

# DISMANTLING THE CRADLE TO PRISON PIPELINE™: PREVENTING PUSHOUTS IN MISSISSIPPI SCHOOLS



**Children's Defense Fund – Southern Regional Office**

P.O. Box 11437 • Jackson, MS 39283

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## CDF Mission Statement

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities.

CDF provides a strong, effective and independent voice for *all* the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor and minority children and those with disabilities. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, drop out of school, get into trouble or suffer family breakdown.

CDF began in 1973 and is a private, nonprofit organization supported by foundation and corporate grants and individual donations.

## Dismantling the Cradle to Prison Pipeline™: Preventing Pushouts in Mississippi Schools

The Children's Defense Fund's top priority is to dismantle America's Cradle to Prison Pipeline® crisis that leaves a Black boy born in 2001 with a one-in-three chance of going to prison in his lifetime, more than five times the odds for a White boy born that same year. The *Cradle to Prison Pipeline* is a trajectory that leads to marginalized lives, imprisonment and often premature death. The United States of America does not provide a level playing field for all children and our nation does not value and protect all children's lives equally. The *Cradle to Prison Pipeline* is fueled by racial disparities, pervasive poverty, inadequate health and mental health care, gaps in early childhood development, disparate educational opportunities, chronic abuse and neglect and overburdened and ineffective juvenile justice systems. Failures of our child serving systems, especially when coupled with race and poverty, increase the likelihood of children entering the pipeline to prison.

### Zero Tolerance School Discipline Policies Fuel the Pipeline to Prison

Zero tolerance school discipline policies are a key feeder system into the pipeline to prison and play a significant role in fueling the dropout crisis, which adds to the odds already stacked against children. Zero tolerance policies establish a mandatory or predetermined punishment for certain behaviors without taking into consideration the situational context. They have increased the use of expulsion and suspension disciplinary practices for minor offenses such as tardiness. These policies assume that the immediate removal of disruptive students will deter others from similar behavior and improve classroom harmony.

The Children's Defense Fund recognizes that school leaders need to keep classrooms safe and that there may be a need for disciplinary actions, including suspensions and expulsions, when students are violent or take actions that threaten their safety or the safety of others. However, too often suspensions and expulsions from school are for nonviolent offenses. The U.S. Department of Justice filed a lawsuit in October 2012 against the City of Meridian, Mississippi, Lauderdale County, judges of the Lauderdale County Youth Court and the State of Mississippi in which they allege officials are helping to operate a "school-to-prison pipeline in which the rights of children are repeatedly and routinely violated." Students can be incarcerated for minor, nonviolent behavior including:

- Dress code infractions such as wearing the wrong color socks;
- Tardiness;
- Using vulgar language;
- Yelling at teachers; and
- Going to the bathroom or leaving the classroom without permission.

There are tens of thousands of real stories like these from around the country. In another state where the Children's Defense Fund has been working, a review found more than 30,000 incidents of school suspensions and expulsions for nonviolent, noncriminal offenses in just one school year including:

- Suspending a student from school for four months for sharpening his pencil without permission and giving the teacher a "threatening" look when asked to sit down;
- Expelling a student from school for the rest of a school year for poking another student with a ballpoint pen during an exam;
- Expelling a student from school permanently because her possession of an antibiotic violated the school's zero tolerance drug policy; and
- Calling the police, handcuffing, and then expelling a student who started a snowball fight on school grounds.

Research has shown that there is little evidence that zero tolerance policies improve school climate or discipline. To the contrary, there is evidence that this kind of punishment is inappropriate for youths whose brains and cognitive judgment are still developing. Zero tolerance increases expulsion and suspension rates, dropout rates, police presence on school campuses, the number of court referrals, juvenile crime rates and the entry of youth into the juvenile justice system. Zero tolerance school discipline policies disproportionately impact students of color—the very students disproportionately fed into the criminal justice system.

Zero tolerance is a compelling “flashpoint” that represents the deeper injustice of the *Cradle to Prison Pipeline*. Zero tolerance school discipline policies and the arrest and criminalization of children at younger and younger ages for behaviors once handled by schools and community institutions overwhelm and break apart already fragile young lives. The image of 6-, 7- and 8-year-old children being arrested and handcuffed on school grounds for nonviolent offenses demands a response.

