

## Act Out, Get Out? Considering the Impact of School Discipline Practices in Massachusetts

### EXECUTIVE SUMMARY

The findings presented in the policy brief *Act Out, Get Out: Considering the Impact of School Discipline Practices in Massachusetts* raise several concerns about school discipline policies and practices that must be examined if the Commonwealth expects to achieve its goals to drastically reduce the dropout rate and educate all of its students well. While undoubtedly there will remain students who engage in activities that threaten school safety—and for whom suspension and expulsion are appropriate—there is also a large number of students who commit less severe offenses. Removing these students from schools takes them out of environments that have the potential to teach them how to behave appropriately. Current policies and practices for out-of-school suspensions and expulsions, by design, circumvent the opportunity to engage these students in a school community, develop meaningful relationships with them and possibly alter the trajectories of their futures. It is the Rennie Center’s hope that this policy brief will spark the thoughtful discussion among policymakers, educators, parents and students that is necessary to ensure that all Massachusetts’ public school students are provided with the opportunity to reach their fullest potential.

The brief describes the purpose of school discipline policies, summarizes findings from recent research on the effects of removing students from school for disciplinary reasons (referred to throughout the policy brief as *disciplinary removal*), summarizes the legal background for disciplinary removal and presents key findings from an analysis of statewide discipline data. The brief concludes with a series of considerations for state policymakers and leaders of Massachusetts’ schools and districts.

## Laws governing disciplinary removal in Massachusetts

In Massachusetts, state and federal laws as well as court rulings influence school discipline policies in public schools. Statewide, possession of a weapon or illegal substance, assault of school personnel and conviction of a felony are grounds for expulsion.<sup>1</sup> Public school students cannot be subject to a suspension or expulsion without due process of law.<sup>2</sup> Our review of laws governing disciplinary removal in Massachusetts also revealed the following:

**School districts are not required to provide educational services to students who have been suspended or expelled.** In Massachusetts, education is not a fundamental right.<sup>3</sup> Massachusetts recognizes that school-aged children are entitled to a public education. However, courts have *not* interpreted this to mean that a suspended or expelled student has a right to receive educational services during the time that he/she is removed from school. Under federal law, students with disabilities cannot be denied access to special education services; thus, school districts are required to provide special education services to those students during a period of suspension or expulsion. There is no obligation under federal or state law for school districts to continue to provide educational services to gen-

eral education students (students not enrolled in special education) who have been removed from their public education for disciplinary reasons.<sup>4</sup>

**School districts have the right to deny admission to an expelled student.** Massachusetts law stipulates that if a student is expelled from a Massachusetts public school, all schools and districts in the Commonwealth have the right to decline admission to that student.<sup>6</sup>

**All incidents involving violence, criminal activity or illegal substances must be reported to the state.** Massachusetts public schools are required to report to the Department of Elementary and Secondary Education (ESE) details regarding any incident involving violence, criminal activity or illegal substances (referred to here as *serious offenses*, for purposes of brevity) that occur on school property.

**Only some incidents that do not involve violence, criminal activity or illegal substances are reported to the state.** Reporting requirements for incidents that do not involve illegal substances, violence or criminal activities (referred to throughout the policy brief as *unassigned incidents*) differ based on whether or not the student receiving the disciplinary removal is a special education or general education student.

Schools are required to report details regarding any incident in which a special education student receives disciplinary action; for general education students, schools are only required to report details regarding unassigned incidents resulting in an expulsion or suspension of *more than 10 consecutive school days*. Details regarding less serious offenses resulting in short-term suspensions (those lasting 10 consecutive school days or less) are not reported to ESE. As a result, it is not possible to monitor the extent to which schools and districts are using disciplinary removal.

**Some types of disciplinary action are never reported to the state.** The types of disciplinary action that districts are required to report to the state are in-school suspensions, out-of-school suspensions and expulsions. Massachusetts public schools are not required to report other types of disciplinary action, such as referrals to the principal's office, detentions and half-day suspensions. Consequently, these disciplinary actions cannot be monitored by the state or reported to the public.

