

No. 20-255

**In The
Supreme Court of the United States**

MAHANAY AREA SCHOOL DISTRICT,

Petitioner,

v.

B.L., A MINOR, BY AND THROUGH HER FATHER
LAWRENCE LEVY AND HER MOTHER BETTY LOU LEVY,

Respondents.

**On Writ of Certiorari To
The United States Court of Appeals
For The Third Circuit**

**BRIEF OF ADVANCEMENT PROJECT, JUVENILE LAW
CENTER, AND 38 OTHER ORGANIZATIONS AS *AMICI
CURIAE* IN SUPPORT OF RESPONDENT**

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INTEREST OF *AMICI CURIAE*

Amici Advancement Project National Office, Juvenile Law Center, and 38 other organizations join together in this brief because of their commitment to advancing the civil rights of youth, particularly youth of color and other youth who experience bias and discrimination. *Amici* have extensive experience advocating for children nationwide, including by filing *amicus curiae* briefs in this Court and others.¹

Advancement Project National Office is a national multi-racial civil rights organization with a long history of racial justice work in the field of education. Rooted in the great human rights struggles for equality and justice, Advancement Project exists to fulfill the United States' promise of a caring, inclusive, and just democracy. For over twenty years, Advancement Project has, *inter alia*, worked to address education equality and the "school-to-prison pipeline."

Juvenile Law Center is the first non-profit public interest law firm for children in the country. Founded in 1975, Juvenile Law Center advocates for rights, dignity, equity, and opportunity for youth in the child welfare and justice systems. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values.

Amici submit this brief to provide their unique perspective on the question presented. A complete list of

¹ No counsel for a party authored this brief in whole or in part, and no one other than *amici* or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. See Sup. Ct. R. 37.6. The parties have consented to the filing of this brief.

amici is provided in an appendix to this brief.

SUMMARY OF ARGUMENT

At issue in this case is whether students' off-campus speech that is not threatening or harassing is entitled to full First Amendment protection or, instead, subject to the lesser protections set forth in *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969). Expanding the authority of schools to regulate off-campus student speech has "ominous implications" for students of color and other marginalized student groups who already face disproportionate and excessive discipline, particularly for so-called "infractions" that permit discretion and invite subjective interpretation. *J.S. ex rel. Snyder v. Blue Mountain Sch. Dist.*, 650 F.3d 915, 939 (3d Cir. 2011) (Smith, J., concurring). Indeed, the highly subjective *Tinker* standard itself fosters discrimination because it empowers school officials to decide based on highly subjective and often arbitrary determinations which speech will "materially and substantially interfere" with school activities. *Tinker*, 393 U.S. at 509. This discriminatory trend is already evident nationwide as schools disproportionately discipline students of color, students with disabilities, and LGBTQ+²-identifying students, too often based on vague and subjective standards, such as "being disruptive, acting disrespectfully, tardiness, profanity, and dress-code violations." Arne Duncan, U.S. Sec'y of Educ., *Remarks at the Release of the Joint DOJ-ED School Discipline Guidance Package* (Jan. 8, 2014), <https://archive.is/Qh5wA>.

² For the context of this brief, LGBTQ+-identifying includes, but is not limited to, youth who identify as lesbian, gay, bisexual, transgender, queer ("LGBTQ"), or gender nonconforming or expansive ("GNC").

Given the ubiquity of social media and students' increasing reliance on it to express themselves, extending *Tinker* to off-campus speech risks sweeping age-appropriate, everyday youth interactions within the "material disruption" standard. As the Court has long recognized, the developmental stage of adolescence is marked by flawed decision-making that warrants specialized treatment. This case does not concern student speech that threatens violence or harasses others. Thus, allowing schools to regulate non-threatening, non-harassing off-campus student expression on social media will remove the space for healthy development, and further expose students of color and other marginalized students to risk of disparate discipline for this developmentally appropriate expression.

Finally, expanding *Tinker* to off-campus speech would undermine the Court's efforts to calibrate legal standards to developmental science and subject students of color, students with disabilities, and students who identify as LGBTQ+ to potentially life-long adverse consequences.

I. GIVING SCHOOLS AUTHORITY TO REGULATE OFF-CAMPUS SPEECH HAS "OMINOUS IMPLICATIONS"

The Court has consistently recognized that the free speech guarantees of the First Amendment warrant the utmost protection and, as a result, has carefully circumscribed schools' authority to infringe on such rights. Students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker*, 393 U.S. at 506. *Tinker* recognized the sanctity of students' speech rights, while creating a narrow exception "in light of the special characteristics of the school environment." *Id.* It established that students' freedom of speech shall not be infringed unless the speech would "materially and substantially disrupt" school activities. *Id.* at 513.

While *Tinker* created a narrow exception, it is susceptible to over-application. This is because the “material disruption” standard is vague and inherently subjective, and dependent on the whims of individual school administrators who may have different life experiences, cultural backgrounds, opinions, or philosophies than those of the student speaker. The *Tinker* exception, therefore, should be applied narrowly to prevent the stifling of students’ First Amendment rights, and to prevent expansion of the potential for discriminatory enforcement against students of color and other marginalized groups.

Courts have not established a clear limit on the application of *Tinker* to off-campus speech. Whether under the “reasonable foreseeability” test or the “nexus” test, *see B.L. v. Mahanoy Area Sch. Dist.*, 964 F.3d 170, 186 (3d Cir. 2020) (discussing the standards used in other circuits), the result is that too much off-campus speech has been swept within schools’ authority. Arguably, the pervasiveness of social media makes it “reasonably foreseeable” that any speech made anywhere and anytime could reach the school environment, even when the speaker does not intend such result. *See Wisniewski v. Bd. of Educ. of Weedsport Cent. Sch. Dist.*, 494 F.3d 34, 39–40 (2d Cir. 2007). Social media posts made off campus and outside school hours are routinely viewed on campus; there are no longer physical boundaries to the “school yard” under the “reasonable foreseeability” test. The same holds true for the “nexus” test because students’ online activity could always concern a school’s “pedagogical interests” to keep order and manage student behavior. *See Kowalski v. Berkeley Cnty. Schs.*, 652 F.3d 565, 573 (4th Cir. 2011).

