciplinary strategies such as mediation to use when appropriate as alternatives to criminal charges, and (3) implement positive behavior systems
- Adequately fund behavioral and mental health services in schools;
- Alternative Learning Environment schools and programs should be certified by the ADE for adequacy in providing the support interventions necessary for each ALE student to return to the classroom or successfully complete their education;
- Replace zero-tolerance policies with a reasoned and appropriate approach to school discipline that includes permitting administrator discretion on any infraction not having a legally mandated disciplinary action;

Strengthening reporting and the use of data, such as requiring districts to track absenteeism data resulting from in-school suspension and out-of-school suspension and tracking arrests made on campus in a manner that will facilitate research.

Schools that have a disparity greater than five percent should: (1) require, as part of professional development, that teachers and administrators complete additional training in positive-based intervention systems paid from the district's professional development funding; and (2) address the issue in their Arkansas Comprehensive School Improvement Plan at both the district and school level.

KEEPING KIDS IN CLASS

FIXING RACIAL DISPARITIES IN SCHOOL DISCIPLINE

by Jerri Derlikowski, Director of Education Policy and Finance

Arkansas Advocates for Children and Families

INTRODUCTION

School discipline and safety are once again at the forefront of a national conversation arising from the tragic school shooting incident in Newtown, Connecticut. Zero-tolerance policies for weapons will be at the center of that discussion. These understandable concerns for school safety must not result in more punitive policies for common disciplinary problems that eliminate the judgment of school officials. Punitive discipline policies are not cost-effective and don't make schools safer or students smarter. In fact, schools with higher suspension rates tend to be less safe. Students at schools that mete out fewer suspensions and keep their students in the classroom perform better on academic tests. According to research, schools with similar student bodies that suspend and expell students at higher rates perform no better than schools with fewer suspensions and expulsions.³

School boards and school administrators must weigh all the consequences of school discipline policies, including the unintended consequences. When students are not in school, they miss out on education opportunities. Suspensions and expulsions are linked to lower graduation rates.⁴ A student with three or more suspensions by his or her sophomore year is five times more likely to drop out than other students.⁵ In addition to excessive suspension and expulsion practices, schools are turning to law enforcement for discipline matters traditionally handled inside the school setting. Students who do not finish high school are more than eight times more likely to go to prison than students who graduate.⁶ Punitive school policies create a school-to-prison pipeline—students needing additional school resources are instead channeled out of the school system into the criminal justice system.

Students of color disproportionately receive harsher discipline measures for school infractions. The U.S. Department of Education Office for Civil Rights documents that 28 percent of black male middle school students were suspended in 2006 in contrast to 10 percent of white males. The Council of State Governments conducted a multi-year study in Texas and found that children of color are more likely than their white classmates to face the most severe punishments.⁷

The data presented in this report clearly show that Arkansas schools rely far too often on disciplinary approaches that keep too many of our students out of school, thus limiting their opportunity to learn. This burden falls disproportionately on the state's minority students. These disparities must be considered in light of a growing body of research and a number of national initiatives showcasing new and innovative approaches to keeping all of our kids in school to improve their likelihood of succeeding, in school and as adults. Reducing suspensions and expulsions for low-income and minority students is essential to reducing gaps in quality learning opportunities for all students.

“The undeniable truth is that the everyday educational experience for many students violates the principle of equity at the heart of the American promise. It is our collective duty to change that.”

— Arne Duncan,
Secretary, March 2012, US Department
of Education, Office for Civil Rights.

WHAT ARE ARKANSAS'S SCHOOL DISCIPLINE POLICIES?

Although the school disciplinary policies of school districts are governed by state law and the rules promulgated by the Arkansas Department of Education (ADE), schools have significant flexibility in designing their own policies. Some of the major provisions at the state level governing district policies include:

Diversity in the Decision-Making Process in Developing District Policies: “School districts should strive to ensure that those involved with the development of school district student discipline policies come from diverse racial, gender, and socioeconomic backgrounds and that the group consist of a sufficient number of individuals to provide broad representation within the district.”⁸

Offenses to be Included: Offenses to be addressed in district policies include: assaults or the threat of assaults to

anyone on campus; possession of firearms or weapons; using or selling alcohol or drugs; and damaging, destroying, or stealing school property. There also is an outdated prohibition of pager, beepers, or electronic communication devices.

Penalties Must Be Specified in District Policies: Any penalties established by district policy must be specified in the district's policy. There are additional records rules for incidents involving firearms or weapons.⁹

Policies Governing Corporal Punishment: Corporal punishment may be used by public schools to maintain discipline and order. This vague description permits a wide variety of district interpretation in what is needed to maintain discipline and order with the district's schools.¹⁰ If corporal punishment is permitted by the district, policies must be adopted by the district governing its use and procedures for administering it.

Notification and Due Process: Each district must develop a procedure to notify parents of students of the discipline policies and provide for written notification and documentation of the receipt of the policies. The policies must include due process measure for students and their parents. The policies must also be filed with ADE.

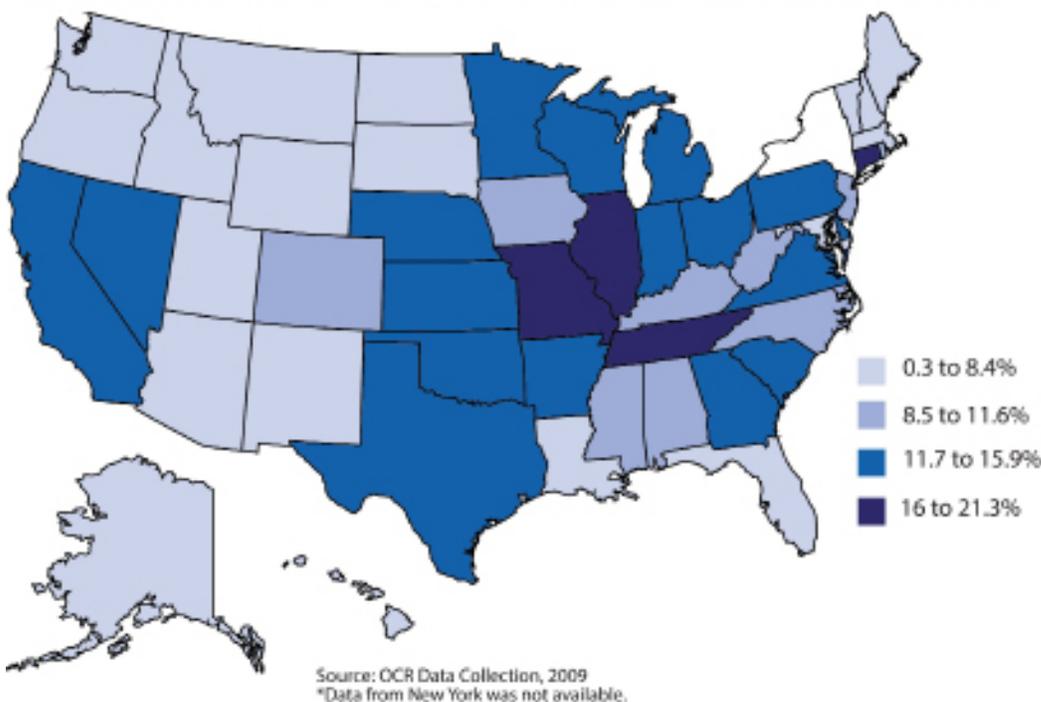
Disciplinary Training of School Personnel: Teachers and administrators, classified school employees, and volunteers must receive appropriate student discipline training. The policies and that training should include prevention, intervention, and conflict resolution provisions.¹¹

Placement in Alternative Learning Environments and Other Behavioral Issues: Disciplinary policy must include provisions for placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a handicapping condition in an alternative learning environment provided by the district. State policies mention several other behavioral issues but provide little guidance concerning appropriate levels of discipline for these issues. These behaviors include the violation of school standards (such as disrespect for teachers and classified school employees), vandalism, and other undesirable behavioral patterns.

