



## **No Turning Back!** **Federal School Discipline Guidance & Commission on School Safety Toolkit** December 2018

### **Overview**

Secretary of Education, Betsy DeVos, has done all she can to return America's system of public education to its racist underpinnings. Instead of ensuring that schools honor all students' rights, she has dismissed or closed over a thousand civil rights complaint investigations without issuing findings of wrongdoing or ordering corrective actions. Furthermore, shortly after taking office, DeVos and then Attorney General Jeff Sessions, rescinded guidance outlining schools' obligations regarding transgender students under Title IX of the Education Amendments of 1972 and later rescinded guidance on sexual assault investigations for higher education institutions.

December 18, 2018 marks yet another attempt to turn the tides of justice as the Federal Commission on School Safety – also chaired by DeVos – released a report on school safety that recommends rescinding Federal School Discipline Guidance issued by the Obama Administration, intended to clarify existing federal civil rights law and help public K-12 schools end discriminatory school discipline practices that contribute to the school-to-prison pipeline. The report makes additional recommendations and provides best practices that, if followed, would increase the level of discrimination, school pushout and criminalization faced by Black and Brown students on a daily basis.

The recommendation to do away with this civil rights guidance is tied to the Trump Administration's efforts to roll back the clock on civil rights and represents an attack on students of color. Rescission of the Federal School Discipline Guidance and other Federal Commission on School Safety recommendations send a clear message to states, counties and cities: the federal government wants to harden schools, police children and remove anti-discrimination protections for young people of color, immigrant youth, LGBTQIA students, and students with disabilities. As a result, the flow of young people into the school-to-prison pipeline is guaranteed to increase.

This toolkit provides a primer on the Federal School Discipline Guidance and the Federal Commission on School Safety's recommendations and includes messaging, demands and organizing resources.

### Major sections include:

- What is the Federal School Discipline Guidance?
- Why is it Important to Keep the Federal School Discipline Guidance?
- What is the Federal Commission on School Safety?



- Why You Should Denounce the Federal Commission on School Safety's Recommendations?
- Demands for Schools that are Truly Safe for Students of Color

### **What is the Federal School Discipline Guidance?**

The Federal School Discipline Guidance (Guidance) was released in January 2014 as a direct result of grassroots organizing and advocacy by students, parents, community members and racial justice organizations across the country to end the discriminatory use of school discipline. Zero tolerance policies and an increase in the presence of police officers in schools has resulted in significant racial disparities in exclusionary discipline and school-based arrests. While students, parents and advocates demanded justice locally, they also called upon the Department of Education and Department of Justice to enforce federal protections that prohibit discrimination. The Guidance provides school districts with clarity on what constitutes discrimination in school discipline and examples of best practices. It is a tool for schools to help eliminate discriminatory practices and policies.

### **Why is it Important to Keep the Federal School Discipline Guidance?**

#### Federal School Discipline Guidance Clarifies Existing Law

The Guidance provides state departments of education and school districts with an interpretation of existing federal law and examples of what constitutes discrimination in discipline. Specifically, Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race and national origin in programs receiving federal financial assistance, which includes public schools. The Department of Education and Department of Justice are responsible for enforcing this law and conducting investigations into discriminatory discipline policies and practices based on complaints received from students, parents, community members and public reports.

The Guidance notifies schools that they may be found in violation of Title VI if they enforce intentionally discriminatory practices or if their policies lead to disproportionately higher rates of discipline for students of a specific racial group. Title VI still exists, and the Guidance is necessary to help states and local school districts understand how to meet requirements of the law and how the two departments will provide oversight to ensure they do so.

#### The Federal School Discipline Guidance Acknowledges Systemic Racial Discrimination and the School-to-Prison Pipeline

The Guidance also acknowledges that “racial discrimination in school discipline is a real problem” and that racial disparities in discipline are not due to more instances of misbehavior by students of color. It acknowledges that Black students have been disciplined more harshly and more often than



white students in similar situations and that this discrimination has long-term consequences that contribute to the school-to-prison pipeline.

Although we have always known this to be true, school officials trying to skirt accountability often blame students and parents of color for disparate outcomes. This acknowledgement by the federal government through the Guidance provides advocates with yet another tool to demand accountability and push for reforms at the school, district and state level.