Under these broad formulations, virtually any controversial off-campus speech that attracts attention within the school could be subject to *Tinker*. Indeed, Petitioners

themselves state that students subject themselves to punishment if they “direct speech at the school community—for example, by referring to school affairs or sending speech directly to classmates.” Pet. Br. 28. This test is so broad that it encompasses almost any statement a student may make about their school on social media.

Expanding *Tinker’s* reach to cover a broad swath of off-campus speech would give schools unchecked power over students’ speech and “create a precedent with ominous implications.” *Blue Mountain Sch. Dist.*, 650 F.3d at 939. “Doing so would empower schools to regulate students’ expressive activity no matter where it takes place, when it occurs, or what subject matter it involves—so long as it causes a substantial disruption at school.” *Id.* This betrays the Court’s original intent in *Tinker* to afford student speech “scrupulous protection,” so as “not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.” *Tinker*, 393 U.S. at 507. Further, as discussed below, at a time of widespread overapplication of discipline for subjective infractions, expanding *Tinker* would disproportionately punish students of color and other marginalized student populations.

II. EXPANDING *TINKER* TO OFF-CAMPUS SPEECH WILL EXACERBATE RACIAL AND OTHER DISPARITIES IN SCHOOL DISCIPLINE FOR SUBJECTIVE INFRACTIONS

A. School Discipline Based on Subjective Criteria Disproportionately Targets Students of Color and Other Vulnerable Student Populations

The effort to expand schools’ policing of off-campus speech mirrors broader trends in school discipline. Schools have increasingly used harsh and exclusionary

discipline to address vague and subjective offenses and minor misbehavior and have done so in a racially disproportionate manner. *See generally* Craig J. Forsyth et al., *The Punishment Gap: Racial/Ethnic Comparisons in School Infractions by Objective and Subjective Definitions*, 36 *Deviant Behav.* 276 (2015). As a result, students of color and other marginalized student populations are disproportionately excluded from the classroom, leading to devastating long-term consequences. Extending the power of schools to discipline off-campus speech will only exacerbate the disproportionately high rates at which students from certain racial and ethnic groups are subjected to suspensions, expulsions, arrests, and other forms of discipline.

1. Harsh and Exclusionary Discipline Disproportionately Targets Students of Color and Other Marginalized Student Populations

Schools rely heavily on exclusionary discipline. More than a third of all students are suspended at least once throughout their K-12 career. Janet Rosenbaum, *Educational and Criminal Justice Outcomes 12 Years After School Suspension*, 52 *Youth & Soc'y* 515 (2020). Nationwide, more than 2.7 million K-12 public school students received one or more out-of-school suspensions during the 2015–2016 academic year, and students collectively lost over 11 million days of instruction as a result. Daniel J. Losen & Paul Martinez, The C.R. Project, *Lost Opportunities: How Disparate School Discipline Continues to Drive Differences in the Opportunity to Learn* 6 (2020), <https://archive.is/QHwVt>.

The rise of the “zero tolerance”³ approach to school

³ “Zero tolerance” refers to school discipline policies and practices that mandate harsh punishment—even for trivial actions. Advancement Project, *Test, Punish, and Push Out: How “Zero Tolerance” and* (... continued)

discipline has resulted in the disproportionate application of all school disciplinary policies and practices to students of color, students with disabilities, and LGBTQ+-identifying students. Sarah E. Redfield & Jason P. Nance, A.B.A., *School-to-Prison Pipeline: Preliminary Report* 10 (2016), <https://tinyurl.com/6meprvxs>.

Students of Color

The U.S. Government Accountability Office (“GAO”) reported that Black students in K-12 public schools were disproportionately disciplined and removed from the classroom relative to their white counterparts according to data collected from the 2013–2014 academic year. See generally U.S. Gov’t Accountability Off., GAO-18-258, *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities* (2018), <https://tinyurl.com/esfanfkm> [hereinafter *K-12 Education*].

These conclusions are supported by numerous other studies and data. For example:

- Across the nation, of the approximately 49 million students enrolled in public schools, Black students are three times more likely to be suspended and expelled because of disparate discipline practices compared to white students. U.S. Dep’t of Educ., *School Climate and Discipline: Know the Data*, <https://archive.is/vvN99>.
- Black students represent 39% of school suspensions despite only accounting for 15.5% of all public school students. *K-12 Education, supra*, at 12–13.
- Black students lose 103 days of instruction per 100

High-Stakes Testing Funnel Youth Into the School-To-Prison Pipeline 4 (2010), <https://tinyurl.com/2vs23je3> [hereinafter *Test, Punish, and Push Out*].

students enrolled, compared to the 21 days their white peers lose due to out-of-school suspensions. Losen & Martinez, *supra*, at 6.

The racial disparities also reflect regional differences in school demographics:

- Latinx students in New Hampshire were more than three times more likely to be suspended than white students;
- Black students in Missouri were five-and-a-half times more likely to be suspended than white students;
- Native American students in North Carolina were three-and-a-half times more likely to be suspended than white students; and
- Pacific Islander students in Hawaii were two-and-a-half times more likely to be suspended than white students.

Daniel J. Losen & Amir Whitaker, Am. C.L. Union, *11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools, Part 1*, at 8 (2018), <https://tinyurl.com/y3d7ts94>.

- In Montana, Native American students are six times more likely to lose instruction time due to suspension than white students, even though they only account for 12.1% of the student population. Kirsten Bokenkamp & Laurie A. Walker, Am. C.L. Union of Mont., *Empty Desks: Discipline & Policing in Montana's Public Schools* 20, 23 (Caitlin Borgmann ed., 2019), <https://tinyurl.com/cccz358v>.
- In Pennsylvania, where this lawsuit originated, Black students are five times more likely and Latinx students are three times more likely to be suspended than white students. Am. C.L. Union of Pa.,

Beyond Zero Tolerance: Discipline and Policing in Pennsylvania Schools 12 (2015), <https://archive.is/xdsfK>.⁴

As shown in the chart below, during the 2017–2018 academic year, Black, Latinx, and mixed-race students accounted for a much higher percentage of all suspensions and expulsions than their share in the student population. U.S. Dep’t of Educ., Off. for C.R., *Civil Rights Data Collection Data Snapshot: School Discipline Report* (2018).

