



# The Center for Civil Rights Remedies

at The Civil Rights Project | *Proyecto Derechos Civiles*

## **Is California Doing Enough to Close the School Discipline Gap?**

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### **Executive Summary**

In California, a combination of statewide and local efforts has been implemented to reduce the use of punitive suspensions in public K-12 schools. Current state data trends reflect these efforts, showing that far fewer students were suspended during the 2018-19 school year than in 2011-12. However, the data trends also show that the decline in the use of suspensions has slowed at the state level in the last few years and that large racial disparities remain, although they have narrowed.

Both the current data and the trends are described in terms of the estimated disparate impact on instruction time lost due to suspensions, with a focus on the impact experienced by students of color and students with disabilities. Since the outbreak of the COVID-19 virus and the sudden closing of schools across the state, awareness of the immediate negative impact of missing school, even when not meant as a punishment, is being experienced by all children and their parents. Some estimate that the missed instruction will be devastating, especially for students with disabilities, many of whom are cut off from the special education and support services they need to make sufficient progress. The students with the greatest needs will be predictably struggling with whatever distance learning opportunities they have been provided, if any.

When California's schools do re-open, in addition to falling behind academically, many students with disabilities and others who received counseling and other mental health support supports while at school will have received little or no support for many months. Moreover, many who were struggling because of experiencing trauma in their home may have suffered new trauma.

When students finally do return to school, it will be imperative that educators are prepared to deal constructively with the impact the long absence will have had on students' academic needs,

and on their emotional health. Now more than ever, schools will have to seriously rethink using the denial of even more instruction as a punitive response to minor misbehaviors. This is especially important for students of color, homeless children, and those from low-income households, all of whom are currently being disproportionately harmed by the virus, due to inequalities in access to the technology needed for distance learning, as well as health care, housing, and employment.

Out of concern for the disparate harm caused by unnecessary suspensions, this report breaks down the data by offense categories: disruption/defiance, violence with injury, drug-related, etc. The analysis highlights the educational opportunity costs of using suspension to respond to breaking school rules and the need to pursue alternative responses that are equally or more effective at correcting a misbehavior and preventing its reoccurrence.

The good news is that this report's analysis of the trend data show that the sharp decline in suspensions for disruption/defiance were not offset by increases in other categories, including more serious offenses. We found no evidence of chaos in the schools when we examined trends at the state level or among districts that reduced suspensions the most. However, the district-level analysis shows that several large districts have increased their suspension rates, thus bucking the statewide trend. Moreover, in 2018-19, despite the statewide reduction in suspensions for disruption/defiance, many of the districts with the largest racial gaps are still suspending students for this minor misconduct category at very high rates. Further, an extraordinarily high amount of lost instruction due to suspension was revealed in schools run by County Offices of Education (COEs), which tended to have much higher than average rates of lost instruction for disruption/defiance. Policymakers should care about these rates and trends because research has shown that disciplinary exclusion contributes substantially to inequities, not only in test scores and graduation rates but in life outcomes, including deep economic consequences.

In response to the pandemic, school districts have been given five additional months to submit the academic and spending priorities contained in their local control accountability plans (LCAPs) for fiscal year 2020-21. Given the huge amount of lost instruction due to the school closings needed to limit exposure to the coronavirus, it would be shortsighted if districts did not revisit their expenditures on school climate and consider adding measures to support students and teachers.

This report contains new research that is relevant to those resource decisions. Prompted by concerns about inadequate supports for students and an increasing reliance on security officers, this report provides the first ever analysis of the relationship between days of lost instruction and staff-to-student ratios for California high schools in the 2015-16 academic year. The analysis was not designed to show causation, but it does show that there is a positive relationship between the rate of lost instruction due to suspension and the security staff-to-student ratio, and that the relationship was strongest for Black students. These findings raise questions about allocating scarce education resources for security staff, and they come amid rising awareness that some districts have been spending state funds earmarked for improving outcomes for high-needs students on hiring school security staff.

