



UNFINISHED BUSINESS

Assessing Our Progress On School Discipline
Under Massachusetts Chapter 222



LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND
ECONOMIC JUSTICE

1968 - 2018 | CELEBRATING **50** YEARS

ACKNOWLEDGEMENTS

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THANK YOU

The Lawyers' Committee would like to offer its sincere thanks to Liza Hirsch, Dan Losen, Elizabeth McIntyre, Erin O'Sullivan, and the Chapter 222 Coalition for reviewing this report and the underlying findings.

Data and methodological information can be found in the online report appendix at www.lawyerscom.org/report-on-discipline

Please cite this report as: *"Unfinished Business: Assessing Our Progress On School Discipline Under Massachusetts Chapter 222,"* Lawyers' Committee for Civil Rights and Economic Justice (Sept. 2018).

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EXECUTIVE SUMMARY

In 2014, Massachusetts public schools began implementing Chapter 222, a law to reduce reliance on exclusionary school discipline. Massachusetts did so with good reason: being suspended is associated with dropping out, and almost two-thirds of the state's out-of-school suspensions from the prior year were for minor incidents – the cause for which Black and Latino students were most likely to be suspended.

In the first year under Chapter 222, suspensions dropped for all student groups, and particularly for students of color. However, statewide progress on reducing discipline rates has plateaued. A majority of Massachusetts' disciplinary actions are still for minor incidents, which means too many students are removed from class or school for matters that schools consider “nonviolent, non-criminal, and non-drug-related” behavior. And students of color are still far more likely than their peers to receive such sanctions. While some districts have made meaningful progress in reducing discipline rates, others are suspending at rates akin to those

before Chapter 222. And while charter schools have brought down their discipline rates significantly, they – together with disciplinary alternative schools and “therapeutic” day schools – remain the highest disciplining types of schools in the state.

This report reviews the progress that Massachusetts public schools have made – and failed to make – in reducing reliance on exclusionary discipline. There are positive lessons to draw from, particularly for other states seeking to improve school discipline in the absence of federal attention. However, more must be done to make Chapter 222 a reality in all Massachusetts schools.

FINDINGS

- 1** Discipline rates have dropped for all students, but progress has plateaued.
- 2** Black and Latino students, students with disabilities, and English language learners are still far more likely than their peers to lose class time for discipline, especially for minor incidents.
- 3** While charter school discipline rates have dropped significantly, charters remain among the highest disciplining schools, along with alternative schools, therapeutic day schools, and, in general, schools in Massachusetts' Pioneer Valley.
- 4** Due to off-the-books suspensions, school-based arrests, and other types of removal, Massachusetts' disciplinary data does not tell the whole story on school discipline.

MAIN FINDINGS

This report analyzes discipline data collected by the Massachusetts Department of Elementary and Secondary Education (DESE) and the U.S. Department of Education. In referring to “discipline data” and the “discipline rate,” we include all forms of discipline collected by DESE that result in a student losing instructional time: out-of-school suspension, in-school suspension, emergency removal (a type of suspension created after Chapter 222 was enacted), expulsion, and “removal to an alternate setting” (a type of discipline for students receiving special educational services). As out-of-school suspensions still comprise the bulk of disciplinary actions in Massachusetts, and their harm to students’ education is well documented, this report often discusses out-of-school suspensions separately as well.

Discipline is an essential component of schooling. The word itself comes from the Latin root for “teach.” There are many ways that schools can correct students’ behavior that do not result in lost instructional time. Like Chapter 222 itself, this report focuses on disciplinary responses that remove students from the classroom, as these are the responses we must continue to reduce as a Commonwealth.

1 Discipline rates have dropped for all students, but progress has plateaued.

Massachusetts' discipline rates have dropped significantly since 2012. That year, 5.6% of students were disciplined at least once (over 54,000 students). Today, the state's discipline rate is just under 4%. Discipline rates have dropped for students of all races as well as for English language learners, students with disabilities, and economically disadvantaged students. The drops have been most pronounced for Black and Latino students. Black students' discipline rate has declined from 12% to 8.6%. Latino students' discipline rate has dropped from 10.4% to just under 7%. Much of the drop in the discipline rate, particularly for Black and Latino students, can be attributed to fewer removals for minor incidents, categorized by DESE as "non-violent, non-criminal, and non-drug-related" incidents. The number of removals for minor incidents dropped by over 30,000 from 2012-13 to 2016-17, and the percentage of disciplinary removals attributed to minor infractions has declined as well, from 72% to 63% in that time.

While this progress in reducing discipline rates is encouraging, it has unfortunately plateaued. The drop in discipline rates primarily occurred in the 2014-15 school year, the first year of Chapter 222's implementation. While a plateau is better than an increase, far too many students are still being removed from instruction, particularly for minor incidents: 47% of days missed due to discipline in 2016-17 were due to minor infractions. And, as made clear below, Massachusetts' more vulnerable students are the first to lose instruction to discipline.

While a plateau is better than an increase, far too many students are still being removed from instruction, particularly for minor incidents.

47% of days missed due to discipline in 2016-17 were due to minor infractions.





Black students lose over 3 times the number of instructional days to discipline as white students

Latino students lose over 2.6 times the instructional days as their white peers

2 Black and Latino students, students with disabilities, and English language learners are still far more likely than their peers to lose class time for discipline, especially for minor incidents.

While discipline rates have dropped for all students since Chapter 222's implementation, Massachusetts' more vulnerable students still bear a disproportionate share of lost instructional time. Students with disabilities are disciplined at a rate (7.6%) nearly double the statewide average (4%) and students considered economically disadvantaged are not far behind (7.3%). While the out-of-school suspension rate for English language learners (3.8%) is not much higher than the state average, English language learners are the only group that is losing more days of instruction to discipline after Chapter 222's first year of implementation.

While the gap is shrinking, Black and Latino students are still far more likely than their white peers to lose instructional time to discipline, especially for minor infractions. Black students lose over 3 times the number of instructional days to discipline as white students, and Latino students lose over 2.6 times the instructional days as their white peers. Both nationally and in Massachusetts, Black students are more likely than any of their peers to be suspended out-of-school. And the gap in suspension rates between Latino students and white students is still larger in Massachusetts than it is nationally.





3 Charter school discipline rates have dropped significantly, but they remain among the highest suspending schools, along with alternative schools, therapeutic day schools and, in general, schools in the Pioneer Valley.

A look at the highest suspending schools in Massachusetts is illustrative of broader disciplinary trends in the Commonwealth. There are 38 Massachusetts public schools that are disciplining students at a rate at least six times (20%) the state average:

- Seven are “day school” placements for students with disabilities
- Thirteen are small alternative schools
- One, in Lynn, is an elementary school.
- Nine, including one charter, are in Springfield – encompassing a quarter of the list
- Four are in school districts (Holyoke, Lawrence, and Southbridge) under state receivership
- Five are charter schools.

On the whole, discipline rates in charter schools have dropped significantly, but charters remain among the higher suspending schools in the state. Roxbury Preparatory Charter School is a good example of why that is the case: Roxbury Prep has more than cut in half its discipline rate since 2012-13. But, at that time, the school was removing 60% of its students at least once, more than twelve times the state average. Today, the school’s discipline rate is 28.8%, or 9 times the current state average. Then and now, nearly all the removals were for minor incidents, and nearly all of them resulted in out-of-school suspension. Today, charter schools still account for a disproportionate number of suspensions in the Commonwealth.

On the whole, discipline rates in charter schools have dropped significantly, but charters remain among the higher suspending schools in the state.

4 Due to off-the-books suspensions, school-based arrests, and other types of removal, Massachusetts' disciplinary data does not tell the whole story on discipline in schools.

The drop in Massachusetts' discipline rates is commendable, and the data that DESE has collected and reported is essential in understanding this trend. However, these data do not tell the whole story on discipline in Massachusetts. Families, service providers, and advocates report an uptick in schools sending students home without reporting it as a suspension. In some instances, when families have challenged this practice, they have been warned that failure to pick up their children may result in calls to the police or the Department of Children and Families. This report does not capture school-based arrests – a data set that DESE will now start collecting thanks to a new state law. Frustratingly, DESE's data set does not allow users to see an overlap in student groups. For example, one can review suspension rates for Latino students and suspension rates for students with disabilities, but one cannot review suspension rates for Latino students with disabilities. Similarly, state data allows for review by race and by gender, but not both (e.g., Black girls or white boys). This report draws on data from the U.S. Department of Education to help paint that picture, but recommends that DESE make this data public.