Exclusionary Discipline in America

The data below show the proportion of Black, Latinx, or mixed-race students in each group:

Jurisdiction	All Students	Out-of-School Suspensions	Expulsions
New York City	65.3%	88.9%	89.2%
Clark County	67.3%	81.4%	83.6%
Minneapolis	57.8%	83%	91.6%
Pinellas County	40.4%	65%	69.7%

And while earlier research focused on disparate discipline against Black boys, more recent data analysis and several high-profile cases have exposed similar experiences among Black girls as well. Subini Ancy Annamma et

⁴ These disparities are particularly troubling because incidents involving students of color are more likely to involve law enforcement. See Malik Pickett, *Juvenile Justice Task Force Meeting Update*, Juv. L. Ctr. (Nov. 26, 2020), <https://archive.is/FNWts>. In 2019 in Pennsylvania, Black students were two-and-a-half times more likely and Latinx students were almost two times more likely than white students to be referred to law enforcement for school infractions. *Id.*

al., *Black Girls and School Discipline: The Complexities of Being Overrepresented and Understudied*, 54 *Urb. Educ.* 211, 213–15 (2019), <https://archive.is/JFRrS>. Black girls are disciplined in schools at a rate six times higher than white girls. U.S. Dep’t of Educ., Off. for C.R., *supra*. Nationally, Black girls have rapidly growing suspension rates. Daniel J. Losen & Russell J. Skiba, The C.R. Project, *Suspended Education: Urban Middle Schools in Crisis* 5–7 (2010), <https://tinyurl.com/nfzenku7>. Significantly, “[t]hese trends do not appear to be the result of more serious offending patterns among Black girls,” but instead illustrate how the subjective enforcement of school codes drives racial disparities in school discipline. Subini Ancy Annamma et al., *supra*, at 214.

Racially biased school discipline can have immediate dangerous consequences for students:

- In Binghamton, New York, school officials determined that 12-year-old Zulayka was suspicious because of “hyper and giddy” behavior; she was then forced to undress and searched for contraband. Erica L. Green et al., *A Battle for the Souls of Black Girls*, *N.Y. Times* (Oct. 1, 2020), <https://archive.is/Bmz9M>.
- In Hoover, Alabama, 16-year-old Ashlynn (who had a sleeping disorder) fell asleep while reading in class, and a police officer slammed her face into a file cabinet and then arrested her. Monique W. Morris, *Pushout: The Criminalization of Black Girls in Schools* 3 (2016); see also Complaint at 14, 17, 28–29, *Avery v. City of Hoover*, No. 2:13-CV-00826-MHH, 2013 WL 2237750 (N.D. Ala. May 2, 2013).
- In Columbia, South Carolina, 16-year-old Shakara was placed in a headlock and thrown across the room by a school police officer after refusing to

hand over her cellphone. Jenny Jarvie, *Girl thrown from desk didn't obey because the punishment was unfair, attorney says*, L.A. Times (Oct. 29, 2015), <https://archive.ph/tOWnJ>.

Students with Disabilities

The disparities in discipline extend to other marginalized student populations as well. Students with cognitive and learning disabilities are far more likely than those without to be subject to seclusion or physical restraint. U.S. Dep't of Educ., Off. for C.R., *2017-2018 Civil Rights Data Collection: The Use of Restraint and Seclusion on Children with Disabilities in K-12 Schools* 6 fig.4, 7 fig.6 (2020), <https://tinyurl.com/7pxktb4z> [hereinafter *Civil Rights Data Collection*]. Students with cognitive and learning disabilities or behavioral and emotional disturbances are often disproportionately and inaccurately labeled as “bad” or problematic and harshly disciplined for minor incidents, such as raising their voices to school officials or not sitting still in class. J. Guillermo Villalobos & Theresa L. Bohannon, Nat'l Council of Juv. & and Fam. Ct. Judges, *The Intersection of Juvenile Courts and Exclusionary School Discipline* 5 (2017), <https://tinyurl.com/yehvjztc>. The data reflects this troubling trend:

- In the 2017–2018 academic year, 101,990 students were subject to seclusion or restraint. *Civil Rights Data Collection, supra*, at 5 fig.3.
- Of these, 79,676, or 78%, had varying disabilities served by the Individuals with Disabilities Education Act (“IDEA”), despite the fact that they accounted for only 13% of the student population. *Id.* at 6.

Disparities in discipline for students with disabilities reflect similar racial disparities:

- Of the 6.7 million students served under IDEA, over half are students of color. *Id.* at 10 fig.11.
- Data from the 2014–2015 and 2015–2016 school years show Black students with disabilities in grades K-12 lost an average of 77 days more of instruction due to exclusionary discipline than did white students with disabilities. Daniel J. Losen, The C.R. Project, *Disabling Punishment: The Need for Remedies to the Disparate Loss of Instruction Experienced by Black Students with Disabilities 2* (2018), <https://tinyurl.com/yjp4hb98>.
- Nationwide data show that “among secondary students with disabilities (IDEA), 24% of Black students, 15% of Native American students, and 11% of White students were suspended out of school at least once in 2017-18.” Daniel J. Losen et al., The C.R. Project, *Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies 6* (2021), <https://tinyurl.com/b75a2h4m>.
- In Pennsylvania specifically, students with disabilities are twice as likely to receive out-of-school suspensions than other students, while Black students with disabilities receive out-of-school suspensions at a higher rate than any other student group in the state. Am. C.L. Union of Pa., *supra*, at 12.

LGBTQ+-Identifying Students

Likewise, LGBTQ+-identifying students face disproportionate school discipline:

- Two in five LGBTQ+-identifying students reported receiving detention, in-school suspension, out-of-school suspension, or expulsion. GLSEN, *Educational Exclusion: Drop Out, Push Out, and the School-to-Prison Pipeline among LGBTQ Youth 11* (2016),

<https://tinyurl.com/26dyhyhe>.

- LGBTQ+-identifying students of color overwhelmingly report increased surveillance, policing in school, harsher discipline, and biased application of school policies. GSA Network, *LGBTQ Youth of Color: Discipline Disparities, School Push-Out, and the School-to-Prison Pipeline 4* (2018), <https://tinyurl.com/suk6nkn4>.