The Guidance does not require, or encourage, school districts to use a racial quota with regard to disciplinary actions. In accordance with the law, the Guidance alerts districts that race neutral policies may seem neutral but have a discriminatory impact. The law allows for these racial disparities to be used as evidence of discrimination. In other words, higher rates of Black and Brown students being suspended or arrested in schools is suspect and should alert the school that they may be engaging in discrimination. Statistics are often a starting point to determine whether discrimination exists but no quota system is required as the Safety Commission falsely claims.

#### Federal School Discipline Guidance Offers Best Practices that Incentivize Discipline Reform

The Guidance encourages schools to adopt best practices that shift policies away from exclusionary discipline and improve school climate for students of color. These reforms include: school and districtwide restorative justice; investing in student supports like counselors, social workers, nurses, and psychologists; training teachers on classroom management and cultural competency; using clearly defined, non-subjective infractions; meaningfully engaging community members; and limiting the role of law enforcement in schools.

The Guidance recommendations strengthen the political position of students and families organizing for education justice and provide school officials with a well-researched, federally-recommended platform on which to base their initiatives. In doing so, recommendations offered by the Guidance act as a major incentive for school districts to improve data collection, implement less discriminatory practices and dedicate new funding sources to reforming school discipline.

School districts throughout the country have modified their discipline policies based on the Guidance, reducing overall suspension rates and achieving other positive outcomes. The Guidance was a step in the right direction. Now, we must not only fight to reclaim this step, but must also call for additional protections for LGBTQIA and differently-abled students.



## **What is the Federal Commission on School Safety?**

The Federal Commission on School Safety (Commission) was created in March 2018, shortly after the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida. The all-white Commission is chaired by Betsy DeVos and includes other Trump appointees from the U.S. Department of Justice, U.S. Department of Health and Human Services and the U.S. Department of Homeland Security. The Commission faced criticism for restricting comments, avoiding the topic of gun control and its lack of diverse viewpoints. By ignoring the voices of students and skirting gun control, the Commission worked in complete contradiction of its stated goal of providing “meaningful and actionable recommendations to keep students safe at school.” It was ultimately a sham used to advance a political agenda, not real solutions.

## **Why You Should Denounce Recommendations by the Federal Commission on School Safety?**

The Commission’s recommendations may have a huge impact on state departments of education and local schools districts, setting a dangerous trend for several years to come. Although schools are primarily governed at the state and local levels, the U.S. Department of Education guides policy and funding priorities. Immediately after the shooting in Parkland, states and school districts moved aggressively to pass laws, creating new funding streams and school policies that called for: hardening schools; arming school staff; expanding school policing and surveillance; and sharing student information with police departments.

Youth organizing groups, educational justice organizations and advocates and civil rights institutions must denounce and reject the recommendations and demand police-free schools that nurture, develop and support young people of color.

## **If Implemented, the Recommendations Will Fortify the Existing School-to-Prison Pipeline**

The Commission recommends several measures that would increase the number of students entering the school-to-prison pipeline and place students of color at risk of physical, emotional and legal harm. These recommendations are based on the report’s false assessment that school resource officers prevent school violence. More police and security officers will not make students safer. In fact, it has been proven that they jeopardize healthy learning climates and increase the number of students who enter the school-to-prison pipeline. The recommendations include:

- The rescission of the Obama-era Federal School Discipline Guidance
- Additional police and security personnel in schools

- Heightened surveillance tactics and equipment such as metal detectors
- Instituting limited entry ways that provide more opportunities to conduct searches

The same police that harass and target Black and Brown communities, target Black and Brown students in schools. During the 2015-2016 school year, Black students made up 15% of the school population but 31% of the students arrested or referred to law enforcement. Incredibly, while Black girls were only 17% of public school enrollment during this period, they represented 43% of girls arrested at school. This comes as no surprise as research demonstrates that police officers have been found to misperceive Black youth as older and view them as less innocent than their White peers of the same age suspected of committing the same crimes.

Through increased policing and surveillance, the Commission encourages the “hardening” of schools. The report recommends transforming places where students learn into prison-like structures with multiple layers of surveillance and security. For example, the Commission recommends instituting limited entryways that provide more opportunities to conduct searches using metal detection, X-rays and school personnel.