INTRODUCTION

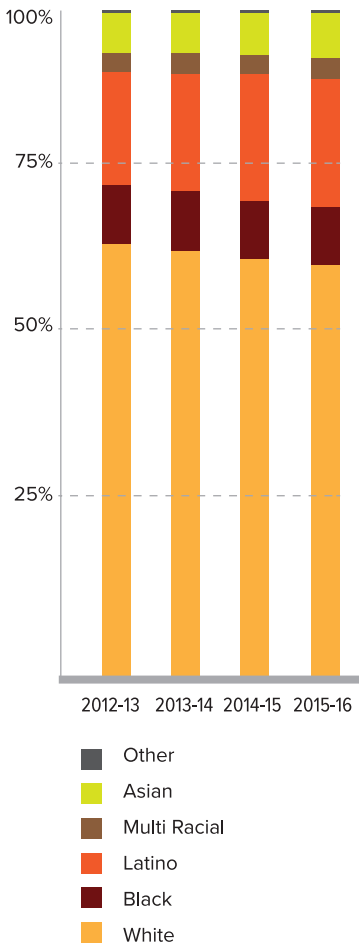
By passing and implementing a landmark school discipline reform law, Chapter 222, Massachusetts has rightly sought to reduce its school discipline rates and disparities. Under Chapter 222, the state began collecting more detailed discipline data for all students in the 2012-13 school year. Our 2014 report, *Not Measuring Up*, used data from this first year of collection to produce a baseline assessment of school discipline in preparation for implementation of Chapter 222 that year. We examined different discipline categories: out-of-school suspensions, in-school suspensions, expulsions, and removals to an alternate setting. We considered both the overall discipline landscape and how discipline impacted specific student groups, including Black and Latino students and students with disabilities.¹ And we highlighted some districts and schools that were of particular concern, with rates far above the state average.

Chapter 222 implemented a range of new protections for students, requiring schools to provide notice and a hearing ahead of disciplinary removals, use discretion in determining consequences, and consider ways to re-engage students in learning. These procedures aim to limit the use of classroom removals – particularly out-of-school suspensions – by encouraging schools to employ alternative measures that can keep students in class. Research over the past 20 years confirms that out-of-school suspensions can increase rates of school dropout and the likelihood of arrest and incarceration. And suspensions fall most heavily on the shoulders of youth of color, particularly Black youth, contributing to what is known as the school-to-prison pipeline.

As we begin the 2018-19 school year, Massachusetts has released five years of discipline data, including data from the first three years of Chapter 222's enforcement. These data, from 2012-13 through 2016-17, provide an opportunity to critically analyze the successes and limitations of Chapter 222.² In an era when state leadership is more important than ever, it is time to recommit to the unfinished business of limiting the use of exclusionary school discipline and ensuring fair treatment for students across our Commonwealth.

PART 1 STATEWIDE TRENDS

GRAPH A ENROLLMENT

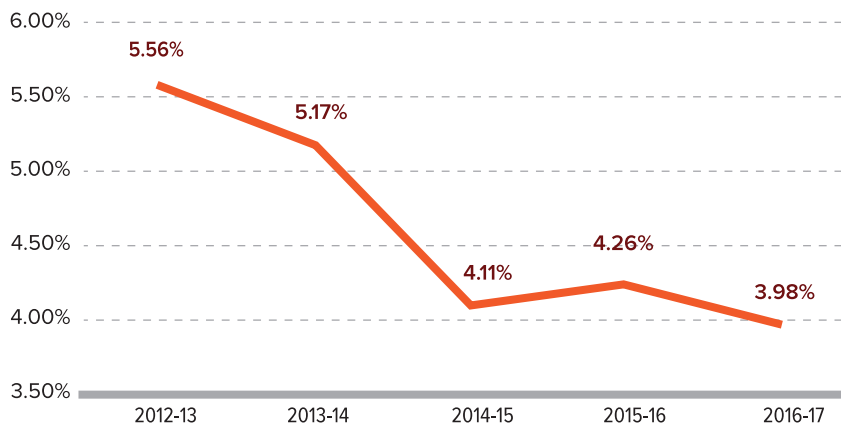


There are a few demographic trends that are important to keep in mind as we consider the shifting discipline patterns of the last five school years. Between 2012-13 and 2016-17, Massachusetts' student body remained steady at about 980,000 students per year. As in public schools nationally, Massachusetts' white student population declined during this period, from 65.2% of students to 61.8%. The proportion of students of color increased, with Latino students increasing the most, from 16.9% to 19.1% of students (see Graph A). Along with the increase in students of color, students classified as English language learners increased, from 8.3% to 10.7% of students overall. The proportion of students with disabilities has also increased from 17.8% to 18.4% of students statewide.

The overall discipline rate in Massachusetts declined over the study period from 5.6% to 4% (see Graph B). The overall discipline rate includes all types of exclusionary discipline – in-school suspension, out-of-school

suspension, expulsion, removals to an alternate setting, and emergency removal. With this decline, the number of students experiencing at least one instance of exclusionary discipline has fallen, from over 54,000 students in 2012-13 to just over 39,000 in 2016-17. Similarly, the number of incidents reported has fallen by 35%, with the largest drop coming in the category considered to be minor incidents – those the state classifies as “non-violent, non-criminal, and non-drug-related” offenses. These infractions made up 72.2% of reported incidents in 2012-13, and 62.7% in 2016-17. While this proportion remains high, the decrease is promising. Also promising is the decrease in expulsions – in 2012-13, there were 116 expulsions (a removal of more than 90 days), including 12 for minor behaviors. In 2016-17, there were only 21 expulsions statewide, with none for minor behaviors. This is a clear indication that Chapter 222's implementation is leading schools to consider other disciplinary options in a wide range of cases.

GRAPH B OVERALL DISCIPLINE RATE, 2012-13 TO 2016-17

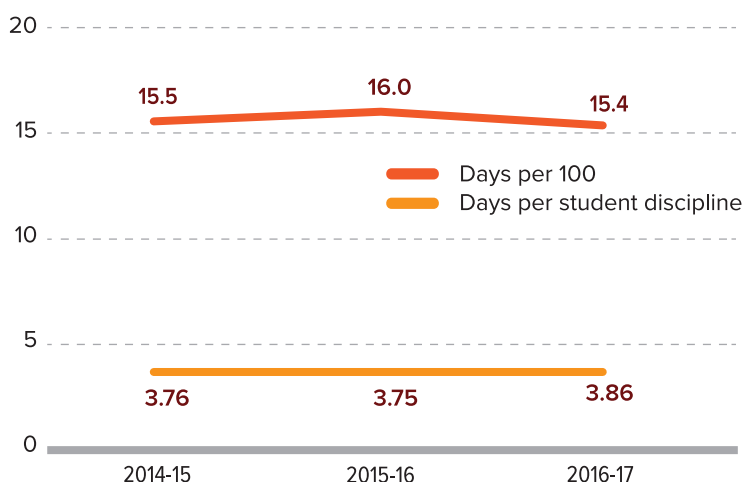


While these trends are encouraging, it is important to note that the vast majority of this decline occurred in the first year of Chapter 222's implementation, and the rates have remained relatively steady since then. This caution is supported by additional data on the days of instruction students miss due to discipline, a critical data set that the state only began collecting in 2014-15.³ These data reveal that the number of instructional days missed per 100 students enrolled has remained steady at about 15.5. This amounts to over 150,000 instructional days missed to discipline each year. Further, since the total number of students disciplined has declined over these three years, the number of days missed per student disciplined has actually increased slightly, a sign that students who *are* being disciplined are now getting longer punishments or repeated short-term suspensions (see Graph C).

