

JUSTICE  **CENTER**
THE COUNCIL OF STATE GOVERNMENTS
Collaborative Approaches to Public Safety

Statement by

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Hearing on Ending the School-to-Prison Pipeline

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**U.S. Senate Judiciary Subcommittee on the
Constitution, Civil Rights, and Human Rights**

Chairman Durbin, Ranking Member Graham, and Members of the Subcommittee:

I appreciate the opportunity to submit testimony about the growing national concerns regarding the link between schools' disciplinary actions and students' consequent involvement in the juvenile justice system. The Council of State Governments (CSG) Justice Center has completed a study in partnership with the Public Policy Institute at Texas A&M University that has helped provide new data about this issue that I am pleased to share with you today. The center also is currently engaged in a national project—supported through a federal agency/private partnership—to gain bipartisan consensus among a broad range of policymakers and practitioners from law enforcement, courts, education, health, and many other disciplines on strategies for helping schools provide safe and engaging learning environments, improving student's academic outcomes, and preventing involvement with the juvenile justice system. I hope that the information we provide on this project is cause for optimism about potential policy options that can spur positive change in schools and districts across the country.

The Council of State Governments Justice Center

The CSG Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. Staff provides practical, nonpartisan advice and research-based strategies to increase public safety and strengthen communities. The center serves all states to promote effective data-driven practices—particularly on complex problems found at the intersection of criminal justice policy and other disciplines or systems—and to provide practical solutions. The Justice Center’s focus on school discipline is part of a portfolio that includes such other work as guidance on improving responses to people with mental illnesses involved in the criminal justice system, addressing the needs of crime victims, promoting successful prisoner reentry, and implementing justice reinvestment (a data-driven approach to reduce corrections spending and to reinvest the savings in strategies that can decrease crime and strengthen neighborhoods).

The Justice Center’s leaders decided to examine school disciplinary issues because of growing and persistent concerns that large numbers of youth are finding their way into juvenile courtrooms for misbehavior in school that often resulted in suspensions or expulsions. We know that once involved with the juvenile justice system, the consequences for these students can be serious and lasting. After reviewing available research, it became apparent that there were no studies that matched statewide individual student data with justice system records to shed light on this relationship. Unlike the existing research that has used aggregate data, individual-level records make it possible to statistically distinguish the contributions of individual factors that could be related to school disciplinary actions, dropout rates, justice system contact, and other outcomes.

The Justice Center’s board of directors believed that, given the center’s past successes with directing large national consensus-based projects that span multiple systems, the organization was uniquely positioned to address the challenges that have historically made it difficult to generate findings and policy recommendations on student discipline and juvenile justice involvement.

With the bipartisan leadership of Texas legislators (including the chairs of the Senate and House Education Committee and the chairs of the Senate and House committees overseeing

justice and corrections), the Justice Center was able to embark on the largest statewide data-matching study to examine school discipline and its relationship to academic and juvenile justice outcomes. These leaders, through their legislative committees or by establishing a task force of local and state officials, helped guide the Texas research and continue to use its findings to inform new policy development.

Problem

Millions of U.S. public school students in grades K–12 are suspended or expelled in an academic school year,¹ particularly students in middle and high school.² Between 1974 and 2006, the percentage of K-12 students suspended each year has approximately doubled, from about 1.7 million (3.7 percent of all students) in 1974 to more than 3.3 million (6.8 percent of all students) in 2006.³ Research demonstrates that when students are removed from the classroom as a disciplinary measure, the odds increase dramatically that they will become involved in the juvenile justice system and will have poorer academic outcomes, which can affect their ability to obtain employment, earn higher wages, and be successful later in life. Additionally, these negative consequences disproportionately affect children of color as well as students with special needs.⁴

