



July 23, 2021

Suzanne B. Goldberg
Acting Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Docket ID ED-2021-OCR-0068

Dear Ms. Goldberg,

On behalf of the American Educational Research Association (AERA), thank you for the opportunity to provide feedback to the Request for Information (RFI) Regarding the Nondiscriminatory Administration of School Discipline.

AERA is the major national scientific association of approximately 25,000 faculty, researchers, graduate students, and other distinguished professionals dedicated to advancing knowledge about education, encouraging scholarly inquiry related to education, and promoting the use of research to improve education and serve the public good. AERA and its members are deeply committed to producing research and analyzing data to inform policies and practices that enable inclusive school climates. Education researchers rely on the data in the Civil Rights Data Collection (CRDC) to understand aspects of school climate, including the prevalence of the application of discipline within schools.

We applaud the Department of Education for undertaking an evidence-based approach to inform the development of updated guidance that builds upon the rescinded 2014 Dear Colleague Letter on Nondiscriminatory Administration of School Discipline and related guidance documents. The decision by the previous administration in 2018 to withdraw the 2014 guidance ignored the body of evidence and data that have detailed the disproportionate use of disciplinary measures most affecting Black students and students with disabilities. In a statement released in response to the Federal Commission on School Safety's recommendation to rescind the guidance, I called attention to research on the role implicit and explicit biases have in the disproportionate application of disciplinary measures and the resulting impact of school discipline disparities on students and schools.ⁱ

Our comments highlight recent research findings on school discipline practices, including non-exclusionary modes, as a general response to several related questions

in the RFI. We also provide comments to questions 7 and 9 in the RFI focusing respectively on evidence detailing the impact of school discipline policies on student outcomes and ongoing data needs to identify and address school discipline disparities.

Research from AERA Publications on Practices to Address Racial Disparities in School Discipline

Individual AERA members are submitting comments highlighting research on specific policies to address school discipline disparities. The following summaries of recent studies published in AERA peer reviewed journals have examined the impact of strategies on the rate of school discipline and exclusionary practices. While this is not an exhaustive list, we encourage the Office of Civil Rights (OCR) to consult these studies and others in considering updated guidance on nondiscriminatory school discipline and promoting inclusive school climates.

- A meta-analysis study includes data on discipline disproportionality by race, ethnicity, disability status, and sexual orientation and gender identity. In addition, the study provides a thorough overview of practices used to address school discipline disparities.ⁱⁱ
- A recent meta-analysis examined studies incorporating the use of School-Wide Positive Behavior Interventions and Supports and restorative justice, among other programs, and related impact on school discipline disparities.ⁱⁱⁱ
- A study focusing on the use of zero tolerance policies in states found that Black students were three times as likely to be suspended as White students, and Hispanic students also experienced disproportionate rates of suspension. Overall, the enactment of state zero tolerance policies was estimated to have an 8 percent increase in suspensions in 2005.^{iv}
- A study analyzing data in North Carolina indicated that Black students with greater exposure to same-race teachers were less likely to be referred for exclusionary discipline. The study notes the potential role in teacher discretion regarding referrals for disciplinary action.^v
- An analysis of restorative interventions in Denver suggests that students who received restorative interventions in lieu of office discipline referrals or out-of-school suspension had fewer odds of receiving out-of-school suspensions in a subsequent semester.^{vi}
- A study looking into the effect of providing district administrators with monthly disciplinary equity reports found that administrators who received the school equity report viewed them at a higher rate compared with those receiving a summary report. However, the disciplinary equity report had no effect on the gap between Black and White students receiving office discipline referrals.^{vii}
- One study highlighted the application of two practices as potential ways to reduce disproportionate application of discipline by race, (1) individuating and (2) perspective-taking and empathy. Applying these practices to reduce teachers' implicit bias could lead to decreased racial disparities in school discipline.^{viii}

Responses to Questions 7 and 9 in the RFI

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 extra-curricular 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)?

Recent studies in AERA publications have highlighted the impact of school discipline policies on some of the outcomes listed in this question:

- An analysis of EDFacts state assessment data and school discipline data from the 2012-13 and 2013-14 CRDC indicated correlations between racial discipline gaps and racial achievement gaps, particularly where there were observed racial discipline gaps between Black and White students in grades 3-8.^{ix}
- An analysis of longitudinal data in Arkansas highlighted the potential impact of specific disciplinary practices on math achievement and grade retention.^x
- Using data from Philadelphia, researchers found that the use of out-of-school suspension for classroom disorder was negatively correlated with academic achievement. In addition, elementary students who received out-of-school suspension were likely to be absent more frequently.^{xi}

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.

We greatly appreciate the long-standing importance of the CRDC and the role that the data have had in identifying disparities across educational access and outcomes, including school discipline. Education researchers highly value the CRDC in its collection on suspension rates and in OCR for making these data available to examine disproportionate suspension rates by race, ethnicity, and disability. We also view the CRDC as a way to analyze some of the intersections between suspension rates and long-term outcomes.

As important of the role that the CRDC has in facilitating data analysis and research into suspension and discipline rates, we acknowledge the need for timely data to address the disproportionate use of discipline across race, ethnicity, disability status, and sexual orientation and gender identity. We recommend that OCR transition the CRDC from a biannual data collection to an annual collection. We also recommend that OCR release data on a more accelerated schedule.

