

# A, B, C, D, STPP:

How School  
Discipline  
Feeds the  
School-to-Prison  
Pipeline



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This report is dedicated to all students and to the educators, parents and advocates who strive to safeguard the right of all students to a quality education.

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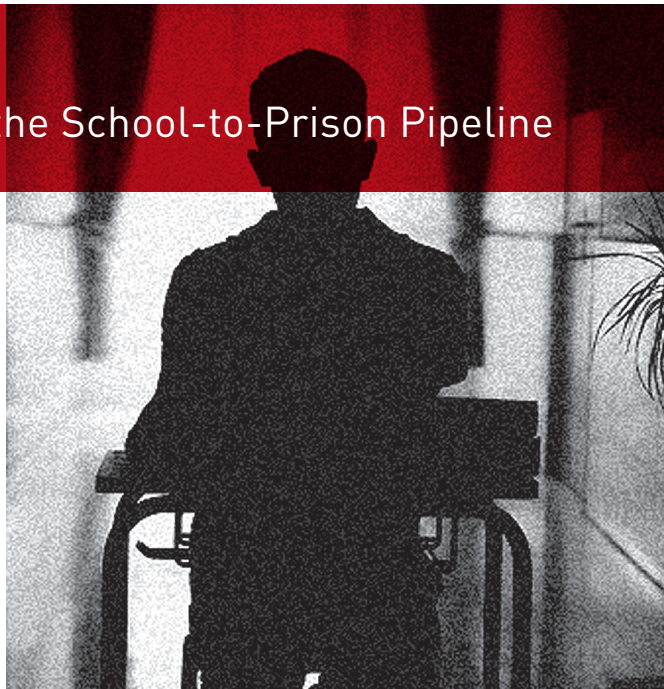


# A, B, C, D, STPP: How School Discipline Feeds the School-to-Prison Pipeline

## EXECUTIVE SUMMARY

Overly punitive school discipline feeds the school-to-prison pipeline and contributes to the failure of New York's public school system to educate the city's most disadvantaged students.

Research consistently demonstrates the importance of keeping students with the greatest academic and economic needs in school.<sup>1</sup> Under Mayor Michael R. Bloomberg, these are the same students who are at greatest risk of being pushed out through suspensions and arrests.<sup>2</sup> Black students, who are disproportionately arrested in school compared with white students,<sup>3</sup> are the least likely to graduate from high school with a Regents Diploma.<sup>4</sup> Black students and students with special needs are disproportionately suspended from city schools.<sup>5</sup> And black students with special needs have the highest suspension rate of any group.<sup>6</sup> Low-income students are also disproportionately suspended.<sup>7</sup> This report reviews the policies and practices that produced these results and provides recommendations to help end the school-to-prison pipeline (STPP) in New York City.



## Suspensions

The total number of annual suspensions has more than doubled during the Bloomberg administration, from less than 29,000 in 2001<sup>8</sup> to nearly 70,000 in 2011.<sup>9</sup> Black students and students with special needs served an outside proportion of these suspensions.

Black students, who represent less than a third of total public school students, served half of all 2010-11 suspensions.<sup>10</sup> White students, who make up 14 percent of total enrollment, served only 7 percent.<sup>11</sup>

School suspension patterns citywide echo NYPD stop-and-frisk patterns: Independent of where they attend school, youth who live in many areas where stop, question and frisk is ubiquitous, such as East New York, Brownsville, Mott Haven, Jamaica and Harlem, experience higher rates of suspensions than youth in other neighborhoods.<sup>12</sup>

The district with the highest proportion of low-income students, District 7 in the Bronx, had the highest suspension rate in the city.

New York City school districts enrolling a higher percentage of low-income children suspend a higher

percentage of students, on average, than schools serving a lower percentage of low-income students. In 15 of the city's 19 school districts where the suspension rate exceeded the city average, the percentage of students eligible for free or reduced-price lunch (FLE) also exceeded the city average.<sup>13</sup> The district with the highest proportion of low-income students, District 7 in the Bronx, had the highest suspension rate in the city (at least 85 percent FLE; 8 percent of students suspended – about twice the city average).<sup>14</sup> The average suspension rate in New York City in the 2010-11 school year was a little more than 4 percent; citywide, 64 percent of students are eligible for free or reduced-price lunch.<sup>15</sup>

Students with special needs are suspended twice as often as general education students.<sup>16</sup> But average suspension rates mask troubling racial disparities: Black students with disabilities serve 14 percent of overall suspensions, yet represent only 6 percent of total enrollment.<sup>17</sup> Black general-education students, without special needs, are suspended far more frequently than special-needs white students.<sup>18</sup>

Students with special needs are suspended twice as often as general education students.

Among all students, boys are suspended almost twice as often as girls.<sup>19</sup> "Altercations and/or physically aggressive behavior" and "insubordination" – offenses that range from talking back in class to a fight – accounted for 40 percent of suspensions in 2011.<sup>20</sup>

## Arrests

Over 60 percent of all school arrests in New York involve black youth. Black and Latino students, who represent roughly 70 percent of total public-school enrollment, were involved in more than 90 percent of school arrests from 2011-13, a rate that is 20 percent higher than the national average.<sup>21</sup> In the first quarter of 2013, more than 60 percent of in-school summonses were issued for "disorderly conduct," considered a subjective, catch-all violation.<sup>22</sup> More summonses in 2011-12 were issued in the Bronx, home to the greatest proportion of students of color, than in any other borough. Citywide, 48 percent of all summonses were issued in the Bronx,<sup>23</sup> which contains only 21 percent of the city's middle and high schools.<sup>24</sup>

Young people of color are far more likely to be stopped by police than are their white peers.<sup>25</sup> Youth who live in areas where stop, question and frisk is pervasive, such as Mott Haven, in the Bronx,<sup>26</sup> experience higher rates of suspension<sup>27</sup> than youth in neighborhoods with low stop-and-frisk rates, like the Upper East Side.<sup>28</sup>

## Recommendations

**1. Close loopholes in the Student Safety Act to improve public disclosure of comprehensive data on school suspensions and law enforcement activity, including every instance a student is handcuffed at school.** Under current law, the NYPD and New York City's Department of Education (DOE) must report relevant demographic information about student suspensions, summonses and arrests.<sup>29</sup> But amendments are needed to plug significant loopholes in the law. For example, the NYPD currently does not report data on handcuffing in schools, arrests and summonses in schools by NYPD officers who are not members of the School Safety Division, data on a school-by-school level, or students' language or Special Education status. The DOE does not report suspension data where the number is between zero and nine occurrences in a category, which results in gaping holes in the publicly available data released, including a complete

lack of information regarding schools that fail to file required reports. Incomplete data does not serve the interests of the children of New York City, the adults who work with them or the city leaders who make decisions about the schools.

**2. Eliminate zero tolerance in the discipline code and in practice.** Zero tolerance has been widely discredited as discriminatory and ineffective.<sup>30</sup> It equates the most serious misbehavior with the most trivial. Eliminating zero tolerance means eliminating mandatory suspension from DOE's discipline code and correcting the culture of zero tolerance that has proliferated under that code. To maintain safe schools, DOE must mandate positive discipline strategies as a first-line response and suspension as a last resort.

School districts across the country, from Los Angeles to Baltimore, are working to end the use of overly harsh school discipline.<sup>31</sup> Most recently, the Los Angeles Unified School District, the nation's second-largest urban school district, voted to abolish the subjective "willful defiance" infraction from its discipline code which accounted for almost half of all L.A. school suspensions in the 2011-12 school year.<sup>32</sup>

The DOE has communicated its faith in positive discipline by piloting programs around the city and including positive-discipline language in the revised discipline code and elsewhere. But without a mandate and meaningful training, the effective use and staying power of these alternatives remains questionable. For many years, the DOE instructed principals to use zero-tolerance discipline for many types of infractions in the discipline code, from bullying to possession of prohibited items. Without that same strong leadership from the DOE to replace zero tolerance with positive alternatives, these changes will not happen in most schools.

The next mayor must re-examine the long list of behaviors treated as serious by the New York City discipline code. For example, Mayor Bloomberg's ban on possession of cell phones: In schools with metal detectors, a student caught with a phone may be treated as though she has smuggled in drugs or a weapon. This overreaction to minor student misbehavior has no positive impact on the school climate and exerts a disproportionate effect on students of color.

As the largest school district in the country, New York City is uniquely poised to serve as a national model for dismantling the STPP.

**3. End the criminalization of school discipline.** This requires overhauling the agreement between the NYPD and DOE to limit the role of school safety officers (SSOs) and ensure that their activities are consistent with sound educational practices. Arresting and handcuffing students in school for minor misbehavior does not make schools or students safer. Flashpoints of confrontation between students and SSOs escalate quickly with the result that the student may be handcuffed, arrested, issued a summons or suspended. These interactions foster a hostile school climate and push out students who need the most support from educators.<sup>33</sup>

In order to return the balance of power in school discipline matters to educators, SSOs must always work in consultation with school officials, and their responsibilities should be limited to confronting serious safety concerns. Educators, not SSOs, should be responsible for enforcing school rules. Other jurisdictions—the states of Connecticut, Texas, and Florida, and districts in California, Georgia, Colorado, Alabama and other states—have begun to more closely restrict police involvement in student misbehavior



because the potential harm to students is so great.

In April 2013, former New York State Chief Judge Judith Kaye's School Justice Partnership Task Force laid important groundwork for a local solution. Comprised of a diverse group of stakeholders, the task force recommends that the DOE and NYPD work together to implement positive discipline strategies and to reduce reliance on suspensions, summonses and arrests.<sup>34</sup> In September 2013, the Student Safety Coalition released "A New Vision for School Safety," which outlines nine guiding principles for creating a safe school environment that is conducive to learning. The Coalition proposals have gained support from many elected officials. In this context, the next mayor has a viable opportunity to restore school discipline to the hands of educators.<sup>35</sup>

**4. Ensure adequate training for SSOs to be supportive members of the school community.** SSOs must be meaningfully trained alongside educators from their assigned schools in topics including child and adolescent development and psychology, cultural competency, de-escalation and conflict resolution, and restorative justice approaches. Recent research clearly demonstrates that schools that provide culturally competent training to members of the school community are able to reduce both overall suspensions and racial disparities.<sup>36</sup>

Students and SSOs in the Bronx, the borough with the highest number of student arrests, have already started to see the preliminary benefits of such a training. Last spring, the Bronx School Justice Working Group coalition and the New Settlement Parent Action Committee, both members of the Dignity in Schools Campaign-New York, hosted trainings with SSOs.<sup>37</sup> It is vital that the next mayor bring this type of training to scale.

**5. Inform parents and students of their rights, and honor due process and special-education protections.** While students are guaranteed protections before their right to an education can be taken away through a suspension, those protections are often ignored or simply not communicated to families in the first place. Fundamental due process rights include the right to written notice within 24 hours of a suspension and the right to receive alternate instruction.<sup>38</sup> They also include the right to a hearing within five days of a superintendent's suspension, appropriate notice of special-education protections<sup>39</sup> and information on how to access surveillance footage that may provide valuable evidence of a student's innocence.<sup>40</sup> These rights should be explained in the discipline code.