OUT-OF-SCHOOL SUSPENSIONS

Out-of-school suspensions comprise the vast majority of disciplinary consequences across the Commonwealth (61% in 2016-17). The rate of out-of-school suspensions has fallen from 4.3% to 2.8% between the 2012-13 and 2016-17 school years (see Graph D, page 12), but the percentage of incidents overall resulting in an out-of-school suspension remains over 60%. The out-of-school suspension rate for minor incidents has fallen, from 2.7% to 1.5%, indicating that Chapter 222 has resulted in some shift away from exclusion for these incidents. In addition, days of missed instruction due to minor incidents has also fallen, from 8.3 days missed per 100 students enrolled to 7.3

GRAPH C DAYS OF MISSED INSTRUCTION, 2014-15 TO 2016-17

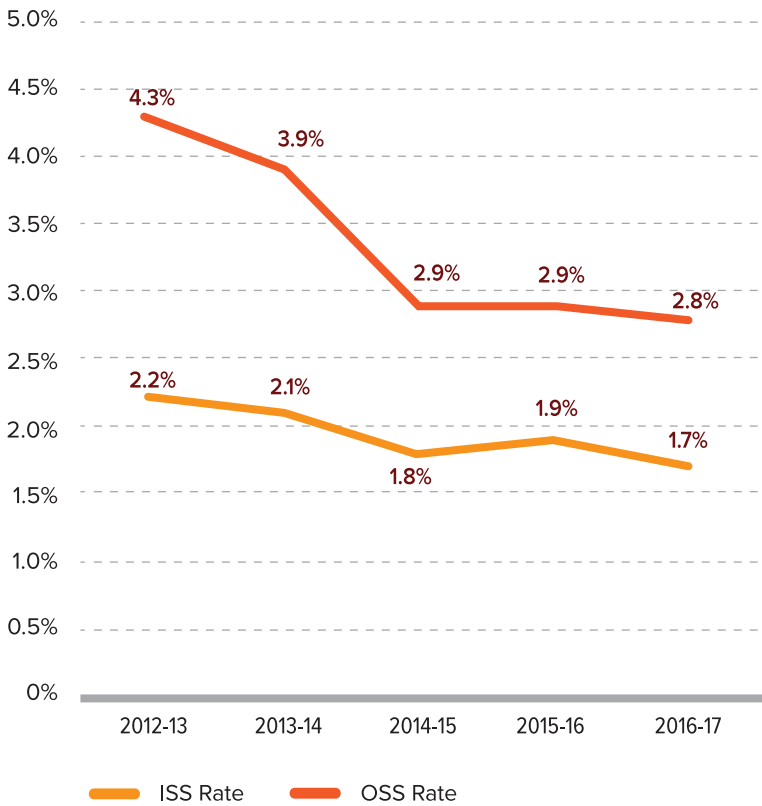


days per 100, a decrease that adds up to 10,000 fewer days of missed instruction for students across the state for these minor incidents.

EMERGENCY REMOVALS

Massachusetts has long had laws governing expulsions for such things as weapons, drugs, assaults on teachers, and criminal matters. Given the seriousness of these matters, these expulsion laws gave schools the flexibility to remove students ahead of a hearing when necessary to avoid danger or substantial disruption. Massachusetts passed Chapter 222 to cover the gaps left by our expulsion laws and address the many lesser forms of misbehavior that occur in schools. In adopting regulations to implement the law, DESE created a new category of discipline called emergency removal that similarly allows schools to remove a student ahead of a hearing for safety reasons, even for these lesser offenses. By law, emergency removals are to be used only when a

GRAPH D IN-SCHOOL AND OUT-OF-SCHOOL
SUSPENSION RATES, 2012-2016



student poses a safety danger or “materially and substantially” disrupts school order *and* there is no way to keep the student in school and stop that danger or disruption.

Since being introduced in 2014-15, the use of emergency removal has risen dramatically, from just 460 instances in 2014-15 to over 2600 in 2016-17. This is cause for serious concern, as these emergency removals are intended for unusual circumstances, not as a general work-around for vital due-process protections. In particular, English language learners and special education students are disproportionately assigned emergency removals. In 2016-17, an emergency removal was assigned in relation to an incident of minor misbehavior over 1400 times, 53% of all such cases. This is alarming, as a “non-violent, non-criminal, non-drug related” incident is unlikely to be one that poses a safety danger or for which there is no other alternative than removal. Further, one district, Worcester, accounted for nearly 60% of all emergency removal assignments in 2016-17. This could either be a sign that Worcester is far over-using emergency removals, or that it is one of the few districts reporting its use accurately. In either case, we fear emergency removals may be replacing suspensions, becoming the exception that swallows the rule, and urge DESE to provide stronger guidance and training on the proper use of emergency removals.



PART 2 WHO BEARS THE BRUNT?

We are often asked if discipline disparities are less about a student’s race and more about other factors like poverty or special educational status. Five years’ worth of discipline data allows us to analyze the data in ways that control for such factors in understanding the likelihood that a student of a particular race or classification will be disciplined.⁴ Here is what we found:

Out-of-school suspensions in Massachusetts are strongly predicted by students’ demographic characteristics (see Table A). Controlling for special education, English Language Learner, and socioeconomic status, every demographic group examined here has significantly higher odds of being assigned an out-of-school suspension than white girls. White boys are about 1.1 times as likely to be suspended as

white girls. Black boys and girls have similarly increased odds, about 1.6 times as likely. And Latino students, males and females, are close behind, at about 1.5 and 1.4 times as likely, respectively. Controlling for race and gender, students with disabilities and English language learners are each about 1.2 times as likely to be assigned an out-of-school suspension as their peers without these classifications. And students from lower socioeconomic backgrounds are 1.3 times as likely to be suspended as their peers. The odds of being given an out-of-school suspension have declined significantly for all groups since the state started collecting more disciplinary data in the 2012-13 school year. And infractions categorized as minor incidents are much less likely to result in an out-of-school suspension than other, more serious, offense categories.

TABLE A LIKELIHOOD OF OUT-OF-SCHOOL SUSPENSION

	Odds Ratio	Significance
<i>Demographic Group (compared to White girls)</i>		
White Male	1.06	***
Black Female	1.56	***
Black Male	1.57	***
Latina Female	1.40	***
Latino Male	1.49	***
<i>Demographic Group (compared to non-IDEA, non-ELL, or higher-SES students)</i>		
IDEA student	1.18	***
ELL student	1.17	***
Low SocioEconomic Status student	1.29	***
Minor Misbehavior	0.29	***
Year	0.90	***

Note: based on 2012-2017 incident-level dataset. Pseudo-R2 for this analysis is .063, indicating unmeasured factors also play a significant role in predicting out-of-school suspension.

BLACK STUDENTS

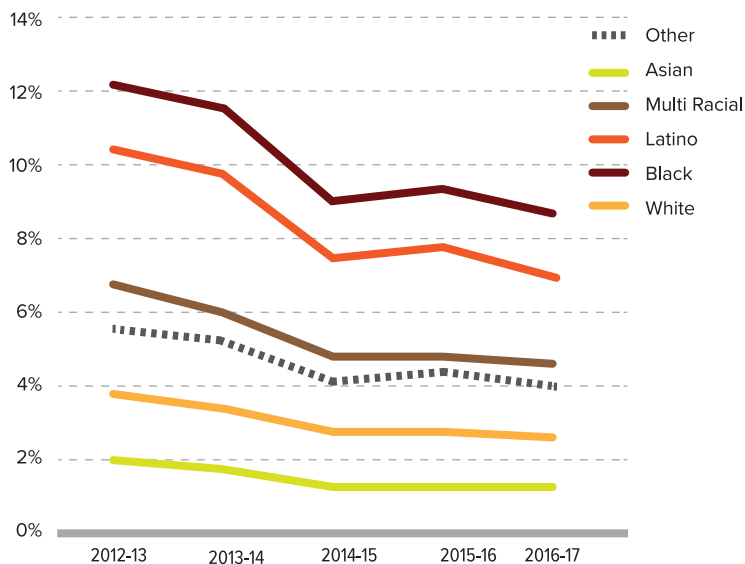
In Massachusetts, as is the case nationally, Black students are at the highest risk of being disciplined. In 2012-13, 12.1% of Black students overall were disciplined, a gap of 8.5% with their white peers. By 2016-17, this rate had fallen to 8.6%, representing a narrowing of the gap with white students to 6% (see Graph E and Graph F, page 17).