More broadly, without improvement in the quality and quantity of special education, counseling, school health and other support services, our public schools will continue to struggle to ensure equity in educational opportunity. As important as it is to make changes to the code of conduct that will help eliminate unnecessary and disparate loss of instruction due to discipline, in order to have a deeper impact it will be necessary to combine formal limits on the use of suspension with increased resources and other improvements to policy and practice that are designed to foster a healthier school climate. Given the disparate impact the pandemic has had on families of color and students with disabilities, when school finally resumes, it will be more important than ever before to ensure that educators get the supports they need to end unjustified suspensions that punish the children (and their families) who have the greatest needs with even more school exclusion.

The report is divided into three parts; the most pertinent findings from each part follow.

**Part I: State-Level Trends and Disparities**

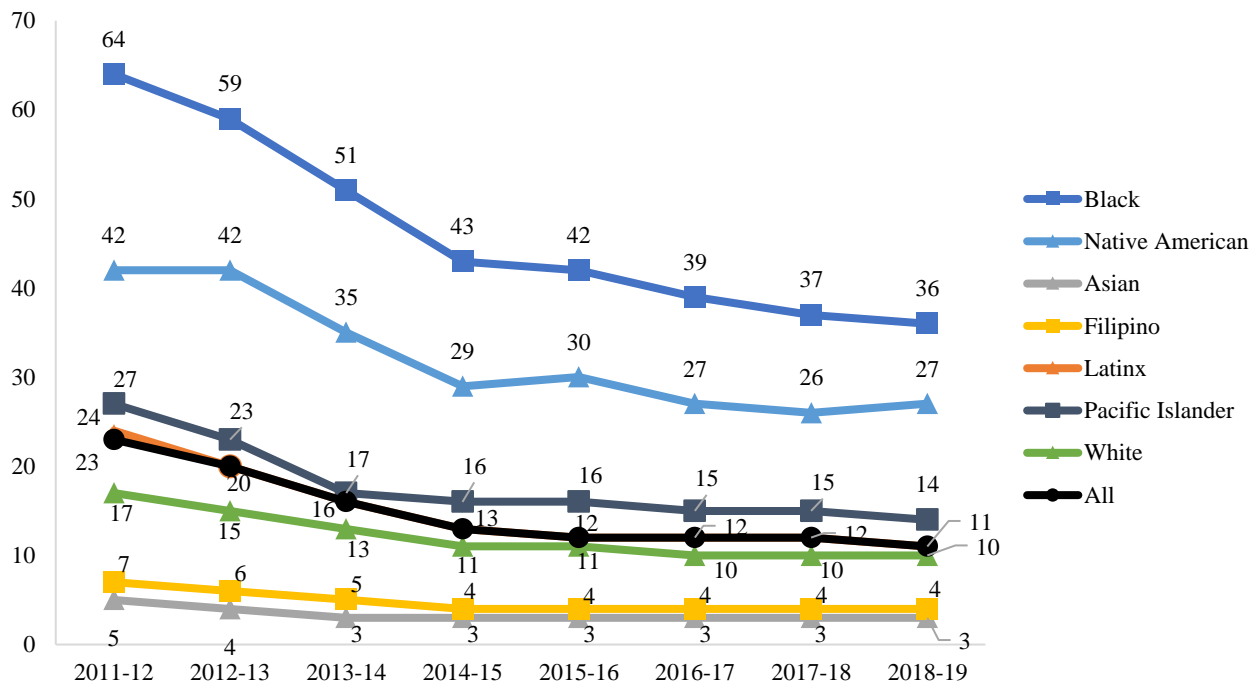
**Because the schools with the highest suspension rates in 2011-12 showed the greatest decline in rates, the racial gaps have clearly narrowed:** Black students’ suspension rates and the resulting days of lost instruction have shown the largest decline of any racial/ethnic group. Table 1 shows the lost instruction rates in 2011-12 and 2018-19, with the amount of decline for each racial/ethnic group.

**Table 1. Decline in the Days of Lost Instruction per 100 Students Enrolled**

Race/Ethnicity	2011-12	2018-19	Change
<b>Black</b>	<b>64</b>	<b>36</b>	<b>-28</b>
<b>Native American</b>	<b>42</b>	<b>27</b>	<b>-15</b>
<b>Pacific Islander</b>	<b>27</b>	<b>14</b>	<b>-13</b>
<b>Latinx</b>	<b>24</b>	<b>11</b>	<b>-13</b>
<b>Whites</b>	<b>17</b>	<b>10</b>	<b>-7</b>
<b>Filipino</b>	<b>7</b>	<b>4</b>	<b>-3</b>
<b>Asian</b>	<b>5</b>	<b>3</b>	<b>-2</b>

However, as one can see in Figure 1, which depicts statewide trends, the rate of decline has slowed considerably during the last three years, and progress may be stalling.

