



## SPAN & Family Voices NJ comments on the Request for Information Regarding the Nondiscriminatory Administration of School Discipline

July 22, 2021

Thank you for the opportunity to comment on the RFI regarding nondiscrimination in school discipline. The SPAN Parent Advocacy Network (SPAN) is New Jersey's one-stop for families of children birth to 26 across systems; our special priority are children and families at greatest risk due to poverty, disability and special healthcare needs, discrimination based on race, ethnicity, immigrant or language status, gender or gender identity, or other special circumstances. Family Voices-NJ is the New Jersey affiliate for Family Voices, dedicated to keeping families at the center of children's healthcare. SPAN also serves as the Parent-to-Parent USA affiliate for NJ; the NJ Parent Training and Information Center and Family to Family Health Information Center; the state affiliate of the National Federation of Families for Children's Mental Health (NFFCMH); and is represented on the numerous state early childhood, education, health, mental health, and transition advisory groups and task forces. Our comments are based on the thousands of parents we assist each year to understand their rights and advocate on behalf of their children and youth in education and other systems.

SPAN also supports the comments of the National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE), of which we are a founding member, the Consortium of Citizens with Disabilities (CCD), and the Leadership Conference on Civil and Human Rights (LCCHR). In particular, we note the opening comments of the LCCHR regarding components of the January 8, 2014 Joint Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline that should be included in any new guidance from the Department:

- **Disparate impact**, including the three-part test and flow charts.
- **Examples**, including of disproportionality, positive climate and prevention recommendations, and selective enforcement as a potential violation.
- **Remedies**, what the U.S. Department of Education (ED)/Department of Justice (DOJ) can do.
- **Descriptions of the harm** of the school-to-prison pipeline and racially disproportionate discipline.
- **Accountability** for contractors (including school-based police and private security).
- **Equity and safety** are not in conflict."

We also support the LCCHR recommendations regarding additional components of any new guidance:

- Clarify the differing roles of the various arms of US ED
- Specify that failure to act is also discrimination
- Use more inclusive language
- State that Civil Rights Data Collection must be completed to comply with civil rights

- Highlight the negative ramifications of police involvement
- Include more information on social-emotional development
- Address the importance of support and training for adults
- Explicitly address intersectionality
- Prominently feature non-exclusionary alternatives
- Do everything possible to eliminate or minimize the use of harmful discipline practices
- Protect student privacy
- Highlight the importance of schools and districts being guided by students, parents, guardians, community members, and those most impacted, in building supportive and welcoming school climates and in responding to student behavior. Indicate that some students and families, especially those who have been involuntarily placed in alternative programs, are even less likely to have had a voice at the table of school-based decision-making.

Following issuance of the guidance, we strongly encourage the Department to provide multiple TA opportunities for stakeholders to learn about its contents and how to use it to improve school environment and services to and outcomes for our nation’s children, youth, and families.

**SUMMARY:**

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. OCR’s Role in Enforcing Federal Civil Rights Laws*

We acknowledge that OCR responds to complaints, conducts compliance reviews, monitors resolution agreements, issues guidance, provides technical assistance, and administers data collection.

*B. OCR and Other Federal Agency Policy Guidance on the Nondiscriminatory Administration of School Discipline*

We support that OCR released a Dear Colleague letter in 2014 on race and discipline. We also appreciated the GAO 2018 report that found black boys and students with disabilities were disproportionately disciplined. This included the inappropriate use of restraints, which are ineffective at behavioral modification and experienced as trauma, often resulting in injury and even death. We also support the 2019 report regarding the school-to-prison pipeline. Indeed, mental health organizations such as the NFFCMH and NAMI (National Alliance on Mental Illness) are advocating for counseling, not criminalization.

*C. Commitment to Equity and This Request for Information*

We greatly appreciated President Biden’s Executive Order “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” Since our founding 33 years ago, SPAN has been a forceful, committed advocate for equity across all “isms” to ensure that all children, youth and families have equitable access to the services and supports they need, leading to positive outcomes.

**II. Solicitation of Comments**

*A. Information Solicited*

We support the provision of input from Stakeholders including schools, family organizations, and parents, as well as from children and youth who are directly impacted.

## *B. Instructions for Responding to This Request for Information*

We will present comments that are as specific as possible as requested.

### *C. Request for Information*

1. What are your views on the usefulness of current and previous guidance OCR and CRT have issued on school discipline? We would appreciate your comments on the guidance documents described above, including the 2014 guidance, the 2018 Dear Colleague letter, and the 2018 Questions & Answers on Racial Discrimination and School Discipline guidance.