The DOE must support schools to meet the needs of students with disabilities and those with behavioral challenges, including due process and procedural rights created by special education laws. The DOE must create a meaningful system for parents to communicate with the DOE about their child's school placement and whether it is appropriate.<sup>41</sup> The DOE must also facilitate the process for students to transfer to other schools if their assigned or zoned school does not offer appropriate services.<sup>42</sup>

**6. Implement positive behavioral supports in all schools, and train all adults in each building.** Studies of other large, urban school districts such as Los Angeles, Baltimore, Buffalo and Denver have documented that these supportive approaches to school discipline—positive behavior interventions, restorative practices, counseling, mentoring and others—help foster a safe learning environment and contribute to higher graduation rates for all students.<sup>43</sup> The next mayor must ensure that positive behavior supports are available in every building, and that all adults in the building are part of making the system work.

The systematic implementation of positive discipline alternatives makes schools safer, calmer and more

effective places for young people to learn. In New York City, schools such as the Urban Academy and Vanguard High School have created a safe and nurturing school climate by implementing alternatives to harsh discipline.<sup>44</sup> But gaps in the management, supervision and training of SSOs mean that officers are not always aware of how their actions affect the success of positive discipline programs.

School staff must also be trained to better identify and refer students with unmet mental health needs to special education and other services.<sup>45</sup> Because students are best served in their home community setting, schools should hire more mental health professionals, instead of making referrals to hospitals via EMS transport.<sup>46</sup> Increasing access to “mobile mental health teams,” psychiatrists and other mental-health professionals who serve a group of schools in a particular community, is a first step towards filling this critical gap in services in city schools.<sup>47</sup>

As the largest school district in the country, New York City is uniquely poised to serve as a national model for dismantling the STPP. The next mayor will have the opportunity to overhaul DOE’s ineffective, disproportionately punitive school discipline system – and implement meaningful reforms that keep our most vulnerable students in school and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.





# I. EMERGENCE OF THE SCHOOL-TO-PRISON PIPELINE

In 1954, the U.S. Supreme Court in *Brown v. Board of Education* held that equal access to public education is essential to the progress of a democratic nation.<sup>48</sup> By law, race could no longer be used to exclude children from school. *Brown's* promise of equal educational opportunity has never been fully realized. It continues to be impeded by school districts across the country that have enacted harsh disciplinary policies that disproportionately exclude black students, Latino students and students with disabilities from classrooms.<sup>49</sup> As a result, these students are denied *Brown's* guarantee of equal access to an education – adding to their greater risk of being pushed through the school-to-prison pipeline (STPP) and into the criminal justice system.<sup>50</sup>

## HOW NEW YORK CITY FEEDS THE STPP

New York City public school students face two different kinds of suspensions:

**Principal's suspension.** Students may be suspended for up to five days at the discretion of their school's principal. There is no limit to the number of principal's suspensions a student may serve, although families and students may appeal the suspension/s, as outlined in Chancellor's Regulation A-443 in the NYC Department of Education discipline code.

**Superintendent's suspension.** Some infractions carry the consequence of a superintendent's suspension, which can be imposed for up to a full academic year, or 180 days of instruction. (The average superintendent's suspension is 23 school days – about a month of instruction.<sup>57</sup>) All students serving superintendent's suspensions are entitled to a hearing, where evidence and witnesses may be presented, as outlined in Chancellor's Regulation A-443.<sup>58</sup> Students with disabilities are entitled to additional protections.<sup>59</sup>

**Expulsion.** DOE permits expulsion only for students without disabilities who turned 17 – the age at which a young person may leave high school – before July 1 of the current academic year. A year-long superintendent's suspension, while not a formal expulsion, keeps younger students out of their assigned schools for a full academic year.<sup>60</sup> Other school districts consider a 10-day suspension an expulsion.<sup>61</sup>

**Arrests and summonses.** Students may be arrested in schools for a wide range of behavior. There were 2,548 arrests and summonses – more than 11 per day – during the 2011-12 school year.<sup>62</sup> While that number declined in the first quarter of 2013,<sup>63</sup> aggressive policing tactics and racial disparities persist.<sup>64</sup>

Studies document that students separated from school are more likely to drop out – and are at greater odds for involvement with the juvenile justice and criminal justice systems.<sup>65</sup>

The school-to-prison pipeline describes the disciplinary and school safety practices that force children out of the classroom and into the criminal justice system.

The STPP describes the disciplinary and school safety practices that force children out of the classroom and into the criminal justice system. Students are pushed into the pipeline indirectly, through suspensions and expulsions, and directly, when police respond to student misbehavior. The correlations between these policies and students' chances at academic success are startling: A longitudinal study

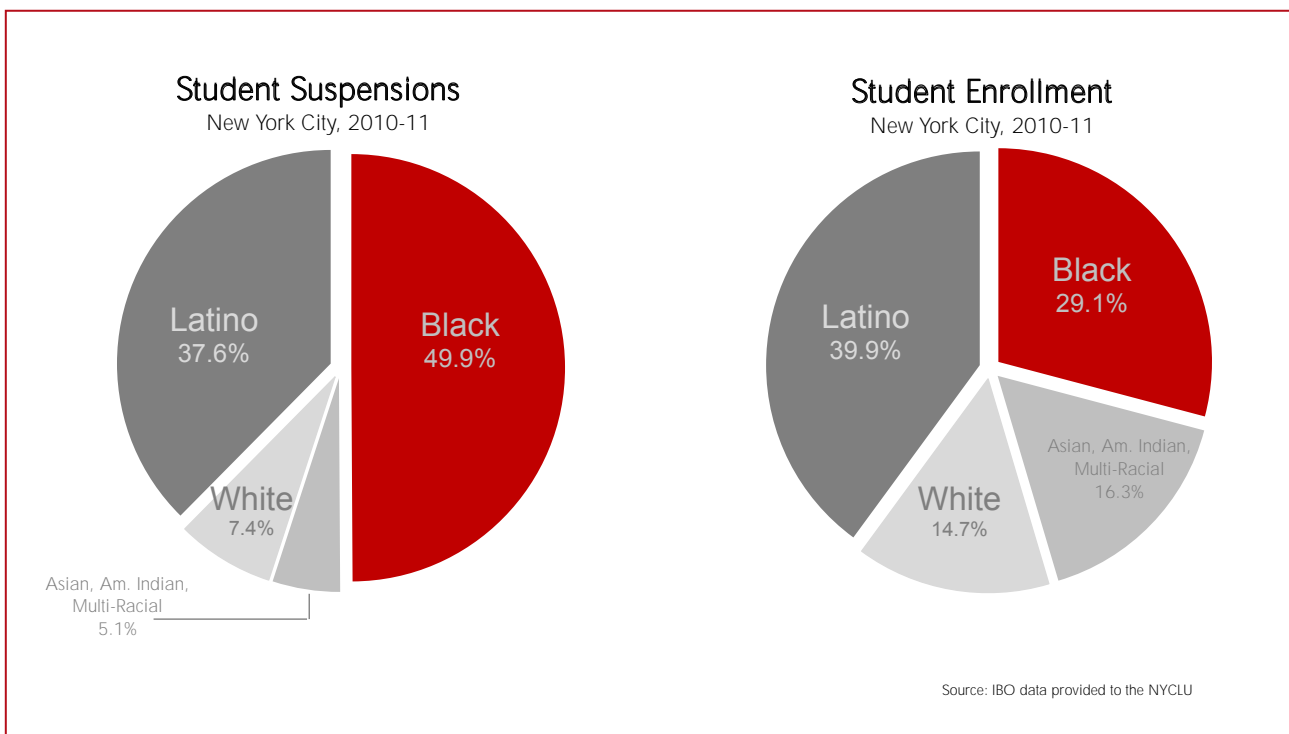
Students who are arrested for the first time are *twice* as likely to drop out of high school.

of 1 million students in Texas found that 23 percent of students who were involved in the school disciplinary system also had contact with the juvenile justice system.<sup>51</sup> Of students who had no involvement in the school disciplinary system, only 2 percent had contact with the juvenile justice system.<sup>52</sup> Other studies suggest students who are arrested for the first time are *twice* as likely to drop out of high school;<sup>53</sup> and a first-time court appearance quadruples those odds.<sup>54</sup> More than two-thirds of state prison inmates are high-school dropouts.<sup>55</sup>

Nationally, more than 3 million children are suspended from school each year on average.<sup>56</sup> This number is alarming in both scale and impact: For many students, suspension is the entry point into the STPP.

Suspensions of non-white students have increased by more than 100 percent since 1970.

But not all students share the same risk of being suspended. Suspensions of non-white students have increased by more than 100 percent since 1970.<sup>66</sup> Black students are suspended more



often for behaviors that involve subjective or discretionary judgments by school authority figures, such as disrespect, excessive noise and threatening behavior.<sup>67</sup> White students more often face consequences for objective offenses that don't require individual judgment or opinion, such as bringing a weapon into school.<sup>68</sup> This different treatment results not from differences in students' behavior but from how school personnel perceive their students.<sup>69</sup>

The city's Department of Education failed to accurately report school discipline incidents to the U.S. DOE.

Federal data shows that children with disabilities are suspended about twice as often as their non-disabled

Under zero tolerance, a student who talks back to a teacher may receive the same swift punishment as a student who brings drugs or a weapon to school.

peers. This translates to the suspensions of one in every four black students with a disability every year.<sup>70</sup>

School districts that use suspensions and school police officers to enforce discipline often rely on a theory of "zero tolerance," which requires that certain behaviors are immediately punished, without considering the circumstances or seeking the student's perspective. Under zero tolerance, a student who talks back to a teacher may receive the same swift punishment as a student who brings drugs or a weapon to school.<sup>74</sup> If a school safety officer (SSO) is involved—even in minor incidents—the likelihood that the student will be arrested or issued a ticket increases significantly.<sup>75</sup> The majority of school districts nationwide operate with zero-tolerance discipline policies.<sup>76</sup>

## THE SUPPORTIVE SCHOOL DISCIPLINE INITIATIVE

In 2011, the U.S. Department of Education and the U.S. Department of Justice (U.S. DOE and DOJ) created the Supportive School Discipline Initiative (SSDI) to help end the school-to-prison pipeline in the United States.<sup>71</sup> This marks the first time that the federal government has taken a position on the STPP. One important component of the SSDI is to "increase and enhance the school discipline data available through the U.S. DOE" to ensure that disciplinary policies "support students and are administered in a non-discriminatory manner."<sup>72</sup> This is particularly significant for large urban districts like New York City, which submitted "seriously flawed" data to the U.S. DOE.<sup>73</sup>

Even though New York City, bound by the Student Safety Act, tracks and reports suspension and arrest data to the City Council, the city's Department of Education failed to accurately report school discipline incidents to the U.S. DOE. Startlingly, the city's DOE reported to the U.S. DOE that there were zero arrests in schools in 2010, despite the fact that hundreds of student arrests were reported under local law that same year. Faulty reporting means that New York City's students, who form the largest school district in the nation, lose the benefits of federal oversight, and that the NYC DOE effectively escapes official notice.