Consequences of Excessive Discipline

These disparities in discipline—particularly exclusionary discipline—have lasting implications for students, including decreased student engagement, lower academic performance, and higher dropout rates. U.S. Comm’n on C.R., *Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities 4–5* (2019), <https://tinyurl.com/ezppnp4w>. Students removed from the classroom for discipline, or absent for any other reason, are at a significantly higher risk of falling behind academically. Sujata Gupta, *How schools can reduce excessive discipline of Black students*, ScienceNews (Jan. 6, 2021, 6:00 AM), <https://archive.is/wip/Q9hv4>. These practices are thereby contributing to the dropout crisis, particularly for those students already at the greatest risk. *Id.*

Additionally, decreased academic performance resulting from disparate discipline perpetuates the narrative that students of color are less intelligent than their white counterparts. This in turn tends to push students of color to drop out. Jennifer Martin & Julia Smith, *Subjective Discipline and the Social Control of Black Girls in Pipeline Schools*, 13 J. Urb. Learning, Teaching, & Rsch. 63, 64 (2017), <https://tinyurl.com/444256f3p> (collecting studies). Indeed, students of color have higher dropout rates than white students. Nat’l Ctr. for Educ. Stat., *Fast Facts:*

Dropout Rates (last visited Mar. 29, 2021), <https://archive.ph/aGqCQ>. Moreover, students who are suspended or expelled are also more likely to later be arrested, fueling a cycle aptly called the “school-to-prison pipeline.” Alyssa Rafa, Educ. Comm’n of the States, *Policy Analysis: The Status of School Discipline in State Policy 2* (2019), <https://tinyurl.com/suk6nkn4>.

These real-life consequences of harsh and exclusionary discipline call for limitation, rather than expansion, of school authority.

2. Substantial Disparities in School Discipline Are Directly Tied to the Application of Subjective Criteria

Most student discipline stems from subjective and discretionary assessments of non-violent student behavior. As former Secretary of Education Arne Duncan recognized, “[a]s many as 95 percent of out-of-school suspensions are for nonviolent misbehavior—like being disruptive, acting disrespectfully, tardiness, profanity, and dress-code violations.” Arne Duncan, U.S. Sec’y of Educ., *supra*. Thus, school administrators generally have broad discretion to discipline students, which opens the door to arbitrary decision making. Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 Ark. L. Rev. 101, 102–03 (2015). Subjective criteria allow for racial, gender, and other biases to influence school officials. *Id.*; see also NAACP Legal Def. & Educ. Fund, *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline 4* (2017), <https://tinyurl.com/45km47cm>.

The overapplication of discipline is most egregious with respect to Black students. As one study noted:

The perception of Blackness as deviant has severe implications for education, and school discipline is

perhaps the area where this is most glaring. Students of color are referred for more arbitrary and subjective concerns and for less serious offences that may not result in a referral for a White student.

Martin & Smith, *supra*, at 64.

Black girls in particular are disproportionately singled out for subjective offenses. Teachers are more likely to interpret Black girls' behavior as loud and over-bearing, which leads to increased discipline under subjective schemes. Edward W. Morris & Brea L. Perry, *Girls Behaving Badly? Race, Gender, and Subjective Evaluation in the Discipline of African American Girls*, 90 Socio. Educ. 127, 129 (2017). Black girls in Kentucky, for example, were disciplined more often for subjective violations such as dress code violations, inappropriate cell phone use, and loitering. *Id.* at 138, 143. Black girls are often suspended for vague and subjective offenses such as "willful defiance," which is often a "code word[]" used for Black girls and women who are "nonconforman[t] with passive gender-based expectations." Janel A. George, *supra*, at 104, 108–09. Further, Black girls are often labeled as "assertive," "loud," "aggressive," and "confrontational" to punish them for not assimilating to society's expectations of them. *Id.* at 109. In justifying disciplinary sanctions or arrest, Black girls are unfairly characterized as "irate," "insubordinate," "disrespectful," "uncooperative," and "uncontrollable." *Id.* at 112.

The over-disciplining of students for subjective offenses extends to other groups as well. In Southern California, Latinx students in a K-8 school district were two-and-a-half times more likely to receive disciplinary referrals that resulted in suspension compared to their white peers for subjective violations such as using language perceived as disrespectful, inappropriate, or vulgar. Gustavo

Garcia Balderas, *Objective Versus Subjective Discipline Referrals in a School District* 24, 42 (Dec. 2014) (Ph.D. dissertation, University of Oregon), <https://tinyurl.com/jb7wnh34>. One middle school in South Dakota disciplined more than one in three Native American students for “insubordination” as compared to only one in ten white students disciplined for the same infraction.⁵

Similarly, LGBTQ+-identifying students also experience discipline disparities because of “frequent and/or harsher punishment for the same or similar infraction” compared to their peers. GSA Network, *supra*, at 12. Students with disabilities also bear the brunt of schools’ subjective decision-making regarding discipline, which puts students at risk for being disproportionately disciplined for actions that may be manifestations of their disability. Jackie Mader & Sarah Butrymowicz, *Pipeline to Prison: Special education too often leads to jail for thousands of American children*, Hechinger Rep. (Oct. 26, 2014), <https://tinyurl.com/7pxktb4z>.

For all of these reasons, granting school administrators even more authority to discipline students would only amplify current discriminatory practices and exacerbate the harm currently imposed on students of color, students with disabilities, and LGBTQ+-identifying students.

B. Schools Discipline Off-Campus Speech in the Same Discriminatory Fashion as On-Campus Expression

Schools appear to be using their assumed authority over off-campus speech to similarly discipline students in a racially disparate manner. In an *amicus* brief to this

⁵ See Complaint at 16, *Antoine v. Winner Sch. Dist. 59-2*, No. 3:06-CV-03007-CBK (D.S.D. Mar. 27, 2006), <https://tinyurl.com/yws88jbp>.