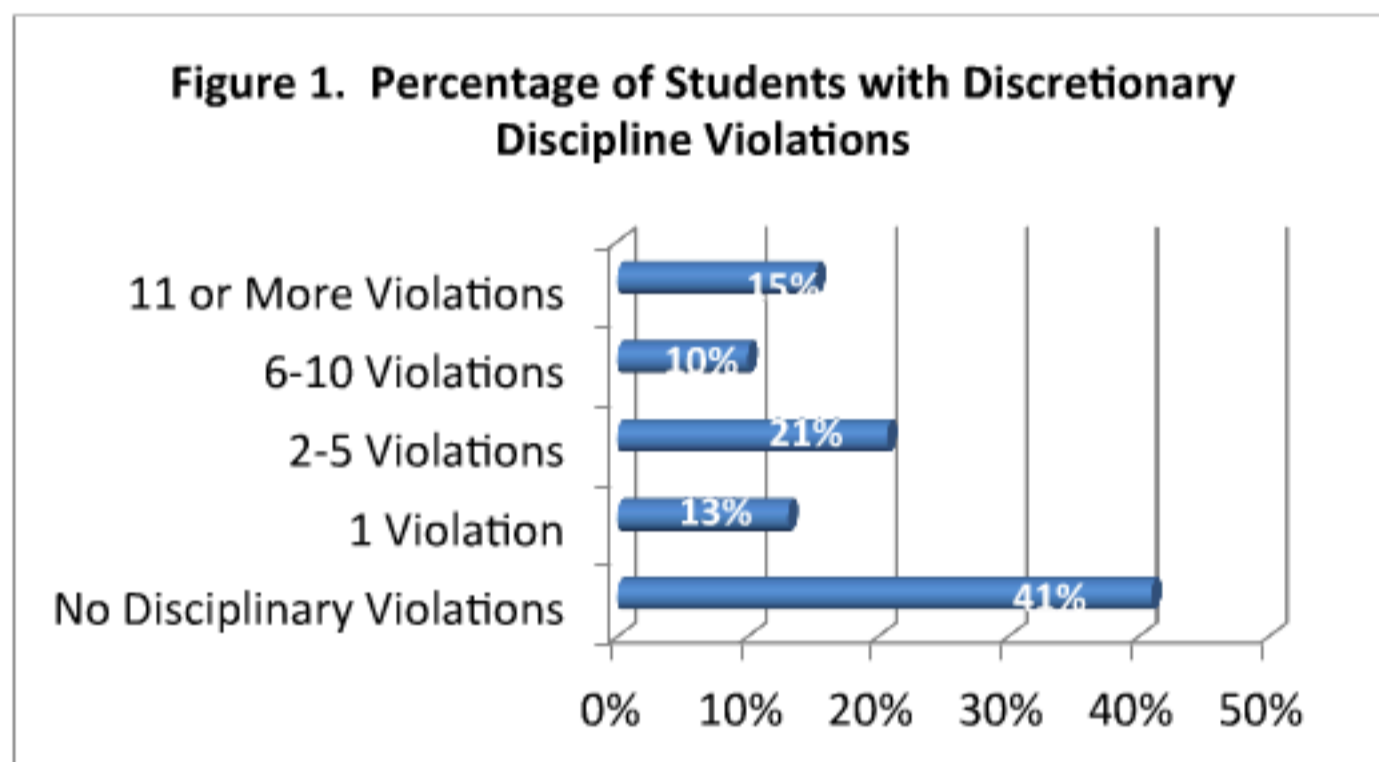
¹ U.S. Department of Education data do not include in-school suspensions. The data represents 61 percent of public schools and 43 percent of districts. An analysis of 2009 data is forthcoming.

² Russell Skiba and Daniel Losen, *Suspended Education: Urban Middle Schools in Crisis* (Los Angeles: The Civil Rights Project at UCLA, 2010); Russell Skiba and M. Karega Rausch, "Zero Tolerance, Suspension and Expulsion: Questions of Equity and Effectiveness," *Handbook of Classroom Management: Research, Practice, and Contemporary Issues*, edited by Carolyn M. Evertson and Carol S. Weinstein (Mahwah, NJ: Erlbaum, 2006): 1063–89.