## SANDY HOOK

In December 2012, Adam Lanza shot and killed 20 first-graders and six adult staff members at Sandy Hook Elementary School in Newtown, Connecticut. This tragedy sparked much debate about how best to prevent gun violence in schools. In response to calls for arming educators or placing more armed guards in schools, the American Federation of Teachers (AFT) stated that public schools “should not be armed fortresses” and the presence of armed guards would “undermine our ability to provide a safe and nurturing learning environment for students.”<sup>79</sup> The AFT recommends instead that schools ensure students have proper access to counselors, psychologists and social workers.<sup>80</sup> Even Mayor Bloomberg said that armed guards would risk turning schools into prisons<sup>81</sup> — a comparison many students in New York City suggest describes the everyday presence of SSOs.

An open letter from the Interdisciplinary Group on Preventing School and Community Violence<sup>82</sup> attempted to refocus the issue on the motivation behind the shooting, rather than its location, stating:

The Connecticut tragedy is referred to as a school shooting, but it is better described as a shooting that took place in a school. It is also relevant to consider the hundreds of multiple casualty shootings that occur in communities throughout the United States every year. Few of them occur in schools, but of course are especially tragic when they occur. Yet children are safer in schools than in almost any other place, including for some, their own homes.<sup>83</sup>

Gun control is not the focus of this report. But the proposals concerning school safety in the wake of the Sandy Hook shooting have the potential to seriously impact school climate and students’ ability to learn in school. There is no doubt that school districts will do everything they can to protect children from harm. Such efforts must embrace a recognition of the importance of school climate to students’ well-being and success.

Even as fewer New York City youth are suspended each year, racial and ability disparities persist.

National data indicate that school violence was steadily and significantly declining even before zero-tolerance discipline swept the country: Violent crimes at school dropped by 30 percent from 1992 to 1999, according to the U.S. DOE.<sup>77</sup> Experts point to the 1999 Columbine High School shootings as the start of the zero-tolerance wave.<sup>78</sup> The mounting proof of harms associated with zero-tolerance discipline, coupled with a lack of evidence that it actually makes students safer, has since caused schools and districts to abandon the policy. Recently, New York City shortened the list of behavior infractions in its discipline code that require an automatic suspension. But there is a long road ahead, starting with changing the culture of zero tolerance that remains in place, despite the welcome alterations to the discipline code. Even as fewer New York City youth have been suspended in the last two reporting periods, racial and ability disparities persist.

## II. NEW YORK CITY'S SCHOOL-TO-PRISON PIPELINE

### Suspensions: Temporary Disruptions, Lasting Effects

#### *Zero Tolerance in New York State*

New York state law, dating from 2000, requires school districts to establish minimum suspension terms for pupils deemed “substantially disruptive” or “violent.”<sup>84</sup> Under this law, a student may be immediately suspended for possessing “*what appears to be a knife, gun or other dangerous instrument,*” or “*knowingly and intentionally damaging school property.*”<sup>85</sup> Thus a student who brings a water gun to school or who doodles on her desk may be suspended from school just as readily as one who brings a real gun, or causes serious damage to school property.

#### *Zero Tolerance in New York City*

Mayor Bloomberg brought a harsh brand of zero tolerance to New York City in 2003, when he announced a new disciplinary plan calling for “an immediate, consistent minimum response

Mayor Bloomberg announced a new disciplinary plan calling for “an immediate, consistent minimum response to even the most minor violation of a school’s disciplinary policy,” including a “three-strikes-and-you’re-out policy.”

to even the most minor violation of a school’s disciplinary policy,” including a “three-strikes-and-you’re-out policy” for students who are in trouble repeatedly.<sup>86</sup>

**JOSIAH KENNEDY** started seventh grade at IS 204 in Queens in September, 2011.

*An honor-roll student in grade school, Josiah’s transition to middle school was hard.*

*“Everybody used to find a flaw in me and make fun of it,” Josiah said.*

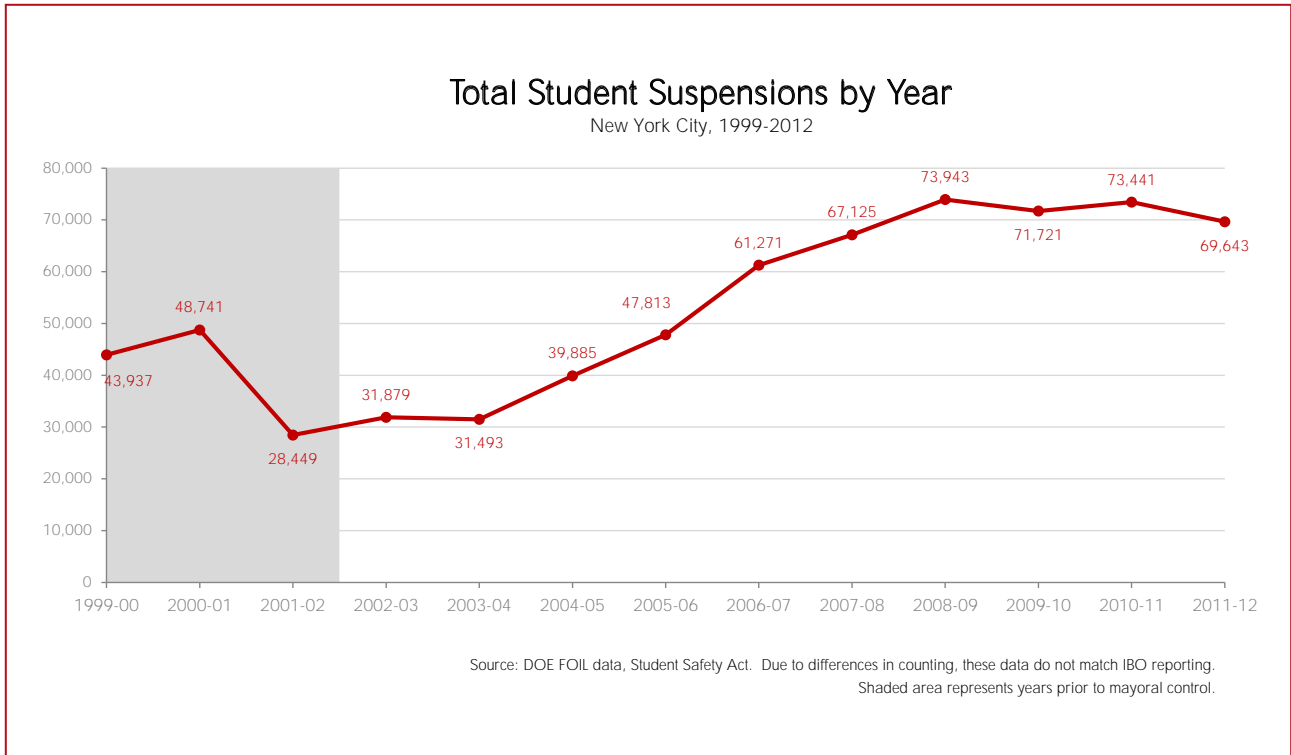
*In the first week of school, he was jumped by a group of students, suffering cuts and bruises to his face. The next day, his mother, Melida Kennedy, called the school; no one responded to her phone call or to notes she sent to the school’s disciplinary dean.*

*Josiah continued to endure beatings and bullying. The dean’s secretary’s phone notes say that “some eighth graders are hitting Josiah every day.”*

*Ms. Kennedy, who immigrated to the U.S. from Panama, visited Josiah’s school every Wednesday afternoon for two months, seeking a meeting with the dean or the school principal. Neither official responded to Ms. Kennedy’s requests; the dean spoke with her, briefly, when she stopped him in the school office’s lobby.*

*Classmates continued to bully Josiah. His teachers did not report or remark on the bullying, nor did they look to Josiah’s increasingly angry outbursts as expressions of an underlying difficulty.*

*On October 21, an assistant principal reported that a group of boys beat up Josiah while traveling to school on the school bus. Josiah received no intervention, mediation or support. On October 26, Ms. Kennedy again visited her son’s school, waited in the lobby and asked the dean for help. . . .*



The number of infractions in the New York City school discipline code that result in an immediate suspension from school has more than doubled since 2001.<sup>87</sup> Correspondingly, the number of suspensions has more than doubled during the Bloomberg administration, from under 29,000 in 2001<sup>88</sup> to nearly 70,000 in 2012.<sup>89</sup> (More than 73,000 suspensions were imposed in 2008 and 2010, representing more than a 100 percent increase since Mayor Bloomberg took office.<sup>90</sup>)

Suspensions have more than doubled during the Bloomberg administration.

The current discipline code lists 62 infractions<sup>91</sup> for which a student may be punished. These infractions, ranked in increasing severity from level one to level five, include disciplinary responses that range from “admonishment by staff” to suspension for a full academic year or expulsion from school. Of the 62 infractions, 42 could lead to a suspension from school;<sup>92</sup> 27 can result in a yearlong suspension and 16 *require* mandatory suspension.<sup>93</sup>

Nearly half of all suspensions in 2010, more than 32,000, were for non-violent infractions.<sup>94</sup> Five of the top ten infractions with the most suspensions, such as “insubordination” and “profane language,” are by definition non-violent. However, many infractions which may capture violent behavior may also be used to suspend students for non-violent behavior. For example, the most frequently-cited reason for a suspension, “altercation and/or physically aggressive behavior,” may describe a fight – or a playful shove between friends.

Attorneys who represent students in suspension proceedings report that they have seen an increase in the number of students suspended for mid-level infractions in 2012-13,<sup>95</sup> the same year suspensions were eliminated as a disciplinary option for most low-level misbehavior.<sup>96</sup> In other words, both anecdotal



evidence and academic research show that some administrators will find an infraction to suit the situation when they want to suspend a student. As a result of the culture of zero tolerance that the DOE has built over the last decade, even major revisions to the discipline code have limited effect on the heavy reliance on suspensions.

### *Disproportionate Suspension Rates*

As on the national level, black students in New York City’s public schools are suspended significantly more often than their white and Asian peers.<sup>97</sup> At least some of the discrepancy is attributable to how “offenses” are perceived. While some misbehavior is clear by any objective standard – smoking at school, for example – other behaviors are more subjectively assessed. Studies repeatedly confirm that subjective infractions, like talking back or disrespect for authority, may be interpreted differently depending on the teacher’s and student’s race.<sup>98</sup> This sheds some light on why New York City’s suspension rates are disproportionate among certain groups.<sup>99</sup>

Subjective infractions, like talking back or disrespect for authority, may be interpreted differently depending on the teacher’s and student’s race.