### **What Do We Know About Mississippi’s Pushouts?**

The January 2013 report, *Handcuffs on Success: The Extreme School Discipline Crisis in Mississippi Schools*, authored by Advancement Project, ACLU of Mississippi, Mississippi State Conference of NAACP, and Mississippi Coalition for the Prevention of Schoolhouse to Jailhouse details how extreme school disciplinary practices continue to harm tens of thousands of Mississippi students who are removed from school every year for minor misbehaviors. Many of these children are criminalized in the process. The Department of Education’s Office for Civil Rights survey, cited by *Handcuffs on Success*, found that for school districts covered (115 out of 156), there were more than 54,000 students receiving out-of-school suspensions in the 2009-2010 school year, or 12 percent of students in these districts. The report also noted that African-American students were almost 75 percent of the suspended students, making them nearly three times as likely as White students to receive an out-of-school suspension.

CDF’s Southern Regional Office has been documenting disciplinary practices in Mississippi, district by district, as the foundation upon which to mobilize students, parents, and community leaders as well as administrators and teachers to halt zero tolerance policies that are pushing children out of school into the prison pipeline. In the fall of 2011, CDF filed Freedom of Information Act requests with all of the state’s school districts asking for 10 years of detailed data on discipline policies and practices. CDF hoped to identify districts most in need of reforms to help keep Mississippi’s children out of the prison pipeline.

Thirty-two school districts did not respond to repeated requests for data. Eighty-four school districts submitted some data to us. The quality of the data submitted varied widely; all reporting districts did not provide uniform data, uniform definitions or 10 years of data. It is clear that the lack of uniform comparable data across school districts makes it extremely challenging to put in place statewide strategies to address the harms children face.

- An initial look at the most recent year of discipline data obtained from 59 school districts (which represent 38 percent of students in the state) tells us that:
- Black students were more than twice as likely as White students to have a disciplinary incident and a disposition.
- There were 91,348 disciplinary incidents—a rate of 48 per 100 students, likely including repeat incidents for some students.
- At least 52 percent of the incidents were for infractions that did not break the law, such as tardiness and insubordination or defiant behavior, and 22 percent were for infractions that were unlawful, such as disorderly conduct and fighting; the remainder were unspecified.

- Forty-four percent of the dispositions were out-of-school suspensions—a rate of 21 per 100 students a year; 23 percent were in-school suspensions; 10 percent were warnings; 8 percent were corporal punishment. Only .4 percent of the dispositions were expulsions.

## **Nationally Every Second and a Half a Student is Suspended**

The Children’s Defense Fund has a long history of fighting against school exclusion. Our first publication, *Children Out of School in America*, released almost 40 years ago, documented two million children not enrolled in school, including hundreds of thousands of children with disabilities. Our findings contributed to the passage of the Education for All Handicapped Children Act in 1975, creating the federal right to a free public education for children with disabilities. Today 5.5 million children with disabilities attend school.

*Children Out of School in America* was the result of nine months of on-the-ground research in which CDF staff and their partners knocked on more than 8,500 doors in nine states including Mississippi and the District of Columbia to interview families about their children’s school experiences. We also interviewed school district leaders and staff. In Mississippi, we included the Canton Public Schools and surveyed every household in the Joe Prichard Homes project.

One of the children we found excluded from school back then was 14-year-old Kenny, a Black child in Canton, Mississippi, who became more and more embarrassed as he fell further and further behind as teacher after teacher could not find time to serve him. Kenny, who was partially sighted, had been out of school since the third grade. Kenny’s mother was deeply concerned about her son’s future and said, “Most of all I want him to have an education so that he will be able to get a job to support himself. I don’t know what he’s going to do when I’m no longer with him.”

Our exploration of *Children Out of School in America* contributed to the filing of the Mattie T. special education lawsuit in Mississippi in 1975. The Mattie T. case was filed on behalf of all Mississippi students with disabilities and suspected of having disabilities, and continues today under the leadership of the Southern Poverty Law Center.