School Bullying Policies: Although district policies on bullying are critical to maintaining an acceptable school climate, state rules require only that the local school board of every school district adopt policies to prevent bullying and that they file such policies with the Department of Education. No specific guidance is provided in the rules concerning interventions and levels of discipline for violations.¹²

WHERE DOES ARKANSAS RANK?

SUSPENSION RISK GAP BETWEEN AFRICAN AMERICAN AND WHITE STUDENTS



The national data also indicate that Arkansas ranks 15th in the nation in the use of out-of-school suspension for all students. More than 8.5 percent of all the state's students were suspended in 2010. In five states, more than 10 percent of students received out-of-school suspension: South Carolina, Delaware, Mississippi, Nevada, and Louisiana.

Arkansas ranks 13th in the nation in the size of the black-white gap for out-of-school suspensions tied with South Carolina and Pennsylvania. According to an August 2012 report by Losen and Gillespie, black students in Arkansas were suspended at a risk factor of 18.5 percent (the number of students suspended at least once as a percentage of their enrollment in the state) while white students had a risk factor of

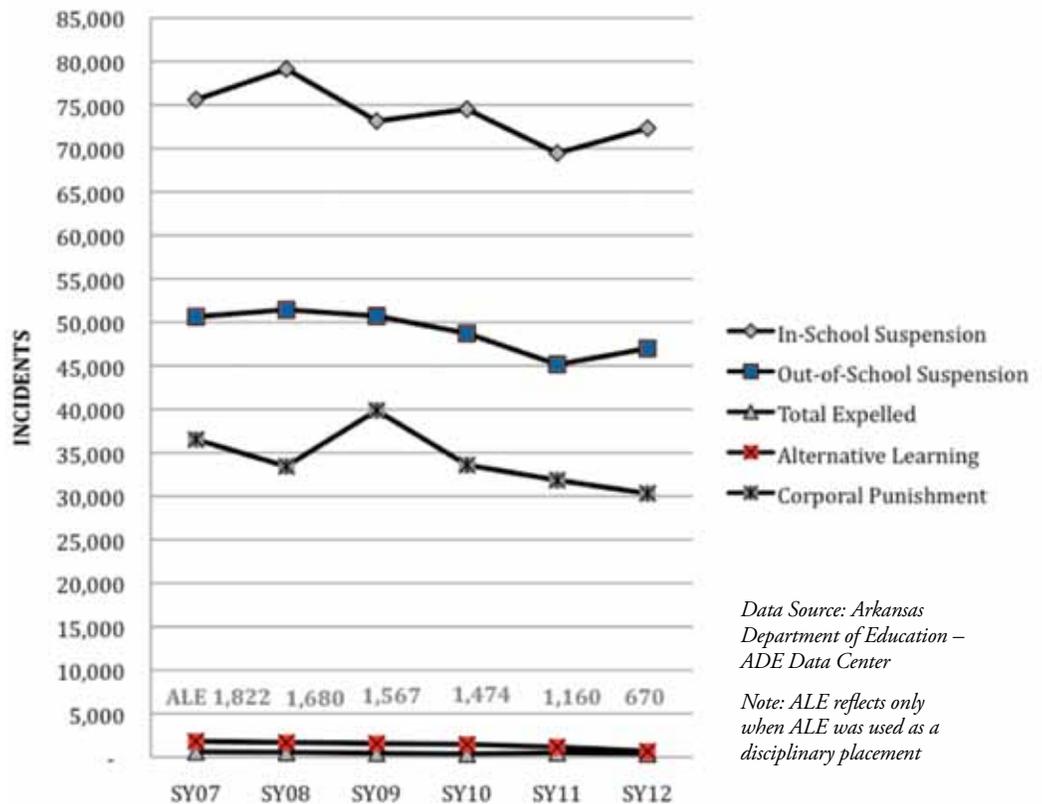
5.3 percent with a gap of 13.2 percent.¹³ In other words, black students were suspended about 3.5 times as often as white students.

Only 12 states have greater disparity in the number of suspensions than Arkansas. Those states are: Illinois, Missouri, Connecticut, Tennessee, Michigan, Wisconsin, Minnesota, Delaware, Nevada, Ohio, Nebraska, and Indiana. The map on page six shows the disparity between black and white students' experiences.

The results were derived through statistical sampling methods with 2009-2010 school year data from the U. S. Department of Education, Office for Civil Rights. In-school suspensions were not included in the analysis. Arkansas Department of Education data

reporting incidents of out-of-school suspension for the same year, 2010, reflects an even greater disparity for blacks with over five times the incidents of white suspensions (27.9 incidents per 100 black students compared to 5.5 incidents per 100 white students).