The disproportionality in school discipline reinforces the challenges faced by many students who, at the statistical level, are already less likely to graduate. Less than one in three students with diagnosed special-education needs graduates with a Regents diploma in four years.<sup>100</sup> And black students consistently lag behind their white and Asian peers in achievement and graduation.<sup>101</sup> The New York City discipline system creates additional hurdles for these children. For example, in the 2010-11 academic year:

- Students eligible for free and reduced-price lunch (FLE) constituted two-thirds of the New York City student population but three-fourths of total suspensions.<sup>102</sup>
- Students with special needs accounted for 17 percent of the student population, but 29 percent of suspensions.<sup>103</sup>
- Black students comprised less than a third of students overall, but served half of all school suspensions.<sup>104</sup>
- Black students with special needs, who represent 6 percent of all students citywide, represented 14 percent of the total number of students suspended.<sup>105</sup>

These suspensions are the first “push” into the school-to-prison pipeline. When students with the greatest academic and economic needs are removed and thus excluded from school, they are much more likely to fall behind, spend time on the street and become involved with the criminal justice system.<sup>106</sup>

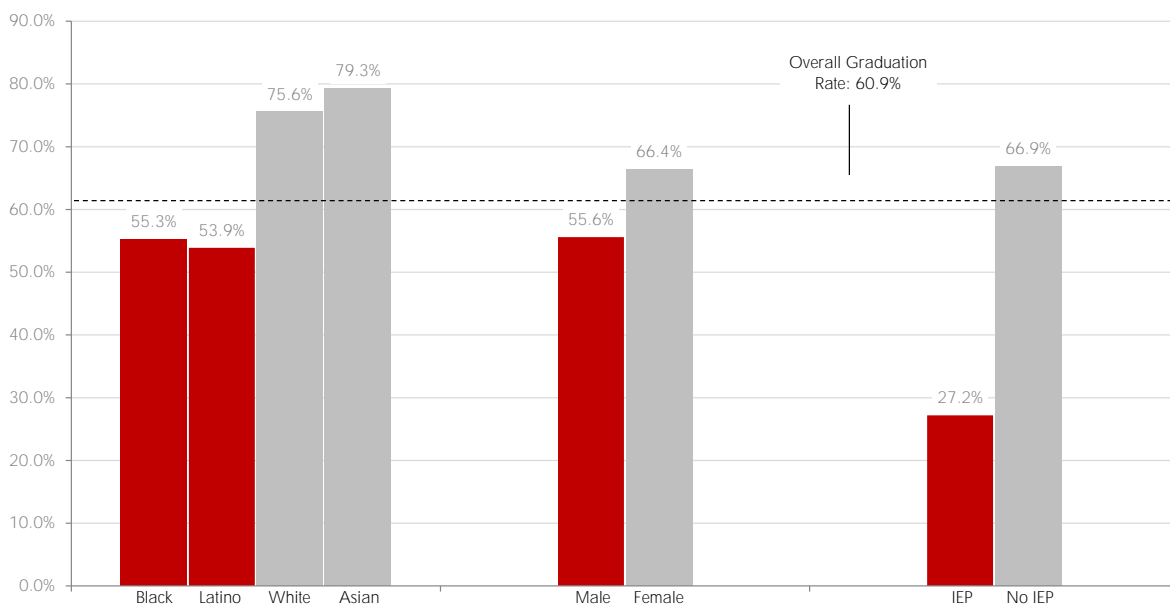
### School Police, Street Police

The STPP extends from school to the streets, making it more difficult for children of color to succeed.

Zero tolerance also manifests in the DOE’s reliance on SSOs who patrol New York City schools and whose actions directly push students into the school-to-prison pipeline. Currently, there are at least 5,000 unarmed NYPD personnel serving as SSOs and 192 armed police officers patrolling the city’s schools.<sup>107</sup> Their mandate is broad and abstract: enforce the penal law in schools. As a result, student misbehavior can also be interpreted as a violation of criminal law.

## Student Graduation Rates

New York City, 2010-11



Source: DOE's Citywide Graduation Outcomes. Rates represent on-time high school graduations (four-year, June).

Mayor Bloomberg's persistent focus on raising the high-school graduation rate has yielded progress: Now, more than 60 percent of public-school students graduate from high school on time<sup>119</sup> – far more than at the start of the mayor's first term. This is still well below the state's graduation rate of 85 percent. But the gains are not equal across the City's diverse student population.

As a result, children of all ages, from kindergarteners who throw tantrums to high school seniors who skip class, are potentially subject to handcuffs, criminal court summonses and possible arrest.

The 2010-11 school year was the first time detailed school-arrest data was reported to the New York City Council, even though the police presence in the schools dates to 1998.<sup>108</sup> The data show that police arrested or ticketed more than 11 students per day at school.<sup>109</sup> Of the 882 school-based arrests, 63 percent involved black students, who constitute less than a third of students citywide.<sup>110</sup>

The law-enforcement tactics that criminalize black students don't stop at the schoolhouse door. In 2011, young black and Latino men accounted for 4.7 percent of the city's population but accounted for 42 percent of all people stopped and frisked by the NYPD.<sup>111</sup> That same year, 21 percent of all NYPD street stops were of children and youth aged 8 to 18 years old. Black and Latino youth constituted 89 percent of these stops; white youth comprised only 7 percent.<sup>112</sup> Almost two-thirds of police stops of young people resulted in a frisk, lawful only if the officer has reasonable suspicion that the person is carrying a weapon.<sup>113</sup>

As with suspensions and arrests, physical force during a street-stop is disproportionately used against black

In 2011, 21 percent of all NYPD street stops were of children and youth 8 to 18 years old.

or Latino youth compared to their white peers (23 percent of stops, compared with 15 percent).<sup>114</sup> Strikingly, 90 percent of all youth stops resulted in no further action by the police – neither an arrest nor a summons.<sup>115</sup> In other words, the officer’s suspicion turned out to be wrong in the vast majority of cases. More than 130,000 times last year, a young person who was stopped was not charged with any behavior that could constitute a crime or even a non-criminal violation of the law.<sup>115</sup> In addition to fostering distrust, the excessive use of stop-and-frisk exposes youth to aggressive law-enforcement tactics even when they have done nothing wrong.

Students who live in many neighborhoods with high stop-and-frisk rates, such as East New York, Brownsville, Mott Haven, Jamaica and Harlem,<sup>116</sup> experience higher rates of suspensions than youth in neighborhoods with low stop-and-frisk rates, like the Upper East Side.<sup>117</sup> In this way, the STPP and street policing policies work together to expose young people to excessive police contact, limiting their ability to succeed.

Students who live in neighborhoods with high stop-and-frisk rates experience higher rates of suspension.

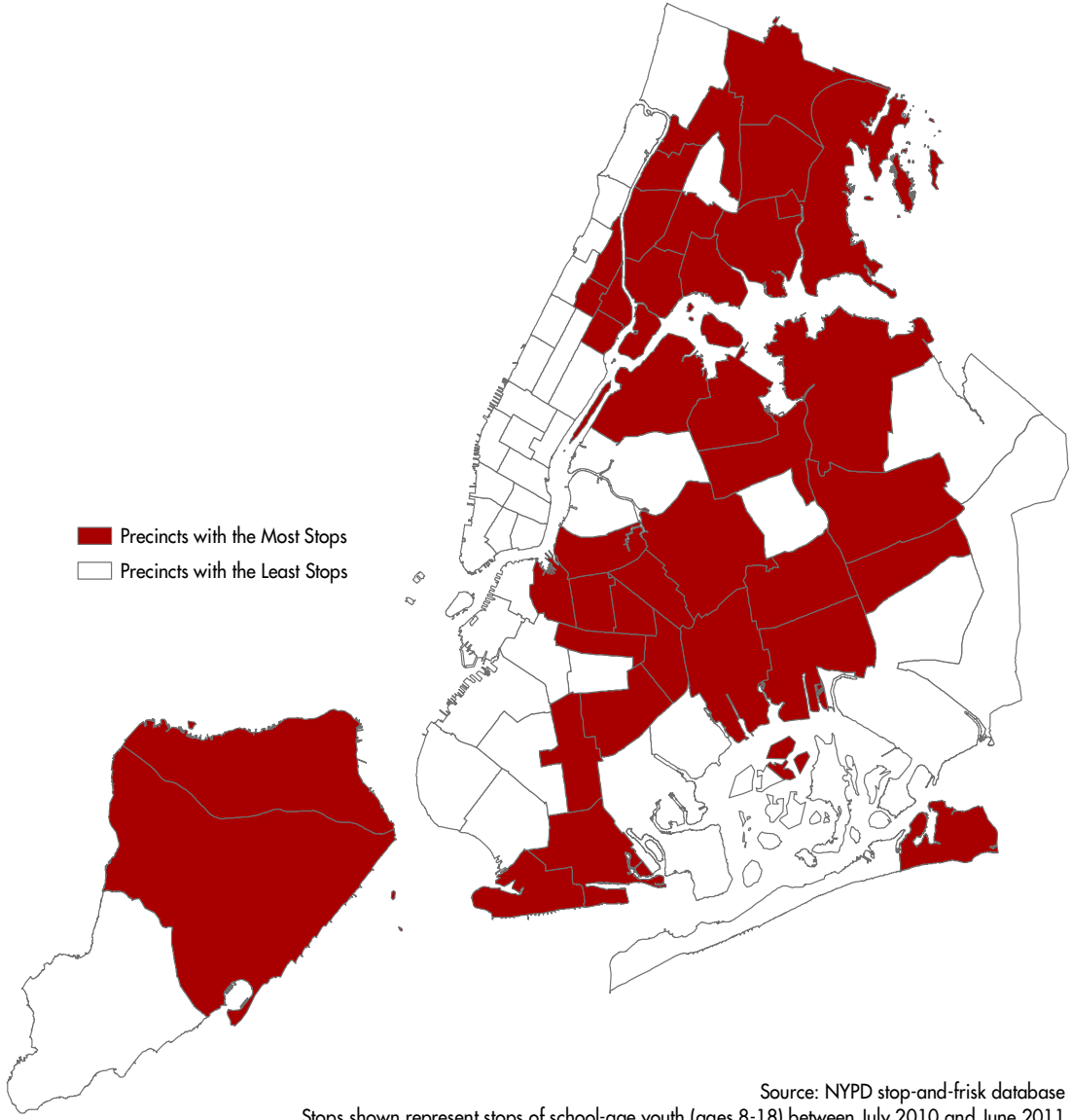
In explicit acknowledgement of the profound need faced by a generation of city youth – and the anticipated burden that thousands of high school dropouts will place on the city and state economy – Mayor Bloomberg created The Young

The Young Men’s Initiative’s existence is evidence that the city’s schools under Mayor Bloomberg have failed young men of color.

Men’s Initiative in 2011. The YMI, a \$43 million effort to “tackle the crisis facing young black and Latino men in New York City,” aims to address low graduation rates, high unemployment and disproportionate involvement in the criminal justice system of black and Latino young men. In fact, this is the same crisis exacerbated by Mayor Bloomberg’s zero-tolerance policies in schools.<sup>118</sup> The YMI is at best a Band-Aid so long as zero-tolerance arrests and suspensions remain a way of life in many schools. The Young Men’s Initiative’s existence is evidence that the city’s schools under Mayor Bloomberg have failed young men of color.