Court in 2015, *Amicus Advancement Project National Office* highlighted the need for Supreme Court review of a case in which a Black student in a school with documented racial disparities in school discipline was disciplined for off-campus speech about a racially charged topic. *See* Brief for the Advancement Project & One Voice as Amici Curiae Supporting Petitioner, *Bell v. Itawamba Cnty. Sch. Bd.*, 136 S. Ct. 1166 (2016); *see also* Longoria Next Friend of M.L. v. San Benito Indep. Consol. Sch. Dist., 942 F.3d 258, 261–63 (5th Cir. 2019) (disciplining a Latinx student for posts on her social media account perceived as “profanity and sexual innuendo”); *Rosario v. Clark Cnty. Sch. Dist.*, No. 2:13-CV-362 JCM PAL, 2013 WL 3679375, at *3 (D. Nev. July 3, 2013) (disciplining a Latinx student for social media posts about school officials off campus and after school hours that the school considered “obscene”); *E.F. v. Troup Cnty. Sch. Dist.*, No. 3:19-CV-141-TCB, 2019 WL 11003371, at *1–2 (N.D. Ga. Oct. 25, 2019) (expelling a Black student for “Gang Activity” based on a rap video he posted to YouTube); Rebecca Klein, *Wesley Teague, Kansas Student, Suspended After Tweeting About High School’s Sports Program*, HuffPost (May 9, 2013, 8:27 PM), <https://archive.is/qBea2> (suspending a Black high school senior and cancelling his scheduled convocation speech after the student tweeted what the school perceived as a jab at its athletic program and athletes).

In response to the increased use of social media, schools have increasingly turned to surveillance programs to monitor student speech and behavior, both on- and off-campus. *See* Lois Beckett, *Under digital surveillance: how American schools spy on millions of kids*, Guardian (Oct. 22, 2019, 6:00 AM), <https://archive.is/Ai10e>; Benjamin Herold, *Schools Are Deploying Massive Digital Surveillance Systems. The Results Are Alarming*, Educ. Week (May 30,

2019), <https://archive.is/tzq2K>. These surveillance programs stand to deepen the discipline disparities precisely because they depend on subjective judgments. See Mark Keierleber, *As Schools Comb Social Media for Potential Threats, Has Mass Shooting Anxiety Turned Administrators Into the 'Internet Police'?*, 74 *Million* (Dec. 5, 2018), <https://archive.is/GQBt9>; see also Greta Colombi & David Osher, *Advancing School Discipline Reform*, *Educ. Leaders Rep.* 4–5 (Aug. 2015), <https://archive.is/TQVSN>.⁶ School districts have assumed the authority to routinely monitor not only students' social media accounts (Facebook, Twitter, Instagram, Snapchat, TikTok, and other programs), but also the activity and posts of third parties, including adults. See Herold, *supra*.

This surveillance is rife with potential to exacerbate discriminatory trends. School officials, and the monitoring companies with which they contract, decide themselves what speech to monitor, what activities to report, and what behavior to discipline. See Herold, *supra*; Beckett, *supra*. For example, since these technologies are designed to monitor and identify social media content, they have much lower accuracy rates for Black slang and languages other than English. Thus, speech by students of color and students who speak languages other than English are disproportionately flagged. See *Social Media Monitoring, supra*, at 3; Ctr. for Democracy & Tech., *Mixed Messages? The Limits of Automated Social Media Content Analysis*, 4 (Nov. 2017), <https://tinyurl.com/55c8bfaj>. Because students of color, students with disabilities, and LGBTQ+-identifying

⁶ School districts have justified this growing overreach by claiming that these surveillance mechanisms help promote “safety” or help prevent bullying and harassment, despite no evidence to support these claims. See Herold, *supra*; Ctr. for Democracy & Tech., *Social Media Monitoring in K-12 Schools: Civil and Human Rights Concerns* (Oct. 17, 2019), <https://archive.is/5LLqg> [hereinafter *Social Media Monitoring*].

students are already disproportionately disciplined more than their white peers, they are also likely to receive a disproportionate share of the focus of surveillance efforts. See *Social Media Monitoring, supra*, at 3–4; Advancement Project, *We Came to Learn: A Call to Action for Police-Free Schools*, 38–39 (2018), <https://archive.ph/paTey>; Cheryl Staats et al., Kirwan Inst. for Study of Race & Ethnicity, *State of the Science: Implicit Bias Review* 32–33 (2017), <https://tinyurl.com/n2a2wv83>.

In one case from a school district in Alabama, 12 of the 14 students expelled over social media posts in the 2013–2014 school year were Black students, despite Black students making up only 40% of the district’s population. Sharada Jambulapati, *Story From the Field: Children of Color Pushed Out of Alabama Schools Over Social Media Posts*, S. Poverty L. Ctr. (July 9, 2015), <https://archive.ph/t6S8U>.

Moreover, the current COVID-19 pandemic and the shift to remote and online learning has blurred the line between “on-campus” and “off-campus” speech, increasing the level of schools’ oversight of students’ online speech. School districts have adapted to the pandemic in myriad ways. Many districts are either applying their same pre-pandemic disciplinary practices to the remote learning environment or instituting new measures. This results in an unprecedented encroachment into students’ lives. In Tennessee, for example, one school district required children to wear shirts with sleeves and banned pajamas, hats, or hoods on screen. Kalyn Belsha, *Virtual Suspensions. Mask rules. More trauma. Why some worry a student discipline crisis is on the horizon*, Chalkbeat (Aug. 21, 2020, 7:14 PM), <https://archive.ph/qnrX7>.⁷

⁷ See also Rebecca Klein, *The New School Suspension: Blocked From* (... continued)

There have also been highly publicized instances of schools disciplining students or calling for police intervention for objects in the background of their computer screens, such as toy guns—including a 9-year-old Black boy in Louisiana and a 12-year-old Black boy in Colorado. Gisela Crespo, *4th grader sus-pended for having a BB gun in his bedroom during virtual learning*, CNN (Oct. 4, 2020, 2:49 PM), <https://archive.is/utpPM>; Mia Jankowicz, *Colorado school officials called the sheriff and suspended a 12-year-old Black boy after he showed a toy gun in his Zoom class*, Insider (Sept. 8, 2020, 12:12 PM), <https://archive.is/Or6SO>. These examples illustrate how schools' broadening reach has already adversely impacted students of color and other marginalized communities.

