



Rethinking Discipline to Combat the School-to-Prison Pipeline

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I. Overview

“If you, my friend, are not acquainted with the juvenile justice system, you will be very shortly.” Those were the words spoken by a police officer to a 7-year-old boy with autism while he was handcuffed and pinned on the floor at his school for thirty-eight minutes after allegedly spitting at a teacher.¹ In the 2017-2018 school year, 54,321 students were arrested in public schools across the nation.² Of those, students of color were disproportionately arrested—Black students were over three times more likely to be arrested in school than white students,³ four times more likely to receive an out-of-school suspension,⁴ and almost three and one-half times more likely to be expelled that school year.⁵ Similarly, compared to white students, Indigenous

¹ Chris Hacker, Aparna Zalani, Jose Sanchez & Stephen Stock, *Handcuffs in Hallways: Hundreds of Elementary Students Arrested at U.S. Schools*, CBS NEWS (Nov. 18, 2022, 11:43 AM), <https://www.cbsnews.com/news/hundreds-of-elementary-students-arrested-at-us-schools/>.

² Office for Civil Rights, *2017-18 State and National Estimations: School-Related Arrests With and Without Disability*, CIVIL RIGHTS DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (Scroll to “School Climate” and click drop down for “Arrest”; then open “School-Related Arrests with and without disability”) (last visited Nov. 28, 2022) [hereinafter *School-Related Arrests*].

³ *Compare id.*, with Office for Civil Rights, *2017-18 State and National Estimations: 2017-18 Enrollment*, CIVIL RIGHTS DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (Scroll to “Student Enrollment” and click drop down for “2017-18 Estimations for Enrollment”; then open “Enrollment”) (last visited Nov. 28, 2022) [hereinafter *2017-18 Enrollment*]; see also *School Policing in Pennsylvania: Prevalence and Disparities*, RESEARCH FOR ACTION, <https://files.eric.ed.gov/fulltext/ED608042.pdf> (last visited Nov. 29, 2022).

⁴ *Compare 2017-18 Enrollment, supra*, with Office for Civil Rights, *2017-18 State and National Estimations: One or More Out-of-School Suspensions*, CIVIL RIGHTS DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (Scroll to “Discipline” and click drop down for “Discipline”; then open “One or more out-of-school suspensions”) (last visited Nov. 28, 2022) [hereinafter *2017-18 Out-of-School Suspensions*].

⁵ *Compare 2017-18 Enrollment, supra* note 3, with Office for Civil Rights, *2017-18 State and National Estimations: Expulsions With and Without Educational Services*, CIVIL RIGHTS DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (Scroll to “Discipline” and click drop

students were two and one-half times more likely to be arrested in school,⁶ twice as likely to be suspended,⁷ and 1.7 times more likely to be expelled.⁸

These startling disparities have a concerning effect on graduation rates. Students who come into contact with the legal system are more likely to drop out of school,⁹ and the inverse is also true—students who drop out of school are more likely to end up in the criminal justice system.¹⁰ This phenomenon is known as the School-to-Prison Pipeline, which “refers to the set of policies and practices that make the criminalization and incarceration of children and youth more likely and the attainment of a high-quality education less likely.”¹¹ Contributors to the Pipeline include the misuse of zero-tolerance discipline policies, referrals to the criminal justice system, exclusionary discipline, and high-stakes testing.¹²

Exclusionary discipline policies and the role of school police officers should be limited at the state level to prevent inequitable application to high-risk students. Currently, broad discretion is afforded to school districts to decide when and how to discipline students, which results in inequitable application of exclusionary discipline policies and the over-involvement of school

down for “Discipline”; then open “Expulsions with and without educational services”) (last visited Nov. 28, 2022) [hereinafter *2017-18 Expulsions*].

⁶ Compare *2017-18 Enrollment*, *supra* note 3, with *School-Related Arrests*, *supra* note 2.

⁷ Compare *2017-18 Enrollment*, *supra* note 3, with *2017-18 Out-of-School Suspensions*, *supra* note 4.

⁸ Compare *2017-18 Enrollment*, *supra* note 3, with *2017-18 Expulsions*, *supra* note 5.