ARKANSAS STUDENT DISCIPLINE



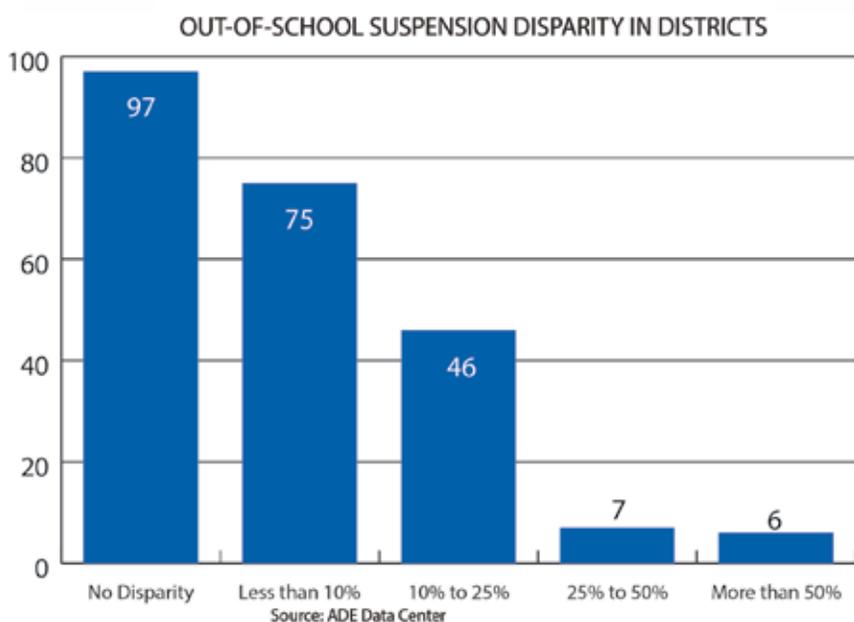
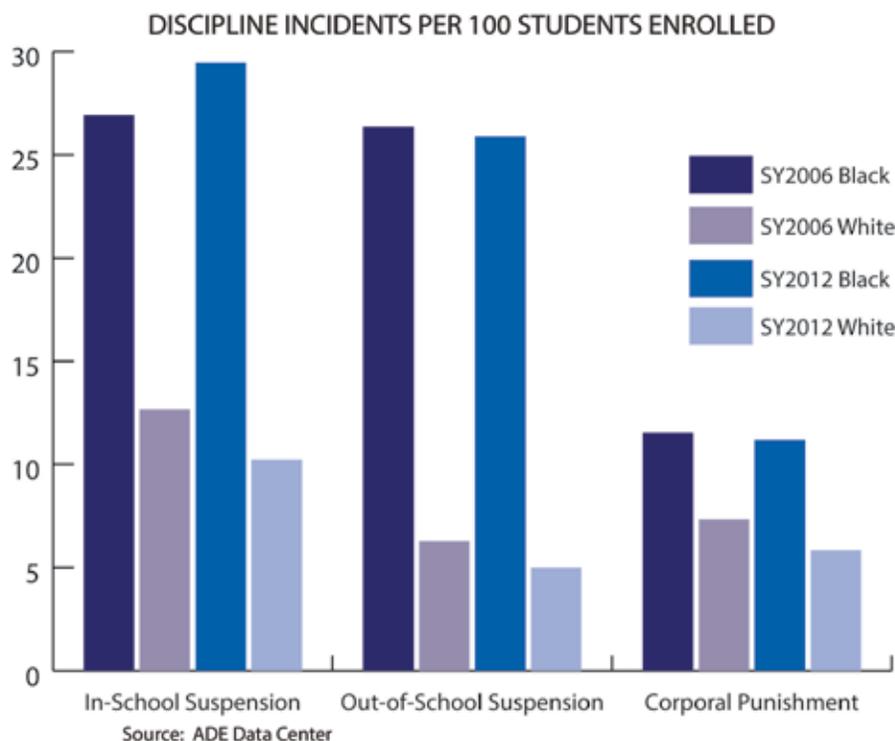
Overall Arkansas Trends in School Disciplinary Actions

According to Arkansas Department of Education data, after three years of statewide declines in the use of in-school and out-of-school suspensions from SY2008 to SY2011, there was an increase in suspensions from SY2011 to SY2012. In-school-suspension declined by 12.2 percent and then went up 4.1 percent. Out-of-school suspension went up four percent in 2012 after declining by 12.2 percent the previous three years. Expulsion declined from 2008 to 2012 by 9.3 percent. In contrast, the use of corporal punishment has continued to decline slightly since SY2009 (See chart on this page).

Racial Disparities in Disciplinary Actions by Arkansas Schools

Statewide, there are major racial disparities in the disciplinary actions taken by Arkansas schools. In the five years from 2006 to 2012 the use of in-school suspension for black students has increased while declining for white students. The use of out-of-school suspension and corporal punishment has declined slightly for both black students and white students but more so for white students. The disparity in school disciplinary actions between black and white students has increased for all three types of punishment. In 2012 black students received in-school-suspension almost three times as often as white students, out-of-school suspension more than five times as often as white students, and corporal punishment almost twice as often as white students. The chart below depicts the number of incidents of each type of discipline per 100 students enrolled.

Note: It's possible that a single student may have received more than one out-of-school suspension and that every black student enrolled was not suspended. Eight districts had one percent or less minority enrollment and were not considered for this analysis. Their discipline actions will be considered separately. Fourteen districts had no black enrollment in SY2012. There are many instances of data recorded without designating the race of the student disciplined. The largest number of undesignated students is in the Pulaski County Special School District. There are 2,152 instances where the race is not recorded in the ADE Data Center.



When compared with suspensions and corporal punishment, expulsions are rare for both groups but again black students have 0.14 incidents per 100 students compared to 0.06 incidents for white students in SY2012. Another disciplinary measure sometimes used is assigning students to alternative learning environment (ALE) programs. The disciplinary assignments to ALE are 0.55 for black students compared to 0.02 for white students.

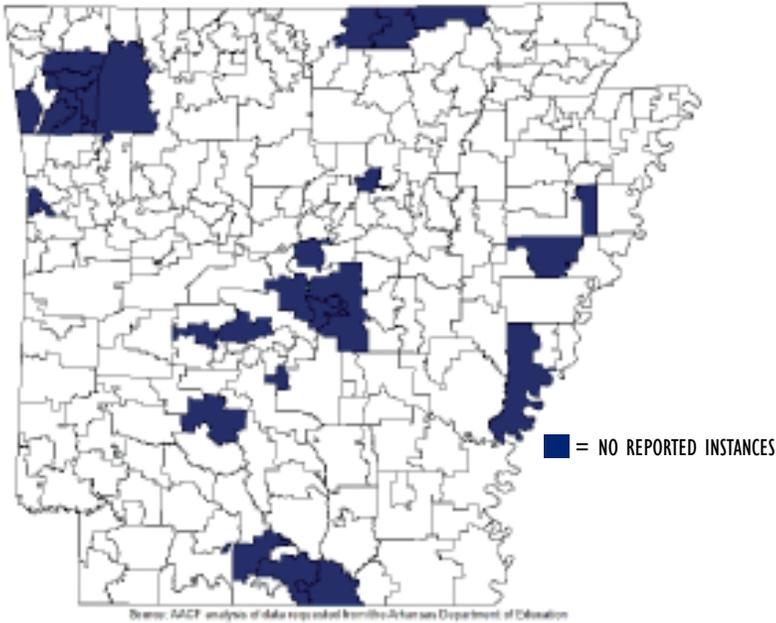
HOW DO ARKANSAS SCHOOLS DISTRICTS COMPARE TO ONE ANOTHER?

Suspension Disparities

Three districts recorded an incident of out-of-school suspension equivalent to their black student population in SY2012. That doesn't mean every black student was suspended as some students may have received more than one. These three districts, and three others, recorded more than a 50 percent difference in the number of incidents of out-of-school suspension for blacks and whites. Four of these districts have fewer than 70 percent National School Lunch Act (NSLA) students and one is just over that level. (NSLA is the state poverty funding provided to Arkansas school districts and is named after the federal program, the National School Lunch Act. The level of state funding for each district is based on the number of students in that district who are eligible for free or reduced lunch according to the standards of the federal program).