Linking OCR data with other data sets in secure and privacy-protected settings can further reveal disparities in discipline. Within the Department of Education, linkages of data from the CRDC and related surveys, such as the forthcoming School Pulse Survey and the School Survey on Crime and Safety, could allow for analyses that can fully examine interrelated contexts between rates of discipline and social, emotional, and academic outcomes.

Beyond data housed within the Department of Education, there are other data that can be helpful in the understanding of disparities in the administration of discipline. As one example, data from the Fragile Families and Childhood Wellbeing Study have been analyzed to determine potential disproportionality in exclusionary discipline of LGBTQ+ students.^{xii} We also encourage further partnerships between state departments of education and researchers to use state longitudinal administrative data to determine where discipline gaps exist and to inform data-driven policy and practice.

Disaggregation of data can be also helpful in determining discipline disparities within larger groups. As one example, emerging evidence has shown that aggregated data on Asian American and Pacific Islander (AAPI) students may mask disparities within specific Asian and Pacific Islander populations. One recent study using data from Washington state indicated that Pacific Islander students were twice as likely to receive disciplinary actions than White students. However, when aggregating all AAPI data, the disproportionality in discipline does not appear.^{xiii}

We appreciate the opportunity to provide research and the importance of data in discovering and addressing disparities in the application of school discipline. This is an area of high interest to us and links to our programmatic research priorities. Please do not hesitate to contact me for any additional input.

Sincerely,



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ⁱ <https://www.aera.net/Newsroom/AERA-Statement-on-School-Safety-Commissions-Recommendation-to-Repeal-Federal-Guidance-on-Reducing-Racial-Discipline-Gaps>

ⁱⁱ Welsh, R. O., & Little, S. (2018). The School Discipline Dilemma: A Comprehensive Review of Disparities and Alternative Approaches. *Review of Educational Research*, 88(5), 752–794.
<https://doi.org/10.3102/0034654318791582>

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- iii Cruz, R. A., Firestone, A. R., & Rodl, J. E. (2021). Disproportionality Reduction in Exclusionary School Discipline: A Best-Evidence Synthesis. *Review of Educational Research*, 91(3), 397–431. <https://doi.org/10.3102/0034654321995255>
- iv Curran, F. C. (2016). Estimating the Effect of State Zero Tolerance Laws on Exclusionary Discipline, Racial Discipline Gaps, and Student Behavior. *Educational Evaluation and Policy Analysis*, 38(4), 647–668. <https://doi.org/10.3102/0162373716652728>
- v Lindsay, C. A., & Hart, C. M. D. (2017). Exposure to Same-Race Teachers and Student Disciplinary Outcomes for Black Students in North Carolina. *Educational Evaluation and Policy Analysis*, 39(3), 485–510. <https://doi.org/10.3102/0162373717693109>
- vi Anyon, Y., Gregory, A., Stone, S., Farrar, J., Jenson, J. M., McQueen, J., Downing, B., Greer, E., & Simmons, J. (2016). Restorative Interventions and School Discipline Sanctions in a Large Urban School District. *American Educational Research Journal*, 53(6), 1663–1697. <https://doi.org/10.3102/0002831216675719>
- vii McIntosh, K., Smolkowski, K., Gion, C. M., Witherspoon, L., Bastable, E., & Girvan, E. J. (2020). Awareness Is Not Enough: A Double-Blind Randomized Controlled Trial of the Effects of Providing Discipline Disproportionality Data Reports to School Administrators. *Educational Researcher*, 49(7), 533–537. <https://doi.org/10.3102/0013189X20939937>
- viii Ispa-Landa, S. (2018). Persistently Harsh Punishments Amid Efforts to Reform: Using Tools From Social Psychology to Counteract Racial Bias in School Disciplinary Decisions. *Educational Researcher*, 47(6), 384–390. <https://doi.org/10.3102/0013189X18779578>
- ix Pearman, F. A., Curran, F. C., Fisher, B., & Gardella, J. (2019). Are Achievement Gaps Related to Discipline Gaps? Evidence From National Data. *AERA Open*. <https://doi.org/10.1177/2332858419875440>
- x Anderson, K. P., Ritter, G. W., & Zamarro, G. (2019). Understanding a Vicious Cycle: The Relationship Between Student Discipline and Student Academic Outcomes. *Educational Researcher*, 48(5), 251–262. <https://doi.org/10.3102/0013189X19848720>
- xi Lacoe, J., & Steinberg, M. P. (2019). Do Suspensions Affect Student Outcomes? *Educational Evaluation and Policy Analysis*, 41(1), 34–62. <https://doi.org/10.3102/0162373718794897>
- xii Mittleman, J. (2018). Sexual Orientation and School Discipline: New Evidence From a Population-Based Sample. *Educational Researcher*, 47(3), 181–190. <https://doi.org/10.3102/0013189X17753123>
- xiii Nguyen, B. M. D., Noguera, P., Adkins, N., & Teranishi, R. T. (2019). Ethnic Discipline Gap: Unseen Dimensions of Racial Disproportionality in School Discipline. *American Educational Research Journal*, 56(5), 1973–2003. <https://doi.org/10.3102/0002831219833919>