However, the number of days of instruction missed to discipline per 100 Black students enrolled has remained far higher than any other group, staying steady at 32-33 days of instruction missed per 100 students enrolled – over three times the number of days missed for white students (see Graph G, page 17). Moreover, Black students are more likely to be assigned long-term suspensions or assigned repeated short-term suspensions, with approximately 1.2% of Black students experiencing 8 or more days of instruction missed to discipline in a school year, compared with just .4% of white students.

In addition, Black students continue to be disproportionately disciplined for minor infractions; on average, 71% of discipline assigned to Black students over the study period was for “non-violent, non-criminal, non-drug related” behaviors, compared to 61% of discipline for students overall. And Black students are far more likely to be assigned an out-of-school suspension (about 72% of cases, compared to 60% for white students) than an in-school suspension, generally considered a harsher punishment. These continuing disparities highlight the need for school districts to examine their own treatment of subjective offenses and to consider what they can do to address the biases that research shows underlie them.

Using data collected by the U.S. Department of Education, we examined the rates of out-of-school suspension for Black students separately by gender, and by gender-disability combination. Black boys overall have by far the highest rate of suspension (11.4%) of any race-gender grouping in the state (see Table B, page 16), though even that rate is dwarfed by that of Black boys with disabilities, at over 17%. Black girls, often overlooked because of the severity of Black boys’ suspension rates, have the highest suspension rate of any group of girls (5.5%), nearly five times that of white girls. Black girls with disabilities have an extremely high suspension rate, over twice as high as that for all Black girls, at 12.4%. These high rates for Black students with disabilities are cause for alarm and careful consideration of policies and practices, such as the use of disciplinary alternative schools that may lead to such disproportionate punishment for some of Massachusetts’ most vulnerable students.

GRAPH E DISCIPLINE BY RACE



LATINO STUDENTS

At the national level, Latino students usually have suspension rates that hover between that of Black and white students, but tend to be closer to that of white students. As we found in the 2012-13 data, this is not the case in Massachusetts. Although the discipline and suspension rates of Latino students are lower than those of Black students, they are far closer to the high rates assigned to their Black peers than to their white peers. Still, the discipline rate for Latino students has fallen since 2012-13, from 10.4% to 7%, shrinking the gap with white students from 6.7% to 5% (see Graph F, page 17 and Graph H, page 18).

As with Black students, the number of days of instruction missed to discipline for Latino students has remained high – at 26-27 days missed due to discipline per 100 students enrolled. This is over 2.5 times the rate of days missed by white students (see Graph G, page 17). Further, Latino students are one student group that has seen the total number of days missed rise over the three years of data, from 48,000 to 51,000; the average days missed per student disciplined has also increased. And as with Black students, Latino students are far more likely to receive long punishments or repeated short-term punishments – approximately 1% of students miss 8 or more days, compared with .4% of white students.

These patterns are confirmed in the Massachusetts data reported by the U.S. Department of Education, which show high out-of-school suspension rates for Latino students, far closer to that

DISCIPLINING RACIAL DIFFERENCE

Mya and Deanna Cook were disciplined by Mystic Valley Regional Charter School for wearing hair extensions in their braids, a common Black hairstyle among several prohibited as “distracting” by the school’s code of conduct. Together with their parents, the Cook twins called on the school to change their policy to stop targeting Black hairstyles. The school, one of a handful of majority white charter schools in the state, refused.

The school’s targeting of a specifically Black hairstyle is a particularly overt example of the way that Black students are targeted in school discipline. It is hard to understand how braiding, a deep-rooted cultural practice of people of African descent, could be put in the same category as the “drastic and unnatural hair colors” the school’s code prohibited as “distracting.” As the school’s Facebook page included pictures of white swimmers who had dyed their hair together ahead of a meet, it is also hard to accept that these rules were enforced evenly.

Students need to feel connected to their schools in order to succeed. Improper discipline damages that connectivity and sends a message about who belongs and who does not. Sometimes discipline can become the distraction. Thankfully, the school has rescinded the policy and cleared the Cook twins’ disciplinary records.

of their Black peers than to those of their white counterparts (see Table B, page 16). Latino males with disabilities have the second-highest suspension rate in the state, after Black males with disabilities. Latina girls with disabilities also have an alarmingly high rate of suspension, at 10%. As with Black students, these high rates and clear disparities call into question the policies and practices that lead to discipline and make clear the need to examine race- and gender-centered remedies that can help address the needs of specific student groups.

TABLE B MASSACHUSETTS OUT-OF-SCHOOL SUSPENSION RATES, 2015-16, BY INTERSECTIONAL GROUP

	MA OSS Rate
Black Male (all)	11.4%
Black Male (with disabilities)	17.5%
Black Female (all)	5.5%
Black Female (with disabilities)	12.4%
Latino Male (all)	8.7%
Latino Male (with disabilities)	13.7%
Latina Female (all)	4.5%
Latina Female (with disabilities)	9.9%
White Male (all)	3.1%
White Male (with disabilities)	5.8%
White Female (all)	1.2%
White Female (with disabilities)	3.4%

Note: These estimates are produced from the 2015-16 U.S. Department of Education Office for Civil Rights Data Collection. They are not identical to estimates that would be produced with MA DESE data, but are the closest we can get to examine these important student demographic groups because of MA data reporting practices.

ENGLISH LANGUAGE LEARNERS

Discipline rates for English language learners are a growing concern. As noted in the first section, the population of English language learners has grown significantly since 2012-13, with English language learners now comprising nearly 11% of the student body statewide.⁵ This shift is due both to enrollment increases and to increases in the identification of current students as English language learners, following a series of district and statewide investigations and findings by the U.S. Department of Justice. The rise in discipline rates may suggest some rough transitions in complying with increased enforcement of federal law.

Although the discipline rate gap between English language learners and their English-fluent peers is smaller now than it was in 2012-13, the gap has grown since its low point in the first year of Chapter 222 implementation (see Graph F, page

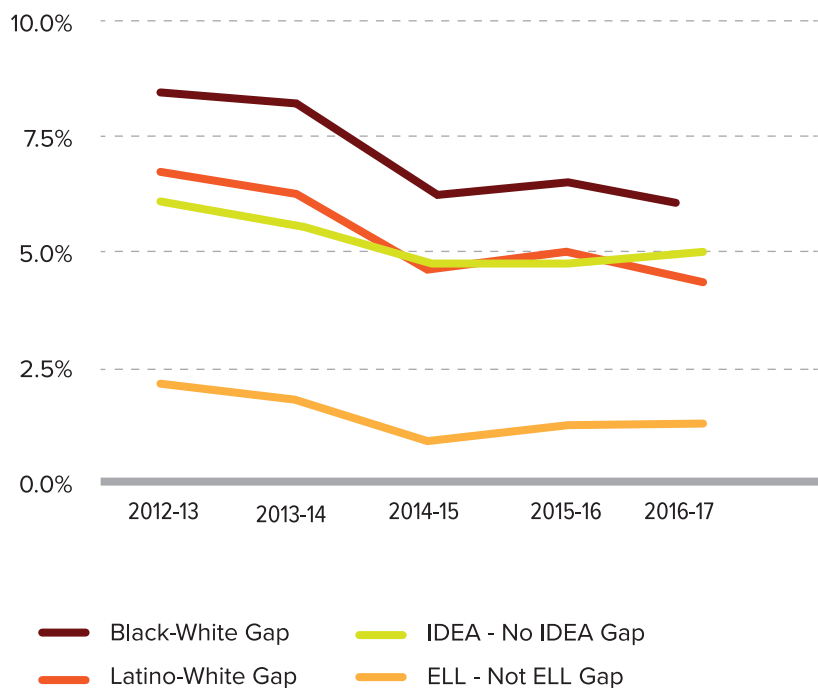
17 and Graph H, page 18). Even as the overall discipline rate statewide has ticked down, the discipline rate for English language learners has risen slightly, resulting in a 1.3% discipline gap with non-English language learners. The disparity appears as well in the analysis of days of instruction missed to discipline – English language learners comprise the only group for whom the number of days missed per 100 students enrolled has risen significantly – from 16.3 days per 100 in 2014-15 to 18.4 in 2016-17, an increase of over 13% (see Graph G). Further, the days missed per student disciplined has also risen by nearly 9% over the 3 years of data to 3.6. More concerning still is the potential misuse of emergency removals with English language learners. English language learners received 30% of all emergency removals in 2016-17. These trends should lead educators and policymakers to examine practices with regards to English language learners before the problem worsens.