⁹ Paul Hirschfield, *Another Way Out: The Impact of Juvenile Arrests on High School Dropout*, 82 Socio. Educ. 368, 368 (2009).

¹⁰ See Russell J. Skiba, Mariella I. Arredondo & Natasha T. Williams, *More Than a Metaphor: The Contribution of Exclusionary Discipline to a School-to-Prison Pipeline*, 47 EQUITY & EXCELLENCE IN EDUC. 546, 557 (2014) (“[O]ut-of-school suspension and expulsion are associated with short-term negative outcomes, such as academic disengagement and depressed academic achievement that may cascade over time, ultimately increasing a student’s risk for contact with law enforcement and involvement with the juvenile justice system.”).

¹¹ EDUCATION LAW CENTER – PA ET AL., FEDERAL POLICY, ESEA REAUTHORIZATION, AND THE SCHOOL-TO-PRISON PIPELINE 2 (2011), https://www.elc-pa.org/wp-content/uploads/2013/11/FederalPolicy_ESEA_and_SchoolToPrisonPipeline.03.09.11.pdf.

¹² *Id.*

police officers. Regulation at the state level will allow school officials to use policies and resources to protect student safety while prohibiting the use of overly harsh and damaging punishments that perpetuate systemic inequities and feed the School-to-Prison Pipeline. These regulations should not only govern exclusionary discipline policies and school resource officers, but they should also create an affirmative duty for the state, and by extension schools and school districts, to provide alternative resources for helping students overcome behavioral challenges.

II. Ineffectiveness of State and Federal Constitutional Law

Pennsylvania law allows for the implementation of exclusionary discipline policies but largely leaves individual districts with the authority to determine to what behavior those policies apply.¹³ Section 12.6 of Title 22 of the Pennsylvania Code governs exclusionary discipline and creates procedural requirements for any exclusion from school, including suspensions (exclusion for one to ten days) and expulsions (exclusion for ten or more days).

Students are entitled to due process any time they are facing exclusion from school, and the procedural requirements become more formal as the length of suspension grows.¹⁴ In *Goss v. Lopez*,¹⁵ the United States Supreme Court recognized that where state law creates an entitlement to public education, that right may not be suspended “on grounds of misconduct absent, fundamentally fair procedures to determine whether the misconduct has occurred.”¹⁶ Though a state is not required to provide individuals with a free public education, where it chooses to do so, its “young people do not ‘shed their constitutional rights’ at the schoolhouse door.”¹⁷ The

¹³ 22 Pa. Code § 12.6.

¹⁴ See 22 Pa. Code § 12.8(a).

¹⁵ 419 U.S. 565 (1975).

¹⁶ *Id.* at 573–74 (holding that where a student is suspended for ten days or less, at least an informal hearing must be held, allowing the student to give his version of events and present witnesses but explaining that longer exclusions from school “may require more formal procedures”).

¹⁷ *Id.* at 574 (quoting *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969)).

state’s authority to prescribe what conduct is appropriate may be broad, but it must still be exercised within the confines of the Constitution.¹⁸ However, due process does not protect students from harsh discipline policies or from the disparate effects of those policies on students of color. Giving a student the opportunity to explain themselves before removing them from school does not lessen the effect of that removal. Further, a hearing before the very community that created these policies does not truly provide students with access to the promise of free public education.¹⁹

Under Pennsylvania law, unless the safety of the school community is at risk, a student is entitled to notice of the reasons for exclusion from school and an opportunity to respond before any suspension may begin, and the student’s parents must be notified in writing of any suspension.²⁰ A student may not be excluded from school for more than ten days without a hearing.²¹ For students with disabilities, further protections are in place.²² However, beyond the procedural protections for students facing exclusion from school, state law provides almost no limitations on when such exclusionary policies may be applied to misbehavior. Instead, state regulations give deference to individual school districts, providing that they “shall define and publish the types of offenses that would lead to exclusion from school.”²³

¹⁸ *Id.*

¹⁹ Pennsylvania’s Constitution requires the state legislature to “provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.” PA. CONST. art. III, § 14. The meaning of “thorough and efficient” is currently being litigated. *See* Wm. Penn Sch. Dist. v. Commonwealth, No. 587 MD 2014 (Pa. Commw. Ct., filed June 1, 2022).