III. EXPANDING SCHOOL AUTHORITY TO OFF-CAMPUS SPEECH THREATENS TO DISPROPORTIONALLY PUNISH STUDENTS OF COLOR AND OTHER MARGINALIZED GROUPS FOR DEVELOPMENTALLY APPROPRIATE EXPRESSION

Allowing school officials to discipline off-campus speech such as that at issue here is especially dangerous where the subjective criteria of student conduct codes are likely to trample predictable and developmentally appropriate expression. As noted above, as many as 95 percent of school suspensions are for vague categories of behavior—like being disruptive, acting disrespectfully, tardiness, profanity, and school attire—where the decision to

Online Classrooms, HuffPost (Aug. 11, 2020, 10:45 AM), <https://archive.is/lyaoi> (describing a Black nine-year-old being blocked from her school email because the principal claimed she “bombarded the district’s tech support department with requests”); Jodi S. Cohen, *A Teenager Didn’t Do Her Online Schoolwork. So a Judge Sent Her to Juvenile Detention*, ProPublica (July 14, 2020, 5:00 AM), <https://archive.is/i4mn7> (describing a Black 15-year-old being sent to juvenile detention for violating her probation by not completing her online coursework when her school switched to remote learning).

discipline will vary from administrator to administrator. Arne Duncan, U.S. Sec’y of Educ., *supra*. The risks of disciplinary overreach are exacerbated in social media where teens routinely seek out connections with peers in ways which have upended traditional notions of privacy and exclusivity. Disciplining students for this age-appropriate speech and exchange of ideas subjects teens, especially students of color, students with disabilities, and LGBTQ+-identifying students, to potentially life-changing adverse consequences.

A. This Court has Long Recognized That the Distinctive Characteristics of Children and Youth Must Be Considered in Evaluating Youth’s Legal and Constitutional Rights

As this Court has repeatedly observed, youth is a “time and condition of life” marked by behaviors, perceptions, and vulnerabilities that change with age. *J.D.B. v. North Carolina*, 564 U.S. 261, 273 (2011) (citing *Roper v. Simmons*, 543 U.S. 551, 569 (2005)); *see also Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982); *Haley v. State of Ohio*, 332 U.S. 596, 599 (1948) (“[Youth] cannot be judged by the more exacting standards of maturity. . . . This is the period of great instability which the crisis of adolescence produces.”). This Court has acknowledged that “psychology and brain science continue to show fundamental differences between juvenile and adult minds . . . [and that the] parts of the brain involved in behavior control continue to mature through late adolescence.” *Graham v. Florida*, 560 U.S. 48, 68 (2010). In the past fifteen years in particular, this Court has highlighted the relevance of adolescent status and emergent scientific research to defining children’s constitutional rights, specifically under the Eighth Amendment in the realm of sentencing and under the Fifth Amendment with regard to the police interrogation of youth. *See Miller v. Alabama*, 567 U.S. 460, 465 (2012)

(striking mandatory life without parole sentences for youth convicted of homicide); *J.D.B.*, 564 U.S. at 272 (setting forth the “reasonable child” standard to determine police custody under *Miranda*); *Graham*, 560 U.S. at 82 (striking life without parole sentences for youth convicted of nonhomicide offenses); *Roper*, 543 U.S. at 551 (striking the juvenile death penalty).

One particular attribute of adolescence germane to the question at issue is the outsized role peers play as youth navigate this transitional period of development. See *Miller*, 567 U.S. at 471 (“[C]hildren ‘are more vulnerable . . . to negative influences and outside pressures,’ including from their family and peers.”) (quoting *Roper*, 543 U.S. at 569). As young people enjoy spending time with other young people, they are increasingly susceptible to peer influence. See Catherine Sebastian et al., *Social Brain Development and the Affective Consequences of Ostracism in Adolescence*, 72 *Brain & Cognition* 134, 135 (2010) (citing Jeffrey G. Parker et al., *Peer Relationships, Child Development, and Adjustment: A Developmental Psychopathology Perspective*, in 1 *Developmental Psychopathology: Theory and Method* 419 (Dante Cicchetti & Donald J. Cohen eds., John Wiley & Sons 2d ed. 2006); L.R. Vartanian, *Revisiting the Imaginary Audience and Personal Fable Constructs of Adolescent Egocentrism: A Conceptual Review*, 35 *Adolescence* 639 (2000)); see also *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 311–12 (2000) (noting “the immense social pressure” on students); *Lee v. Weisman*, 505 U.S. 577, 593 (1992) (finding teenagers are “often susceptible to pressure from their peers towards conformity . . . in matters of social convention”). This influence expresses itself through both social comparison—looking to others’ behavior to measure one’s own—and social conformity—adapting behavior to that of peers rather than one’s own

values or plans. See Elizabeth S. Scott & Laurence Steinberg, *Rethinking Juvenile Justice* 38 (2008).

Youth are, in turn, hypersensitive to any form of peer rejection. Jack L. Andrews et al., *Navigating the Social Environment in Adolescence: The Role of Social Brain Development*, 89 Soc’y Biological Psych. 109, 114 (2021). This is because, as youth mature, their “social brains” undergo significant changes. Specifically, maintaining social connection with peers becomes especially important in adolescence, because it helps youth discover their identity, role, and purpose. Sebastian, *supra*, at 138; see also Nat’l Acads. of Sci., Eng’g, & Med. et al., *The Promise of Adolescence: Realizing Opportunity for All Youth* 60, 68, 72 (Emily P. Backes & Richard J. Bonnie eds., 2019) (“Finding an answer to the question, ‘Who am I?’ is often viewed as a central task of adolescence . . . [c]losely related to the question, ‘How do I see myself?’”). This case aptly illustrates the phenomenon, as B.L.’s disappointment in not making the varsity cheer team was exaggerated and heightened by her developmental need for social acceptance and status from her peers.