These measures also create toxic learning environments that foster fear and distrust among students and staff. An over-policed school atmosphere can produce, rather than mitigate, poor school climate by increasing anxiety, alienating students, creating a sense of mistrust between peers and forming adversarial relationships with school officials. Instead of ensuring safety, police presence often diminishes the authority of school staff. When students perceive a negative school climate, they are less likely to be engaged, more likely to dropout and more likely to encounter issues with bullying. The hardened culture that will be the result of the Commission recommendations will be in direct conflict with a nurturing school culture that young people need and deserve.

### The Recommendations Reflect Racist Views that Threaten Students of Color

The Commission’s recommendations are a threat to students of color and contradict decades of educational research. The Commission was formed to offer recommendations that promote school safety in the wake of the shooting at Marjory Stoneman Douglas High School in Parkland, Florida. The Parkland shooter was a white youth who was expelled from school and referred to law enforcement multiple times. The report attempts to connect the shooting in Parkland to their recommendation to rescind the civil rights Guidance by pointing out that the shooter was a part of the PROMISE Program in Broward County Public Schools, which implemented some of the discipline alternatives offered by the Guidance (e.g., counseling services, restorative justice programs and mentoring among others). This is not accurate. The PROMISE Program was not implemented



under the Guidance, but it has successfully reduced out-of-school suspensions and expulsions by supporting students' needs and improving school climate in Broward County.

In fact, Broward County did what the Commission recommends, the district referred the Parkland shooter for suspension, expulsion, and to police, yet those practices failed to prevent the tragedy. Thus, the report's focus on rescinding the Guidance, intended to help prevent discriminatory discipline practices, highlights the fact that the Administration's true goal is not promoting safety, it is enabling discrimination against students of color. The Commission report and recommendations are continuing a trend by this Administration of rolling back civil right protections for students.

Furthermore, the report paints a racist picture of students of color disproportionately disciplined and arrested due to "societal factors" rather than intentional or implicit bias on the part of school personnel and law enforcement. This ignores mountains of research that demonstrates that higher discipline rates for students of color are not due to higher rates of misbehavior, but are instead, due to race.<sup>1</sup> To date, Black students are more likely to be suspended, expelled, arrested at school, referred to law enforcement and detained in juvenile detention facilities – statistics the current Administration seeks to exacerbate rather than address.

In short, schools are not safe for students of color when those students are discriminated against, pushed out and arrested for age-appropriate behavior. This Administration's definition of safety is clearly more about further criminalizing Black and Brown youth, not achieving safety in schools.

### The Recommendations Would Make it Harder to Fight Discrimination in Schools

The Commission recommends reducing the federal government's ability to investigate allegations of racial discrimination by ignoring complaints based on "disparate impact," which is statistical evidence of discrimination. Instead, the report recommends acting only when there is evidence of explicit racial discrimination. Too often, blatant evidence of discrimination is not available because more subtle tactics are used, including policies that look race neutral but are applied in a discriminatory manner. For example, school officials often over-suspend Black students for "disrespect of authority" but the same educators ignore or tolerate similar behavior from white students.

The disparity statistics help prove that discrimination exists. Since educators rarely use discriminatory slurs in disciplining students, without statistics it would be difficult to show discrimination and hold schools accountable. This Administration wants to do away with this form

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<sup>1</sup> Skiba, Russel J., et al. Are Black Kids Worse? Myths and Facts About Racial Differences In Behavior: A Summary of the Literature. Indiana University (March 2014).



proving discrimination in education, employment, housing and voting rights. Undermining the use of statistics to prove discrimination in discipline is just one blow at these civil rights protections by the Trump Administration. We must stay vigilant on these issues.

## **Demands for Schools that are Truly Safe for Students of Color**

### Keep the Federal School Discipline Guidance and Add Protections for LGBTQIA and Differently-abled Students

Federal School Discipline Guidance was a step in the right direction that helped ensure meaningful reforms were adopted and sustained. The detrimental impact of the Guidance's rescission will be felt across the country as school districts revert to old ways and ignore civil rights protections because the federal government has turned its back on children of color. We urge you to demand reinstatement of the Guidance and call for additional protections to safeguard immigrant students, LGBTQ students and differently-abled students throughout America.