²⁰ 22 Pa. Code § 12.6(b)(1)(ii), (iii).

²¹ 22 Pa. Code § 12.6(b)(2) (providing opportunity for hearing when suspension exceeds three days and requiring a formal hearing for any exclusion from school exceeding 10 school days).

²² *See* 22 Pa. Code § 14.143; 34 CFR 300.530(b), 300.536.

²³ 22 Pa. Code § 12.6(a).

Additionally, section 12.3 requires school boards to “adopt a code of student conduct that includes policies governing student discipline.”²⁴ The only limitations on school boards in their rulemaking authority is that rules must not be “arbitrary, capricious, [or] discriminatory,” and they must operate within constitutional restraints.²⁵ “A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.”²⁶

School districts generally create tiered intervention policies with minor misbehavior like disrespect or use of profanity constituting Level I offenses, and threats of mass violence, selling of drugs, and possession of weapons as Level IV or V offenses.²⁷ Some almost never allow suspension or expulsion of students under a certain age or for minor offenses,²⁸ while others make no mention of age and allow suspensions for “continuation of unmodified” Level I misbehavior.²⁹

Additionally, Pennsylvania law allows schools to request school police officers who may be granted the authority to carry a firearm.³⁰ School resource officers may detain students until law enforcement arrives, or under certain circumstances, they may exercise the same authority as police officers in the community.³¹ There are no regulations at the state level for when school

²⁴ 22 Pa. Code § 12.3(c).

²⁵ 22 Pa. Code § 12.3(a), (b).

²⁶ 22 Pa. Code § 12.3(b).

²⁷ See, e.g., Central Bucks Sch. Dist., *Disciplinary Procedures and Responsibilities, 2022-2023 FAMILY HANDBOOK*, <https://www.cbsd.org/discipline> (last visited Nov. 28, 2022) [hereinafter *Central Bucks Code of Conduct*]; *2022-2023 Code of Conduct*, SCHOOL DISTRICT OF PHILADELPHIA, at 25-28, <https://drive.google.com/file/d/1s4nDOUbi3JSAlDXlamQHxqAmSlioU1ds/view> (last visited Nov. 28, 2022) [hereinafter *Phila. Code of Conduct*].

²⁸ See, e.g., *Phila. Code of Conduct*, *supra*, at 16 (“Kindergarten, first, and second grade students may NOT be suspended unless their actions result in serious bodily injury” and only allowing disciplinary hearings and expulsion referrals for students sixth grade and older).

²⁹ *Central Bucks Code of Conduct*, *supra*.

³⁰ 24 P.S. § 13-1306-C(b).

³¹ *Id.*

police officers may intervene in student misbehavior or under what circumstances they may exercise their police officer authority by detaining students, handcuffing them, or threatening legal consequences.

III. Detrimental Effects of Harsh Discipline on Youth—What Are the Alternatives?

Education in America is meant to open doors, break down barriers, and create opportunities. But access to a stable, quality education is not equitable for all students. For some, educational opportunities are taken away in the name of zero-tolerance policies that result in removal from school and even referrals to the juvenile justice system.³² Students of color and students with disabilities are more likely to suffer these punishments and their long-term consequences.³³ In many cases, those removals from school, referrals to law enforcement, and arrests are in response to very young students committing minor infractions.

For instance, a six-year-old with a sleep disorder in Orlando, Florida, was handcuffed and taken to the Juvenile Assessment Center after having a tantrum where she kicked a school staff member.³⁴ A twelve-year-old girl in Queens, New York, was handcuffed and escorted to the police precinct for drawing a smiley face in magic marker on her desk, with the words: “I love my friends Abby and Faith” and “Lex was here. 2/1/10.”³⁵ In Maryland, a five-year-old boy who ran away from school was screamed at and handcuffed in front of his mother, who was

³² Brian J. Fahey, *A Legal-Conceptual Framework for the School-to-Prison Pipeline: Fewer Opportunities for Rehabilitation for Public School Students*, 94 NEB. L. REV. 764, 788 (2016).

³³ See *supra* notes 3–8 and accompanying text.