## Key findings

An analysis of statewide discipline data from the 2007-2008 school year revealed the key findings below.

**Out-of-school suspension may be over-used in Massachusetts.** Of the disciplinary removals that schools were required to report to ESE, a majority (76%) resulted in a student receiving an out-of-school suspension. As might be expected, the vast majority (86%) of all incidents involving illegal substances, violence and criminal activity resulted in out-of-school suspensions. However, out-of-school suspensions also represent the majority (67%) of the short-term (10 consecutive school days or less) disciplinary removals that special education students received for less serious behaviors (unassigned offenses).

A primary purpose of school discipline policies is to keep schools safe, and to that end, Massachusetts laws specify that disciplinary removal may be used for the most serious behaviors that threaten school safety. Yet, these serious offenses, in aggregate, constitute less than half (46%) of the statewide disciplinary removals reported in 2007-2008. The other 54% of the disciplinary removals that schools were required to report are for unassigned offenses that do not threaten the safety of students. And, the actual percentage of disciplinary removals for unassigned offenses is undoubtedly higher than the 54% presented here because schools are not required to report short-term suspensions (10 consecutive school days or less) for general education students. Given that general education students comprise 83% of the student popula-

### Definitions of key terms<sup>5</sup>

**In-school suspension:** A disciplinary action imposed by school officials to remove a student from classes and place him/her in a separate environment in the school building for one day or more.

**Out-of-school suspension:** A disciplinary action imposed by school officials to remove a student from participation in school activities for one day or more. The student remains out of school during the suspension period.

**Expulsion:** A disciplinary action imposed by school officials to permanently remove a student from participation in all school activities. The student is ineligible to return to that school.

tion, the fact that no data are collected about these students' short-term suspensions masks what may be a much larger problem. Examining the extent to which short-term out-of-school suspensions are used for non-violent, non-criminal offenses would reveal the extent to which out-of-school suspensions are being relied upon for less serious offenses.

**There are disproportionately high rates of disciplinary removal among Massachusetts' students of color and students from low-income families.** Black/African-American, Hispanic and low-income students in Massachusetts are subject to disciplinary removal at disproportionately high rates. These are the same subgroups of students who drop out of Massachusetts schools at higher rates and lag behind in academic achievement.

**Black/African American students** comprise 8% of the student population but account for:

- 19% of the long-term disciplinary removals for unassigned offenses,
- 20% of the incidents resulting in short-term disciplinary removal for unassigned offenses, and
- 16% of the incidents resulting in disciplinary removal for serious offenses.

**Hispanic students** comprise 14% of the student population but account for:

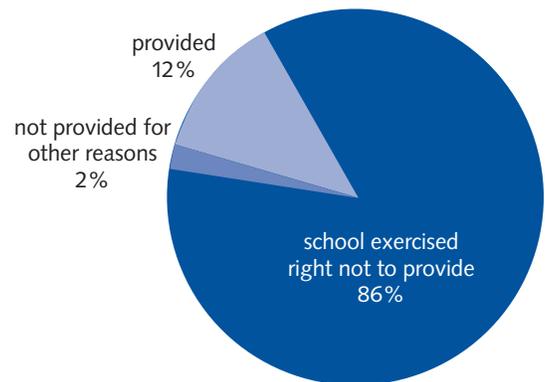
- 26% of the incidents resulting in short-term disciplinary removal for unassigned offenses, and
- 23% of the incidents resulting in disciplinary removal for serious offenses.

**Students from low-income families** comprise 30% of the student population but account for:

- 57% of the long-term disciplinary removals for unassigned offenses,
- 66% of short-term disciplinary removals for unassigned offenses, and
- 57% of the incidents resulting in disciplinary removal for serious offenses.