Ninety-seven school districts (42 percent) suspend black students at the same level or less than white students. Over five percent of the districts report a disparity of 25 percent or higher in the rate of out-of-school suspension for blacks.

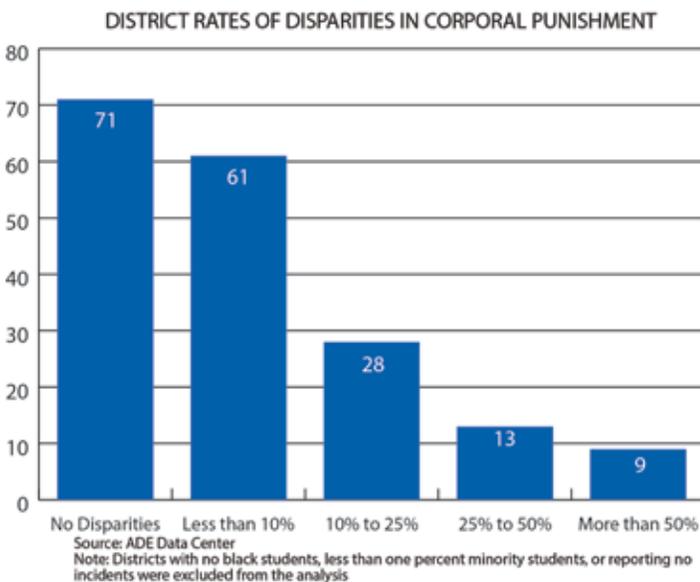
SCHOOL DISTRICTS REPORTING NO INSTANCES OF CORPORAL PUNISHMENT



Corporal Punishment

Corporal punishment is an outdated school discipline policy. Twenty-first century school districts have replaced it with a range of more effective disciplinary alternatives. However, Arkansas still has too many districts whose administrators are unable to manage their districts without relying on fear. In SY2012 thirty-five districts with minority students reported no corporal punishment incidents for white, black, or Hispanic students. These are large districts and represent over one-third (36%) of the student population. They are also mostly in more affluent areas of the state. Seventeen (almost half) of these districts have NSLA rates below 60 percent and only five have rates above 80 percent.

Arkadelphia	Bentonville	Conway	Decatur
Earle	El Dorado	Elkins	Eureka Springs
Farmington	Fayetteville	Forrest City	Fort Smith
Fountain Lake	Gentry	Greenland	Heber Springs
Huntsville	Lakeside (Chicot)	Lincoln	Little Rock
Mammoth Spring	Marvell	Mountain Home	Mountain Pine
North Little Rock	Poyen	Pulaski County Special	Rogers
Salem	Siloam Springs	Smackover	Springdale
Strong-Huttig	Viola	West Fork	



When districts with no black students and districts with less than one percent minority (black and Hispanic) students are removed from consideration along with districts without reports of corporal punishment, 182 of 239 districts remain in the analysis. Nine districts recorded more than a 50 percent difference in the number of incidents of corporal punishment for black students and white students. Seven of the nine districts have a percentage of NSLA students that is smaller than 70 percent and two

districts have larger percentages of NSLA students. All but one of these are small rural districts.

Seventy-one (40 percent) districts' incidents of corporal punishment for black students are at the same level or less than white students. Over 12 percent (22) of the districts included in the analysis report a disparity of over 25 percent between blacks and whites.

EMERGING NATIONAL RESEARCH AND INITIATIVES ON SCHOOL DISCIPLINE

The data in this report has clearly documented racial disparities in the disciplinary actions taken by Arkansas schools. These disparities must be considered in light of a growing body of research and a number of new national initiatives. We must do better at finding new and innovative approaches to keeping all of our kids in school to improve their likelihood of succeeding in school and later as adults.

Zero Tolerance Policies

“Zero tolerance” as used in this report refers to school policies requiring mandatory expulsion for certain offenses. The policies were first established to enforce mandatory expulsion for the possession of guns on school property. In many areas of the country, they have been extended to numerous other offenses. The expansion of zero tolerance policies negates the possibility of a school administrator using his or her professional judgment to determine whether offenses other than guns on campus merit expulsion or a lesser disciplinary measure.

The American Psychological Association established a Zero Tolerance Task Force to examine the evidence concerning the effects of zero tolerance policies.¹⁴ The Task Force looked at research on policies with respect to child development, the relationship between education and the juvenile justice system, and on students, families, and communities. In its conclusions, the Task Force stated, “It seems intuitive that removing disruptive students from school will make schools better places for those students who remain, or that severe punishment would improve the behavior of the punished student or those who witness that punishment. But the available evidence consistently flies in the face of these beliefs. Zero tolerance has not been shown to improve school climate or school safety.”¹⁵

Another examination of zero tolerance policies was provided in the report “Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline.” That report reached similar conclusions and commented on the increased criminalization of students for in-school behavior that is not a serious danger to the safety of others. Common school fights are an example of this type of behavior. Policy may require assaults with “serious bodily injury” to be reported to police. However, incidents without “serious bodily injury” are also being referred to the police. While warranting school disciplinary measures, the severity of these incidents may or may not rise to a level where criminal or juvenile delinquency charges are appropriate.¹⁶ Some schools treat a minor incident of shoving that results in no injury the same as an incident with blows causing severe physical harm. Both incidents should be dealt with, but only one needs law enforcement involvement. School officials are relying on police to handle matters that have previously been the responsibility of school administrators.

Out-of-School Suspension Concerns

The Civil Rights Project sponsored a report detailing some key findings on the issue of out-of-school suspension. A few of these findings are provided below:

- One out of every six black school children enrolled in K-12 were suspended at least once compared to one in 20 white students.
- More than 13 percent of students with disabilities were suspended.
- Students with disabilities and black students were more likely to be suspended repeatedly in a given year than to be suspended just once.

- Although blacks had the highest suspension rate in most states, in Montana, whites (3.8%) were suspended more often than blacks (3.4%).
- For the nation's largest districts, suspension rates for male students of color with disabilities sometimes exceeded 33 percent.¹⁷

Arkansas Study on Education in the Juvenile Justice System

Two Arkansas State Representatives completed an Interim Study Proposal in September 2012 focusing on the educational needs of students within the state's juvenile justice system. The report identified two challenges directly relating to school discipline measures: 1) concerns about school officials seeking the arrest of students for relatively minor offenses, and 2) schools using suspension for issues that do not warrant suspension, particularly truancy.¹⁸ In the report, Judge Joyce Williams Warren, Sixth Judicial District, Division 10, says, "The schools are contributing, more than ever, to the cradle-to-prison pipeline, and they are doing this for offenses that are not necessarily related to safety."

Schott Foundation for Public Education

According to a Schott Foundation report, students who have been suspended are three times more likely to drop out of school by the 10th grade than students who have never been suspended.¹⁹ Those students that drop out have three times the chance of being incarcerated later on in life. To reduce the use of out-of-school suspensions, the Schott Foundation calls for additional systemic supports needed by students and teachers, such as well-resourced schools where teachers have the training, mentoring, administrative support, supplies and the facilities they need to provide expanded learning opportunities to keep students engaged.