³⁴ Mihir Zaveri, *Body Camera Footage Shows Arrest by Orlando Police of 6-Year-Old at School*, NY TIMES (Feb. 27, 2020), <https://www.nytimes.com/2020/02/27/us/orlando-6-year-old-arrested.html>.

³⁵ Rachel Monahan, *Queens Girl Alexa Gonzalez Hauled Out of School in Handcuffs After Getting Caught Doodling on Desk*, NY DAILY NEWS (Feb. 4, 2010, 11:57 PM), <https://www.nydailynews.com/new-york/education/queens-girl-hauled-school-handcuffs-caught-doodling-desk-article-1.194141>.

repeatedly told by those officers to beat her child.³⁶ And in Pennsylvania, students may “receive simple assault charges for actions like throwing items that didn’t hit anyone and making a threatening motion toward another student as if to hit them.”³⁷

Inequities in school resources and disparately applied exclusionary discipline policies impede the realization of the “American dream” disproportionately for low-income students, students of color, and students with disabilities. Removal from the educational environment leads to students falling further behind, being isolated from the support of their teachers and peers, and it often “exacerbate[s] the behaviors [the policies] seek to remedy.”³⁸ Labeling youth as “deviant” may also cause them to “feel stigmatized by other students, weakening social bonds and school connectedness and pushing youth toward similarly ‘deviant’ peers—all of which might contribute to increased infractions . . . that could result in disciplinary responses—including suspensions, expulsions, and disciplinary transfers—that interrupt or remove youth from school.”³⁹

For students with less support at home or whose behavior may stem from difficulties in their home environment, exclusionary discipline further entrenches them in their challenges while cutting them off from the additional support they may find in school.⁴⁰ Further,

³⁶ Michael George, “*We Want You To Beat Him*”: *Maryland Police Seen in Body Camera Footage Handcuffing 5-Year-Old Boy*, CBS NEWS (Mar. 28, 2021, 7:25 AM), <https://www.cbsnews.com/news/maryland-police-5-year-old-boy-handcuffed-berated/>.

³⁷ Kiley Kosciński, *ACLU finds Allegheny County Students Are Arrested More Often Than Anywhere Else in Pennsylvania*, WESA (Jan. 24, 2022, 5:56 PM), <https://www.wesa.fm/education/2022-01-24/aclu-finds-allegheny-county-students-are-arrested-more-often-than-anywhere-else-in-pennsylvania>.

³⁸ Fahey, *supra* note 32, at 793–94.

³⁹ Naomi E. S. Goldstein, Amanda NeMoyer, TuQuynh Le, Siying Guo, Lindsey M. Cole, Angela Pollard, Rena Kreimer & Fengqing Zhang, *Keeping Kids in School Through Prearrest Diversion: School Disciplinary Outcomes of the Philadelphia Police School Diversion Program*, 45 LAW & HUM. BEHAV. 497, 499 (2021) (citations omitted).

⁴⁰ Fahey, *supra* note 32, at 794.

exclusionary discipline policies are ineffective at helping students overcome behavioral challenges and become academically or socially successful.⁴¹ Removal from school leads to the short-term effect of loss of engagement in the learning environment and the long-term effects of drop-out and contact with the justice system.⁴² In spite of the detrimental consequences of exclusionary discipline, it continues to be used across states and districts; however, some have begun to take action.⁴³

For instance, in 2014, the city of Philadelphia implemented a program that reduced student arrests in schools by eighty-four percent in five years.⁴⁴ The Philadelphia Police School Diversion Program was the result of a partnership between the Philadelphia Police Department, the School District of Philadelphia, the Philadelphia Department of Human Services, and other juvenile justice agencies.⁴⁵ It automatically diverts students with no delinquent record from arrest when they have been accused of summary and misdemeanor offenses on school property, and instead refers them to voluntary community prevention services.⁴⁶ The goal of the program is to keep students in school and out of the justice system.⁴⁷ However, while it has lowered the numbers of arrests, it has not affected the number of suspensions or expulsions with relationship to the incident that led to the student's referral.⁴⁸ Nonetheless, students who were diverted into

⁴¹ See *id.* at 794 (“The end result of these exclusionary policies is that students who may already be at an academic disadvantage, through no fault of their own, find their challenges compounded as they fall further behind their peers academically and become further isolated from their support socially.”).