**Schools routinely exercise their right not to provide alternative education services to general education students who have been removed from school for disciplinary reasons.** Of the 30,066 disciplinary removals for serious offenses that occurred in the 2007-2008 school year, only 12% resulted in a student receiving alternative education services. Schools exercised their right not to provide alternative education in 86% of the disciplinary removals and 2% resulted in students not receiving alternative education services for a variety of reasons including incarceration, moving, transferring or refusing alternative education. The Individuals with Disabilities Act (IDEA) requires that states provide free appropriate public education for students with disabilities even when they are removed from school for disciplinary reasons. Under state law, there is no similar obligation for school districts to continue to provide educational services to general education students who have been removed from their public education for disciplinary reasons.

Percentage of removals for serious offenses where student was provided alternative education services (2007-2008)



**Massachusetts schools use out-of-school suspension for children as young as four years of age.** In Massachusetts, students in all grades, including pre-kindergarten and kindergarten, receive out-of-school suspensions. A total of 1,963 out-of-school suspensions for serious offenses occurred among children in pre-kindergarten through 3rd grade in 2007-2008. A majority (80%) are for physical assaults, fighting or the threat of physical attack. During that same school year, a total of 1,289 short-term out-of-school suspensions for unassigned (non-violent and non-criminal) offenses occurred among special education students in pre-kindergarten through 3rd grade.

Out-of-school suspension is a punitive strategy that does not teach a young student how to modify his/her behavior and thus, raises questions about its effectiveness as a strategy for deterring future inappropriate behavior. Moreover,

literature and research on child development and school connectedness suggest that the disciplinary removal of a young child from school may undermine the building of relationships with adults and students in the school building at a time when developing bonds to school is critical for positive child development and future academic success.<sup>7</sup> The impact of disciplinary removal is potentially more detrimental to a young student's future success than it is effective in altering the student's behavior.

## Remaining questions about school discipline in Massachusetts

There are a number of unanswered questions about disciplinary removal that are important for Massachusetts to address. The most pressing of these questions are:

1. What is the nature of the unassigned offenses that result in disciplinary removal?
2. How many general education students receive expulsions and short-term suspensions for unassigned offenses in a given year?
3. How many students receive multiple suspensions during the course of a given school year? Or, similarly, what is the rate of repeated removal?
4. What is the cumulative amount of time students have spent out of school in a given school year as the result of disciplinary removal?
5. What are the demographic characteristics of students subject to repeated removal? Or, similarly, are particular student subgroups over-represented?
6. What short- and long-term impact does repeated disciplinary removal have on students' academic and school engagement outcomes? Are these students more likely to get poor grades, fail MCAS, be held back a grade, become truant or drop out of school?
7. What is the relationship between disciplinary removal and the achievement gap?
8. What is the relationship between disciplinary removal and dropping out?

## Considerations for policymakers

Informed by the research conducted for the policy brief, we offer the following considerations for state policymakers.

- **Hold schools and districts accountable for appropriate use of disciplinary removal.** Accountability for academic outcomes is a national priority. Likewise, there are good reasons to consider holding Massachusetts schools and districts accountable for the use of disciplinary removal. Those reasons include: the over-use of out-of-school suspension, the disproportionate rates of removal among students of color and students from low-income families, and the potential negative academic consequences for students who are suspended and expelled. While out-of-school suspension and expulsion should continue to be disciplinary strategies available to schools, disciplinary removal should be reserved for the most serious behaviors and schools should be held accountable for the appropriate use of these strategies.
- **Require school districts to report details on the nature of "unassigned" offenses that result in students being suspended and expelled from school.** Currently, school districts are only required to report the nature of offenses that involve illegal substances, violence and criminal activity. As a result, all other incidents resulting in a suspension or expulsion appear as "unassigned" in the Department of Elementary and Secondary Education (ESE) database. ESE should consider expanding the set of codes currently used for reporting disciplinary incidents so that all offenses that could potentially result in a suspension or expulsion are included. Requiring districts to report the nature of all offenses that result in disciplinary removal will help to ensure that out-of-school suspension and expulsion are reserved for the most serious behaviors.
- **Report school discipline data to the general public annually.** As part of the state's accountability system, policymakers may wish to consider annually reporting to the general public: the number of in-school suspensions, out-of-school suspensions and expulsions at each grade level; descriptive statistics on the duration of each type of disciplin-