STUDENTS WITH DISABILITIES

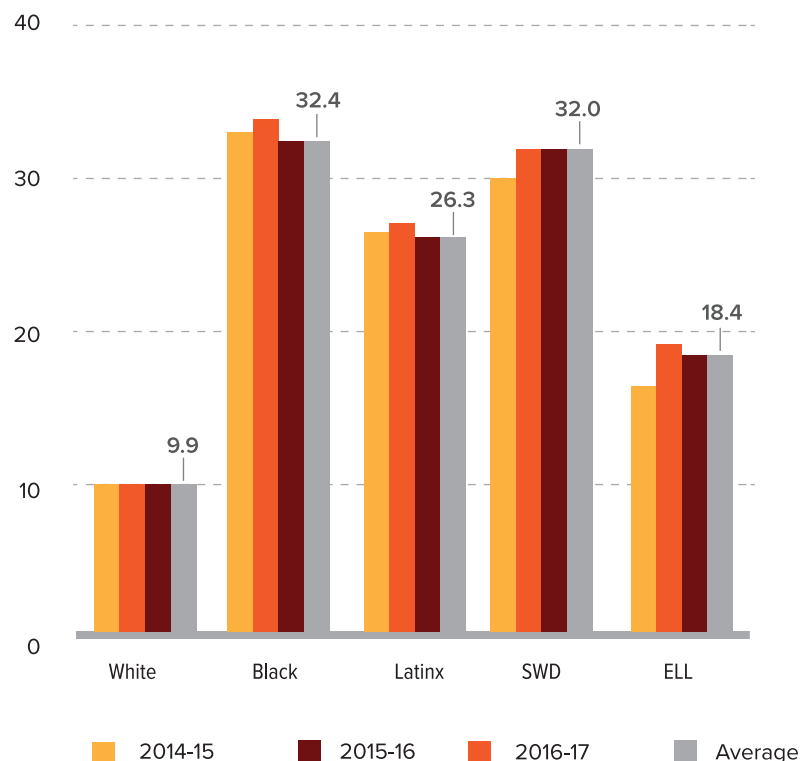
Students identified under the Individuals with Disabilities Education Act (IDEA) are at higher risk for being disciplined, both nationally and in Massachusetts. As with Black and Latino students, discipline rates for students with disabilities have fallen faster than the statewide average, narrowing the gap with their non-disabled peers from 6.1% to 5% (see Graph F and Graph H, page 18). However, discipline rates have risen slightly since 2014-15, and should be closely monitored to ensure this trend does not continue.

Students with disabilities missed over 54,000 instructional days due to discipline in 2016-17, or 30 days per 100 students enrolled (see Graph G). This is double the rate of their non-disabled peers. Further, these students have the highest days missed per student disciplined of any group, at nearly 4; this rate has not changed over the three years of available data. And 1.2% of students with disabilities were assigned discipline terms of 8 or more days, compared with just .6% of their non-IDEA peers. Moreover, students with disabilities comprised 43% of emergency removal assignments in 2016-17. Part of the explanation here may lie in the fact that schools whose enrollment is 90% or more students with disabilities have among the highest discipline rates in the state. This leads us to believe that these schools – many of which are called therapeutic day schools – are not adequately meeting the behavioral needs of these students and the state needs to do more to ensure the equal education guaranteed by federal law.

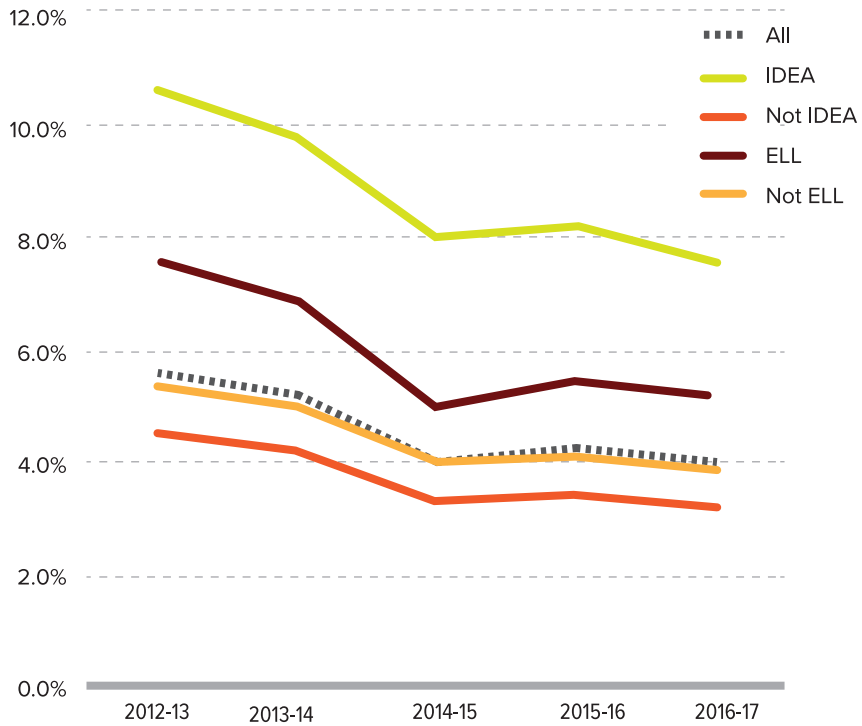
GRAPH F GAPS BY SUBGROUP



GRAPH G DAYS OF INSTRUCTION MISSED TO DISCIPLINE PER 100 STUDENTS ENROLLED, BY SUBGROUP & YEAR



GRAPH H DISCIPLINE BY IDEA/ELL STATUS



As noted in the sections above, students who are both of color and have disabilities are at the greatest risk of discipline. Both Black and Latino boys with disabilities are highly likely to be assigned an out-

of-school suspension, followed relatively closely by Black and Latina girls (see Table B, page 16). These intersectional disparities, again, call for deeper examination of schools' attitudes, policies, and procedures.

PART 3 WHERE ARE DISCIPLINE RATES THE HIGHEST?

As discipline rates have declined overall, so too have the number of schools and districts with extraordinarily high rates. In 2012-13, there were 60 schools with overall discipline rates over 25%. By 2016-17, only 17 schools met this criterion. However, clear patterns remain in terms of what schools are likely to have high discipline rates: special education schools, alternative schools, and charter schools are all among the most likely to have discipline rates well over the statewide averages. Discipline rates at traditional districts across the state, including the highest-suspending, have fallen significantly, but not everywhere.

Statistical analyses⁶ predicting school types with higher overall discipline rates produce results

in line with our expectations (see Table C). Schools in larger districts tend to have higher overall discipline rates, though somewhat surprisingly, larger enrollment in an individual school predicts lower discipline rates. Discipline rates rise as students move up through grade levels. Charter schools are strongly associated with higher discipline rates, as are schools with higher percentages of Black student enrollment and schools with higher rates of students with disabilities. This section will explore these groups and places. As noted earlier, Massachusetts' school discipline data is reported by the schools themselves. If this data is reported inaccurately, it lessens our understanding, not only of discipline in that particular school or district, but in all others by comparison.

TABLE C PREDICTORS OF SCHOOL DISCIPLINE RATES

	Coef.	Significance
District Size	1.407	***
School Size	-0.001	***
Grade Level	2.647	***
Charter School	3.402	***
% Black Enrollment	0.084	***
% IDEA Enrollment	0.151	***
year	-0.383	***
_cons	761.699	

TRADITIONAL SCHOOL DISTRICTS

When we released *Not Measuring Up*, we highlighted a group of traditional districts with high discipline rates. After an additional four years of data, six of eight of the highest-disciplining districts we noted are still on the list of highest-disciplining districts (see Table D). While this is concerning, we also note that the rates in these high-suspending districts have fallen significantly, such that, for many of them, the rates that make them among the highest in 2016-17 would not have made the list in the 2012-13 data. This is an encouraging sign that traditional districts, including those struggling most with discipline issues, have taken note of Chapter 222's requirements. (See Part 4 below, noting concerns about unreported suspensions.) As a group, they tend to have higher percentages of discipline due to minor incidents than the state

average, suggesting that there is still room for improvement. One district of concern is Wareham, which was somehow omitted from the original report, but whose discipline rate (11.9%) is now the highest in the state and has not changed much over the five years of data.