⁴² See Skiba et al., *supra* note 10, at 557.

⁴³ See Goldstein et al., *supra* note 39, at 499 (“Policies have been enacted at the federal, state, and school district levels to limit schools’ excessive use of exclusionary discipline . . . in the hopes of dismantling the school-to-prison pipeline.” (citations omitted)).

⁴⁴ *Philadelphia Police School Diversion Program*, Juvenile Justice Research & Reform Lab, <https://www.jjrrlab.com/diversion-program.html> (last visited Nov. 29, 2022).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Goldstein et al., *supra* note 39, at 505.

this program in lieu of arrest were less likely to be suspended from school in the following year than students who were arrested.⁴⁹

The positive outcomes for Philadelphia students can be replicated and even improved throughout the state by changing the way we approach discipline and by targeting practices and resources for schools and school officials.⁵⁰ School discipline may be defined as “the policies and practices that aim to provide a structured, productive school environment by exerting control over student behavior.”⁵¹ Though behavioral science shows punishment is the least effective means of fostering positive behavior changes, it is the primary means schools use to exert control over student behavior.⁵² It should be the goal of our education system “to teach children, not to punish them; to foster independence, prosocial behavior, and intellectual curiosity, not to *control* students,” especially where students of color receive harsher punishments more frequently than their white peers.⁵³

Instead of focusing on punishment for “undesirable behavior,” school staff should teach students what behavior is desirable and “treat undesirable behavior as communication of the student’s needs or a skill deficit. In this approach, school staff work to teach prosocial behavior explicitly by looking for and reinforcing desirable behaviors. . . . A cycle of reinforcement makes school motivating for both students and teachers.”⁵⁴ Implementing this approach to managing student behavior will require training for educators, administrators, and school staff, added

⁴⁹ *Id.* at 507.

⁵⁰ *See id.* (explaining that the likelihood of suspension for the incident that led to contact with the police did not change because the Diversion Program does not change the “disciplinary decision-making authority” of school administrators).

⁵¹ Mawule A. Sevon, Shana Levi-Nielsen & Renée M. Tobin, *Addressing Racism and Implicit Bias—Part 2: A Response to the Framework for Effective School Discipline*, 49 COMMUNIQUÉ, National Association of School Psychologists 1, 14 (2021) (internal citations omitted).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

support staff like school counselors and psychologists, and clear policies that limit the application of harsh punishment and contact with law enforcement to very specific behaviors.

IV. Achieving Education Goals Through Training, Resources, and Limitations on Exclusionary Discipline

The Pennsylvania Department of Education’s mission is “to ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens.”⁵⁵ Its vision is for students in Pennsylvania public schools to “be prepared for meaningful engagement in postsecondary education; in workforce training; in career pathways; and to be responsible, involved citizens.”⁵⁶ However, students who are removed from school or class repeatedly or for extended periods of time, or who are referred to law enforcement for in-school behavior, are not being prepared academically, socially, or otherwise to “succeed as productive citizens.”⁵⁷

It takes a village to raise a child, and schools must partner with parents and guardians and the community to make the Department of Education’s vision a reality. Working as a community fosters productive and prosocial behavior.⁵⁸ “Building and sustaining relationships with students and their families is one of the most meaningful and effective ways to help students feel safe and cared for, and reduce educator implicit bias.”⁵⁹ Creating a safe environment in schools is the first step to promoting positive behavior. Implementing effective discipline practices will foster that

⁵⁵ *Mission and Vision*, DEP’T OF EDUC., <https://www.education.pa.gov/Pages/Mission.aspx#:~:text=Our%20Mission,to%20succeed%20as%20productive%20citizens>, (last visited Nov. 28, 2022).

⁵⁶ *Id.*

⁵⁷ *Id.*; see Fahey, *supra* note 32, at 794.

⁵⁸ Sevon et al., *supra* note 50, at 15.