**Figure 1. 7-Year Statewide Trends in Days of Lost Instruction per 100 Students, 2011-12 to 2018-19**



**The large racial disparities in days of lost instruction cannot be explained by poverty:** We looked at racial/ethnic differences in lost instruction time among poor and nonpoor groups for the most recent year and found a greater impact on low-income students for all groups, but most important, we found that the large racial disparities persisted.

**In 2018-19, California’s students of color with disabilities lost the most days of instruction due to suspension:**

- Black students with disabilities lost 70 days per 100 students enrolled in K-12.
- Across grades 7-8, Black students with disabilities lost instruction at a rate of 114 days per 100 enrolled. For low-income males in this group, the rate was 149 days lost per 100 enrolled.
- Native American students with disabilities were the second highest group, at 51 days per 100 enrolled in K-12, but the rate was 78 days per 100 enrolled for grades 7-8. For low-income Native American males with disabilities in grades 7-8, the rate of lost instruction was 107 days per 100 enrolled.
- Black low-income females with disabilities in grades 7-8 lost instruction at the third-highest rate, 95 days per 100 enrolled.

**Rates of lost instruction due to suspension for disruption/defiance have declined the most:**

Suspensions in this category made up nearly half of all suspensions in 2011-12, and they contributed to the racial discipline gap more than any other code of conduct. However, this report describes a new reality for 2018-19:

- The Black-White racial gap in suspensions for disruption/defiance is now less than 2 per 100.
- Disruption/defiance now constitutes about 1/7<sup>th</sup> of the total Black-White gap; it was once responsible for nearly half the gap.

**The sky did not fall:** The 2018-19 data show that the most dramatic decline since 2011-12 was for the minor offense category, disruption/defiance. Moreover, we found a dramatic decline both before and after the ban on suspensions for this category in grades K-3 in 2016-17:

- There was no offsetting increase in suspensions for other minor offense categories.
- Suspensions for the most serious misconduct (i.e., violence with injury, drug-related) declined or remained consistently low during this period of overall decline.

## Part II: District-Level Trends and Disparities in Lost Instruction

**Most districts made progress by reducing both overall rates and the racial differences in rates and days of lost instruction:** Unfortunately, over the last three years, several large districts have had rising rates of lost instruction and widening disparities. Suspension rates can vary dramatically from one district to the next, which means that the decision to suspend a California student could depend less on their conduct and more on whether the district the student attends has made an effort to find alternative responses to minor misconduct. This report created lists of the districts that showed the largest decreases and the largest increases since 2011-12. Table 2 shows the three districts with the largest decreases:

**Table 2. Districts with Largest Overall Decrease in Rate of Lost Instruction from 2011-2012 to 2018-2019**

District		All Students	Latinx	Black	Asian	Native American	White
Merced Union High	11-12 Rate	122.76	135.85	298.14	24.63	82.54	110.12
	14-15 Rate	17.05	17.12	51.15	5.15	37.21	16.13
	17-18 Rate	15.35	14.43	59.43	3.72	10.53	16.44
	18-19 Rate	9.92	10.18	32.67	1.56	3.39	8.53
	<b>Difference</b>	<b>-112.84</b>	<b>-125.66</b>	<b>-265.47</b>	<b>-23.07</b>	<b>-79.15</b>	<b>-101.59</b>
Ripon Unified	11-12 Rate	71.18	98.90	163.16	5.19	72.00	57.68
	14-15 Rate	12.45	15.55	10.31	5.26	0.00	11.69
	17-18 Rate	12.92	16.43	12.20	7.78	62.50	11.94
	18-19 Rate	7.99	8.55	3.67	4.65	0.00	8.63
	<b>Difference</b>	<b>-63.19</b>	<b>-90.35</b>	<b>-159.49</b>	<b>-0.54</b>	<b>-72.00</b>	<b>-49.06</b>
Modesto City Elementary	11-12 Rate	66.12	62.64	168.21	30.46	87.91	63.58
	14-15 Rate	18.34	17.15	38.12	7.92	36.11	21.53
	17-18 Rate	12.90	12.53	27.00	6.11	10.17	15.58
	18-19 Rate	9.62	9.59	20.61	4.37	22.64	10.23
	<b>Difference</b>	<b>-56.50</b>	<b>-53.06</b>	<b>-147.59</b>	<b>-26.09</b>	<b>-65.27</b>	<b>-53.35</b>

In contrast, Table 3 describes lost instruction rates for five districts that were among those with the largest increase in the rate of lost instruction for all students.