B. Adolescents’ Off-Campus Use of Social Media Must Be Protected From Over-Regulation by Schools

In 2021, social media and other virtual spaces are undeniably the primary tool through which young people carry out their social connections.⁸ As the Third Circuit

⁸ In today’s digital environment, social media not only plays an essential role in how adolescents interact, but also has the potential to “enhance belonging, psychosocial wellbeing, and identity development.” Kelly A. Allen et al., *Social Media Use and Social Connectedness in Adolescents: The Positives and the Potential Pitfalls*, 31 Austl. Educ. & Dev. Psych. 18, 28 (2014). Research indicates that online interactions with peers reinforce in-person relationships, resulting in youth feeling a greater connection and support from their families and
(. . . continued)

and various *amici* have highlighted, “[s]tudents use social media and other forms of online communication with remarkable frequency.” *B.L.*, 964 F.3d at 179. In 2018, the Pew Research Center reported 95% of teenagers had access to a smartphone and nearly half of teens described being “almost constantly” online. Monica Anderson & Jingjing Jiang, Pew Rsch. Ctr., *Teens, Social Media & Technology* (May 31, 2018), <https://archive.is/5QLb2> [hereinafter *Pew Study 1*]. Girls and Latinx youth in particular noted frequent internet use. *Id.*⁹ Whether due to time constraints, parental restrictions, lack of transportation, or mere ease of online communications, young people—apart from school and school-related activities—spend more time interacting with friends online than they do interacting with them in person. Monica Anderson & Jingjing Jiang, *Teens’ Social Media Habits and Experiences*, Pew Rsch. Ctr., 13 (2018), <https://archive.is/ok9XY> [hereinafter *Pew Study 2*].¹⁰

However, the rapid and widespread adoption of social media platforms by young people is complicated by the developmental backdrop of adolescence. Young people typically do not consider the potential long-term ramifications

peers. Nat’l Acads. of Sci., Eng’g, & Med. et al., *supra*, at 29 (citing Yalda T. Uhls et al., *Benefits and Costs of Social Media in Adolescence*, 140 *Pediatrics* S67, S67–S70 (2017)).

⁹ Research shows that 50% of teenage girls vs. 39% of teenage boys reported being “almost constantly” online. This disproportionality continues as 54% of Latinx teenagers vs. 41% of white teenagers reported the same. *Pew Study 1*.

¹⁰ According to the Pew Research Center, social media makes most teenagers feel “included.” *Pew Study 2, supra*, at 2. Indeed, 81% of teenagers say social media “makes them feel more connected to what’s going on in their friends’ lives,” and almost 70% say it helps them feel “more in touch with their friends’ feelings” and “like they have people who can support them through tough times.” *Id.* at 6.

of posting online. This is because youth often “lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.” *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (quoting *Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (plurality opinion)); see also *Roper v. Simmons*, 543 U.S. 551, 569 (2005) (citing Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 *Am. Psych.* 1009, 1014 (2003)). Young people’s “lack of maturity” and “underdeveloped sense of responsibility” make them more prone to “impetuous and ill-considered actions and decisions.” *Roper*, 543 U.S. at 569 (quoting *Johnson v. Texas*, 509 U.S. 350, 367 (1993)).¹¹ This contrast between the adult and adolescent brain is due, in part, to youths’ lack of experience and having less efficiency in processing decisions. *Id.*

This difference in brain development further affects adolescents’ ability to appreciate the benefits and consequences of their actions, as well as their ability to make reasoned, independent decisions about the best course of action. Dustin Albert & Laurence Steinberg, *Judgment and Decision Making in Adolescence*, 21 *J. Rsch. on Adolescence* 211, 216 (2011). Moreover, peer observation—both in person and through the internet—makes young people more likely to make risky decisions. See Alexander Weingard et al., *Effects of Anonymous Peer Observation on Adolescents’ Preference for Immediate Rewards*, 17 *Dev. Psych.* 71, 76 (2014); Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and*

¹¹ Snapchat in particular “may encourage teenagers to exchange media that they otherwise might not share in the mistaken belief that the content will remain private after delivery.” See Brian Holoyda et al., *Trouble at Teens’ Fingertips: Youth Sexting and the Law*, 36 *Behav. Sci. L.* 170, 171 (2018).

Risky Decision Making in Adolescence and Adulthood, 41 Dev. Psych. 625, 634 (2005). Stressful and emotional situations only exacerbate teenagers' already compromised reasoning. Mariam Arain et al., *Maturation of the Adolescent Brain*, 9 Neuropsychiatric Disease & Treatment 449, 455 (2013) (“[T]eens tend to make poorer decisions” in “hot” moments “of intense emotion.”).

This expansion of the use of social media by teens as they traverse adolescence and emotional development puts them on a collision course with school administrators armed with *Tinker* as a means of policing off-campus speech. Put simply, extending the reach of *Tinker* will render teenagers' developmentally appropriate behavior—off campus, outside school hours—subject to school discipline. B.L.'s specific decision here to post profanity on Snapchat to express her anger and angst at not making varsity cheer was as unsurprising as it was impulsive and ill-considered. Extending the reach of *Tinker* to statements like those of B.L. will subject myriad other instances of age-appropriate expression to discipline, often under the guise of punishing subjective violations of speech that is deemed “vulgar” or “obscene,” or of conduct that is considered “unruly” or “disorderly.” And, because students from marginalized groups are already subject to disproportionate discipline, this extension of *Tinker* risks further penalizing these students.

Moreover, as the research shows, expanding *Tinker*'s subjective criteria to this type of online speech has the potential to significantly hamper developmental growth, particularly for students of color. As young people “explore, experiment, and learn, they still require scaffolding and support, including environments that bolster opportunities to thrive.” Nat'l Acads. of Sci., Eng'g, & Med. et al., *supra*, at 37. Capitalizing on the “window of opportunity” for

healing and growth in adolescence is particularly important for youth who have experienced trauma, bias, discrimination, or other hardship earlier in childhood. *Id.* at 37–38, 75. Black youth and other youth of color disproportionately experience trauma and face interpersonal and structural racism that harms physical and mental health. *See generally id.* at 117–32. Rather than finding opportunities to promote healing and resilience, punitive school discipline policies ignore these critical emotional and psychological developmental needs. *Test, Punish, and Push Out, supra*, 10. The significant and long-lasting consequences of overly harsh school discipline, and its discriminatory application, are disproportionality felt by students of color, LGBTQ+-identifying students, and students with disabilities. *See* Section II *supra*. Extending the reach of *Tinker* will only make an already serious problem worse.

IV. EXPANDING *TINKER* RISKS CHILLING CORE PROTECTED SPEECH

Expanding *Tinker* to off-campus, online speech also threatens students' First Amendment rights to speak out regarding social justice issues that may be viewed as disruptive by the school. Student activism increasingly occurs online and off-campus, but nevertheless can relate to and impact schools sufficient to render it subject to *Tinker*.