⁵⁹ *Id.*

safety by responding to misbehavior with education on how to behave instead of punishment for missteps.⁶⁰

Change should start with the Department of Education issuing an amendment or addition to section 12.6 of Title 22 of the Pennsylvania Code, regarding exclusions from school,⁶¹ or to section 12.3, regarding school rules.⁶² This amendment would create clear guidelines for when exclusionary discipline may be used, limiting it to violent or dangerous behavior or severely disruptive behavior that has not improved after all other interventions have been exhausted. It would prohibit exclusionary discipline entirely for students below third grade, except for extreme circumstances where the child is a clear danger to himself or others.⁶³ In the event that exclusionary discipline is necessary, the district should provide psychological evaluations and support from appropriate social service organizations.

A training program should be put in place to provide teachers, administrators, and school staff with the knowledge and tools to build an environment of trust and safety with their students. School psychologists and experts in child development should be consulted to formulate the most effective discipline strategies for respective ages. Then, school staff should receive training

⁶⁰ *See id.*

⁶¹ 22 Pa. Code. § 12.6

⁶² 22 Pa. Code § 12.3

⁶³ Expulsion for at least one year will continue to be required under the Gun-Free School Zones Act for any student who brings a firearm to school or possesses one at school. 20 U.S.C.A. § 7961(b)(1). However, clear criteria for case-by-case modification of such expulsion should be included as permitted by the Act. *Id.* For instance, a kindergarten child who brings a gun to school should almost never be expelled—the reason for the child’s choice to bring a weapon to school should be addressed with school counselors, and if a child of that age has readily accessible firearms in the home, that should be addressed with the parents and/or appropriate authorities.

to learn effective discipline strategies as opposed to punitive discipline to address student misbehavior without resorting to punishment or removal from the classroom.⁶⁴

Moreover, funding will need to be provided to allow schools to have trained and knowledgeable psychologists and counselors to implement the strategies and address students' individual needs as discipline problems arise. The state should provide this funding on a sliding scale based on need and in proportion to the number of low-income students in a given district or school. This funding should cover the cost of training, materials, and staff. A portion of funding may also need to be set aside for local agencies to provide extra support to students with parents who are unable to fully partner with the school to address their children's social, emotional, and behavioral needs.

Additionally, Pennsylvania's statute granting school police officers the authority to enforce order⁶⁵ should be amended to clearly prohibit school police officers from interfering in elementary student behavioral problems absent a threat to school or student safety. For students in middle and high school, police officers may need more authority to interfere in violations of law involving drugs or alcohol or pervasive truancy. But police officer involvement should be permitted only after school psychologists and counselors have exhausted intervention strategies and parents and students are aware that contact with law enforcement will be the next step. The

⁶⁴ Rivka I. Olley, Andrea Cohen & Katherine C. Cowan, *Promoting Safe Schools and Academic Success: Moving Your School From Punitive Discipline to Effective Discipline*, 39 COMMUNIQUE 7, 7 (2010) (“Unfortunately, as school psychologists know, purely punitive discipline is ineffective at best and often even counterproductive, denying students vital learning time and undermining the overall school climate. . . . [R]emoving the student from the classroom is not often the most effective option and can seriously undermine achievement. For some students, being removed from the classroom is exactly their intention when engaging in some rule-breaking behaviors.”).

⁶⁵ 24 P.S. § 13-1306-C (granting school police officers the authority “[t]o enforce good order in school buildings” and other school property, to issue citations, and to exercise police powers under certain circumstances).

amendment should prohibit the use of handcuffs or physically restraining minor students unless they pose an imminent threat to themselves or others.

To make a change like this, especially one that will cost the state significant money, public officials will need to be persuaded that this change is necessary.⁶⁶ Continued research should be published regarding the effects of exclusionary discipline and contact with school police officers on student outcomes as well as how these consequences continue to be disproportionately handed out to minority students.

Information about the School-to-Prison Pipeline is everywhere, yet the state has not acted to combat it. Instead, it has defaulted to lackadaisical deference to local school boards that are currently enmeshed in policy battles over pronouns and books.⁶⁷ Where local authorities have acted, like in Philadelphia, positive change has happened. Success breeds more success, so media attention should be directed at the successes of cities like Philadelphia to show state officials that positive change is possible. Then, communities will need to organize and communicate with their representatives at the state level to show that voters support the implementation of effective discipline policies for their children.