ary removal by grade level (i.e. average number of days removed for both short- and long-term out-of-school suspensions at each grade level); and the percentage of incidents resulting from each type of offense, including those that threaten student safety (for example, the percentage involving weapons) and those that do not (for example, the percentage of incidents resulting from attendance issues, inappropriate language, disobedience, disrespect, etc.). The rate of repeated disciplinary removal should also be reported along with an indicator that provides insight into the cumulative days of school that were missed as a result of repeated disciplinary removals. All of this information should be disaggregated by the same student subgroups required for No Child Left Behind Adequate Yearly Progress (AYP) reporting to enable the Commonwealth to monitor and call attention to the disproportionality of disciplinary removal rates.

- **Reconsider under what circumstances an out-of-school suspension is appropriate for children at the pre-kindergarten, kindergarten and early elementary grades.** Massachusetts schools use out-of-school suspension, a punitive strategy that does not teach a young student how to modify his/her behavior, for children as young as four years of age. Literature and research on child development and school connectedness suggest that the disciplinary removal of a young child from school may undermine the building of relationships with adults and students in the school building at a time when developing bonds to school is critical for positive child development and future academic success. A growing body of research shows that in order for students to succeed academically, they need to feel that they belong in their school and students who feel connected to school are less likely to exhibit disruptive and violent behavior.<sup>8</sup> In light of this evidence, Massachusetts may wish to reconsider under what circumstances it is appropriate for children at the pre-kindergarten, kindergarten and early elementary levels, who are just starting to develop connections to school, to be removed from the environment that has the potential to teach them to change their behavior. The use of disciplinary removal may be more detrimental to a young student's future success than it is effective in altering the student's behavior.
- **Expand the array of options available to schools for dealing with disruptive behavior and support school-wide preventative approaches.** Disorder, conflict and disruptive behavior interfere with a teacher's ability to teach and students' ability to learn. There are programs that show promise in improving students' behavior—four of these approaches are described in the Appendix of the policy brief. Progressive approaches to school discipline focus on school-wide, preventive strategies to creating a school climate that is conducive to teaching and learning. Legislative initiatives should encourage schools to adopt school-wide, preventative approaches and, to the extent possible, increase resources to those schools. Legislative initiatives should also encourage schools and school districts to provide an array of disciplinary alternatives that can be used in place of suspension and expulsion and, to the extent possible, increase resources to schools for implementing a broader range of alternatives, especially prevention.
- **Begin working toward the goal of providing education services, such as alternative education programs, for all suspended and expelled students.** While Massachusetts does not guarantee a student's right to public education, there are states that do. For example, Mississippi, New Jersey and West Virginia reject the notion that access to education is contingent upon a student's behavior and consider it necessary to provide an education to suspended and expelled students. Court decisions in these states recognize a dual duty for public education: create safe educational environments, while educating all students. This is achieved by requiring alternative education for suspended and expelled students.<sup>9</sup>
- **Examine racial/ethnic and socioeconomic status disparities in school discipline as part of the strategy for reducing the state's dropout rate and closing the achievement gap.** The subgroups of students who are suspended and expelled at disproportionately high rates are the same subgroups of students who drop out of Massachusetts schools at higher rates and lag behind in academic achievement. Research reviewed for this study suggests that the use of disciplinary removal may contribute to the achievement gap<sup>10</sup> while other studies have shown a relationship between suspension and dropping out. Taken together, these findings suggest the need for Massachusetts to take a closer look at the racial/ethnic and socioeconomic status disparities in school discipline as part of the strategy for reducing the state's dropout rate and closing the achievement gap.