### Divest from Exclusionary Discipline and School Policing, and Invest in Reforms that Keep Students of Color in the Classroom and Out of the Justice System

At best, proposals to increase investment in the school policing infrastructure represent a misunderstanding of what makes schools safe. At worst, these proposals are an excuse to increase the criminalization and targeting of Black and Brown students and communities. Real school safety cannot happen without an intentional effort to divest funding from exclusionary discipline and school policing and invest in alternative programs that are proven to establish positive school climates and foster healthy relationships among school staff, administration and students. Funding that is spent on school policing (payroll for school police officers, metal detectors, surveillance and data sharing between schools and law enforcement) must be instead spent on creating safe, high-quality schools for all students.

School-wide restorative justice initiatives are preventative steps that effectively make schools safer by improving school climate and promoting emotional, social and communication skills that are essential for adulthood. We must demand new federal funding streams that are exclusively dedicated to implementing restorative justice and similar initiatives and which cannot be used to fund programs that criminalize youth.

### Comprehensive Mental Health and Social Work Services

In order to address the societal violence that affects students and to support students' needs, we must demand comprehensive mental health services so students can be proactively and consistently





supported when dealing with emotional, mental and social concerns. Additionally, schools must prioritize hiring more guidance counselors and social workers, who are trained in adolescent development and have the skills necessary to support the emotional and mental state of students.

### Disarm All School Personnel, including School Police Officers

We must demand the disarming of all school personnel by removing weapons from school police officers and other school staff. Weapons like guns, electronic restraints, chemical restraints and batons place students of color at risk of abuse due to the same bias that leads to disparities in suspensions, expulsions and school-based arrests. Weapons are also harmful to the overall school climate. Creating a safe atmosphere for students of color requires that they are also safe from misconduct and abuse by school staff and police officers.

### **Ways to Respond**

#### Organize Local #PoliceFreeSchools Campaigns

The fight for safe, supportive and high-quality schools is as much a local fight as it is a federal fight. Join the national campaign for #PoliceFreeSchools by demanding that school boards, school districts and city municipalities reject the Federal Commission on School Safety recommendations and divest from school policing. Download and use our #PoliceFreeSchools Action Kit at [www.advancementproject.org/wecametolearn/](http://www.advancementproject.org/wecametolearn/)

#### Contact Your Local Representatives

You can voice your opposition to the rescinding of the Guidance and denounce the Federal Commission on School Safety recommendations by contacting your local representatives. Congress has a responsibility to protect students of color and hold the U.S. Department of Education accountable for creating safe learning environments that do not criminalize students in schools. You can find out who has been elected to represent you by visiting MyReps at <http://myreps.datamade.us/>. Demand that Congress conduct oversight hearings of the U.S. Department of Education focused upon its duty to enforce civil rights. Also, call on Congress to pass legislation that strengthens civil rights and provides supports for young people, not hardening of our schools.





## Federal School Discipline Guidance Talking Points

### Overall Value Statements

- **Every child deserves to attend a high quality school where students, teachers and staff are treated with dignity and respect.** The Federal School Discipline Guidance encourages schools to adopt best practices that shift discipline toward strategies that improve school climate and safety for all students. The Guidance acts as a major incentive for school districts to improve data collection, implement less discriminatory practices and dedicate new funding sources to reforming school discipline and mitigating the school-to-prison pipeline. Recommending rescission of the Guidance sends a clear message that the U.S. Department of Education is no longer concerned about discrimination in American public schools.
- **All students deserve to attend a safe, well-resourced school that focuses on supporting students, not criminalizing them.** The Federal School Discipline Guidance acknowledges significant and persistent racial discipline disparities in public schools and provides tools for schools to improve their school climate, a key factor in improving school safety. Numerous studies, including one authored by the [Government Accountability Office \(GAO\)](#), documented these disparities and their impact on students of color and those with disabilities. The recommendations of the Federal School Safety Commission fly in the face of decades of research indicating that the hardening schools and exclusionary discipline fail to improve school climate or prevent mass violence.