For example, following the Black Lives Matter protests that swept the nation last year, students are increasingly using social media to identify and address school-related racial issues. Students use Instagram accounts and Google spreadsheets to collect “anonymous reports of racial prejudice and mistreatment of [B]lack people taking place at the schools, from both current and former students.” Jessica Pinkett, *Trend Alert: Black at . . .*, Voxburner (June 19, 2020), <https://archive.is/D1lwq>. While many of these accounts are anonymous, “many students have also spoken

out on their personal accounts, using their following to raise awareness of racism at their schools.” *Id.* These online platforms have been deployed to address activities such as “students at the school using racial slurs, engaging in cultural appropriations, participating in the ‘George Floyd Challenge’¹² and making insensitive remarks.” See Taylor Lorenz & Katherine Rosman, *High School Students and Alumni are Using Social Media to Expose Racism*, N.Y. Times (June 16, 2020), <https://archive.is/cqYGD>. Additionally, these platforms describe actions by teachers and other school officials, such as “stories about [B]lack students being confused for other [B]lack students by administrators and others about the use of the N-word.” *Id.*

Students’ participation in these kinds of independent, off-campus forums could readily lead to discipline if *Tinker’s* vague and subjective “material and substantial disruption” formulation were extended to this sphere of student expression. Indeed, one school that was the focus of some of these posts, while not trying to suppress or punish the speech, described the issues raised by one such website as “messy” and likely to cause “discomfort”—language very similar to the standard of *Tinker*. *Id.*

In one example from Shaker Heights, Ohio, two students were disciplined for posting messages on their social media calling out another student’s derogatory post about Black people. Am. C.L. Union, *ACLU Urges Shaker Heights High School to Reverse Decision to Punish Students for Free Speech* (Nov. 14, 2016), <https://archive.is/Moo44>

¹² The “George Floyd Challenge” refers to a practice performed by mostly white men of stepping on another man’s neck, mimicking Derek Chauvin placing his knee on George Floyd’s neck, which led to Mr. Floyd’s death. Stephanie Guerilus, *White teens start ‘George Floyd challenge’ mocking his death*, TheGrio (June 5, 2020), <https://archive.is/6bc09>.

(noting that the school reversed its stance after an intervention from the ACLU of Ohio). There is no question that statements like those in the Shaker Heights example have a “nexus” to a school’s pedagogical mission. It was also “foreseeable” that the statements would reach a school audience. Frank discussions on issues of racial equality, or discrimination against students with disabilities or LGBTQ+-identifying students, can certainly cause controversy, or even “disruption” within a school.

Similarly, students at a Georgia high school were suspended for posting pictures of their crowded school hallways filled with mostly mask-less students during the COVID-19 pandemic to highlight their schools’ mishandling of safety guidelines.¹³ See Elliot Hannon, *Georgia High School Students Suspended for Social Media Posts Showing Packed Hallways*, Slate (Aug. 7, 2020, 7:19 AM), <https://archive.is/Md90l>. Like the online statements in Shaker Heights, these photographs had a “nexus” to the school and a “foreseeable” impact on the school. Whether publication of the photographs was “disruptive”—and sufficient to subject students to discipline under *Tinker*—was at the sole, subjective discretion of the school.

Indeed, in applying *Tinker*, the Second Circuit upheld a school’s punishment of a student who urged others to contact school officials to protest the postponement of a concert. *Doninger v. Niehoff*, 527 F.3d 41 (2d Cir. 2008). If a controversy over a music concert is sufficiently “disruptive” to justify student discipline, student speech addressing the far more sensitive and far-reaching issues of a school’s core commitment to diversity, safety, and equity

¹³ The school later buckled under public pressure and rescinded the suspensions. Giulia McDonnell Nieto del Rio, *Suspension Lifted of Georgia Student Who Posted Photos of Crowded Hall*, N.Y. Times (Aug. 7, 2020, 2:40 PM), <https://archive.is/TbnCC>.

can count on even less protection under the *Tinker* standard. *Amici* respectfully submit that such further erosion of students' off-campus speech and expression rights would strike at the heart of First Amendment protections guaranteed by the Constitution.

CONCLUSION

Extending the reach of *Tinker* to off-campus speech that is neither threatening nor harassing simultaneously places students of color, students with disabilities, and LGBTQ+-identifying students at the greatest risk of discipline while also threatening ordinary and expected online expression. If school officials have free rein to punish any off-campus social media post they regard as "disruptive," a wide range of developmentally appropriate youth expression will be subject to discipline. Based on school officials' documented overuse of exclusionary discipline and discriminatory enforcement of subjective school conduct codes, extending *Tinker* to these forms of off-campus speech will also only exacerbate the same discriminatory and uneven effects. For the foregoing reasons, this Court should affirm the judgment of the Court of Appeals.

Respectfully Submitted.

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March 31, 2021

APPENDIX

APPENDIX
List of *Amici Curiae*

1. Advocates for Children of New York
2. Alliance for Educational Justice
3. Barton Child Law and Policy Center, Emory University School of Law
4. Bill Wilson Center
5. Brandeis School of Law, University of Louisville
6. Brighton Park Neighborhood Council
7. Brooklyn Defender Services
8. Center for Children & Youth Justice
9. Center for Law and Education
10. Center for Law, Brain & Behavior at Massachusetts General Hospital
11. Center on Race, Inequality, and the Law at New York University School of Law
12. CHILD USA
13. Children and Family Justice Center
14. Children's Defense Fund
15. Children's Law Center of California
16. Children's Law Center of Minnesota
17. Council for Children's Rights
18. Education Law Center
19. Education Law Center - PA
20. East Bay Community Law Center
21. Florida Student Power Network
22. Georgia Legal Services Program
23. Gwinnett Parent Coalition to Dismantle the School to Prison Pipeline (Gwinnett SToPP)
24. Juvenile Rights Advocacy Program at Boston College Law School
25. Latinx, Afro-Latin-America, Abya Yala Education Network (LAEN)
26. Legal Aid of North Carolina
27. Legal Counsel for Youth and Children

28. Legal Rights Center
29. Legal Services NYC
30. Louisiana Center for Children's Rights
31. National Juvenile Defender Center
32. National Juvenile Justice Network
33. Padres & Jóvenes Unidos
34. Public Counsel
35. SPAN Parent Advocacy Network
36. TeamChild
37. Texas Appleseed
38. Washington Lawyers' Committee for Civil Rights & Urban Affairs