**Table 3. Largest Overall Increase in Days of Lost Instruction per 100, 2011-12 to 2018-19**

District		All Students	Latinx	Black	Asian	Native American	White
Antioch Unified	11-12 Rate	2.54	1.55	6.10	0.43	2.55	1.77
	14-15 Rate	46.43	26.87	105.20	7.18	49.21	27.36
	17-18 Rate	28.05	17.34	61.58	8.45	35.85	15.37
	18-19 Rate	41.52	29.76	84.86	7.46	37.89	24.49
	Difference	+38.97	+28.22	+78.76	+7.02	+35.35	+22.73
Morongo Unified	11-12 Rate	22.35	21.38	41.98	2.27	84.75	21.45
	14-15 Rate	40.94	37.40	92.11	11.76	68.97	37.79
	17-18 Rate	44.24	41.47	80.37	20.17	40.96	41.24
	18-19 Rate	49.58	41.42	96.52	33.33	16.09	49.69
	Difference	+27.23	+20.04	+54.54	+31.06	-68.65	+28.24
Colton Joint Unified	11-12 Rate	3.54	3.14	9.36	1.52	2.27	4.18
	14-15 Rate	11.14	8.98	42.35	3.59	46.88	11.62
	17-18 Rate	15.73	14.15	38.55	4.28	40.82	20.62
	18-19 Rate	17.52	15.80	43.68	3.50	29.63	22.99
	Difference	+13.97	+12.66	+34.31	+1.98	+27.36	+18.81

It is worth noting that, when we looked at the change in rates for each racial/ethnic group, the current days lost due to suspension and the rate of increase were the greatest for Black students in each of the five districts with the largest overall increases.

**In many of the districts with the largest racial gaps, suspensions for disruption/defiance still contribute a great deal to the racial gap:** Among the districts with the largest Black-White gaps, in each of those listed in Table 4 follows, more than 50% of the gap was due to suspensions for disruption/defiance:

**Table 4. Districts with Largest Black/White Gap in Days Lost of Instruction Due to Suspension per 100 Caused by Suspensions for Disruption/Defiance Only**

District	Black Students-Days Lost	White Students-Days Lost	Black/White Gap Days Lost	Percentage of Total Black/White Gap Due to Disruption/Defiance Only
Yuba City Unified	46.15	9.73	36.43	60.22%
San Joaquin County Office of Education	37.33	8.21	29.12	52.52%
San Mateo-Foster City	19.47	0.52	18.95	52.47%
Bellflower Unified	26.08	8.70	17.37	55.60%
Lemoore Union High	24.06	6.81	17.25	52.36%

**The highest rates are found in COE districts:** There is concern that schools run by COEs (which are reported as school districts) have some of the highest rates and largest disparities of all districts. The following comparisons illustrate this concern:

- Blacks attending COE-run schools lost 92 days per 100, which compares to the state average of 36 days per 100.
- Latinx students attending COE-run schools lost 25 days per 100, compared to the state average of 1 day per 100.
- White students attending COE-run schools lost 15 days per 100, compared to the state average of 10 days per 100.
- The Black-White gap among those attending COE-run schools was 77 days per 100, or nearly 3 times the average state gap of 26 days per 100.

**California is one of the few states to use discipline rates as an official school climate indicator for its statewide accountability system:** This requires districts to pursue remedies if their indicator doesn't meet certain standards. However, our review of the system alongside the trend and disaggregated data revealed some serious flaws.