"The Schott Foundation has consistently noted that these unconscionable outcomes for these [black] young boys and men are not reflective of their potential nor their abilities — but a direct result of denying them equitable supports and resources they need to be fully engaged and succeed. This is the opportunity gap that is the root of the achievement gap."

— JOHN H. JACKSON, ED.D., J.D. PRESIDENT AND CEO OF THE SCHOTT FOUNDATION FOR PUBLIC EDUCATION

Solutions not Suspensions Initiative

Out-of-school suspensions cut classroom time for those who need it most.²⁰ The "Solutions Not Suspensions Initiative" calls for a moratorium on out-of-school suspension. It also urges schools to adopt positive and constructive disciplinary policies. The initiative supports a Model Code on Education and Dignity as a solution to the overuse and inequitable use of out-of-school suspension. The model code was developed by the Dignity in Schools Campaign.²¹ The premise of the code is that students have the right to safe and supportive education environments. The code proposes alternatives to punitive suspension and expulsion policies, e.g., Restorative Practices and School-Wide Positive Behavior Interventions and Supports (SWPBIS).²² Programs such as these provide guidance in developing positive school communities and enabling students to respond to conflict in ways that meet students' needs without unacceptable behavior.

U.S. Department of Justice

The following is an excerpt from the press release by the U.S. Department of Justice when it filed a lawsuit against the city of Meridian, Mississippi:

On October 24, 2012, the U.S. Department of Justice filed a lawsuit with the city of Meridian, MS; Lauderdale County, MS; judges of the Lauderdale County Youth Court; and the state of Mississippi for helping "operate a school-

to-prison pipeline in which the rights of children in Meridian are repeatedly and routinely violated.”²³

“As a result, children in Meridian have been systematically incarcerated for allegedly committing minor offenses, including school disciplinary infractions, and are punished disproportionately without due process of law. The students most affected by this system are African-American children and children with disabilities. The practices that regularly violate the rights of children in Meridian include:

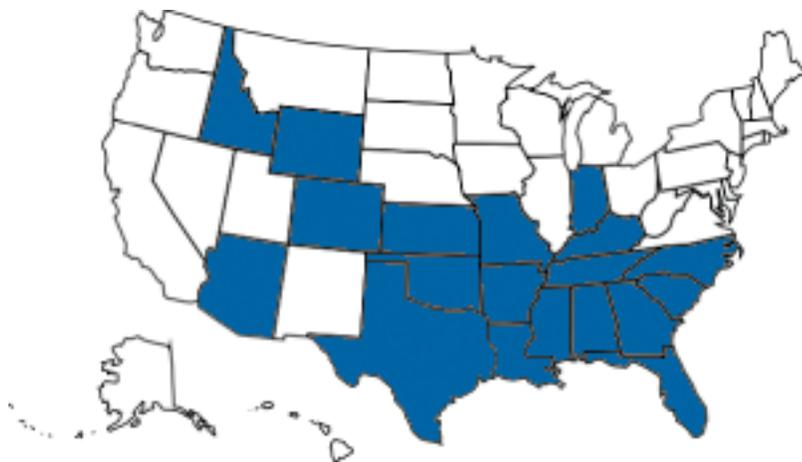
- Children are handcuffed and arrested in school and incarcerated for days at a time without a probable cause hearing, regardless of the severity – or lack thereof – of the alleged offense or probation violation.
- Children who are incarcerated prior to adjudication in the Lauderdale County system regularly wait more than 48 hours for a probable cause hearing, in violation of federal constitutional requirements.
- Children make admissions to formal charges without being advised of their Miranda rights and without making an informed waiver of those rights.
- Lauderdale County does not consistently afford children meaningful representation by an attorney during the juvenile justice process, including in preparation for and during detention, adjudication and disposition hearings.”²⁴

Corporal Punishment Concerns

Nationwide, 223,190 students received corporal punishment at least once in the 2006-2007 school year, according to the Office for Civil Rights at the US Department of Education, including 49,197 students in Texas alone, the largest number of any state. In Mississippi, 7.5 percent of public school students were paddled during this period, the highest percentage in the nation.²⁵

According to the Center for Effective Discipline, 19 states permit schools to use corporal punishment while 31 states and Washington D.C. prohibit it.²⁶ Corporal punishment is prohibited in: Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island,

STATES THAT PERMIT CORPORAL PUNISHMENT ²⁸



South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Washington, DC. States permit or prohibit corporal punishment in varying ways including affirmative state legislation or state-wide regulation.²⁷

Corporal punishment disproportionately affects black students. In the 2006-2007 school year, black students made up 17.1 percent of the nationwide student population, but 35.6 percent of those paddled. In states with the high rates of paddling, 1.4 times as many black students were paddled. Although girls of all races were paddled less than boys, black girls were paddled at more than twice the rate of their white female students. Special educa-

tion students also receive corporal punishment at disproportionate rates. In Texas, special education students receiving corporal punishment comprised 18.4 percent of students who received corporal punishment but made up only 10.7 percent of the Texas student population.²⁹ These disparities violate students’ right to non-discrimination in access to education. The disparities deny students an opportunity to learn.

All corporal punishment in a school setting, whether or not it causes significant physical injury, represents a violation of

each student's right to human dignity. In any other setting the action would be considered as criminal behavior against a child, or assault. Studies show that corporal punishment can damage the trust between educator and student, turn the educational environment into one of fear, and leave the student more likely to leave school.³⁰

While corporal punishment is prohibited in most US juvenile detention centers, including the Arkansas Division of Youth Services (DYS) facilities and the Juvenile Detention Centers that house DYS children, it continues to be allowed in certain US public schools. In addition to the states that have banned it, many school districts within states that permit corporal punishment have opted to ban it independent of state action.³¹ In fact, 95 of the 100 largest school districts in the country have banned corporal punishment, including Houston, Dallas, Memphis, Atlanta, and Mobile County.

Corporal punishment is especially egregious when used for minor infractions such as uniform violations, being tardy, talking in class or the hallway, chewing gum, or talking back to a teacher. Students and teachers reported that students could be paddled for “disrespect.” Disrespect is not clearly defined in school policies and is often used when a more specific offense is not applicable.

Black Students' Behavior

The response of some to inequity in the disciplinary measures black students receive is to assume that the behavior of black students is worse and therefore the inequity is merited. If that were the case, higher rates of discipline for black students would be more consistent from state-to-state and district-to-district within the state. That is not the case.