³ Hanno Petras, Katherine Masyn, Jacquelyn A. Buckley, Nicholas S. Ialongo, and Sheppard Kellam, "Who is Most at Risk for School Removal? A Multilevel Discrete-Time Survival Analysis of Individual-and-Context-Level Influences," *Journal of Educational Psychology*, 103 (2011): 223–237; Kim Brooks, Vincent Schiraldi, and Jason Ziegenberg, *School House Hype: Two Years Later*, NCJ 182894 (Washington, DC: Justice Policy Institute, Children's Law Center, 2000); "2006 National and State Projections," U.S. Department of Education, accessed May 31, 2011, http://ocrdata.ed.gov/Projections_2006.aspx.

⁴ Tony Fabelo, Michael D. Thompson, Martha Plotkin, Dottie Carmichael, Miner P. Marchbanks III, and Eric A. Booth, *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, 2010). Hanno Petras, Katherine Masyn, Jacquelyn A. Buckley, Nicholas S. Ialongo, and Sheppard Kellam, "Who is Most at Risk for School Removal? A Multilevel Discrete-Time Survival Analysis of Individual-and-Context-Level Influences," *Journal of Educational Psychology*, 103 (2011): 223–37; Michael Krezmien, Peter Leone, and Georgiana Achilles, "Suspension, Race and Disability: Analysis of Statewide Practices and Accounting," *Journal of Emotional and Behavioral Disorders*, 14 (2006): 217–26; Linda M. Raffaele Mendez and Howard Knoff, "Who Gets Suspended from School and Why: A Demographic Analysis of Schools and Disciplinary Infractions in a Large School District," *Education and Treatment of Children*, 26 (2003); Sid Cooley, *Suspension/Expulsion of Regular and Special Education Students in Kansas: A Report to the Kansas State Board of Education* (Topeka: Kansas State Board of Education, 1995).