# Stops of School-Age Youth by Police Precinct

New York City, July 2010-June 2011

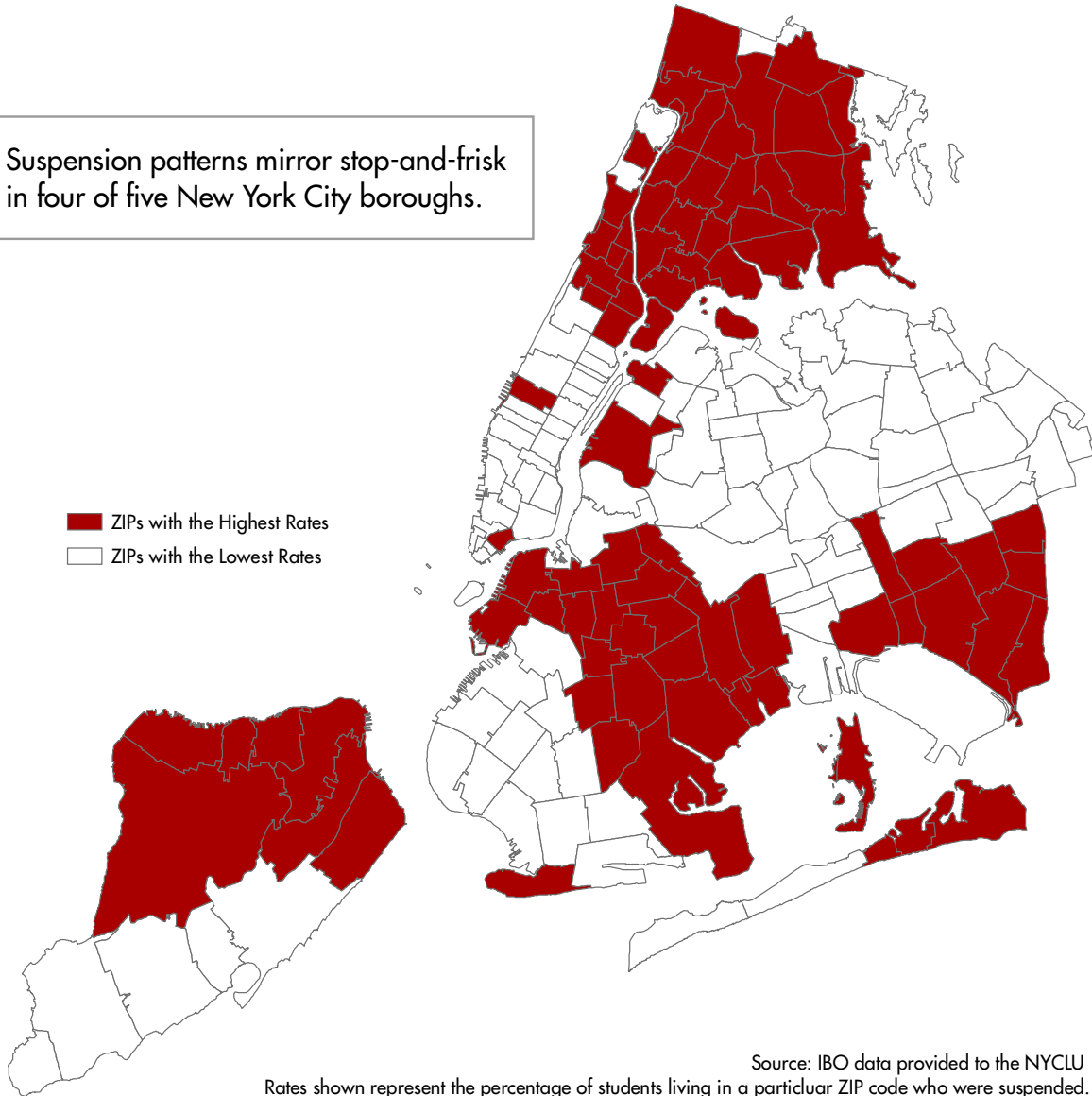


Source: NYPD stop-and-frisk database  
Stops shown represent stops of school-age youth (ages 8-18) between July 2010 and June 2011.

# Student Suspension Rates by ZIP Code

New York City, July 2010-June 2011

Suspension patterns mirror stop-and-frisk in four of five New York City boroughs.





### III. SUSPENSIONS UNDERMINE STUDENTS' RIGHTS TO EDUCATION

**JOSIAH'S** angry outbursts got him sent to the dean's office almost every week.

He began to show outward signs of distress: writing on his clothing and on his body, tracing letters with ink or the sharp end of a bobby pin: "God, love me," "Jesus, help me." He thought his messages would protect him.

"I'd get a bobby pin and not cut but scratch," he said. "My skin would turn red. It didn't bleed."

At home, Josiah tried to wash off the scratch-marks in the shower.

"I was being bullied for a long time, so I told my ma, and my ma told the dean, and the dean said he was gonna do something, but he never did," Josiah said.

On November 9, in art class, a girl named Rosa teased Josiah, as she and others had done since the first week of school. The taunting escalated. Josiah and Rosa traded insults and threats, until Josiah asked his art teacher for a pair of scissors, which she gave him.

Josiah stepped behind Rosa and held the opened scissor to her neck.

"I didn't want to hurt her. I got full up with anger and I lost control of myself."

Josiah began to cry. His teacher took the scissors away, and Josiah buried his face in her arms, sobbing and shaking until the dean sent him to the main office lobby to wait for his mother.

The school dean insisted that Josiah immediately be admitted to a psychiatric day-treatment program at Elmhurst Hospital. Ms. Kennedy missed three days of work to get Josiah enrolled into the Elmhurst program.

A day after Josiah's breakdown, the dean told Ms. Kennedy that Josiah was suspended for 90 days, and that a hearing was scheduled for the next day, November 11. . .

#### *An Uneven Playing Field*

In 2011, students in New York City served 69,591 suspensions.<sup>120</sup> But that number, and its recent downward trend, actually clouds the effects of suspensions on students' access to education. A closer look at the data demonstrates the vast challenges certain students must overcome to succeed in schools. Black students, students with disabilities, students from poor households and students from neighborhoods where stop, question and frisk policing is ubiquitous are all more likely to be excluded from

District 7 in the South Bronx has both the highest suspension rate in the city and the largest proportion of low-income students.

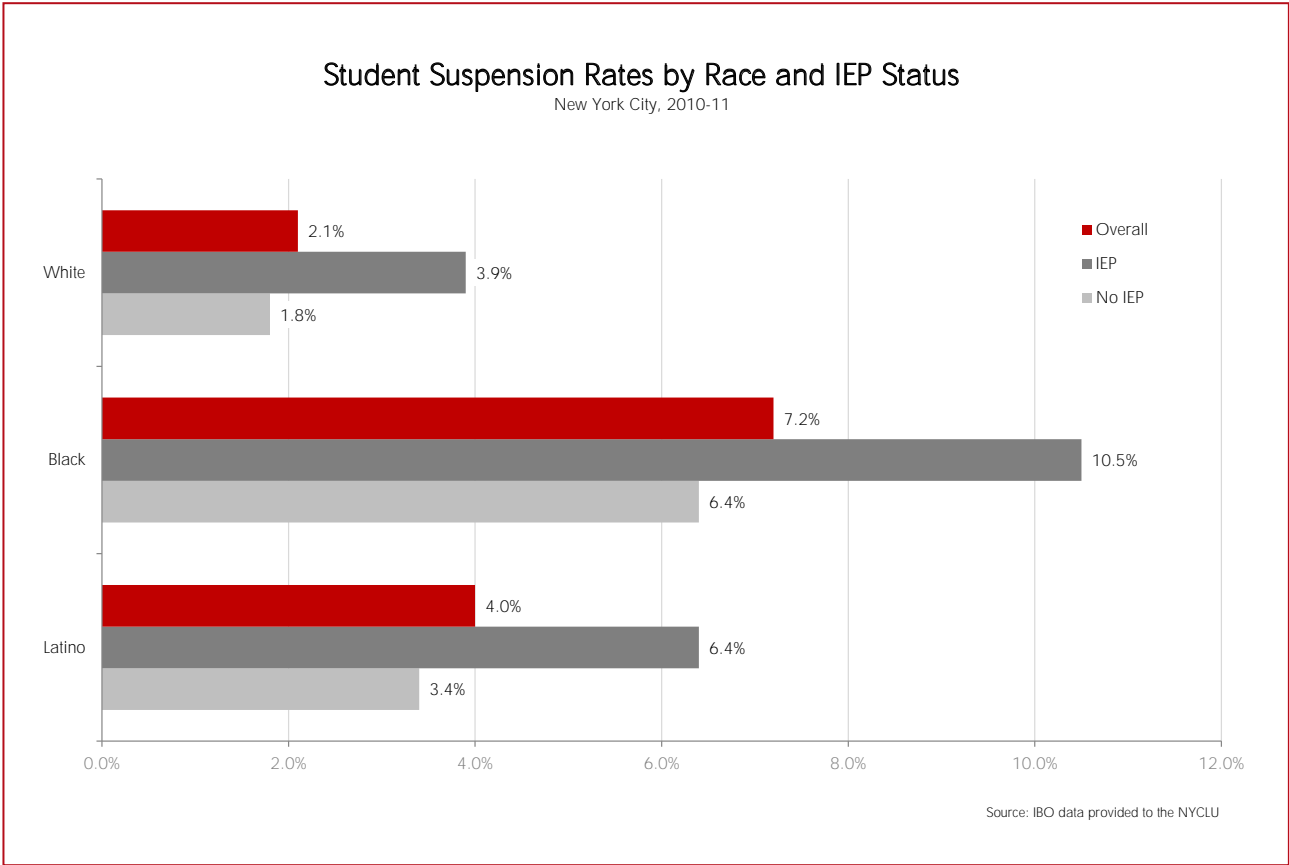
school through suspension.

In 2010, black students, who represent fewer than 1 in 3 students citywide, served half of all suspensions; white students, who make up 14 percent of total students, served about 7 percent. Among general-education students, the differences are equally stark: 6 percent of black general-education (non-disabled) students were suspended, compared with less than 2 percent of white general-education students.<sup>121</sup> Black special-needs students with individualized education programs (IEPs) are suspended the most frequently, at an annual rate approaching 11 percent – nearly three times the rate for white students with IEPs (4 percent). Boys account for two-thirds of all suspensions and nearly three-quarters of school-based arrests.<sup>122</sup>

Low-income children are suspended more often than students from middle- or upper-income households. Most of the districts where suspensions exceed the citywide average enroll a higher proportion of low-income (FLE) students. Four of the five districts with the lowest suspension rates have lower-than-average FLE enrollments.<sup>123</sup> District 7 in the South Bronx has both the highest suspension rate in the city and the largest proportion of low-income students (over 85 percent).<sup>124</sup>

Children in grades 7 through 10 served 63 percent of school suspensions citywide.

The same New York City neighborhoods that experience the highest stop, question and frisk rates citywide are home to students who are most often suspended from school.



## ATTENDANCE AT ALCs

Attendance at long-term suspension sites, called alternate learning centers (ALCs), where suspended students are meant to receive instruction, hovers around 50 percent.<sup>132</sup> Citywide average school attendance routinely tops 90 percent.<sup>133</sup> The net result is that more students are serving suspensions than a decade ago – but only about half receive instruction while they are suspended. Moreover, even the students who attend the ALCs do not receive a full day’s instruction at these facilities. Students under 16 years old receive only five hours per day and older students receive only two hours.<sup>134</sup> As a result, these students are more likely to become disengaged from school and drop out. Studies show that students who drop out of school are eight times more likely to be incarcerated than those who graduate.<sup>135</sup> In one state, 80 percent of inmates in one prison had been suspended from school.<sup>136</sup>

**RUBEN CLAUDIO**, a student at Port Richmond High School in Staten Island, was suspended for a full academic year after a confrontation with an SSO. His suspension was later reduced to 72 days (nearly half a year of instruction).

At the time of Ruben’s suspension, there was no ALC high school site on Staten Island. He was assigned to the alternate learning center at William E. Grady High School in Coney Island, Brooklyn, a two-hour, three-bus commute that includes 76 route stops. (DOE routinely grants transfers to students whose one-way commutes exceed 90 minutes– but Ruben was assigned to an ALC two hours away from his original school.)