According to Losen and Gillespie, the large differences nationally in the rates of suspension for black students suggest that differences in the use of out-of-school suspension result more from policy, practice, and leadership than differences in black students' behavior. “These findings should help educators in the higher suspending states, districts, and schools reject the belief that the status quo of frequent suspensions and large racial disparities is unchangeable.”³²

While it is possible that students from certain groups in some districts may misbehave more than others, research on student behavior, race, and discipline found no evidence that the over-representation of blacks in out-of-school suspension is due to higher rates of misbehavior.³³ A Texas report found that black students were more likely to be disciplined for “discretionary” offenses, and that when poverty and other factors were controlled for, higher percentages of white students were disciplined on more serious nondiscretionary grounds, such as possessing drugs or carrying a weapon.³⁴ Finally, a 2010 study of 21 schools led by Johns Hopkins researcher Catherine Bradshaw found that even when controlling for teacher ratings of student misbehavior, black students were more likely than others to be sent to the principal's office for disciplinary reasons.³⁵

STATE POLICY ACTIONS TO REDUCE SUSPENSION

A new report, *Stopping Out-Of-School Suspensions: A Guide for State Policy*, provides guidance for policymakers on steps that states can take to stop the use of out-of-school suspensions. The report—released by the National Opportunity to Learn Campaign, the Solutions Not Suspensions Initiative, and Opportunity Action—“highlights promising state legislation that promotes student growth through school discipline reform models.” Among the four types of legislation recommended by the report:

1. **Stopping suspensions and promoting alternatives** to school discipline that are aligned with restorative justice practices and positive forms of school discipline;
2. **Improving data collection and reporting** of discipline data that is disaggregated by school, race, gender, ethnicity, and disability to better assess (1) whether discipline policies are adversely impacting certain types of students and (2) if particular schools and districts are making progress in addressing disciplinary challenges;
3. **Building the capacity of students, teachers, and principals** so they have the knowledge to encourage “whole-school prevention of suspensions and to promote learning models where students can cultivate positive relationships with their peers;” and

4. **Adopting a single piece of legislation/policy** that combines a number of comprehensive approaches to discipline, such as pushing positive behavioral interventions, better data collection and reporting, encouraging restorative justice practices, and supporting the ability of schools and their staffs to work with students to grow culturally responsive and supportive school climates.

Connecticut and Maryland are two prominent examples of states that have adopted innovative school discipline policies. In Connecticut a state law encourages schools to use out-of-school suspensions only as a measure of last resort. The Connecticut law reduced the number of students being suspended in its first year of implementation but not the racial disparity. Hispanic students accounted for 36 percent of suspensions but only 19 percent of the population. Black students made up 13 percent of the student population but received 39 percent of the suspensions.³⁶

In July of 2012 the Maryland State Board of Education passed regulations that are designed to keep students in school. The regulations include measures requiring schools to adopt a rehabilitative philosophy that focuses on positive behavior. Suspension is relegated to a measure of last resort. Maryland also proposed to monitor districts for large racial disparities and require identified districts to implement a plan designed to eliminate the disparities within three years.³⁷ The regulations redefine much of the state's discipline policy and establish a tracking mechanism that will facilitate evaluation of the success of the changes. The new regulations developed in Maryland could be used as model for other states seeking to reduce or eliminate disparity in school discipline.³⁸

ALTERNATIVE SCHOOL DISCIPLINE STRATEGIES

Restorative practices

Educators in some cases are turning to restorative practices (focusing on accountability and meeting needs of all students involved), peer courts in middle and high schools, and related efforts to remedy students' bad behaviors rather than simply kicking them out of school as punishment and risking alienating them from school altogether.³⁹ These programs require time to implement and time to see results. Schools using restorative practices may still suspend students on occasion, in addition to considering the student's behavior through one of the restorative processes.

One restorative practice sometimes employed at schools looking for alternative ways to handle student misconduct is the peer jury. Typically, students in schools with these programs have a choice when they commit misdeeds other than those for which state or federal laws require suspension. They can either be disciplined by their classmates or face suspension. In peer court, students face a panel of five or six classmates who have been trained to listen and interrogate. The focus is on what the student needs to get back on track, instead of what is needed to punish them. Student court can resolve problems and provides consequences that have meaning.

Positive Behavior Intervention and Supports (PBIS)

PBIS programs are supported nationally through the U.S. Department of Education Office of Special Education Programs Technical Assistance Center. School-wide PBIS is a decision-making framework guiding evidence-based academic and behavioral practices for improving outcomes for students.⁴⁰ The programs address classroom management and disciplinary issues ranging from tardiness to antisocial behavior. It provides additional support for students with emotional, mental, and behavioral disorders. PBIS is based on a system of intervention levels for student behavior ranging from least intensive to most intensive. Students that are not successful with the lowest intervention level may be supported through two additional levels of intervention.

The primary prevention level of PBIS consists of rules and protocols that address school settings, e.g., the school lunchroom, and teach the desired behavior as well as identifying behavior the school wishes to avoid. This level is used for all students.

Secondary prevention provides an increased level of intervention to students who are not successful at the primary prevention level. This smaller group of students is at risk of engaging in more serious problem behavior. These students may be addressed in small groups or through simple individual strategies. The third or tertiary prevention levels are used

for even smaller numbers of students needing intensive, individualized interventions.

A recent Johns Hopkins Study found that the school-wide PBIS programs significantly reduced elementary students' aggressive behavior and office discipline referrals. This study is the first to review PBIS through a randomized control trial over multiple years. The study analyzed teachers' ratings of students' behavior, office discipline referrals, and suspension over four years. The sample was made up of over 12,000 students in 37 elementary schools.⁴¹

Arkansas Professional Development

ADE received notice during the summer of 2012 that its application for an Elementary and Secondary Education Act (ESEA) Waiver had been approved. ESEA is better known as the No Child Left Behind Act. The waiver changed requirements for the percent of students reaching proficiency and extended the timeline for increases in the percent of students deemed proficient. It also established classifications for schools including "priority schools," which are schools with the lowest academic performance. Another classification, "focus schools," denotes schools whose special populations are not making adequate proficiency gains. Along with these and other changes, the waiver lays out the use of a Staff Personnel Development Grant (SPDG) from the U.S. Department of Education's Office of Special Education Programs (OSEP).⁴²

The SPDG is designed to support ADE's work with districts and others to maximize all students' academic and social, emotional, and behavioral skills and success, including Students With Disabilities (SWD). The grant includes "intensive professional development and targeted technical assistance in the areas of leadership, literacy and math instruction, intervention, school-wide Positive Behavior Support Systems (PBSS), social skills/self-management instruction, strategic or intensive cognitive-behavioral interventions, closing the achievement gap, multi-tiered response-to-instruction and intervention and data-based problem solving; parent and community involvement and outreach; and personnel preparation and special education teacher recruitment and retention [emphasis added]."⁴³

Teacher Preparation and Training

The Arkansas Teacher Standards are used by Arkansas universities as the foundation for teacher preparation programs. The standard most directly related to school discipline is Standard Three, Learning Environments, which states "the teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation."⁴⁴ The standards also list indicators that support each teaching standard, but the indicators are generic in nature and do not prescribe specific strategies or methodologies.

All teacher preparation programs teach classroom and behavior management competencies, which are derived from various researchers and their respective publications. The teachers then apply various concepts and strategies from their knowledge base to different instructional settings and situations. The classroom and behavior management strategies vary depending on the educational setting, e.g., a band director might use different strategies than those used by an elementary classroom teacher.