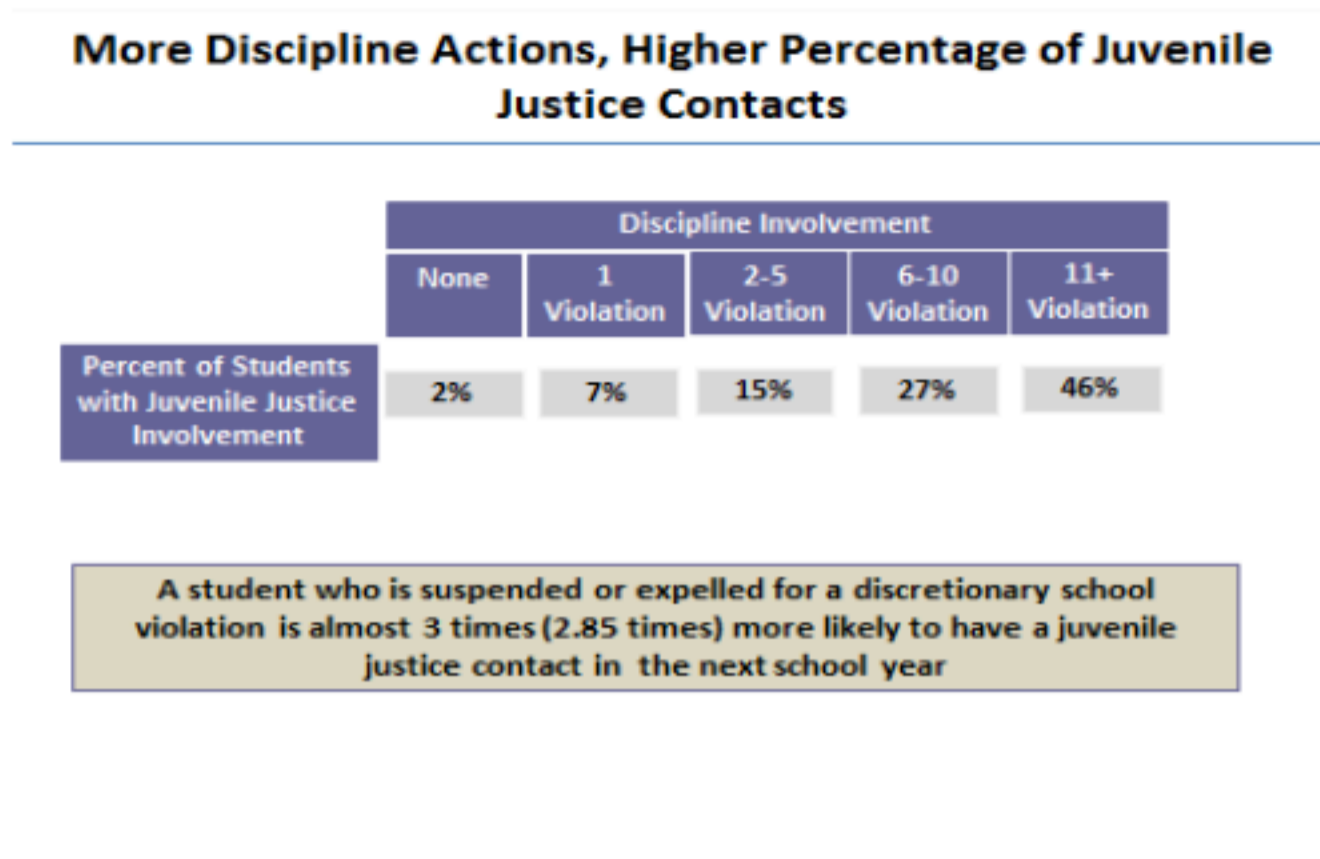
In July 2011, the CSG Justice Center released the Texas study report, *Breaking Schools' Rules*, which followed nearly one million public school students in middle school and high school over a minimum six-year period.⁵ The study found that the majority of students had been suspended or expelled between 7th and 12th grade, and that only three percent of suspensions/expulsions were a result of misconduct for which the state mandates the removal of the student from the classroom; the rest were made at the discretion of school officials primarily in response to violations of local schools' conduct codes. Furthermore, African-American students and students with particular educational disabilities were found to be disproportionately disciplined for discretionary violations.



The *Breaking Schools' Rules* study confirms that school disciplinary actions can lead to negative outcomes for students, both in and out of school. Students that experienced suspensions and/or expulsions were more likely to drop out of school, repeat a grade, and fail to graduate from high school. Of particular concern to this subcommittee, students who experienced disciplinary actions were more likely to become involved with the juvenile justice system, particularly those students with repeat violations.

⁵ Support for the *Breaking Schools' Rules* study was provided by the Open Society Foundations and the Atlantic Philanthropies.

Figure 2.



As Figures 1 and 2 indicate, the report included these findings:

- More than one in seven students was in contact with the juvenile justice system (i.e., contact with a county’s juvenile probation department) at least once between seventh and twelfth grade.
- Nearly half of those students who were disciplined 11 or more times were in contact with the juvenile justice system. In contrast, two percent of the students who had no school disciplinary actions were in contact with the juvenile justice system.

The report also indicated that strong school leadership and staff commitment can make a difference in disciplinary rates.

- When controlling for campus and individual student characteristics, the data revealed that a student who was suspended or expelled for a discretionary violation was nearly three times as likely to be in contact with the juvenile justice system the following year.