Although we greatly appreciated the reports and guidance, policy wasn't developed to address the issues or data results. Without policy, there is no accountability or enforcement. For example, we would support the development of OCR policy that clarifies that any discipline policies, procedures or practices that only allow certain disciplinary actions (such as restraints, seclusion, or the use of aversives) to be used against students with disabilities and no other students, is unlawful discrimination. We would also support the development of US ED policy that specifically indicates that, for example, using evidence-based, evidence-informed approaches for discipline for students with disabilities is required as part of the IDEA requirement that IEPs should be evidence-based.

We strongly urge OCR to issue guidance that includes all students and seeks to achieve equity, especially for students with disabilities, including those eligible for IDEA and Section 504, and students of color. We urge OCR to issue a new guidance package that directs states, districts and schools in the use of the evidence-based practices known to eliminate the use of any/all exclusionary disciplinary practices (i.e., suspension, expulsion, seclusion, physical and mechanical restraint). New guidance must provide the tools and evidence-based solutions that assure schools will be able to identify existing and new resources, train and support school teams, and collaborate with stakeholders to create a safe and healthy school climate for all.

As noted in CCD's comments, "A guidance package inclusive of students with disabilities is especially needed to address the well-documented disproportional, discriminatory, and negative impacts of exclusionary discipline practices known to traumatize and limit the future for students with disabilities, especially those who are students of color. OCR is well aware of the data showing that students with disabilities are suspended, expelled, secluded, physically and mechanically restrained and/or arrested at much higher rates than their general education peers. For students who are also Black, the numbers are infuriating."

Any new Dear Colleague Letters and accompanying guidance should be developed collaboratively by the U.S. Department of Justice Civil Rights Division, the OCR and the Office of Special Education Programs in order to address all students with disabilities, and to address intersectional discrimination in the administration of discipline, including on the bases of disability and race or ethnicity, to address the disturbing disparities in the discipline of students with disabilities, particularly those of color, as well as with family-led organizations who serve the most underserved children and families such as Parent Centers and Family Voices and Federation of Families for Children's Mental Health affiliates.

2. What ongoing or emerging school discipline policies or practices are relevant to you or the communities you serve, including any that you believe raise concerns about potentially discriminatory implementation or effects on students' access to educational opportunities based on race, color, national origin, sex, or disability?

Data has already shown discrepancies in discipline as it related to race, ethnicity, gender, disability and other protected categories. This data must be translated into action for actual implementation. Our concerns mirror those of CCD:

- “Over-reliance and use of aversives such as seclusion and restraint which disproportionately impacts students with disabilities and students of color. See response to 4 (e).
- The referral of students with disabilities to alternative schools. See response to 4 (g).
- State and district implementation of the [Equity in IDEA regulations](#), effective in 2018. Comprehensive and effective implementation is needed to address the overuse of harsh disciplinary practices, including suspension, expulsion, on students with disabilities including students of color with disabilities.
- Students with disabilities are experiencing disproportionate rates of school removals compared to their peers. This is true for preschool-age children (See response to 7 (a)) as well as those ages 6-21. In 2018-2019, states identified 181 districts as having significant racial disproportionality for the incidence and duration of discipline. However, 28 states flagged none of their districts for this purpose. (See: UCLA Civil Rights Project, [Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies](#))”

3. What promising practices for the administration of nondiscriminatory school discipline or creating positive school climates have you identified?

Positive school climates, anti-bullying policies, tiered systems of supports, person-centered planning<sup>i</sup>, and PBIS (Positive Behavioral Interventions and Supports) are good starting points to be proactive as opposed to reactive.

4. What are your views on this nonexhaustive list of disciplinary policies, practices, and other issues below?

(a) Discipline of students in pre-K through third grade, including in-school and out-of-school suspensions.

Suspensions and expulsions continue for preschoolers in some states (NJ legislated against this.) We advocate that use of in-school and out-of-school suspension be dramatically limited if not completely eliminated. Little evidence exists that such disciplinary actions achieve improved behavior and can, in fact, hinder cognitive and social development, particularly in the early years. Use of multi-tiered systems of support (MTSS) to address disruptive behaviors, such as [social and emotional learning \(SEL\)](#), [positive behavioral interventions and supports \(PBIS\)](#) and [restorative justice practices \(RJ\)](#) should be encouraged. Also, the use of UDL and communication supports can break down barriers to learning and expression that result in disruptive behavior. Use of exclusionary discipline should be completely prohibited. See the [Conference of State Legislature’s report on this topic](#).