The Teacher Excellence and Support System uses the Danielson framework for teacher evaluation. The framework isn't based on a specific behavior management strategy. It specifies the results that are being sought. These results would be more easily accomplished with a positive behavior system. Some of the results identified in the framework include:

- The atmosphere must feel business-like and productive, without being authoritarian.
- In a productive classroom, standards of conduct are clear to students; they know what they are permitted to do, and what they can expect of their classmates.
- Even when their behavior is being corrected, students feel respected; their dignity is not undermined.
- Skilled teachers regard positive student behavior not as an end in itself, but as a prerequisite to high levels of engagement in content.⁴⁵

The framework describes the appropriate way to respond to student misbehavior. “Accomplished teachers try to understand why students are conducting themselves in such a manner (are they unsure of the content, are they trying to impress their friends?) and respond in such a way that they respect the dignity of the student. The best responses are those that address misbehavior early in an episode, although this is not always possible.”⁴⁶

Another training source for educators is through professional development in research-based classroom management strategies available from providers such as the Arkansas State University Center for Community Engagement. The Center is providing training and resources to Arkansas Schools seeking to implement PBIS. The Center’s website lists 43 Arkansas schools in 14 districts that are currently implementing the PBIS program.⁴⁷ The program has been implemented at all levels from elementary schools through high schools.

Hot Springs School District

The Hot Springs School District is implementing PBIS as part of the Safe Schools/Healthy Students Initiative. The district’s experience with PBIS is included here because the district has easily available data documenting their results. The team shared the results of the initiative with the Arkansas Children’s Behavioral Health Care Commission in 2011:

- Increased students feeling safe in our schools (8%)
- Decreased students who report depressive symptoms (2%)
- Decreased number of fights (12%)
- Decreased students alcohol, tobacco, and other drugs use (5%)
- Increased school-based mental health services (100 additional students)
- Increased clinic-based mental health services (9%)
- Individualized Coordinated School Health Plans show improvement in attendance, behavior, and grades.⁴⁸

Hot Springs has used some state categorical NSLA funds, federal funding, and grant funding to develop a team of student support personnel to implement the initiative. The district has about 3,800 students in grades Pre-K through 12 served by seven intervention specialists. An intervention specialist provides additional supports to students that are struggling academically or socially. They also serve as liaisons to local agencies that can provide additional support resources to students. Some of the services provided by the intervention specialists include: assist students’ families needing services due to economic hardship, recruit community mentors for students, provide transportation to students for school activities, teach social skills, work with the Garland County Juvenile Drug Court, and assist the district administration with discipline issues.⁴⁹

Conscious Discipline

Conscious Discipline is a program that combines social-emotional learning with discipline.⁵⁰ The program incorporates neurodevelopmental brain research. It was named as a national model for character education by the Florida State Legislature. It is being used primarily for Pre-K and Elementary Students. The Arkansas Department of Human Services is training Pre-K providers, including public schools, in the classroom management program. Some of the school-based providers are sharing the program with their district’s elementary school leaders. These programs have not been in place long enough to have results data from the Arkansas programs.

HealthTeacher Program

HealthTeacher is an online curriculum that integrates health and health literacy into the classroom. The program is being used in more than 500 schools in Arkansas. One of the add-ons to HealthTeacher is an “exercise in the classroom” component that has been shown to reduce disciplinary issues by 37 percent according to a 2012 survey of program users conducted by HealthTeacher.⁵¹ The program is being funded in Arkansas schools by Arkansas Children’s Hospital.

Arkansas Children's Hospital is partnering with the Arkansas Department of Education and the Arkansas Department of Health to support the program.

CONCLUSIONS

Arkansas ranks high nationally in the rate of racial disparity for suspension (13th) and 15th in the nation in the use of suspension for all students. Arkansas is one of only 21 remaining states that permit corporal punishment. Corporal punishment is permitted in our public schools despite the fact that it is not permitted in our juvenile detention facilities.

In Arkansas, the disparity between black students and white students in incidents of in-school suspension, out-of-school suspension, and corporal punishment has increased from 2006 to 2012. There is great racial disparity in some Arkansas school districts and not in others. In their national research, Losen and Gillespie concluded that "these data do raise serious questions about possible different treatment by race and should cast heavy doubt on assumptions that different suspension rates between groups merely reflect differences in behavior."⁵²

There is little correlation between districts with higher disparity and school characteristics such as the number of low-income students, the racial composition of students, or the size of the district. Districts that are similar in terms of size, income and percentage of minority students have very differing rates of discipline disparity. As is the case in the research of Losen and Gillespie, the available data cannot confirm the reason for this, but the same serious questions arise about the practices in some districts. This conclusion is further supported by data indicating that 42 percent of Arkansas districts suspend black students the same or less than white students and five percent of the districts report a disparity of 25 percent or higher in the rate of out-of-school suspension for blacks.

New strategies for more effective school discipline are being implemented in some districts within the state. These strategies include systems such as Positive Behavior Intervention Supports. Districts are also moving to provide additional student support services, such as counseling and mental health services. These strategies and services reduce the need for disruptive school discipline measures such as out-of-school suspension. Reducing suspensions and expulsions for low income and minority students is essential to reducing gaps in quality learning opportunities for all students.

This report is limited to a review of national and state school discipline data including analysis of racial and ethnic disparity. It also provides a selected review of current research and practice regarding school discipline as well as its implementation of in Arkansas school districts. Additional research is needed to review topics such as criminal arrests on school grounds, the use of ALE settings for school discipline, and the disparity in the use of discipline with special education students.

RECOMMENDATIONS

The data presented in this report clearly show that Arkansas schools rely far too often on disciplinary approaches that keep too many of our students out of school, thus limiting their ability to learn and succeed in school and later in life. This burden falls disproportionately on the state's minority students. This report makes the following recommendations, a number of which have been adopted elsewhere or that were made in a recent study on the education system of the state's youth services system by the Arkansas Bureau of Legislative Research.

Corporal Punishment

- Join the enlightened states that prohibit the use of corporal punishment in all school districts, and provide educators with extensive training and support for effective, non-abusive discipline techniques.

Suspension and Expulsion Practices

- Prohibit the use of out-of-school suspension for truancy;

- Consider legislation to direct schools to use out-of-school suspension only as a measure of last resort (Connecticut);
- Develop alternative discipline strategies to replace school expulsion, and offer educational options when expulsion may be necessary.