The findings on school disciplinary actions and the academic and juvenile justice outcomes from the *Breaking Schools’ Rules* study are not unique to Texas. Similar conclusions have surfaced in jurisdictions across the country, and many studies have documented increases in suspension and expulsion rates as well as how these practices have disproportionately affected certain populations of students. The U.S. Department of Education’s Office of Civil Rights recently published data with consistent findings on the large numbers of suspensions and expulsions and the disproportionate impact on African-American students and students with

special needs. The Office of Civil Rights' data collection process takes place every two years and surveys school districts on a number of school characteristics, including disciplinary actions. Data are disaggregated by race and gender for students with and without disabilities, and data on individual schools and districts are made available. The most recent data collection process (2009) included a survey of more than 7,000 school districts (nearly half of all U.S. districts). Some key findings from this survey, released in March 2012, include the following:⁶

- National suspension rates show that 1 out of every 6 (17%) Black school children enrolled in K–12 were suspended at least once. That is much higher than the 1 in 13 (8%) risk for Native Americans, 1 in 14 (7%) for Latinos, 1 in 20 (5%) for Whites, or the 1 in 50 (2%) for Asian Americans.
- For all racial groups combined, more than 13 percent of students with disabilities were suspended. This is approximately twice the rate of their non-disabled peers.
- One out of every four (25%) Black children with disabilities enrolled in grades K–12 was suspended at least once in 2009–2010.
- Students with disabilities and Black students were also more likely to be suspended repeatedly in a given year than to be suspended just once. The reverse was true for students without disabilities and for most other racial/ethnic groups.

The findings from *Breaking Schools' Rules* and other studies make a compelling case for changing the status quo and confirm that individual schools clearly have the potential to reduce their dependence on suspension and expulsion to manage student misbehavior. There are many schools and districts led by passionate and committed educators and school leaders that are doing very exciting and innovative things to create alternative options to suspensions and expulsions, and they are achieving very promising results. However, too often these strategies and results are not widely disseminated or implemented. Policymakers and practitioners have a growing need to not only identify strategies for effectively managing students' behavior and aligning schools' policies to support student engagement and learning, but to bring these promising strategies to scale through collaborative, multisystem efforts. It is evident from the promising practices that have emerged that schools alone cannot make widespread and lasting advancements without a commitment from law enforcement, courts, probation, treatment professionals, and the many other disciplines that affect students' success.

⁶ Daniel J. Losen and Jonathan Gillespie. (2012). *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School*. The Center for Civil Rights Remedies at The Civil Rights Project.

School Discipline Consensus Project

Following the release of *Breaking Schools' Rules*, Attorney General Eric Holder and Secretary of Education Arne Duncan announced at the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention in Washington, DC, the creation of the Supportive School Discipline Initiative (SSDI). The initiative is a collaboration between their two agencies that focuses on school disciplinary policies and in-school arrests to prevent students' inappropriate contact with the juvenile justice system. The focus is part of a larger effort to help students succeed by supporting school efforts to find alternative strategies for creating and managing safe learning environments.

As one of the four pillars of the SSDI, with additional support from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Education, Atlantic Philanthropies, The California Endowment, and NoVo Foundation, the Justice Center is leading the national consensus-building project mentioned earlier to convene experts across multiple disciplines to determine what policies, programs and practices they agree would most likely improve outcomes for students who engage in misconduct in school. Youth, parents, and community partners are also playing a critical and active role in the project to develop creative solutions.

The consensus-building project officially launched in October 2012 with a national convening in Washington, DC, which brought together a number of critical stakeholders, including state legislators, police chiefs, juvenile and family court judges, advocates, school district superintendents, educators, parents, and youth. The four multi-disciplinary advisory groups focused on the key themes of health, juvenile justice, law enforcement, and school climate will work over the coming year to identify key issues related to academic success, juvenile justice concerns, and safe and engaging learning environments. Drawing on research, promising practices from across the country, and the expertise and experience of individuals affected by school disciplinary measures, these groups will reach agreement on recommended policies and practices that will make the most effective use of multiple systems' resources.