(b) Use of exclusionary disciplinary penalties, such as suspensions or expulsions, for minor, non-violent, or subjectively defined types of infractions, such as defiance or disrespect of authority.

Exclusionary practices are ineffective and in fact exacerbate behaviors, particularly as the student isn’t being supported. SPAN believes the use of suspensions and expulsions for minor, non-violent infractions should be prohibited. As the Department has recognized, suspensions and other disciplinary removals generally do not help reduce misbehavior, and may negatively affect the student. For students

with disabilities, suspensions may indicate that the school is not meeting the student's behavioral needs, and is not providing the student a free appropriate public education or equal educational opportunities. Specifically regarding students with disabilities (IDEA or Section 504), instead of suspending, the school should determine whether the infraction was a [manifestation](#) of the student's disability and whether appropriate behavioral and academic supports are in place for the student. Behavioral supports, including in some cases proactively conducting a Functional Behavior Assessment (FBA) that includes a thorough analysis that identifies and seeks to understand behaviors not appropriate for school, and developing a [Behavioral Intervention Plan](#) (BIP) on the basis of the FBA, should be provided as an alternative to suspending or expelling the student. [The IRIS Center \(https://iris.peabody.vanderbilt.edu/\)](https://iris.peabody.vanderbilt.edu/) offers valuable resources on FBAs, BIPs and more.

(c) Discipline issues relating to dress and grooming codes (including restrictions on hairstyles).

Sadly, this continues to be a discriminatory issue, even in school sports where athletes are told to cut off dreadlocks or that a certain type of bathing cap for swimming is nonstandard and thus unallowed.

(d) Corporal punishment.

This should be eliminated in all states in accordance with the AAP (American Academy of Pediatrics) guidelines and decades of research demonstrating that it is ineffective and harmful. SPAN supports the elimination of use of corporal punishment and supports [H.R. 1234/S.2029](#), the *Protecting Our Students in Schools Act* which would prohibit the use of corporal punishment in public schools and has been introduced in the 117<sup>th</sup> Congress.

(e) Inappropriate use of seclusion and restraint for disciplinary purposes.

This should be eliminated in all states. Serving on the NAMI national restraints committee made us aware that this is ineffective as behavioral modification, harmful, and as stated above disproportionately affects students based on race, sex, and disability. Sadly, our state passed a law permitting the use of seclusion and restraints that *only* applies to students with disabilities. Although some advocacy groups saw this as a possible protection, we disagreed and indeed saw increases in parent calls regarding restraints pre-pandemic. SPAN vociferously and adamantly opposes use of seclusion and inappropriate restraint in schools and support [HR 3474/S.1878](#), the *Keeping All Students Safe Act* which would prohibit the use of seclusion, mechanical, prone, supine and chemical restraint, and reduce the use of physical restraint. The bill has been introduced in the 117th Congress. Students with disabilities are 20 times more likely than peers to be restrained and/or secluded. Students with disabilities make up 13% of student enrollment but account for 78% of students secluded/restrained. In 2019, OCR and the Office of Special Education and Rehabilitative Services (OSERS) partnered to provide support and technical assistance to schools in a way that would strengthen protections for children with disabilities. A report on this initiative is [available here](#).

(f) Referrals to and the resulting interactions with school police, school resource officers, or other law enforcement.

Schools are unaware that there are alternatives to involving juvenile justice. In NJ, districts can call mobile response to de-escalate, with parental consent. Data clearly show that the use of referrals to school police, school resource officers, or other law enforcement disproportionately impact students

with disabilities, particularly students with disabilities of color. As reported in the GAO report GAO-18-258, *Discipline Disparities for Black Students, Boys, and Students with Disabilities*:

Across each disciplinary action, Black students, boys, and students with disabilities experienced disproportionate levels of discipline. Black students were particularly overrepresented among students who were suspended from school, received corporal punishment, or had a school-related arrest (see fig. 2).