In addition, several of the districts on the list of the highest-suspending – namely, Chicopee, Holyoke, Springfield, and Greenfield – are clustered in the Pioneer Valley. While it is beyond the scope of this report to explain why this is, it is worth noting several correlations, particularly between Holyoke and Springfield, the larger of the districts. Apart from Lawrence, Holyoke and Springfield enroll more “high needs” students than any other school districts in Massachusetts.⁷ And apart from Lawrence and Chelsea, they enroll more Latino students than any other districts. Holyoke is under state receivership due to chronic academic underperformance, and, for similar reasons, 11 Springfield schools are now part of an “Empowerment Zone,” a partnership between the district, its teachers union, and DESE to improve educational outcomes. As discipline rates can be both symptom and cause of a problem, these rates must be monitored to ensure that school improvement processes improve learning for all students, and do not result in pushing students out. Moreover, these discipline rates may be another reminder of the need to update Massachusetts’ school funding formula to better support high needs districts.



TABLE D HIGHEST-DISCIPLINING TRADITIONAL SCHOOL DISTRICTS, 2013 & 2017

	2012-13	2013-14	2014-15	2015-16	2016-17	Percent of Discipline due to minor misbehavior, 2016-17
Boston	6.57	5.87	5.19	5.25	4.36	54.7%
Brockton	13.77	13.74	8.03	8.36	9.19	82.0%
Chicopee	13.29	11.84	8.66	8.36	6.35	80.6%
Fall River	16.35	15.11	9.64	8.89	11.27	70.6%
Greenfield	6.36	6.55	6.29	6.14	9.45	64.9%
Holyoke	22.81	20.84	6.96	12.69	11.06	68.3%
Lowell	12.54	12.16	8.96	8.13	8.27	77.7%
Lynn	15.51	14.46	9.73	10.63	7.85	75.2%
North Adams	12.21	5.45	4.69	4.93	9.22	84.0%
Southbridge	13.49	12.73	10.59	10.86	9.84	52.4%
Springfield	14.14	13.05	10.35	10.72	9.36	62.8%
Wareham	11.16	12.41	11.98	11.84	11.92	70.4%
Worcester	10.48	9.65	7.05	8.14	8.39	71.3%

Note: This list comprises high-disciplining districts identified in the 2014 report Not Measuring Up, as well as those with rates over 8% in the 2016-17 school year. Boston is included because it is the largest district in the state, even though it is not one of the highest disciplining districts.

CHARTER SCHOOLS

Since 2013, charter school enrollment has risen across Massachusetts, from about 33,000 students in 2012-13 to 44,000 students in 2016-17. During that time, the average discipline rate across charter schools has fallen from 10.4% to 7.5%, an encouraging sign that charters as a group have tried to adjust their practices to reduce discipline rates. However, the rates at charter schools remain significantly above the statewide average; 32 charter schools had discipline rates more than double the state average (see Table E, page 28). This view is reinforced by the fact that while the 2016-17 state average (by school) for days of instruction missed to discipline at schools statewide was 11.4 days missed per 100 students, for charter school students the rate was 25.1 days missed per 100 students. Students and parents choose charter schools because they believe they

will have access to higher-quality teaching and learning, not in order to have students miss over twice as many days due to discipline.

Encouragingly, the reported incidents of discipline due to “non-violent, non-criminal, non-drug related” behaviors at charter schools has fallen significantly since the 2012-13 school year. In 2012-13, an average of 72% reported incidents at non-charter schools was due to minor infractions, compared to an average of 75% across charter schools. In 2016-17, however, these rates were quite different: about 63% of reported incidents at both charter and non-charter schools were for minor infractions. While charter schools do still appear on the list of schools where 100% of discipline is due to minor incidents, they no longer dominate this category.

One charter school, Roxbury Preparatory Charter School, has been on the highest-disciplining schools list across all five years of available data. Although its discipline rate has fallen from 59.8% to 28.8%, it remains a standout in terms of discipline. Out-of-school suspensions continue to constitute nearly all of the discipline assigned to students, and minor incidents account for over 86% of discipline. Further, it has by far the highest rate of days of instruction missed to discipline among charters, at over 116 per 100 students enrolled.

SPECIAL EDUCATION AND ALTERNATIVE SCHOOLS

Although the number of schools with discipline rates over 20% has fallen dramatically since 2012-13, from 94 to 38, it remains true that the ten highest-disciplining schools across the state are either special education schools (those with enrollment 90% or more IDEA identified), or alternative schools, some of which

focus on students with disciplinary issues.⁸ Of the 38 schools in 2016-17 with discipline rates over 20%, 20 are alternative or special education schools, five are charters, and the remaining thirteen are traditional schools (see Table F, page 29). These schools also have some of the highest rates of days of instruction missed to discipline. Indeed, Chicopee Academy, which has been on the list of highest-disciplining schools across all five years of data, has the highest days of instruction missed to discipline rate – 526 days missed per 100 students enrolled. Lagging behind, but still alarming, is Frederick Douglass Academy in Brockton, with 395 days missed per 100 students. While it is true that alternative schools, in particular, are taking on some of the most challenging students in the state, it is clear that their approach to discipline is not working. In the case of special education schools, too, it is disturbing to find that so many schools whose mission it is to work with students with identified disabilities struggle to keep them in the classroom.

PART 4 NOT THE WHOLE STORY

While the drops in discipline rates and disparities are encouraging, we must note that these data do not offer a complete picture of school discipline in Massachusetts. In this section, we examine several troubling practices that go missing from the data: unreported suspensions, school-based arrests, the “disciplining” of parents, and information-sharing resulting in student deportations.

UNREPORTED SUSPENSIONS

It has been common practice for schools to exclude students without counting the removals as suspensions. This can be motivated by leniency, offering students the chance to “cool down” from an incident without disciplining them in a way that remains on their academic record. The problem, of course, is that there are a lot of ways to allow students to “cool down” in school, and that repeated informal removals deny students both their instructional time and due process rights. Unreported suspension has long been a problem for students with disabilities. As federal law accords students with disabilities greater protections from exclusionary discipline, schools across the country have relied more on informal methods to exclude them. Thanks to Chapter 222, Massachusetts has greater disciplinary due process

protections for all students, and advocates are seeing a rise in unreported suspensions across the Commonwealth. Advocates have compiled a list of the most common forms of unreported suspension – a disciplinary technique designed to avoid detection – for the Massachusetts Department of Elementary and Secondary Education.⁹ They include:

- Early dismissal, which may include a threat to call 911 or the Department of Children and Families if a parent refuses to pick up their child
- Prohibiting a student from attending school during a disciplinary investigation or until after a disciplinary hearing
- Removing the student from their classroom, often to a dean’s or principal’s office, for more than half a day
- Using the nurse’s office to send students home for behavioral issues
- Banning students from school using “No Trespass” notices
- Issuing “End-School-Year Early” letters to students
- Requiring students to meet certain requirements or petition the school for readmission after a suspension
- Making students choose between long-term suspension or withdrawal from school
- Using the criminal justice system in lieu of school discipline (see Police in Schools, below)



POLICE IN SCHOOLS

This report fails to capture any instructional time lost to school-related arrests. This is a troubling omission, as a first-time arrest doubles the odds that a student drops out, and students of color are far more likely than their peers to be arrested in school. Indeed, the best predictor for where school-based police will be placed is the presence of Black schoolchildren.

Massachusetts has been aware of its schools' difficulties with incorporating police into their buildings for some time. A 2012 study of three Massachusetts districts highlighted the overwhelming number of arrests for matters traditionally handled by school administrators. A 2010 survey of Massachusetts school police and school administrators highlighted the lack of effective coordination and communication between them.

Thankfully, a new state law, the Criminal Justice Reform Act, does four key things that can better draw the line between school discipline and school policing. First, the law requires school districts with school-based police to enter into Memoranda of Agreement that better inform school police on youth development and prohibit them from serving as de facto school disciplinarians. Second, the law prohibits police from charging students under 18 with “disturbing school assembly,” a misdemeanor created to counter student protests that has become a catch-all charge for student misbehavior. Third, the law prohibits juveniles under age 12 from being charged. Fourth, the law requires DESE to collect data on school-based arrests and referrals to law enforcement. We will be watching the law’s implementation closely this school year.