To achieve the goals of the consensus project, the Justice Center is also engaging a number of organizations with extensive expertise, experience, and a long-standing commitment to advancing policies that will keep kids in schools and out of the justice system. Organizations such as the Dignity in Schools Campaign, the Advancement Project, and the NAACP Legal

Defense and Educational Fund have played a significant leadership role in elevating this issue across the country, and are playing a critical advisory role in supporting the work of the project.

Staff is also engaging and partnering with a number of education associations and organizations to ensure the voices of educators, administrators, and other school support staff working with youth are heard. In addition to including these perspectives in each advisory group, the Justice Center is partnering with local advocacy and organizing groups at the local level to conduct listening sessions across the country with youth and parents who have first-hand experience with school disciplinary actions.

The project will yield a comprehensive and interactive report with policy and practice recommendations, guidance on implementation, and examples on promising practices and approaches in the field, for federal, state, and local policymakers and practitioners to improve school disciplinary systems, with the goal of improving student achievement and reducing interaction with the juvenile justice system.

Student Achievement and Juvenile Justice as Last Resort: A Priority for States and Districts

We all want the same outcomes: schools where educators, staff, and students can feel safe in an environment conducive to learning, and where students are connected and engaged in the classroom and are experiencing positive outcomes. While we recognize that there are some students who must be removed from the classroom for violent behavior and other mandatory violations, suspensions and expulsions should be reserved for the most serious offenses. In order to change the current system, educators and administrators need the support and resources to reduce the need for exclusionary measures and to find alternative strategies and interventions for students.

As a result of the commitment and hard work of local communities, advocacy groups, educators, and leading policymakers, a number of states, districts, and individual schools have begun to make the issue of school discipline a priority, and are employing promising strategies to alleviate the problem. Multiple states have initiated legislative and multi-stakeholder taskforces charged with making recommendations to change school discipline policies and practices. A number of states have successfully passed legislation or regulations revising school discipline

policies, and/or providing additional support to districts and schools around alternative strategies to suspensions and expulsions. Leading examples include the following:

- In April 2012, the Colorado General Assembly passed legislation amending grounds for suspensions and expulsions, requiring training for school resource officers, and requiring school boards and districts to revise codes of conduct and disciplinary codes to keep kids in school.
- In 2012, the Maryland State Board of Education approved regulations reforming school discipline policies, including using long-term suspensions as a last resort, requiring school districts to track disciplinary data, and revising definitions for what constitutes suspensions and expulsions.
- In 2012, the California legislature passed five bills reforming school disciplinary policies. The legislation provides additional flexibility to school administrators in decision-making, authorizes the use of alternatives to suspensions and expulsions, and prohibits schools from denying enrollment to students who have had contact with the juvenile system.

At the local level, there are many promising approaches emerging in which school districts and schools are revising policies and practices:

- Providing training and professional development to educators, school support staff, and school resource officers
- Reforming truancy policies and school policing protocols
- Developing school-based mental and behavioral health centers
- Implementing alternative strategies to suspensions and expulsions, such as restorative justice, peer mediation, youth courts, among others

Additionally, over the last several months many urban school districts, including Philadelphia, Chicago, New York City, and Los Angeles, revised their school codes of conduct to provide administrators more discretion in handling disciplinary cases, limiting the maximum length of time for suspensions, and preventing some infractions from being punished by out-of-school suspensions.

Although several states and many districts and schools have been pursuing promising approaches and strategies to reduce the number of suspensions and expulsions, millions of students are still being removed from their classrooms and schools as a result of disciplinary practices, increasing their risk for dropping out of school and future interaction with the juvenile justice system. And, policymakers and practitioners in the majority of states and districts are still searching for solutions. With the help of our many partners on this project, we hope to fill these gaps.

Thank you for the opportunity to submit testimony before the subcommittee, your attention to these critical issues, and leadership in helping states, districts, schools, and communities address these challenges. We look forward to continuing to work with you on these matters.