(g) Referrals to alternative schools and programs. Data show that students with disabilities are disproportionately referred to “alternative” schools/programs. Importantly, such schools are found to have low graduation rates. While only 6% of high schools in the U.S. were classified as ‘alternative schools’ in 2017, they accounted for 30% of all low-graduation rate high schools. Many states have designed their ESSA accountability systems in such a manner that the performance of students in alternative schools has little if any impact. Most states do not require the performance of students in alternative schools to be assigned to the school the student would be assigned to if not placed in the alternative school, creating a strong incentive to refer poor-performing students. As a [2017 ProPublica report](#) found, states and school districts have created a patchwork of rules on who should attend public alternative schools and why, making it difficult to gather reliable data. Many are ‘out-of-school suspension’ by another name. Referral to/placement in alternative schools should be monitored by both OCR and the Office of Special Education (OSEP).

(h) Threat assessment practices. SPAN has signed onto a letter urging major revisions to this practice.

(i) Students bringing weapons or using them at school. While the IDEA allows for quick removal of students with disabilities in such scenarios, the IDEA requires that the student’s IEP should be revised to address his or her behavioral needs, including conducting or updating an FBA and BIP. Per OSERS’ 2016 guidance, schools should proactively respond to the behavioral needs of students with disabilities before waiting for serious disciplinary incidents to happen. We continue to raise grave concern regarding the proper identification and programming of students with disabilities who may be at risk of such behaviors, and whether appropriate preventative interventions and services were provided that would have ameliorated student behavior, preventing serious safety incidents from occurring.

(j) Use of surveillance technologies in a discriminatory manner.

We are aware of cases in which discriminatory punitive practices were discovered when students had recording devices.

(k) School policies or practices related to teacher and staff training related to discipline, the role teachers play in referrals of students for discipline, and the role of implicit bias in disciplinary decisions.

Pre-service training must include PBIS and supporting inclusion of students with disabilities. SPAN believes that training of school leaders, teachers and staff including specialized instructional support personnel (SISP) is woefully inadequate. As has been shown time and again, making an investment in training and support for school personnel with regard to not only alternatives to harsh discipline but also to the school’s responsibilities under Federal laws (e.g. IDEA, Section 504) will result in dramatic reductions – if not complete elimination – of the use of harsh and seclusionary discipline measures and create positive conditions for learning.

(l) Discipline related to attendance and time management: Discipline related to attendance is particularly concerning given that most states chose chronic absenteeism as a factor in the state accountability plans under the Every Student Succeeds Act (ESSA). Our concern is that often, students may have particular challenges with time management and/or may miss school due to their disability, which is then dealt with through disciplinary action. It is often the case that the challenge may not have been properly identified in the student's IEP or 504 Plan nor have the appropriate supports been put into place. To provide technical assistance on these and related issues, the National Center on Educational Outcomes published a brief, [Students with Disabilities and Chronic Absenteeism](#) which provides recommended actions for schools to take to address absenteeism of students with disabilities.

(m) Discipline of victims of race, color, or national origin harassment, sex harassment, or disability harassment for misconduct that arises as a result of such harassment.

We have heard of many cases in which the bullied child was punished, but the behavior of the bully was not addressed. Schools have an obligation under Federal law to address harassment. Disciplining the victims is not among them. See [StopBullying.gov](#).

(n) Zero tolerance or strict, three strike policies.

This has been misinterpreted and misused. For example, police arrived at midnight at the home of a 7-year-old who threatened to "shoot" someone – with a rubber band.

(o) Reintegration of students who return to school after a long-term out-of-school suspension or expulsion.

(p) Discipline issues relating to virtual learning.

We are aware that some students with developmental disabilities were distracted by cameras and punished if they weren't on camera, or others with ADHD couldn't sit for hours and also disciplined if they went off camera (marked absent). We feel that the recently released OCR document, [Questions and Answers on Civil Rights and School Reopening in the COVID-19 Environment](#) is adequately addressing these issues.

(q) Discipline issues relating to returning to in-person instruction.

The pandemic has been traumatizing for students, some of whom lost family members. Students with developmental disabilities were most impacted by learning loss and behaviors regressed. Some students were unable to wear masks due to sensory issues and schools, rather than working with students to help them, wouldn't allow them to attend school. SPAN believes the recently released OCR document, [Questions and Answers on Civil Rights and School Reopening in the COVID-19 Environment](#) is adequately addressing these issues. However, we have become concerned with reports that students are being moved into remote instruction as a form of discipline, without following the IDEA process for removal from in person instruction. That issue needs to be monitored and addressed.

(r) Discipline issues relating to activities off school campus or in virtual school settings, such as bullying through social media usage.