- The current system allows districts to receive positive ratings even if one group has a very high suspension rate or experienced a large increase.
- California's accountability system gives too much weight to minor progress over the previous year, even for districts whose multiyear trends show very large increases.
- As a result, some districts whose rates increased the most since 2011-12 were not coded red by the statewide accountability system.
- The current system also fails to consider the degree to which the district still exceeds the acceptable threshold.

### **Part III: Staffing Needs, School Security, and Days of Lost Instruction Due to Discipline**

**Alarming data on school security staff:** In this report, we conducted additional analyses of data on public school staffing levels in California's high schools to explore the relationship between days of lost instruction and different levels of staffing. We applied a statistical analysis to U.S. Department of Education data for the 2015-16 academic year and found the following:

- Among California high schools with at least 200 students, after controlling for poverty, there was a positive relationship between security staff-to-student ratios and rates of lost instruction for all students. Specifically, across more than 1,000 high schools, we observed that an increase in the security staff-to-student ratio was related to an increase in the rate of lost instruction.
- A sub-analysis across high schools that had at least 100 Black students also found that, in 2015-16, there was a positive association between an increase in the security staff-to-student ratio and an increase in rates of lost instruction for Black students.
- Across this subset of high schools, we also found that an increase in the support staff-to-student ratio was associated with a decrease in the rate of lost instruction for Black students.

**All schools and districts were required to report their data on school-based arrests and referrals to law enforcement in 2015-16, but these data were often missing:** In the wake of George Floyd's murder and Amy Cooper's fraudulent claim that a Black man was threatening her life, there is a resurging awareness of how racism is reflected in excessive policing as well as in the inappropriate invocation of police intervention. Californians should be equally concerned about the extent to which racism impacts school policing. Unfortunately, this report describes a widespread failure of the state and its districts to publicly and accurately report the disaggregated data on referrals to police and school-based arrests. When we looked at the only available data which is from 2015-16, we found:

- 308 out of 397 districts (78%), including LAUSD, reported zero school-based arrests.
- 180 districts (45%) reported zero referrals to law enforcement and zero school-based arrests.
- Among the districts that did report their referral data, LAUSD had a higher rate of referral to law enforcement than suspensions in 2015-16.
- Numerous County Offices of Education made the list of districts with the highest rates of referrals to law enforcement.

**The reason we could not see more recent data is that *the State has failed to meet the federal requirement that these data be included in the annual state and district report cards.*** This failure means that the harmful and disparate impact of school policing on California's youth of color and students with disabilities has remained hidden from the public. Fortunately, the state has begun collecting these data and will likely report the data to the public for the 2019-2020 school year.

## **Summary of Recommendations**

We applaud the California legislature and Governor Newsom for extending the ban on suspensions for disruption/defiance from K-3 to K-8 and for making school discipline part of the statewide accountability system, but when schools re-open, state and local educators will need to pursue additional efforts to reduce the high rates and wide disparities in instructional loss from disciplinary exclusions.

Based on our analyses and extant research we encourage the state and school districts to take a closer look at other minor offense categories, and at behaviors that raise concerns about addiction. Many policy changes should be considered. Besides improving accountability and eliminating other minor codes of conduct as grounds for suspension there could be restrictions on the length of suspensions. More resources will be needed to ensure that viable alternatives to punitive and exclusionary discipline can be implemented with integrity. Many of California's districts have initiated changes that appear to be effective and those should be studied closely.

However, without greater data integrity, including compliance with federal reporting requirements, it will be challenging to distinguish the truly effective approaches. Expenditures on approaches that are potentially counter-productive, such as expenditures on security staff, need to be seriously reconsidered where resources are needed to better support the needs of students and staff. Many California districts might consider following the examples set by Portland's superintendent, or of the Minneapolis school board which voted on June 1<sup>st</sup> to terminate its



contract with the Minneapolis police department. According to the Guardian, “The Minneapolis teachers union had endorsed the change, calling for the city’s schools... to invest in additional mental health support for students instead.” The following list summarizes our core recommendations:

For state education policymakers and oversight agencies:

1. Because of the disparate impact the coronavirus is having on certain racial groups, there is an even greater need to address the disparities in the opportunity to learn caused by harsh school discipline. State agencies will need to provide additional support and oversight to protect the children most affected by Covid-19, especially in districts that are still using suspensions frequently.
2. We believe that beginning with the 2018-19 school year every district began reporting the days of lost instruction data to CDE. CDE should publicly report disaggregated school and district level data on lost instruction due to discipline on an annual basis.
3. The office of California’s attorney general should conduct a closer review of districts with high rates of lost instruction, and large discipline disparities, especially at the secondary level and in schools run by the COEs where the rates and disparities are the largest.
4. The office of California’s attorney general should also review the data on referrals to law enforcement and school-based arrests that districts submitted to the U.S. Department of Education for the 2017-18 school year and further investigate districts that reported high rates and large disparities, as well as those that clearly failed to comply with the federal reporting requirements. This monitoring and enforcement activity should also include the data that the state has collected for the 2019-2020 school year through March of 2020.
5. We encourage the state to extend the ban on suspensions for disruption/defiance to cover all grades, K-12.
6. The State Board of Education should seek improvement in the way discipline rates are incorporated into the statewide accountability system so that districts with the highest rates and largest disparities have a greater incentive to reduce both and will receive the guidance and resources they need to make effect changes.
7. The CDE needs to do more to involve community groups as stakeholders as they engage in efforts to improve accountability and oversight.
8. The CDE should provide guidance and greater oversight to discourage districts from using LCAP supplemental and concentration funding to add security staff, or for other inappropriate budget purposes.
9. The State Board of Education should take whatever steps are necessary to ensure that all districts comply with state and federal civil rights law, including creating incentives to improve the collection and reporting of the data on school-based arrests and referrals to law enforcement. Additional steps will be needed to ensure that these rates are reported accurately in the state and district report cards so that the reported data will provide a clearer understanding of the impact of school police and security officers on students, especially Black students and students with disabilities.
10. Given the serious health concerns that arise in prisons and detention centers, greater efforts are needed to reduce their use for children.

11. The state and all districts that allocate education dollars to security need to seriously consider cutting or shifting some of these expenditures to ensure that core educational needs, including the provision of a healthy school climate, are met.
12. In order to improve the accountability system, provide technical assistance, and evaluate the efficacy of ongoing efforts, the CDE needs to do more to engage those specializing in school discipline disparities and the underlying issues.

Local advocates, educators, and policymakers should monitor rates of lost instruction, as well as trends in these rates, and consider the following:

1. Extend the ban on suspensions for disruption/defiance to cover all grades, K-12, and for other forms of minor misconduct.
2. Consider reducing the length of suspensions as another way to reduce their harmful and disparate impact. Reducing the duration could apply to all offense codes, but especially where eliminating suspensions is not a viable option.
3. Use the uniform complaint procedures to file complaints against districts whose LCAP budgets lack transparency, or those that appear to have inappropriately used the priority of improving school climate to pay for security or custodial staff.
4. Local advocates and members of the media should request districts to provide disaggregated data on referrals to law enforcement and school-based arrests and scrutinize the reported data carefully to ensure it is being reported accurately.
5. Educators, advocates, and members of the media should use the spreadsheets provided with this report, and the tutorial on their use, to help them understand the rates and disparities in lost instruction due to discipline, as well as the trends for the district(s) they are most interested in. They should also request districts to publish the disaggregated data on lost instruction due to suspensions on an annual basis so that the public can see the impact of discipline on the opportunity to learn.

Finally, based on our research findings thus far, as well as research beyond the scope of this report, the Civil Rights Project at UCLA has endorsed the letter to congress initiated by the Leadership Conference on Civil and Human Rights, and originally signed in October of 2019 by over 60 of the most prominent civil rights groups in the nation. These principles can also be applied to policymakers at state and local levels. The letter entitled, "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates" lists as the seventh principle, "Eliminate School-based Law Enforcement." Consistent with these Civil Rights Principles, the research presented in this report, and with the federal guidance on school discipline in the section on school policing, we also recommend that to the extent that districts will continue to employ law enforcement and/or security personnel, districts and local stakeholders should pursue additional measures to help prevent the unnecessary involvement of security/law enforcement personnel in matters of school discipline.

Ultimately, eliminating or reducing the involvement of law enforcement will help transform school climates, and help ensure that educators' responses to behavior serve an educational purpose. More generally, following these research-informed recommendations should help serve the public interest in protecting the civil rights of our children and ensuring an equitable opportunity to learn.