*Children Out of School in America* provoked a significant response from parents, educators and policymakers throughout the country, and a year later CDF released a follow-up report, *School Suspensions: Are They Helping Children?* to examine more closely the problems caused by exclusionary school discipline policies. Our study of school suspensions led us to the following broad findings:

- In the 1972-73 school year, school districts with a little over half of the student population in the country suspended over one million students.
- The vast majority of the suspensions in the survey were for non-dangerous, nonviolent offenses. By contrast, less than 3 percent were for destruction of property, the use of drugs or alcohol or other criminal activity.
- While the largest numbers of suspended children were White, suspensions proportionately hurt more children who were Black, poor, older and male. Black children were suspended at twice the rate of any other racial group.
- The use of suspensions, the grounds and procedures for them, and their length varied widely between school districts and schools.
- The severe sanction of deprivation of schooling was being imposed without a fair inquiry into the facts.
- The great majority of suspensions did not serve any demonstrated valid interests of children or schools. Suspensions pushed children and their problems into the street, causing more problems for them and for others.

Since that time, our work and that of many advocates, school leaders, and researchers has led to significant reforms to improve access to public education for vulnerable children. Yet many challenges remain.

Across the country, from California to Texas to Minnesota to Ohio to Massachusetts to New York and Mississippi, all states where CDF has offices and is working to change zero tolerance policies, children continue to be kept out, pushed out or functionally excluded from school. Nationally, a public school student receives an out-of-school suspension every second and a half during the school year. Suspensions and expulsions continue to pose major threats to some of our nation's most vulnerable children.

### **Nationally Every Eight Seconds a Student Drops Out of School**

Too many schools are pushing children into the juvenile and criminal justice systems to make them someone else's problem. However, we should be worried not just about the teenager who ends up behind bars when suspended or expelled. Too often students who are pushed out feel disconnected and angry, they continue to act out and consequences escalate. It should be of little surprise when many of the children who are punished by being pushed out of school become the same ones who drop out and stay away for good. A public high school student drops out of school every eight seconds during the school year. And it should be even less surprising when many of the young people who drop out are the same ones whose behavior we continue to complain about and fear and for whom we pay to house in costly prisons cells later. States are spending on average almost two and a half times more per prisoner than per public school pupil.

Zero tolerance discipline policies are not helping the children who need intervention the most. Instead, they are excluding tens of thousands of students from school every year—including many students who most need to be in class—and making those children even more likely to end up trapped in the destructive, expensive prison pipeline.

### **Discrimination by Numbers and Rates**

The data from the 2009-2012 Department of Education Civil Rights Data Collection Survey showed that nationally, in the close to 7,000 school districts where data were collected (representing 85% of public school students), 6.9 percent of all students received at least one out-of-school suspension. The data documented that children of color face harsher discipline. African-American children, for example, comprise 18 percent of the children in the sample but 38 percent of those suspended at least once. They have less access to rigorous course offerings and are more often taught by lower paid and less experienced teachers. American public education is serving as a portal to the *Cradle to Prison Pipeline* for millions of poor children of color. In the districts that were part of this study, the facts are clear:

- African-American students are over three and a half times more likely to be suspended or expelled than their White peers.
- African-American boys and girls have higher suspension rates than any of their peers. One-in-five African-American boys and more than one-in-ten African-American girls received an out-of-school suspension.
- Students with disabilities (under the Individuals with Disabilities Education Act) are over twice as likely to receive one or more out-of-school suspensions as their non-disabled peers. African-American students with disabilities face the harshest punishments.
- In districts with populations of more than 50,000 students, over 70 percent of students involved in school-related arrests or referrals to law enforcement are Hispanic or African-American.

## Changing Course

We must work together to get to the root of these unfair practices in Mississippi and across the country. When Black and Latino students represent more than 70 percent of those involved nationally in school-related arrests or referrals to law enforcement in large school districts, there must be a rigorous examination of the reasons why and what actions to take to change unfair racial practices in the application of school discipline.