5. What types of guidance and technical assistance can OCR provide to best help SEAs and LEAs create

positive, inclusive, safe, and supportive school climates and identify, address, and remedy discriminatory student discipline policies and practices (for example, Dear Colleague letters, Frequently Asked Questions documents, fact sheets, tool kits, videos on the nondiscriminatory administration of school discipline or positive school climate, and guidance on returning students to in-person instruction)?

There must be established policies and sanctions for noncompliance. In addition to the urgent need to reissue an updated guidance package on school discipline, OCR should use the Civil Rights Data Collection (CRDC) to identify issues requiring additional guidance. One such issue appears to be the identification of students as eligible under Section 504. Based on recent analysis of the 2017-2018 CRDC presented in the Center for Civil Rights Remedies report, [\*Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies\*](#), thousands of school districts fail to identify even one student as eligible under Section 504. The report found 3,434 districts (roughly 20% of all districts), serving over 1.8 million students, identified zero 504-only eligible students.

6. What promising practices that have reduced the use of discipline or the disparities in the use of discipline between different groups of students (including promising evidence-based programs and success stories from particular school districts) should OCR consider highlighting in any future guidance or resource materials?

As mentioned previously, PBIS, focus on improving school climate, tiered supports, person-centered planning, anti-bullying etc. have been effective; the most effective is the use of PBIS. See Response to #3. Also, OCR should collaborate with the existing TA centers (i.e., the Center on PBIS, TIES Center) to provide specific guidance on fidelity of implementation of evidence-based alternative practices. For example, more information and resources should be afforded to districts to measure their fidelity of implementation of PBIS through use of instruments like the “Schoolwide Evaluation Tool” (SET). Additionally, when OCR issues findings against districts and requires corrective action, it should ensure that fidelity of implementation is addressed with whatever alternative interventions to which a district commits.

7. How do school discipline policies impact (a) students’ opportunity to learn; (b) academic achievement; (c) students’ mental health; (d) drop out and graduation rates; (e) school climate and safety; (f) access to instructional time; (g) teacher retention and satisfaction; (h) the rates at which staff refer students for formal discipline; (i) student participation in STEM courses, honors and advanced placement courses, arts and theater, and extracurricular programming; (j) impact of discipline records on access to scholarships or on enrollment in college; (k) student participation in ceremonies (for example, graduation ceremonies and National Honor Society ceremonies); and (l) life outcomes (for example, earnings, reliance on public support, income, employment opportunities, and housing)?

Students who never had mental health issues have now experienced them due to the pandemic. COVID-19 exacerbated mental illness in students where it already existed. Pre-pandemic research showed that 50% of students with mental illness drop out.

(a) students’ opportunity to learn;

As noted by CCD in their comments, and has been pointed out in reports from the [Center for Civil Rights Remedies](#), students are losing substantial amounts of instructional time (“opportunity to learn”) due to in-school and out-of-school suspensions. And since students of color and students with disabilities are disproportionately given such discipline, they disproportionately lose instructional time.

Recent data also indicate that expulsions and suspensions occur at high rates in preschool settings, including for preschool-age children with disabilities. As noted by ED and the U.S. Department of Health and Human Services in a joint [Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings](#) co-released as part of the 2014 discipline guidance package:

Suspension and expulsion can influence a number of adverse outcomes across development, health, and education. Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not...Not only do these practices have the potential to hinder social-emotional and behavioral development, they also remove children from early learning environments and the corresponding cognitively enriching experiences that contribute to healthy development and academic success later in life. Expulsion and suspension practices may also delay or interfere with the process of identifying and addressing underlying issues, which may include disabilities or mental health issues.

In addition to the “reported” discipline actions, there is evidence that substantial “off-the-books” removals (unreported) are occurring, such as dismissing or sending students with disabilities home earlier than their classmates and/or, advising students with disabilities to take “cool-down days,” which also circumvents the Manifestation Determination Review process.

(b) academic achievement;

Discipline policies have a direct and detrimental impact on academic achievement. Since students lose instructional time, negative impact on academic achievement is to be expected. Furthermore, discipline policies impact graduation rates and drop-out rates. See response above.

(d) dropout and graduation rates; see (a) and (b).

(e) school climate and safety;

Harsh discipline policies, such as “zero tolerance” have not been shown to have a positive impact on school climate or safety. This finding should be communicated in OCR guidance.

(f) access to instructional time; see (a).

8. To what extent can hiring and professional development practices be designed and aligned to ensure that teachers and staff are adequately prepared to manage classrooms and work with students in a fair and equitable manner?