Alternative Strategies

- Consider legislation to require schools to adopt rehabilitative measures for students (Maryland);
- Require district to develop disciplinary strategies such as mediation to use when appropriate as alternatives to criminal charges
- Require districts to implement positive behavior systems
- Adequately fund behavioral and mental health services in schools
- Alternative Learning Environment schools and programs should be certified by the ADE for adequacy in providing the support interventions necessary for each ALE student to return to the classroom or successfully complete their education

Replace zero-tolerance policies with a reasoned and appropriate approach to school discipline that includes permitting administrator discretion on any infraction not having a legally mandated disciplinary action;

Strengthen Reporting and the Use of Data

- Require districts to track absenteeism data resulting from in-school suspension and out-of school suspension
- Track arrests made on campus in a manner that will facilitate research
- Require schools that have a disparity in suspensions exceeding five percent, as part of the professional development for both teachers and administrators, to complete additional training in positive-based intervention systems paid from the district's professional development funding
- Address the issue in the Arkansas Comprehensive School Improvement Plan at both the district and school level

ABOUT THE DATA

The state ranking information in this report regarding school suspension is based on a report using data from the Office for Civil Rights of the U.S. Department of Education. That data is from the 2009-10 school year. In-school suspensions are not included in that data. The study measured the number of students suspended at least once as a percentage of their enrollment in the state. They labeled this result “risk factor.” The results were derived through statistical sampling methods.

The data used in this report for district-to-district comparison in the state was provided by the Arkansas Department of Education student information system staff. This data represents a reporting of incidents of disciplinary actions. Therefore the data has been reported as a rate of disciplinary actions per enrolled student converted to a percentage of actions comparable among groups of enrollees, such as black students or Hispanic students. Further research is needed to examine student level data to determine the number of incidents for individual students and to examine the type of discipline in comparison to the infractions listed.

NOTES

- [1] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.
- [2] Ibid.
- [3] <http://justicecenter.csg.org/resources/juveniles>
- [4] Ibid.
- [5] <http://www.dignityinschools.org/pushout-factors>
- [6] <http://www.dignityinschools.org/pushoutfactors>
- [7] <http://justicecenter.csg.org/resources/juveniles>
- [8] Arkansas Department of Education, *Guidelines for the Development, Review and Revision of School District Student Discipline and School Safety Policies*, 2012. http://www.arkansased.org/public/userfiles/Legal/Legal-Current%20Rules%20ade_253-discipline%20and%20safety%20policies-March%202012.pdf
- [9] Ibid.
- [10] Ibid.
- [11] Ibid.
- [12] Ibid.
- [13] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.
- [14] Russell Skiba, Cecil R. Reynolds, Sandra Graham, Peter Sheras, Jane Close Conoley, & Enedina Garcia-Vazquez, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*. (American Psychological Association Zero Tolerance Task Force. 2006). <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf>
- [15] Ibid.
- [16] *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and school discipline*. 2000 Report from A National summit on Zero Tolerance, (2000). <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf>
- [17] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.
- [18] http://www.arkleg.state.ar.us/education/K12/InitiativesDevelopmentsDocs/InterimStudyEdSystemDYS-ISP11-169-170_11-109.pdf
- [19] Schott Foundation for Public Education, *The Urgency of Now*, (2012). <http://blackboysreport.org/urgency-of-now/index.html>
- [20] <http://stopsuspensions.org/about/>
- [21] http://www.dignityinschools.org/files/DSC_Model_Code.pdf
- [22] Dignity in Schools Campaign, August, 2012 <http://www.nesri.org/resources/model-code-on-education-and-dignity>
- [23] <http://www.justice.gov/opa/pr/2012/October/12-crt-1281.html>
- [24] <http://www.justice.gov/print/PrintOut2.jsp>
- [25] <http://www2.ed.gov/about/offices/list/ocr/index.html>
- [26] Other sources list 21 states that permit corporal punishment. The variety of the types of measures used to prohibit corporal punishment results in varying state counts.
- [27] A Violent Education, August 20, 2008 Human Rights Watch <http://www.hrw.org/en/reports/2008/08/19/violent-education>
- [28] <http://www.stophitting.com/index.php?page=statesbanning>
- [29] A Violent Education, August 20, 2008 Human Rights Watch
- [30] Ibid.
- [31] Ibid.
- [32] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.
- [33] McCarthy, John D. and Dean R. Hoge. 1987. "The Social Construction of School Punishment: Racial Disadvantage Out of Universalistic Process." *Social Forces* 65: 1101-1120.
- [34] Fabelo, T., Thompson, M.D., Plotkin, M., Carmichael, D., Marchbanks, M.P., & Booth, E.A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. New York: Council of State Governments Justice Center. <http://www.aqeny.org/ny/wp-content/uploads/2011/01/Moving-Towards-Restorative-Justice.pdf>
- [35] Bradshaw, C.P., Mitchell, M.M., O'Brennan, L.M., & Leaf, P.J. (2010b). *Multilevel exploration of factors contributing to the overrepresentation of Black students in office disciplinary referrals*. *Journal of Educational Psychology*, 102, 508-520.
- [36] Thomas, Jacqueline Rabe, *School Suspension Rates Drop, but Minority Students Still Over-Represented*, (The Ct Mirror, October 2, 2012). <http://www.ctmirror.org/story/17615/school-suspension-rates-plummet-minority-students-still-overrepresented>
- [37] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.
- [38] Maryland State Board of Education, *School Discipline and Academic Success: Related Parts of Maryland's Education Reform*, 2012. <http://www.marylandpublicschools.org/NR/rdonlyres/42ED8EDA-AF34-4058-B275-03189163882D/32853/SchoolDisciplineandAcademicSuccessReportFinalJuly2.pdf>
- [39] Shah, Nirvi, "Restorative Practices": Discipline But Different, (Education Week, October 17, 2012). http://www.edweek.org/ew/articles/2012/10/17/08restorative_ep.h32.html
- [40] http://www.pbis.org/about_us/default.aspx
- [41] Bradshaw, Catherine, Tracy E. Waasdorp, and Philip J. Leaf, *Effects of School-Wide Positive Behavioral Interventions and Supports on Child Behavior Problems*, (Johns Hopkins School of Public Health, 2012). http://www.jhsph.edu/news/news-releases/2012/bradshaw_school_study.html
- [42] Arkansas Department of Education, *ESEA Flexibility Request*, June 18, 2012 Resubmission, <http://www.arkansased.org/public/userfiles/Flexibility/AR%20Final%206.18.12%20Revised%20.pdf>
- [43] Ibid.
- [44] Arkansas Department of Education, *The Arkansas Teaching Standards*, 2012. http://www.arkansased.org/public/userfiles/HR_and_Educator_Effectiveness/Educator_Prep/Arkansas_Teaching_Standards_2012.pdf
- [45] Danielson, Charlotte, *Enhancing Professional Practice: A Framework for Teaching*, 2007, <http://www.danielsongroup.org/article.aspx?page=frameworkforteaching>
- [46] Ibid.
- [47] <http://cce.astate.edu/pbis/>
- [48] Coordinated School Health/PBIS Teams, 2011, Hot Springs School District.
- [49] <http://hssd.net/files/December%20Parent%20Newsletter.pdf>
- [50] http://consciousdiscipline.com/about/conscious_discipline.asp
- [51] https://dl.dropbox.com/u/1989595/ACH%20Annual%202012_SRG.pdf
- [52] Losen and Gillespie, *Opportunities Suspended: The Disparate Impact*, 2012.



35 YEARS

**ARKANSAS
ADVOCATES
FOR CHILDREN & FAMILIES**

www.aradvocates.org