We must replace zero tolerance discipline policies with meaningful alternatives that keep students engaged and learning in safe schools and out of the juvenile and criminal justice systems. We can build on promising approaches and join forces for unified action strategies at the national, state and local levels to end the *Cradle to Prison Pipeline*. Federal direction and support also can help states and school districts modify school discipline codes to end out-of-school suspensions or expulsions for nonviolent offenses and end suspensions for minor behavioral infractions, implement alternatives to zero tolerance school discipline policies and monitor suspensions, expulsions and their impact on children of color and children with special needs. Children must be assured of fair and appropriate treatment.

Data are essential on in- and out-of-school suspensions, expulsions, school-based arrests and referrals to alternative schools as well as the race, ethnicity, other special needs, socioeconomic status and English proficiency of the students involved in each school and school district. There is a need for technical assistance and training of all staff at all levels on alternatives to zero tolerance. School districts must be reminded of their obligations to prohibit school discipline policies that disproportionately impact children of color and those with disabilities or other special needs. When 88 percent or more of Black public school students in Mississippi, and 62 percent of White students, are unable to read or do math at grade level, it is critically important to link these data to the overall performance of these schools and school districts, assessing factors like academic performance and graduation rates.

## It Will Take All of Us: Steps Needed in Mississippi

We must build on strategies like those discussed and take steps to move forward and ensure that students are no longer unfairly punished and pushed out of school and into the *Cradle to Prison Pipeline* in Mississippi.

CDF's recent look at discipline data over time from individual districts and work in the state over the years has revealed the need for immediate action on several fronts to keep children out of the prison pipeline, close the achievement gap for low-income children and children of color, and level the educational playing field for all children.

Below we highlight four of our major recommendations:

### ■ Enhance state level accountability for the education all children are receiving.

- Require all Mississippi school districts to submit data at least annually, at the end of each school year, to the State Department of Education on the types of incidents and dispositions for these incidents, disaggregated by race, ethnicity, age, disability status and school, using uniform incident and disposition definitions. These data must also be made public.
- Require all Mississippi school districts to establish discipline protocols and practices to ensure that disciplinary policies for the citation and administration of discipline are enforced fairly and uniformly. *These school and district level discipline codes should end out-of-school suspensions and expulsions for nonviolent offenses.* Guidelines should be prepared for local districts and teachers as to how to administer these policies and regular audits of these disciplinary protocols and practices must be conducted.

- **Develop and provide meaningful alternatives to suspensions and expulsions for nonviolent offenses.**
  - Overhaul alternative school models that are punitive and replace them with models that focus on supporting appropriate student behaviors.
  - Encourage an active role by trained case managers to become involved in the lives of students engaged in or at risk of repeat discipline violations. Understand the “why” of the behaviors to best prevent them.
  - Develop responsive approaches to discipline problems at the district and school levels that engage Positive Behavioral Intervention and Supports (PBIS), peace circles to promote “win-win” solutions to discipline problems, restorative justice strategies and student-led peer mediation efforts.
  
- **Engage teachers, parents, students and faith and other community leaders in school activities** to help them understand the disciplinary profile of the school and school district, new policies being implemented to better help and support students, and ways they can help to implement strategies to reduce the number and proportion of disciplinary actions and replace them with affirming actions.
  
- At the same time school districts are taking steps to stop student push outs and to be more responsive to student needs, **we must mobilize all our communities to:**
  - **Recognize how zero tolerance policies, if not stopped, will move children into the cradle to prison pipeline;**
  - **Ensure they actively participate to promote school safety;**
  - **Monitor to ensure a fair and balanced approach to school discipline;**
  - **Ensure students and parents understand their rights and how to effectively implement them; and**
  - **Ensure improved academic achievement and graduation rates among those most impacted by zero tolerance policies.**

All of us in Mississippi have a stake in keeping our children in school and learning to create a strong, well-educated workforce for tomorrow. Now is the time to reverse course on zero tolerance school discipline policies and to chart a new course to close achievement gaps, increase high school graduation rates and career-readiness for all of Mississippi’s children. New protections and investments are desperately needed so we can replace the *Cradle to Prison Pipeline* with a pipeline to college, productive work, and a successful transition to adulthood. There is not a moment—or a child—to waste.