As stated above, professional development in positive strengths-based approaches and inclusion implementation are needed, as well as in teacher preparation in higher education.

SPAN believes that all members of the school community must be adequately prepared and have access to high-quality, ongoing professional learning opportunities to implement culturally competent, proactive approaches with students that are fundamentally fair and equitable. This includes the implementation of tiered intervention models, including PBIS, MTSS - as evidence-based practices to support access to and explicit instruction in social-emotional learning and creating school-wide positive expectations, evidence-based trauma-informed teaching strategies, de-escalation techniques, conflict resolution, peer mediation, and practices of restorative justice. Professional learning opportunities

should also include UDL for instruction and assessment, use of appropriate communications supports, as well as proper implementation of Functional Behavioral Assessments and Positive Behavior Support/Behavior Intervention Plans to reduce the triggers for inappropriate school behavior before a problem occurs. These practices should be reflected in the systematic preparation and evaluation of administrators, teachers, and other school personnel, including specialized instructional support staff.

All educators should be fully prepared and fully credentialed before they begin teaching. As fully prepared educators, there should be an assurance – through their program requirements or state requirements – that they possess the skills to create and sustain safe and positive learning environments and that they are knowledgeable and prepared to utilize discipline practices that are socially just and research based. The current critical shortage of teachers, particularly in special education, must be addressed in order to meaningfully ensure that students receive a fair and equitable education in a safe learning environment. Finally, we endorse CCSSO's [Advancing Inclusive Principal Leadership \(AIPL\) State Initiative](#). See also response to 3 and 4 above.

9. Describe any data collection, analysis, or record-keeping practices that you believe are helpful in identifying and addressing disparities in discipline. Conversely, describe any barriers or limitations in these areas, and any ideas you may have on how to overcome them.

SPAN supports the following recommendations of CCD and its Education Task Force:

- “OCR must develop monitoring policies that trigger further investigation and examination by the relevant authority to whom data is reported (ED or the state) when the zeroes are reported in discipline data categories and/or where public domain, community member complaint, and/or alternate data source (i.e., law enforcement) suggests a report of zero is untrue.
- OCR must annually collect the Civil Rights Data Collection (CRDC).
- OCR must expand the CRDC questionnaire, consistent with CCD comments made to OCR on [August 6, 2020](#). Additions include:
  - Add “disability-504” as a disaggregation category for every question that requires disaggregation by “disability-IDEA”.
  - Add disaggregated data on “disability-IDEA” for the number of English Language (EL) students enrolled in EL programs.
  - Disaggregate the number of preschool students who received one out-of-school suspension and those who receive more than one out-of-school suspension (disaggregated by race, sex, disability-IDEA, EL).
  - Add questions on whether local education agencies (LEAs) early childhood and preschool programs serve all young children; select program characteristics (free, partial/full day, partial/full charge); and disaggregation by race, sex, disability-IDEA, EL from the question on the number of students ages 3-5 years enrolled in preschool.
  - Add questions on the number of participating students in credit recovery programs that allow them to earn missed credit to graduate from high school.
  - Add questions on advanced placement (AP) courses related to “other” subjects (including world languages and cultures) and taking AP exams for each course (disaggregated by race, sex, disability-IDEA, EL).
  - Add a data item about harassment on the basis of perceived gender identity.
  - Add question on whether an LEA has a web link to policy or policies prohibiting harassment or bullying of students on the basis of all of the following: sex; race, color, or national origin; disability (LEA).

- Add questions related to preschool through grade 12 personnel full time equivalent (FTE) positions and salaries and non-personnel expenditures at the school level.
- Add questions on inexperienced teachers and those with high absence rates.
- Measure experiences of children with disabilities placed by school districts in non-public schools subject to exclusionary discipline, restraint and seclusion and other adverse actions.”

### III. Conclusion

Children, particularly students with disabilities, who are of color, who are immigrant or English learners, have been adversely impacted by discriminatory and abusive discipline practices. The data is already there but research must be translated in actual implementation. Using evidence-based best practices and strengths-based approaches will enhance outcomes for all children. Thank you again for the opportunity to comment on the proposed nondiscrimination in discipline in schools.

Sincerely,



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<sup>i</sup> <https://rwjms.rutgers.edu/boggscenter/projects/PCAST.html>

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*To empower families and inform and involve professionals and other individuals interested in the healthy development and education of children, to enable all children to become fully participating and contributing members of our communities and society.*