DISCIPLINING PARENTS

A parent should always be a child's first advocate, but when discipline is meted out unfairly and a parent protests it, they can find themselves being punished as well. Aisha Hiza is one among many parents of color who have been issued "no trespass" orders by a school after raising concerns about a school's treatment of her child. In Ms. Hiza's case, her "stay away" order came after challenging the Amherst-Pelham's school district's failure to address the racial harassment of her daughter.

The superintendent's order offered no stated grounds for its imposition or process for appeal, denying Ms. Hiza her basic due process rights. And while Ms. Hiza's advocacy resulted in the removal of the order (and, perhaps, in part, the removal of the superintendent), the order broke the trust necessary between families and schools for students to feel a part of a school community and to succeed. As the Commonwealth pays greater attention to the disciplining of students thanks to Chapter 222, it must take a deeper look at schools' disciplining of parents as well.



Aisha Hiza was issued a "stay-away" order after challenging the school district's failure to address the racial harassment of her daughter.



East Boston High School, where an unsuccessful fight led to a student's deportation.

DISCIPLINE TO DEPORTATION

Most “unsuccessful fights” end with a trip to the principal’s office. At East Boston High School, a student was deported after a Boston School Police officer shared the report of an unsuccessful fight with the Boston Regional Intelligence Center, a network of local, state, and federal law enforcement agencies that includes U.S. Immigration and Customs Enforcement (ICE). The report concerned an incident in which “two students attempted to start a fight but were unsuccessful.” The matter was resolved without any physical altercation: “School administrators along with school police spoke with all the students involved and mediated this incident,” it noted.

However, the report, which contained an unsubstantiated gang allegation, concludes with the note, “this report will also be send [sic] to the BRIC.” This report was the

evidence used to deport the student, along with some Facebook photos of the student wearing blue and white (the colors of MS-13, as well as the colors of El Salvador and East Boston High School itself).

We respect the roles that schools and law enforcement can play in countering gang violence. However, we are deeply concerned to see a report of an “unsuccessful fight” – a routine non-event that didn’t take place – transmitted from Boston Public Schools to BRIC. The Lawyers’ Committee has filed a public records lawsuit against Boston Public Schools to understand the scope with which such information is shared with ICE, as well as what practices the district has put in place to limit such sharing.

LACK OF CROSSTABULATION

Much of the way Massachusetts reports its discipline data can and should serve as a model for other states. However, by not enabling the public to look at race and gender (and other categories) at the same time, Massachusetts has limited the utility of its data. Parents should be able to see the discipline rates, not just of “Black students” or “females” or “English language learners,” but also the discipline rates of “Black female English language learners,” for example. The U.S. Department of Education has been collecting and reporting discipline data in this manner since 1974, and it is high time that Massachusetts do the same. Getting a clearer sense of who is being disciplined is key to ensuring that discipline is being meted out fairly and correctly.

CONCLUSION/ RECOMMENDATIONS

Massachusetts should be proud of adopting Chapter 222 and reducing its school discipline rates upon the law's implementation. As progress in reducing suspensions has plateaued, it is hard not to view that initial drop as schools eliminating the most unnecessary suspensions. (It was suspensions for “nonviolent, non-criminal, non-drug-related behavior that saw the biggest drops at the start of Chapter 222's implementation.) It will require more work for schools to implement the practices shown to improve schools' climates while reducing their discipline rates. And more work requires more support, not only from districts and DESE, but from the legislature as well. One can look at discipline rates as both symptom and cause of a problem, and it is telling that the districts with the most high needs students tend to have the highest discipline rates. We stand by all the recommendations we put forward in *Not Measuring Up* but wish to elevate these five here:

- Legislature: Fund training and support for schools to implement best practices in discipline, particularly in ways that involve students, parents, and community in their implementation;
- DESE: Address unreported suspensions by getting clear guidance on discipline into the hands of all school administrators and holding accountable those schools and districts that fail to provide families with Chapter 222's protections.
- DESE: Enable cross-tabulation of school discipline data. Allow the public to understand not just the discipline rates of students of different races or different genders, but, for example, the discipline rate of Black girls or of Latino students with disabilities.
- School districts: Work with your schools to review their discipline rates and disparities, particularly for “nonviolent, non-criminal, non-drug-related behavior.” Identify trends in the data. (Are particular student demographic groups more likely to be disciplined?) Work with these personnel to reduce reliance on exclusionary discipline, and make improving discipline a priority in hiring new school leaders.
- Schools: Embed alternatives to suspension in your school's practices through increased training and continuous monitoring, drawing support from resources like the Center for Restorative Justice at Suffolk University, the Massachusetts Safe and Supportive Schools Initiative, the Massachusetts Tiered System of Supports, and organizations like Engaging Schools.

HIGHEST DISCIPLINING SCHOOLS 2016-2017

TABLE E HIGHEST-DISCIPLINING CHARTER SCHOOLS, 2016-17

School	Discipline Rate	% of disc due to minor behaviors	Days of Missed Instruction per 100
Roxbury Preparatory Charter School	28.8	86.0	116.1
City on a Hill Charter Public School Circuit Street	23.5	53.7	71.7
UP Academy Charter School of Boston	22.2	79.4	81.8
KIPP Academy Lynn Charter School	20.3	88.6	78.1
KIPP Academy Boston Charter School	20.2	54.3	90.5
New Heights Charter School of Brockton	19.4	32.8	68.8
City on a Hill Charter Public School New Bedford	18.5	16.2	48
MATCH Charter Public School	17.3	46.6	67.9
Lowell Middlesex Academy Charter School	16.2	76.2	36.5
Boston Preparatory Charter Public School	15.6	84.8	45.2
UP Academy Charter School of Dorchester	15.6	70.2	48
Hampden Charter School of Science	15.5	81.3	57.8
Excel Academy Charter School	15.3	61.1	44.3
Phoenix Academy Public Charter High School Springfield	15.0	8.1	93.7
Codman Academy Charter Public School	14.8	42.6	43.9
Baystate Academy Charter Public School	13.8	54.4	48.2
Brooke Charter School Roslindale	12.6	82.2	44.9
Berkshire Arts and Technology Charter Public School	12.5	37.8	34
City on a Hill Charter Public School Dudley Square	12.2	62.9	35.2
Neighborhood House Charter School	12.1	63.8	35
Bridge Boston Charter School	11.2	100.0	25
Veritas Preparatory Charter School	11.2	32.4	38.3
Phoenix Charter Academy	10.4	34.6	56.8
Atlantis Charter School	10.2	79.1	41.6
Boston Green Academy Horace Mann Charter School	9.7	36.0	44
Sabis International Charter School	9.4	96.0	31.2
The Sizer School: A North Central Charter Essential School	9.2	31.4	44.7
Helen Y. Davis Leadership Academy Charter Public School	9.2	n/a	29.5
Springfield Preparatory Charter School	9.0	80.0	32.4
Alma del Mar Charter School	8.9	96.6	23.6
Community Charter School of Cambridge	8.8	51.5	41
Holyoke Community Charter School	8.3	85.0	43.2

The average discipline rate in MA was 4% for 2016-17. These charter schools had discipline rates double or more that rate.

