

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The Honorable Matthew Whitaker  
Acting Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

January 24, 2019

Dear Secretary DeVos and Acting Attorney General Whitaker,

The undersigned 49 national organizations — representing millions of educators; parents; principals; school counselors; school-employed mental health professionals; specialized instructional support personnel; district leaders; and education policy and youth advocacy organizations — are the professionals and advocates responsible for ensuring the well-being of all students in our nation’s schools on a day-to-day basis. Collectively, we have significant expertise and understanding about best practices in creating positive school climate and discipline procedures and have worked to advance evidence-based policy and practice in states and districts across the country.

While there have been some great strides made in school discipline policy at the local, state, and federal levels, we are disappointed by the recent rescission of the 2014 School Discipline Guidance issued by the U.S. Departments of Education and Justice. Without this guidance, we are concerned that students of color and students with disabilities will face greater levels of exclusionary discipline practices, such as suspension, expulsion and other punishments that remove students from the place created to support them and keep them safe. The decision to rescind the 2014 School Discipline Guidance and associated documents ignores the current research base and the Department of Education’s own data collected by the Department’s Office for Civil Rights.

Children and youth deserve to be in school learning alongside their peers. Suspension, expulsion and other punishments that remove students from the learning environment have huge implications for student achievement and success. Research shows that being suspended even once in ninth grade is associated with a twofold increase in the likelihood of dropping out of high school.<sup>1</sup> Data also shows that not all students are disciplined at the same rate. Data released in 2014 by the U.S. Department of Education Office for Civil Rights shows large disparities in discipline across our nation’s schools. Students of color face disproportionately high rates of suspension and expulsion and black students are suspended and expelled at a rate

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<sup>1</sup> Losen, Daniel J. & Martinez, Tia Elena (2013). Out of school & off track: The overuse of suspensions in American middle and high schools. The Center for Civil Rights Remedies at the Civil Rights Project. Retrieved from [http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack\\_UCLA\\_4-8.pdf](http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack_UCLA_4-8.pdf)

three times greater than white students.<sup>2</sup> Additionally, students with disabilities are more than twice as likely to receive an out-of-school suspension than students without disabilities.<sup>2</sup>

We are gravely concerned by this data because it shows that vulnerable student populations are disproportionately disciplined and suggests a systemic problem in schools. These inequities deserve to be addressed with leadership and guidance from the U.S. Department of Education and Justice. Clear and articulate Federal guidance will support school districts and schools to ensure fair and equitable discipline policies are implemented to create safe, welcoming and non-discriminatory environments for all students. Without this federal leadership and evidence-based guidance, we fear that rates of systemic discriminatory discipline practices in schools will not only continue but increase and disproportionately impact vulnerable student populations.

The “Dear Colleague” letter, which outlines the reasoning behind the rescission of the Guidance, states the Constitution, Title IV and Title VI, in conjunction with state and local school district policy, are best suited for protecting students from discrimination. While we agree that the Constitution, Title IV, Title VI, and state and local school district policy protect students from discrimination, we disagree with the Department’s conclusion that the guidance and associated documents advance policy preferences and positions outside the purview of federal law. To the contrary, Federal leadership can support state and local leadership regarding policies and practices that are in the best interest of *all* children.

In 2013, leading education practitioner groups released the Framework for Safe and Successful Schools to provide a common set of recommendations for policies and practices that create and sustain safe, supportive learning environments. One goal of the Framework is to advance positive school discipline practices.<sup>3</sup> Endorsed by over 100 organizations, the Framework has successfully influenced important policy including the Every Student Succeeds Act (ESSA). It represents best practices from stakeholders in terms of effective discipline procedures. Experts agree that promoting prosocial behaviors is often the best way to ensure a healthy school environment and remove barriers to learning.<sup>4</sup> Additionally, practices such as restorative justice seek to replace a reactionary and punitive disciplinary approach with individualized and positive behavioral interventions that address a student’s situational and behavioral motivation and seek to prevent future disciplinary incidents.<sup>5</sup>

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<sup>2</sup> U.S. Department of Education Office for Civil Rights Civil Rights Data Collection: Data Snapshot (School Discipline) March 21, 2014

<sup>3</sup> Cowan, K. C., Vaillancourt, K., Rossen, E., & Pollitt, K. (2013). A framework for safe and successful schools [Brief]. Bethesda, MD: National Association of School Psychologists.

<sup>4</sup> Kelly, John. & Vaillancourt, Kelly (2012). Effective School-Wide Discipline. National Association of School Psychologists. Retrieved from [Schoolwide Discipline NASSP February2012](#)

<sup>5</sup> Losen, Daniel J. & Gillespie, Jonathan (2012). Opportunities suspended: The disparate impact of disciplinary exclusion from school. The Center for Civil Rights Remedies at the Civil Rights Project. Retrieved from <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-crr-research/losen-gillespie-opportunity-suspended-2012.pdf>

Despite improved discipline policies and practices in many jurisdictions across the country, there is still much work to be done to ensure every student has a safe and supportive learning environment no matter where they live. The rescission of the 2014 School Discipline Guidance is a massive step backward in the collective effort to create healthy school environments. We encourage the Department of Education and related agencies to provide guidance to states, school districts, and individual schools on combating systemic discriminatory discipline practices and policies. In that effort, we encourage those who are serious about improving school discipline practices to consult the Framework for Safe and Successful Schools, as well as the supplemental Policy Recommendations for Implementing the Framework,<sup>6</sup> created to provide schools and districts with evidence-based steps they can take to improve school discipline practices.

We remain committed to advancing evidence-based efforts to improve school discipline and reduce instances of systemic and discriminatory discipline towards vulnerable and underserved student populations. We look forward to working with federal, state, and local policymakers to achieve this goal.

Sincerely,

Alliance for Excellent Education  
American Association of University Women  
American Counseling Association  
American Federation of School Administrators  
American Federation of Teachers  
American Humanist Association  
American Psychological Association  
American School Counselor Association  
Center for American Progress, K-12 Education Team  
Collaborative for Academic, Social, and Emotional Learning (CASEL)  
Committee for Children  
Communities In Schools National Office  
Council for Exceptional Children  
Council of Administrators of Special Education  
Council of Parent Attorneys and Advocates  
EDGE Consulting LLC  
Education Law Center  
Educators for Excellence  
GLSEN  
Higher Education Consortium for Special Education  
Human Rights Campaign  
Judge David L. Bazelon Center for Mental Health Law

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<sup>6</sup> NASP (2017). Policy recommendations for implementing the *framework for safe and successful schools* [Brief]. Bethesda, MD: National Association of School Psychologists.

Learning Disabilities Association of America  
NAACP  
NAESP  
National Association of Councils on Developmental Disabilities  
National Association for College Admission Counseling  
National Association of School Nurses  
National Association of School Psychologists  
National Association of Secondary School Principals (NASSP)  
National Bar Association  
National Black Justice Coalition  
National Center for Learning Disabilities  
National Center for Special Education in Charter Schools  
National Council of Teachers of English (NCTE)  
National Council of Teachers of Mathematics  
National Disability Rights Network  
National Down Syndrome Congress  
National Education Association  
National Organization for Women  
National PTA  
National Superintendents Roundtable  
National Urban League  
Network for Public Education  
School Social Work Association of America  
TASH  
Teach Plus  
Teacher Education Division of the Council for Exceptional Children  
UnidosUS