## Considerations for school and district leaders

Informed by the research conducted for the policy brief, we offer the following considerations for leaders of Massachusetts schools and districts.

- **Reserve the use of out-of-school suspensions and expulsions for the most serious infractions.** To this end, consider creating a graduated system of discipline wherein disciplinary sanctions are based on the seriousness of the infraction. Such a system would define all code of conduct violations and the consequences associated with each. School and district leaders should work to ensure that less serious offenses such as attendance issues (skipping class, tardiness, truancy), inappropriate language, disobedience, disrespect and general classroom disruption have consequences that do not result in students missing instructional time. In the creation of this graduated system, it is important to carefully consider the nexus between a student's conduct and the school's welfare.
- **Provide teacher training in culturally competent classroom management and instructional practices.** The disproportionately high rates of disciplinary removal among Massachusetts' students of color and students from low-income families are cause for concern. Emerging professional opinion and research findings suggest that the disproportionate discipline of students of color may be due to lack of teacher preparation in classroom management, lack of training in culturally competent practices or racial stereotypes. As a result, schools are encouraged to consider providing teachers at all grade levels with training that addresses these issues.
- **Implement a school-wide, preventive approach to discipline.** Conflict and disruptive behavior in classrooms and schools undeniably interfere with a teacher's ability to teach and students' ability to learn. Research has shown that disorder in school can lead to student anxiety and fear of victimization that, in turn, can reduce motivation, impair concentration, reduce involvement in group learning activities and increase school avoidance.<sup>11</sup> Progressive approaches to school discipline focus on school-wide, preventive strategies for creating a school climate that is conducive to teaching and learning. As described in the Appendix of the policy brief, School-Wide Positive Behavioral Supports (SWPBS), Social Emotional Learning (SEL), Safe and Responsive Schools (SRS) and Restorative Practices are four approaches which research has shown to have promise in improving school discipline practices and student behavior.

## Endnotes

- 1 MA General Laws Chapter 71, Section 37H; MA General Laws Chapter 71, Section 37H ½.
- 2 See *Goss vs. Lopez*, 419 U.S. 565 (1975).
- 3 The Massachusetts Supreme Judicial Court held in *Doe v. Superintendent of Schools of Worcester*, 421 Mass. 117, 129, 615 N.E.2d 1088, 1095 (1995), that a student's right to an education under the Massachusetts constitution is not a "fundamental right."
- 4 See *Board of Education v. School Committee of Quincy*, 415 Mass. 240 (1993).
- 5 The terms *suspension* and *expulsion* are not defined in the Massachusetts education statutes. These definitions are taken from the definitions used by the Department of Elementary and Secondary Education in the reporting of disciplinary incidents. Retrieved from <http://www.doe.mass.edu/infoservices/data/guides/ssdr.doc>.
- 6 MA General Laws Chapter 71, Section 37H.
- 7 Blum, R. (2004). *School Connectedness: Improving Students' Lives*. Baltimore, MD: Johns Hopkins School of Public Health.
- 8 *Ibid*.
- 9 Meek, A. P. (2009). School Discipline "As Part of the Teaching Process": Alternative and Compensatory Education Required by the State's Interest in Keeping Children in School. *Yale Law & Policy Review*.
- 10 Gregory, A., Skiba, R.J., & Noguera, P.A. (2010). The achievement gap and the discipline gap: Two sides of the same coin? *Educational Researcher*: vol. 39, no. 1.
- 11 American Psychological Association Zero Tolerance Task Force (2008). Are zero tolerance policies effective in the schools? An evidentiary review and recommendations. *American Psychologist*, vol. 63, no. 9, p. 852-862.



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The policy brief, *Act Out, Get Out? Considering the Impact of School Discipline Practices* in Massachusetts, can be found and downloaded at <http://www.renniecenter.issuelab.org>.