TABLE F HIGHEST-DISCIPLINING SCHOOLS, 2016-17

School	District	Type	Overall Discipline (%)	Days of Missed Instruction Per 100 Enrolled
Chicopee Academy	Chicopee	Alternative	73.8	526.4
Leblanc Therapeutic Day School	Lowell	Special Ed	58.7	221.5
Frederick Douglass Academy	Brockton	Alternative	57.6	394.7
Stone Day School	Fall River	Special Ed	56.6	214.8
Resiliency Middle School	Fall River	Alternative	50.8	239.7
Goddard Alternative School	Brockton	Alternative	40.6	239.1
The Career Academy	Lowell	Alternative	39.8	191.1
Curtis-Tufts	Medford	Special Ed	33.3	227.5
Springfield Public Day High School	Springfield	Special Ed	32.3	162.4
Next Wave Junior High	Somerville	Alternative	30.0	100.0
John F Kennedy Middle	Springfield	Traditional	29.5	157.6
Roxbury Preparatory Charter School		Charter	28.8	116.1
William McKinley	Boston	Special Ed	28.0	65.5
M Marcus Kiley Middle	Springfield	Traditional	27.3	101.5
William R Fallon	Lynn	Special Ed	26.6	111.2
Community Academy	Boston	Alternative	26.2	101.9
William R. Peck School	Holyoke	Traditional	25.9	99.2
Springfield High School	Springfield	Alternative	24.4	93.0
Resiliency Preparatory School	Fall River	Alternative	23.8	113.0
City on a Hill Charter Public School Circuit Street		Charter	23.5	71.7
Van Sickle Academy	Springfield	Traditional	23.3	112.1
John J Duggan Middle	Springfield	Traditional	22.9	100.3
Fecteau-Leary Junior/Senior High School	Lynn	Alternative	22.8	76.7
UP Academy Charter School of Boston		Charter	22.2	81.8
Balliet Middle School	Springfield	Alternative	22.2	64.9
School for Exceptional Studies	Lawrence	Special Ed	22.1	51.0
Wareham Senior High	Wareham	Traditional	21.8	102.4
Phoenix Academy Lawrence	Lawrence	Alternative	21.8	107.5
Drury High	North Adams	Traditional	21.6	157.7
Chestnut Accelerated Middle School (South)	Springfield	Traditional	21.5	93.7
Full Circle High School	Somerville	Alternative	21.5	71.2
Matthew J Kuss Middle	Fall River	Traditional	20.7	92.7
Arthur M Longsjo Middle School	Fitchburg	Traditional	20.5	86.3
KIPP Academy Lynn Charter School		Charter	20.3	78.1
KIPP Academy Boston Charter School		Charter	20.2	90.5
Forest Park Middle	Springfield	Traditional	20.2	102.9
James Sullivan Middle School	Lowell	Traditional	20.1	80.9
Southbridge Middle School	Southbridge	Traditional	20.1	73.4

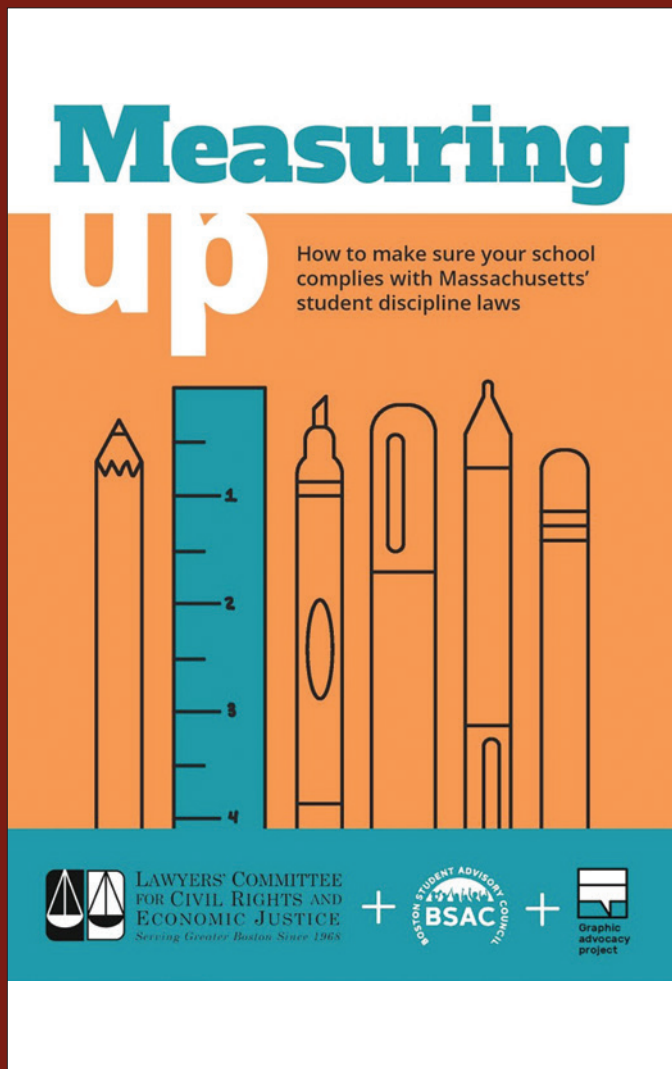
Note: These schools are the highest-disciplining across Massachusetts in 2016-17, with rates of at least 20%. Discipline refers to in-school and out-of-school suspensions, expulsions, and removals.

ENDNOTES

- 1 This report focuses on the largest demographic student groups and does not attempt to analyze every student group in detail. Graph E shows the overall discipline rates each year for all of the racial/ethnic student groups in the state. In general, Asian-Americans are under-represented in disciplinary actions, while multiracial and Native American students are overrepresented. There are not enough Native Hawaiian/Pacific Islander students in the state to draw clear conclusions. If Asian-American students were further disaggregated by national origin, it would be useful to determine whether some groups of Asian-American students would be disciplined at disproportionate rates. Finally, low-income/economically disadvantaged students are over-represented in discipline, but are not included in this analysis as Massachusetts significantly changed the definition for “economically disadvantaged” during the five school years addressed in this report. More discipline data on these demographic student groups is available on DESE’s website at <http://profiles.doe.mass.edu/statereport/ssdr.aspx>.
- 2 It is also important to note that, like all school data, Massachusetts’ discipline data is self-reported by schools and thus may not reflect the whole story on school discipline due to errors, omissions, or under-reporting.
- 3 For the first analysis of this data set, see Daniel J. Losen, *Suspended Education in Massachusetts: Using Days of Lost Instruction Due to Suspension to Evaluate Our Schools* (2017).
- 4 Regression analysis reveals relationships among an outcome variable and one or more predictor variables. This permits examining the relationship between suspension and race after controlling for the impact of other characteristics, such as special education or socioeconomic status, providing a more precise picture of how these characteristics are related. Table A examines individual student incidents and predicts how much more likely a member of a particular group is to incur an out-of-school suspension than the base comparison group. These are presented as odds ratios: a number higher than 1 is more likely, less than 1 is less likely than the base likelihood; all the predictors we measured have high statistical significance.
- 5 In 2012-13, 870 schools statewide had enrollments comprising less than 1% ELLs. By 2016-17, just 650 schools had such enrollment.
- 6 Table C examines school-level data, controlling for school characteristics to estimate their impact on the overall discipline rate at a school; this analysis controls for within-school similarity year over year. The regression analysis here is interpreted slightly differently than Table B, as the outcome

measured is a continuous variable (discipline rate) rather than a yes/no variable (assigned out-of-school suspension). Here, positive coefficients indicate a rise in the rate, negative ones indicate a reduction in the rate; all variables tested were highly significant.

- 7 DESE defines a student as “high needs” as follows: “A student is high needs if he or she is designated as either low income (prior to School Year 2015), economically disadvantaged (starting in School Year 2015), or ELL, or former ELL, or a student with disabilities. A former ELL student is a student not currently an ELL, but had been at some point in the two previous academic years.” Massachusetts Department of Elementary and Secondary Education, Profiles Help – About the Data, available at <http://profiles.doe.mass.edu/help/data.aspx?section=students#selectedpop>
- 8 We include as alternative schools all “alternative education organizations” populated by searching DESE’s Organization Search (<http://profiles.doe.mass.edu/search/search.aspx?leftNavId=11238>), as well as schools thus identified on their websites, their district websites, or commonly in the media.
- 9 Colleen Shea, Matt Cregor, Liza Hirsch, Elizabeth McIntyre, Erin O’Sullivan and Vineesha Sow assembled this list on behalf of the Chapter 222 Coalition, a group coordinated by Massachusetts Advocates for Children.



RESOURCES

This report, *Unfinished Business*, does not review alternatives to suspension or the rights secured by Chapter 222, Massachusetts' recent school discipline law.

Please visit our website for a host of resources that cover these topics, including our 2014 school discipline report, *Not Measuring Up*, and a bilingual, illustrated toolkit on discipline that we created with the Boston Student Advisory Council and the Graphic Advocacy Project:

www.lawyerscom.org/school-discipline