### Talking Points

- **Safety for all includes restorative practices and restorative justice,** not zero tolerance or criminalization that traumatizes youth of color and students from low-income communities. Programs like restorative practices and collaborative problem solving help prevent and address harm from misbehavior, guide students and teachers in how to take responsibility for their actions and repair relationships. School-wide restorative justice initiatives are preventive steps that effectively make schools safer by improving school climate and promoting emotional, social and communication skills that are essential for adulthood.
- **The Federal Commission on School Safety's recommendations are a threat to students of color and contradict decades of educational research.** Investing in costly and ineffective school strategies like police, metal detectors and additional security personnel have not prevented mass violence and have drained schools of critical resources needed to support students and establish positive school climates. Too often, youth of color are seen as



threats by law enforcement, and many feel unsafe in the presence of police and armed personnel.<sup>2</sup>

- **Schools should continue to divest from exclusionary discipline and school policing,** and invest in reforms that keep students of color in the classroom and out of the youth and criminal justice systems. An improvement in school safety cannot happen without an intentional and accountable effort to divest funding from exclusionary discipline and school policing to alternative programs proven to establish positive school climates and foster healthy relationships among youth and school staff. Schools must prioritize hiring more guidance counselors and social workers, who are trained in adolescent development and can provide comprehensive mental health services to students dealing with emotional, mental and social concerns.

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<sup>2</sup> Advancement Project's national office. [We Came to Learn. A Call for Police-Free Schools](#). Page 82. September 2018.

## Tips for Letters to the Editors

*\*Taken from Berkeley Media Studies Group's [Tips for writing effective letters to the editor](#)\**

- **Length.** Letters should be 200 words or fewer and should be exclusive to the publication which you're submitting.
- **Respond quickly.** If you read or see something you want to respond to, send your letter by email (or use the news site's online form if they have one) the same day, or by the next day at the latest.
- **Mention your reason for writing, preferably in the first sentence.** If you are responding directly to an article you've read in the publication, state the article headline and publication date. If you are commenting on a local current event, be specific about the issue or event.
- **Limit the content to one or two key points.** A letter to the editor offers the chance to make a concise statement or argument, not an in-depth analysis. Focus on the overall message you want readers to get from your letter.
- **Take a strong position.** Letters section editors look for fresh facts, honest statements of opinion, and creative takes on news. If you can, offer a compelling fact that shows the urgency or importance of your issue. Include a call to action.
- **Avoid jargon.** Use accessible language. Wherever possible, use metaphors, analogies and stories to make your argument an accessible, common sense, plainly stated perspective.
- **Don't send the same letter to competing publications.** The letter should not have been submitted to or previously published by any other media or Internet outlet, including online comments or feedback posted to websites. If you have posted similar comments to a website, your letter cannot be considered.
- **Include contact information.** The letter should include your full name, home address, e-mail address and home, business and cellphone numbers. You may be contacted to verify your identity before the letter is published.
- Disclose any present or past personal or professional involvement with the subject matter of their letters.
- To make your e-mailed letter as easy to read as possible, do not send any graphics or digital letterhead, put the text of your letter in the body of the e-mail (don't attach your letter) and cite the article or item about which you are writing in the body or subject line.



## Sample Letter to the Editor

### [Restorative justice practices can improve communities](#)

By Nicole Mohr

Published: The *Mercury News*, April 5, 2018

**To the Editor:**

Damin Esper's article "AUSD settles with students over racist Instagram posts" (Page B1, April 3) implies that restorative justice is wholly ineffective.

However, as an educator, I have seen restorative justice practices, when well-executed, work effectively.

Esper describes the school's attempt at restorative justice as "ill-fated," but the exercise described doesn't sound like restorative justice at all. Restorative justice aims to heal — avoiding punitive measures like suspensions (by keeping the students in school) — not to add punishments upon their return from suspension.

A private discussion circle, facilitated by a trained restorative justice educator, could have actually helped.

While I agree that AUSD must address racism, I think proactive relationship-building restorative justice programs have the best results. Organizations such as the Center for Restorative Process in Santa Rosa or the Restorative Justice Training Institute in El Cerrito offer educator trainings.

I hope Albany Unified is not completely soured on restorative justice, because I believe it can change communities for the better.

**Nicole Mohr**

*Berkeley*