Ruben did not attend school at the Brooklyn ALC; he did not graduate from high school on time.

More than half of school suspensions in the 2010-11 academic year were served by children at critical academic junctures. Children in grades 7 through 10 served 63 percent of school suspensions citywide.<sup>125</sup> The early teen years are particularly pivotal for academic growth and achievement. At 12 and 13 years old, seventh-graders sit for statewide standardized tests that will determine their high-school placement; eighth-graders are preparing for entrance exams, interviews and auditions for the city’s specialized and competitive-admission high schools, where students are disproportionately white and Asian.<sup>126</sup> At 14 and 15, ages with the highest number of suspensions<sup>127</sup> – more than 13,200 in the 2010-11 academic year<sup>128</sup> – students take Regents examinations, which determine who will graduate from high school and who will drop out or be left behind.

Younger students can be suspended at times when they need to build trust, stability and connections to school. For example, 93 4-year-olds were suspended in the 2010-11 school year, of whom a third had an IEP.<sup>129</sup> Very young students are much less likely to understand the connection between the suspension and the behavior.<sup>130</sup> As the city’s youngest and most vulnerable

charges, young children must be connected to, not separated from, school supports.

Suspensions at these crucial moments are immediately disruptive. Josiah, removed from school, was not able to prepare with his classmates for the state standardized tests in English and math, which are used to determine high school admission. Like all

93 4-year-olds were suspended in the 2010-11 school year, of whom a third had an IEP.

**CHANCELLOR'S Regulations** require that the school provide formal notice by mail to a suspended student's family. Josiah's mother did not receive any written communication about her son's suspension.

Chancellor's Regulations also require teachers and school staff who suspect a student who may have special needs, as demonstrated by classroom behavior or academic performance, to report their concerns and observations to school administrations.

Additionally, regulations require that school administrators seek prompt evaluations for such students. These steps were never taken in Josiah's case, even though he endured weeks of difficulty, anger and conflict during the school day – and despite the fact that his teachers routinely sent him out of the classroom when he became overwrought.

*"It's not like I didn't seek for help," Ms. Kennedy said. "I went and I seek for help," every Wednesday, when she visited school – until the week that Josiah held the scissor to Rosa's skin. Nobody helped her.*

*Josiah attended the day program at Elmhurst Hospital until early December. Upon his release, the psychiatrist wrote of Josiah's "history of trauma, depression and disruptiveness." He also wrote: "Josiah has no history of violence towards others and if ever there was aggression towards others, it was in response to provocation by his peers, who bully him."*

*Shortly after his release, Josiah began to serve his suspension at I.S. 126's alternative learning center . . .*

suspended students, Josiah missed vital instructional time, undermining his access to a quality education.<sup>131</sup>

### *Uneven Odds*

Suspensions temporarily deprive students of their constitutionally guaranteed right to an education.<sup>137</sup>

And because suspensions can last up to a year, "temporary" deprivations can be deeply injurious.

The average length of a superintendent's suspension is 23 school days,<sup>138</sup>

or almost 5 weeks of instruction—two and a half times longer than the maximum suspension in many other jurisdictions.<sup>139</sup>

Moreover, the average suspension length has not decreased significantly over the last 5 years; in

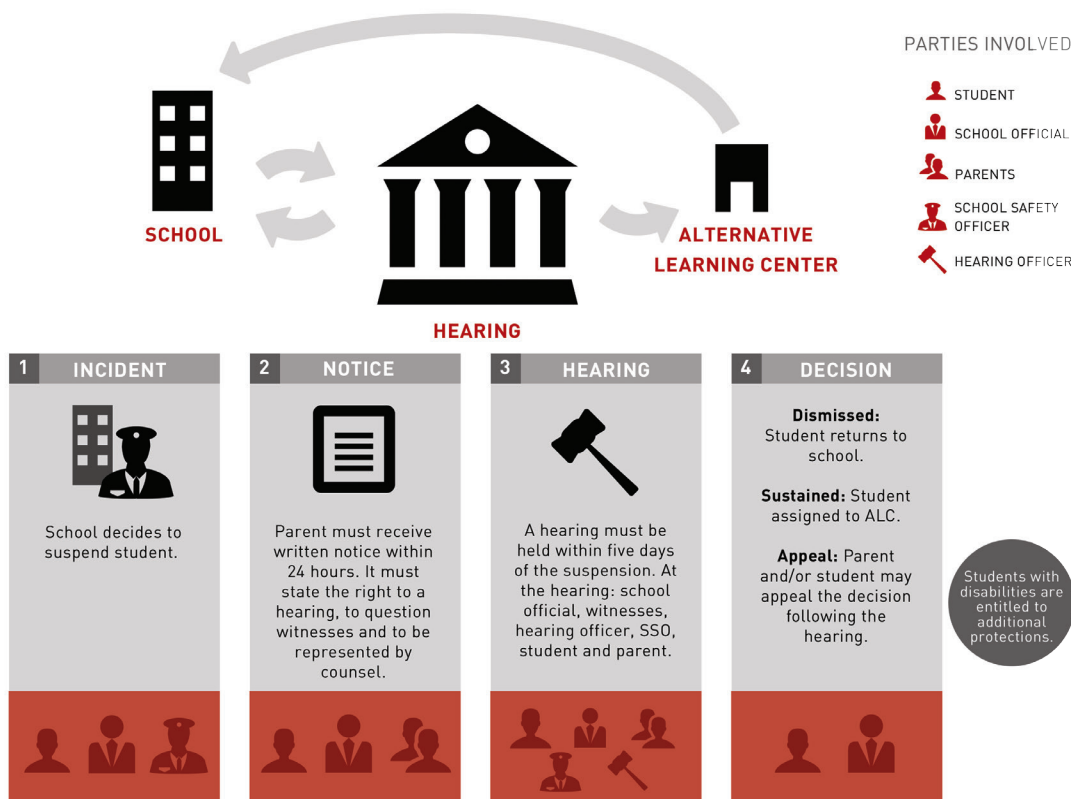
2008, suspended students missed 25 school days, on average.<sup>140</sup>

Suspensions temporarily deprive students of their constitutionally guaranteed right to an education.

To ensure that students are not unfairly denied an education, schools are legally required to follow certain procedures. The school must provide students with an explanation of the charges against them, an opportunity to defend themselves in a fair hearing before an impartial decision-maker, and the right to see the evidence against them.<sup>141</sup> But educators, SSOs and suspension hearing officers regularly ignore these basic elements of fairness. Attorneys and advocates who represent students in these proceedings believe that informal suspensions—where a student is simply told to leave school, with no formal process or notice—are a large and growing problem.

Parents and students are often unaware of their rights concerning suspensions, which are not discussed fully in the discipline code. For example, the 2013-14 code states that students have the right to "due process of law in instances of disciplinary action."<sup>142</sup> However, the code offers minimal explanation of what "due process" means. The code states that students have the right to appeal the suspension, that they must receive alternate

## SUPERINTENDENT SUSPENSIONS (6 or more days)



instruction and have an opportunity for a hearing. But the code makes no mention of the right to request a conference with the principal (for principal suspensions) or the important timelines associated with any of these procedures, including filing an appeal. Without this detailed information, parents and students are easily denied the opportunity to fairly challenge suspensions.

The vast majority of parents and students at formal suspension hearings lack legal training or representation, leaving them at a distinct disadvantage. Hearings do not even occur in most cases, because parents and students are often pressured to sign “no contest” pleas. In 2010-11, only 3,000 suspension hearings were held, though there were nearly 15,000 long-term suspensions.<sup>146</sup>

Josiah’s story is not unique. His mother received no notice of her rights at the suspension hearing and no notice of federal special-education protections available to Josiah, which include an expedited special education evaluation for children who are suspected of having a disability and are subject to disciplinary action at school.<sup>147</sup> As a result, Josiah was not evaluated in compliance with the required timeline. Psychiatric assessment after his suspension documented “emotional and behavioral problems including a history of trauma, depression and disruptiveness due to impulsivity and inadequate social skills,” compounded by having “been a victim of bullying by peers.”<sup>148</sup>

Parents and students are often unaware of their rights concerning suspensions.

## ACCESS TO SURVEILLANCE

One in three New York City public school buildings is equipped with digital surveillance cameras.<sup>143</sup> Surveillance footage is often used by schools in suspension hearings, yet parents are regularly denied access to this critical evidence, because families only have access to the footage at the school's discretion. They may review it if the school chooses to share it, or if it will be used as evidence against the student. Families are not entitled to footage when that evidence could *help* the child's case. Denying parents access to surveillance footage that could help their child is fundamentally unfair, and raises serious due process concerns, with substantial repercussions to a child's right, under New York State law, to a public education.<sup>144</sup>

Occasionally, the DOE cites privacy concerns of other students as the basis to deny access to surveillance footage. However, case law suggests that a suspended student's due process right to defend himself outweighs the privacy concerns of other students also on the video. In a New York case, *Matter of Rome City School District v. Grifasi*, a judge held that a student who was involved in a fight with several other students had the right to view and use the surveillance tape in contesting his suspension.<sup>145</sup>

**AT JOSIAH'S** suspension hearing, testimony was offered that Ms. Kennedy knew to be incorrect. For example, school officials said Josiah had been suspended previously. He had not, but Ms. Kennedy did not know when or how to challenge that assertion.

*When the hearing began, the hearing officer reviewed the rules and procedures, but Ms. Kennedy had no opportunity to ask questions. Because she did not understand the difference between fact-finding and cross-examination and presenting information, she made mistakes. When she tried to speak up, the judge scolded her.*

*"I did feel humiliated," Ms. Kennedy said. "She was only finger-pointing at us. She didn't give me the right to defend my son."*

*"When my mom would make a mistake, the hearing officer would talk back in a rude voice. She wouldn't explain it. She would get mad and say, that's not what we're supposed to do," Josiah said.*

*Repeatedly, the hearing officer interrupted Ms. Kennedy to redirect her. When Ms. Kennedy challenged a statement by the dean, calling him a liar, the judge rebuked her. But when the art teacher accused Ms. Kennedy of not telling the truth, the judge did not challenge the teacher's opinion, which remains in the official record.*

*"It made me feel really angry when they said something that wasn't true, when I see them lying," Josiah said. "It amazed me. My jaw dropped at the tall tales they was giving. It made me feel really angry."*

*Ms. Kennedy said that the hearing officer did not let her ask why the school had ignored her repeated requests for support, or been so inattentive to her son's distress.*

*"At one point, I say, 'Ok, you tell me what to do, you ask the question,' because any time I open my mouth, you're gonna say you'll terminate the hearing," Ms. Kennedy said. "I didn't feel that was fair. I didn't feel we had the equal opportunity." . . .*



If an evaluation had occurred before Josiah was suspended, he could have been provided with services that would have enabled him to make meaningful progress in school, and his mother would have had additional information and resources to help him cope. In failing to investigate aggressive, escalated incidents of bullying – despite documentation and ongoing requests from his mother for intervention and support – the school failed Josiah.

During Josiah’s hearing, due-process protections were routinely ignored. The hearing officer prevented Ms. Kennedy from presenting important evidence, reviewing her son’s records and cross-examining witnesses. As a result, Josiah was subjected to a lengthy suspension when he would have benefitted greatly from a more positive intervention and appropriate services.