⁶⁶ Bringing awareness to local leaders through research and advocacy has instigated changes in some districts. For example, after the Black Girls Equity Alliance published a report showing that Black students were disproportionately referred to the juvenile justice system in Pittsburgh, the city's school board approved a proposal to evaluate arrest data and to "determine root causes" of inequities. Sarah Schneider, *City School District To Analyze School Police Arrest Data*, 90.5 WESA (Sept. 24, 2020, 7:20 AM), <https://www.wesa.fm/education/2020-09-24/city-school-district-to-analyze-school-police-arrest-data#stream/0>.

⁶⁷ See, e.g., Emily Rizzo, *Central Bucks West Tells Teachers Not To Use Students' Preferred Names and Pronouns Without Parent Approval*, WHY PBS (Sept. 15, 2022, 8:28 PM), <https://why.org/articles/central-bucks-west-students-pronouns-gender-policy/>; Noah Zucker, *Pennsylvania Schools Have Banned Books More Often Than Every State but Texas Since Last Summer*, Philly Voice (Apr. 8, 2022), <https://www.phillyvoice.com/book-bans-pennsylvania-schools-central-york/>.

Overhauling a state's system of discipline is a large project that will require community support. Schools and districts that have had autonomy over creating their own discipline policies will need to be made a part of the process for change so they can implement the policies with understanding and ownership. This will require collaboration with local officials to hear what their needs are, flexibility in writing a regulation that still respects local authority, and community education so that school leadership and families are able to understand the changes and their necessity.

V. Prioritizing School Safety and Achievement for All Students

Zero-tolerance exclusionary discipline policies and the increased presence of police were sparked by the increase in school violence and school shootings.⁶⁸ Student safety must be the first priority in any education official's mind, and many members of the public believe that means increased security measures in schools. Many parents and community members may believe that exclusionary discipline is a necessary security measure to remove students who are potential dangers from the classroom environment. Under this proposal, those measures will still be available for students who pose a danger to themselves or others.

Further, it is unrealistic and potentially unfair to expect teachers and administrators to allow students to remain in the classroom when their misbehavior is disruptive to the other students' learning. A reasonable reaction may be that teachers need to focus on curriculum and the academic success of the majority of their students, not on potentially time-consuming interventions for one student at the expense of the class. However, if a program is properly implemented and funded, teachers should be allowed to do both. With the appropriate amount of support staff, including teacher aids and mental health professionals, and teacher training,

⁶⁸ See Tara Carone, *The School to Prison Pipeline: Widespread Disparities in School Discipline Based on Race*, 24 Pub. Int. L. Rep. 137, 137–38 (2019).

nonviolent behavioral problems should be able to be addressed without forfeiting classroom instruction. Aids can come into a classroom where a disruption is taking place and either continue the teacher’s lesson or work with the misbehaving student to develop the skills to self-regulate or to understand why the student is behaving the way they are. It may take time to guide students toward desirable behaviors, but in the long run, all students will benefit.

Another concern may be cost—the cost of training, the cost of extra staff—but when Philadelphia implemented its School Diversion Program, which refers students to community prevention services instead of arrest, stakeholders saved \$1.6 to \$1.9 million per year compared to previous arrest practices.⁶⁹ It is important to remember that arrest is not free, school police officers are not free, and alternative education is not free. Moreover, students who leave high school unprepared to be “responsible, involved citizens”⁷⁰ will be less equipped to positively contribute to their communities in the future. Thus, helping *every* student learn not only academically, but socially and emotionally, and keeping *every* possible student in the classroom so they can graduate and enter adulthood “prepared . . . to be responsible, involved citizens,”⁷¹ should be a mission everyone can get behind.

VI. Conclusion

The disproportionate effects of exclusionary discipline and arrests in school on students of color are well-documented and can begin to be addressed by appropriate changes in school discipline policies. The School-To-Prison Pipeline, which is fed by those policies and practices, can be dismantled with effective discipline strategies, training and resources in schools, and support from state officials. Changes to discipline practices in schools need to be made so that

⁶⁹ *Philadelphia Police School Diversion Program*, supra note 43.

⁷⁰ *Mission and Vision*, supra note 54.

⁷¹ *Id.*

our communities' visions for education can be realized—so that education can open doors, break down barriers, and create opportunities for *all* students.