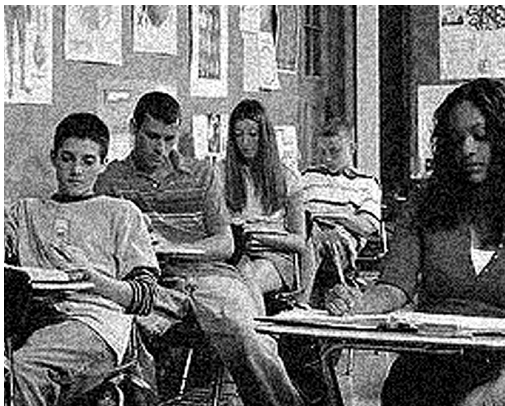
More students are serving suspensions than a decade ago – but only about half receive instruction while they are suspended.

The NYCLU represented Ms. Kennedy to appeal the suspension based on the school and hearing officer’s violations of the law. Almost a full year after Josiah was suspended, the family finally received a decision, stating that Josiah’s suspension would be expunged – provided he did not have any additional outbursts in the following school year.

The inability of ALCs to provide appropriate support for students with special needs was the subject of a lawsuit filed by Advocates for Children in 2003, *E.B. v. City of New York*.<sup>152</sup> Following settlement negotiations, the DOE signed a memorandum of understanding in October 2012, agreeing to implement appropriate academic programs, intervention services and small-group instruction, with a focus on improving students’ individual progress at ALCs.<sup>153</sup> As a result, there have been meaningful improvements for students with disabilities at these schools including an increased number of staff at ALCs.<sup>154</sup> Yet a 2011 article profiled students who fell behind because some ALCs were unable to provide adequate instruction for all students.<sup>155</sup> And because of gaps in the system, some students, like Josiah, still fall between the cracks.

## CONTESTING SUSPENSIONS

Principal’s suspensions can be more difficult to contest, because the student is not entitled to a hearing before an impartial body. A student or family may challenge a principal’s suspension through a meeting with the principal or through an appeal to the DOE’s office of legal services, which can take at least two weeks to resolve – far longer than the actual suspension.<sup>149</sup> On the other hand, principals who seek superintendent suspensions are required to prove their case at a hearing within five days of the suspension, where a hearing officer issues a recommendation to the superintendent, who reviews the evidence and the whether the principal complied with due process. There is no additional due process “check” following a principal’s suspension and there is no limit to the total number of principal’s suspensions that may be imposed on a student in a single year.<sup>150</sup> During the 2010-11 school year, the most recent for which data is available, more than 6,000 students served three or more principal’s suspensions.<sup>151</sup>



**JOSIAH** attended classes at the ALC to which he'd been assigned. His classwork improved and he received recognition and awards for good behavior.

A transfer to a new middle school was arranged. Ms. Kennedy asked the ALC principal for his grades and was informed that they were sent to the new school. But administrators there said they did not have Josiah's grades. Yet they gave Josiah a report card for the period covering his suspension, with failing grades in every subject. When Ms. Kennedy challenged the report card, she confirmed that Josiah's ALC grades had not been transmitted to the new school –because, according to the ALC, the new school had never requested them. The assistant principal of the new school changed the F grades to 65, across the board. (The minimum score from promotion to the next grade is 65.)

“They put ‘65’. But that’s not enough. He did his work – I made sure. He did his homework. Why did they put 65s, when he had done all that work?”

Josiah's suspension was overturned on appeal.

That fall, Josiah enrolled in a third middle school, on Long Island – a private school that provides a smaller and more structured environment, with tuition subsidized by the NYC DOE.

## IV. SUSPENSION AND STUDENTS WITH SPECIAL NEEDS

Students with disabilities who are suspended from school are more likely to be pushed into the STPP.<sup>156</sup> The outcomes for this already-vulnerable group can be especially stark: One study found that over 30 percent of incarcerated youth have learning disabilities, and in some states, as many as 60 percent of juvenile offenders have a disability.<sup>157</sup>

Shawn, a student with a disability,<sup>158</sup> is reading aloud in class. When he makes a mistake another student taunts him. Frustrations boil over, a fight begins and SSOs are summoned. The two students are handcuffed, escorted from the classroom and suspended for 30 days for fighting. Because Shawn is a student with a disability, he is entitled to an additional review after the suspension hearing.<sup>159</sup> Federal and state laws require that the student's parents and special-education and school staff who are familiar with the student meet to assess whether the perceived misbehavior was a manifestation of his disability.<sup>160</sup> The team must also consider whether the school failed to implement the student's IEP.<sup>161</sup> If the team finds that the behavior was a manifestation of the disability, Shawn will be immediately reinstated. If not, he may serve the full 30-day suspension. Here, the principal and her staff conclude that Shawn's behavior was not a manifestation of his disability and he is suspended for 30 school days.

In practice, New York's zero-tolerance approach to discipline has eroded the implementation of federal protections that require schools to carefully examine the connections between disability and behavior.

Despite the protections of the second review, parents commonly report that schools discount their perspectives and gloss over important documents. In some cases, schools have determined the behavior under review was not a manifestation of the child's disability even before the review takes place. In 1985, before zero-tolerance took hold, a federal circuit court affirmed a local hearing officer's decision that a learning-disabled student's vulnerability to peer-pressure – which convinced him to serve as a go-between among drug dealers at school – was a manifestation of his disability.<sup>162</sup> The circuit court stated that the child's role stemmed from his susceptibility to peer pressure, related to his loss of self-image due to his disability, and that the principal should not have excluded him from school.<sup>163</sup> In New York's zero-tolerance climate, it is highly unlikely that a student facing similar charges would receive the same consideration. In practice, New York's zero-tolerance approach to discipline has eroded the implementation of federal protections that require schools to carefully examine the connections between disability and behavior.<sup>164</sup>

Special-education students, who DOE data show are less likely to graduate with a Regents diploma, are especially harmed by a zero-tolerance school climate. When an immediate suspension is imposed, these students are suddenly disconnected from important services and resources.<sup>165</sup> Only 27 percent of students with disabilities graduated from high school on time in 2011. This graduation rate is less than half the on-time graduation rate of 61 percent for non-disabled students.<sup>166</sup> In addition, fewer than 5 percent of students placed in self-contained special education classrooms graduate from high school on time.<sup>167</sup>

Students' academic and emotional difficulties are compounded by aggressive discipline: Students with disabilities are twice as likely to be suspended than are general-education students.<sup>168</sup> Nearly one-third of

all suspensions are served by students with disabilities, who represent about a sixth of total enrollment.<sup>169</sup> Black students with disabilities experience the highest suspension rate of any group. While black students with disabilities represent 6 percent of total student enrollment, they serve 14 percent of all suspensions.<sup>170</sup> Citywide, one in seven schools suspends 25 percent of enrolled black students with IEPs.<sup>171</sup> Despite the federal Individuals with Disabilities Education Act (IDEA)<sup>172</sup> designed to protect special-education students, these youth are consistently and disproportionately excluded from school.

## Special Education Reforms

Before the IDEA was passed in 1975, students with disabilities were, in the words of the Supreme Court, “simply warehoused in special classes or were neglectfully shepherded through the system until they were old enough to drop out.”<sup>173</sup> New York City was no different. For decades, students with disabilities traveled long distances to attend schools with appropriate resources that separated them from their non-disabled peers.<sup>174</sup> Students were sometimes separated into self-contained classes or placed in District 75 schools, which provide highly specialized, fully segregated programs in separate, special-education schools.<sup>175</sup>

Low-income students are disproportionately harmed by a lack of mental health services in schools.

Forcible EMS removals are by-products of zero-tolerance discipline.

Under Mayor Bloomberg, the DOE has attempted to improve education outcomes for these students by restructuring the special-education system three times, in 2003, 2007 and again in 2010.<sup>176</sup> While reforms to the system were necessary and well-intentioned, the frequent overhauls lacked adequate planning and community input.<sup>177</sup> Students, parents and advocates have found that the serial reforms caused substantial disruptions in the provision of services to students with disabilities and inadvertently compounded existing

problems.<sup>178</sup> At the same time, Bloomberg’s aggressive zero-tolerance disciplinary approach worked against the reforms, because students were suspended from the services these new reforms aimed to provide.

In 2009, the New York State Comptroller published a comprehensive report on the impact of Mayor Bloomberg’s 2003 and 2007 reform efforts.<sup>179</sup> The report, called *Waiting for Special Education*,<sup>180</sup> found that thousands of students were denied their right to an education because evaluation and placement processes were taking too long to meet students’ needs—in violation of federal timing requirements. Too many students were waiting too long for appropriate evaluation, services and instruction.<sup>181</sup>

The DOE’s stated goals under the most recent reform are for students to attend their zoned school or the school of their choice while still receiving appropriate services, and to increase access to the general-education curriculum for students with disabilities. Part of the reform includes shifting the responsibility to find and fund special education services from the DOE to individual schools.<sup>182</sup> As with previous reforms, school psychologists may face increasing pressure to re-evaluate students or even delay evaluations until appropriate resources are in place at the school, increasing the risk of pushout for students who most need to

Without sufficiently trained personnel available, school staff and SSOs struggle to distinguish between a real emergency and an emotional outburst.

## EMS TO THE PSYCH ER

The implementation of special-education reforms may have indirectly contributed to an increased student at P.S. 67 in the Bronx was physically restrained and sent to the ER, where he was observed, 67 was one of the pilot schools in the DOE's 2010 special-education reform. Emily Grimbball, then the deliver the special services this student required.<sup>189</sup>

"A lot of times it goes down to funding and what it is that the school is able to provide for the child," have said that many schools like P.S. 67 lack sufficient resources to work with students.<sup>190</sup>

The media have profiled several instances where SSOs and school administrators have called 911 to tantrums to actual emergencies.<sup>191</sup> Students – some as young as 5 years old – are restrained, The practice is so common that it is colloquially known as "EMS-ing" a student. In 10 days during

Forcible EMS removals, like suspensions and arrests, are by-products of zero-tolerance discipline. stretcher and forced into an ambulance following an outburst at his public school in Brighton Beach, brought his mother and great-grandmother to school; another call summoned the NYPD. When his then pushed the boy's 80-year-old great-grandmother to the ground when she attempted to climb was released with no need for evaluation or treatment.

Calling EMS inflicts steep economic and psychic costs. The city and the family incur undue expense response. Most significantly, children who may actually benefit from mental health services (and continued evaluation is lost).<sup>198</sup>

Dr. Charles Soulé, Chair of the DOE's School-Based Mental Health Committee, testified before the City are best evaluated in their communities and schools.<sup>199</sup> Without sufficiently trained personnel available, or an escalating temper tantrum—and have limited tools to deescalate the situation while keeping the

As with suspensions and arrests, low-income students are disproportionately harmed by a lack of (SBMH) resources are available to New York City public school students, due in part to diminished 2012, there were only 190 programs.<sup>202</sup> Historically, some of the most underserved areas for child

As the number of SBMH centers has decreased, calls to EMS have climbed.<sup>204</sup> During the 2009-10 ideation."<sup>205</sup> During 2010-11, that number jumped to 978.<sup>206</sup> In that same year, 3,631 children, or 20 percent of these cases, psychiatric evaluation revealed that the children did not require in-patient

Experts recommend that city school leaders and staff be trained to better identify and refer students to reduce the number of suspensions in their schools, the DOE must provide real support for



reliance on emergency psychiatric referrals.<sup>187</sup> In April 2012, a 10-year-old special-education student was released and returned to school the next day, as he had been “several times” that year.<sup>188</sup> P.S. 118’s principal, explained to *The New York Times* that she ran out of money in her budget to

Grimball said at a DOE administrative hearing. Indeed, teachers, attorneys and administrators

request an ambulance when students exhibit disruptive behavior, running the gamut from temper tantrums to students handcuffed and transported from school to hospital emergency rooms for psychiatric evaluation.<sup>192</sup> In February 2012, one Bronx hospital reported 58 psychiatric calls from area schools.<sup>193</sup>

In March 2012, G.R., a 5-year-old kindergartener with autism, was handcuffed, strapped to a stretcher and transported to a hospital in Brooklyn.<sup>194</sup> (The boy had pushed a paraprofessional teacher’s aide.) A call to the child’s home mother attempted to intervene, the NYPD officer handcuffed her and shoved her aside. Officers were taken into the ambulance to comfort the terrified boy. She suffered a fractured rib.<sup>195</sup> At the hospital, G.R.

for needless medical transport<sup>196</sup> and children and parents can suffer trauma<sup>197</sup> from the extreme (and often unnecessary) nature of their parents) may be so repulsed by the EMS experience that the potential benefit of treatment or

Council that in many circumstances the drama of EMS transport is unnecessary and that students, school staff and SSOs struggle to distinguish between a real emergency and an emotional outburst—often occurring in the school.

mental health services in schools.<sup>200</sup> Despite profound need, very limited school-based mental health funding since 2010.<sup>201</sup> In 2010, there were 300 SBMH programs across 1,100 school campuses. By 2012, programs in mental health are Harlem, South Bronx and East Brooklyn.<sup>203</sup>

school year, there were at least 868 involuntary removals via EMS from school for “suicidal students *per day*, were involuntarily removed from school for “behavioral disturbances.”<sup>207</sup> In 97 cases, students were hospitalized.<sup>208</sup>

with unmet mental health needs to appropriate onsite and offsite services.<sup>209</sup> As principals are told that calling EMS will fill the void.

be kept in school.<sup>183</sup> In addition, principals' ratings (which affect job security) are impacted by the number of special education students placed in least-restrictive environment (LRE) settings.<sup>184</sup> School progress reports, the powerful metrics that determine school survival, explicitly reward schools for moving students into LRE classes.<sup>185</sup>

In practice, the current reform may have had the opposite effect for some students with disabilities: Referrals to self-contained special education schools in District 75 have increased since the reform began, likely because schools do not have the resources to meet all students' needs.<sup>186</sup> These self-contained schools are meant to educate students with the most acute special education needs, and are the opposite of an LRE placement.

To date, Bloomberg's special-education reforms have had no demonstrable effect on the suspension rate of students with disabilities. While the overall suspension rate has decreased over the last school year,<sup>210</sup> one-third of all suspended students are students with a disability<sup>211</sup>; this has been the case since 2000.<sup>212</sup> And a minority of schools continue to suspend disproportionately large numbers of students with special needs. In 2011, 7 percent of schools in New York City suspended at least 25 percent of their IEP enrollment.<sup>213</sup>

In 10 days during February 2012, one Bronx hospital reported 58 psychiatric calls from area schools.

Anecdotal evidence suggests this problem, like many others, is worse in the Bronx. A letter to the DOE from Edward Gardella, Borough Principal of alternate learning centers in the Bronx, indicated that many suspended students were students with IEPs.<sup>214</sup> Nearly two-thirds of the schools Gardella described had suspended 50 to 90 percent of their students with IEPs. Of 570 students who were suspended or awaiting suspension hearings in the Bronx in 2010, 40 percent had IEPs.<sup>215</sup> Twenty-six of the 40 Bronx schools Gardella wrote about used suspension as a

common disciplinary practice in 2010. At one school, 85 percent of all superintendent suspensions involved students with special needs; at another, students with special needs accounted for 83 percent of all suspensions.<sup>216</sup>

Encouraging schools to provide comprehensive educational opportunities for all students is an important goal. But, as with changes to the discipline code, the best-intended special education reforms do little to improve the experiences or achievement of students in schools steeped in a zero-tolerance disciplinary approach. Worse, the DOE consistently ignores the systemic impact of its zero-tolerance policies on children with disabilities. The newest wave of reforms does not aim to correct that imbalance.

## V. UNDER-PREPARED SCHOOL SAFETY OFFICERS, UNNECESSARY ARRESTS

Invasive searches of students' persons and belongings, arrests without probable cause of a crime, and use of physical force and restraints against students all implicate their right to an education. During the Bloomberg administration, the number of police officers in schools has increased by 35 percent, bringing

During the Bloomberg administration, the number of police officers in schools has increased by 35 percent, bringing the total to at least 5,200 officers.

the total to at least 5,200 officers.<sup>220</sup> The groundwork for this steady increase was laid in late 2003, when Mayor Bloomberg imported the NYPD's "broken windows" approach to patrolling New York City streets to patrolling its public schools, in a program called Impact Schools.<sup>221</sup>

In a 2003 press release, Mayor Bloomberg cited "cursing" and "disorderly behavior" as precursors to serious school violence, and indicated that the NYPD and DOE would bring order to schools by showing

zero tolerance for minor incidents. Shortly after the program started, the NAACP Legal Defense Fund called this approach "among the most aggressive and explicit School-to-Prison Pipeline policies in the country."<sup>222</sup> In addition to flooding the schools with police officers and metal detector scanning, more than 20,000 surveillance cameras have been placed in city schools on Mayor Bloomberg's watch, with little regulation of the way they are used or who can access the footage.<sup>223</sup>

School safety data did not support the Mayor's aggressive measures.

School safety data did not support the Mayor's aggressive measures.<sup>224</sup> In fact, school crimes had begun declining before the 1998 transfer of school safety to the NYPD.<sup>225</sup> From 2001 to 2003, major crimes in schools continued to decline, from 1,575 in 2001 to 1,214 in 2003.<sup>226</sup> Other criminal incidents decreased by 30 percent during the same time period.<sup>227</sup>

No evidence clearly links the continued decline in major crimes in city schools to the expanded police presence.

No evidence clearly links the continued decline in major crimes in city schools to the expanded police presence.<sup>228</sup> In a 2001 joint school-safety and education committee report, 67 percent of principals reported "no change" in school safety since 1998, when the NYPD assumed control of school security.<sup>229</sup> National studies document the *lack* of improved school safety with increasing numbers of SSOs<sup>230</sup> and suggest a possible reverse effect.<sup>231</sup> In addition, studies have found that harsher disciplinary responses are more common in schools that employ at least one

full-time law enforcement officer.<sup>232</sup> (All New York City schools have at least one SSO.) Regardless of their impact on school crime and misbehavior, SSOs have an enormous impact on the school environment.

The increasing number of metal detectors in schools also criminalizes the school environment and creates a potential flashpoint of confrontation between SSOs and students. The use of metal detectors requires

## October 2001, Brooklyn: No ID, No Access<sup>217</sup>

When 14-year-old Raymone, a student at Prospect Heights High School in Brooklyn, tried to enter school without his ID, an SSO asked him to leave. Even though the SSO knew Raymone was a student at the school, the officer repeatedly said he would not be admitted.

“I walked through those doors every day, but he didn’t care. So I got mad and pulled away from him,” Raymone said.

The next thing Raymone knew, he was tussling with the SSO, who was joined by nine other officers. The SSO accused Raymone of punching him. Raymone was arrested and taken to the 71st precinct.

“My heart dropped when I got to the precinct,” Raymone’s mother said. “My child’s neck, wrists, and back were bruised. Buttons were torn off his shirt. Just because he didn’t have an ID?” If the school had called her, she said, she would have picked him up. Instead, she and Raymone spent four hours in the precinct.

The school ultimately expelled Raymone, who was convicted of assault and placed on six months’ probation and in court-mandated counseling.

“There is no ending to this,” Raymone’s mother said. “Once a child gets caught up in the system, it follows them for life. He’s branded now, and nothing I can do will erase that.”

a daily interaction between police and students that would not otherwise occur in school and increases the likelihood that a student will be suspended or arrested.<sup>233</sup> Historically, schools with metal detectors tend to suspend and arrest students more than schools without them.<sup>234</sup>

In the 2006-07 school year, nearly 94,000 students attending at least 88 schools had to pass through permanent metal detectors to enter their school buildings each day.<sup>235</sup> Data

from the 2012-13 school year shows that 118,017 students (12 percent of the student population) passed through permanent metal detectors every day at 232 schools and 76 school buildings. This is an increase of 24,259 students (26 percent). During this same period, student enrollment *decreased* by 6,025 students.<sup>236</sup>

Black students are significantly overrepresented in this dataset: Roughly half of students who attend metal-detector schools are black, even though they represent only

28 percent of the student population.<sup>237</sup> To a lesser extent, low-income and Latino students are also disproportionately impacted.<sup>238</sup> (See Appendix C for a complete list of New York City public schools with permanent metal detectors.)

SSOs are more likely to be involved in “non-criminal incidents” at metal-detector schools than at schools without them.<sup>239</sup> According to DOE data, most items

Harsher disciplinary responses are more common in schools that employ at least one full-time law enforcement officer. (All New York City schools have at least one full-time SSO).

Data from the 2012-13 school year shows that 118,017 students (12 percent of the student population) passed through permanent metal detectors every day.

confiscated at metal detectors include cell phones, hair pins, cameras, and school supplies — not weapons or “dangerous instruments.”<sup>240</sup>

Though the Fourth Amendment protects people from unreasonable police searches, the Chancellor’s Regulations state that SSOs only need “reasonable suspicion” to search a student.<sup>250</sup> SSOs retain substantial police powers — and can subject students to serious criminal consequences.

Unlike NYPD officers, who undergo six months of training, SSOs receive only 15 weeks of instruction,<sup>251</sup> with little information on youth development, adolescent psychology, special education, the use of non-punitive discipline techniques in schools, or the key differences between keeping a school safe and policing on the street.<sup>252</sup>

Making matters even more challenging for students, the

**RUBEN** *didn’t understand why SSO Gonzales was fixated on him: First, in Ruben’s freshman year, Gonzales combed school records for Ruben’s mom’s cellphone number – against regulations, earning the officer a two-week suspension without pay. A year later, when Ruben had been summoned to a dean’s office to run an errand, Gonzales challenged him, pushing Ruben into a sofa. The SSO twisted Ruben’s arm behind his back, alerting other officers to help restrain the boy. As a result of the confrontation, Ruben received a five-day principal’s suspension. (The dean, who had observed the conflict, did not intervene). The next fall, an hour after SSO Gonzales was overheard cautioning other SSOs that Ruben was a troublemaker, Ruben was arrested – after initially refusing to remove his hat in class and scuffling with officers who sought to restrain him: School video shows an SSO jumping on Ruben’s back. Two SSOs wrestled Ruben to the floor, where a teacher held his neck and a dean held his knees.*

## November 2011, Manhattan: No ID, No Access

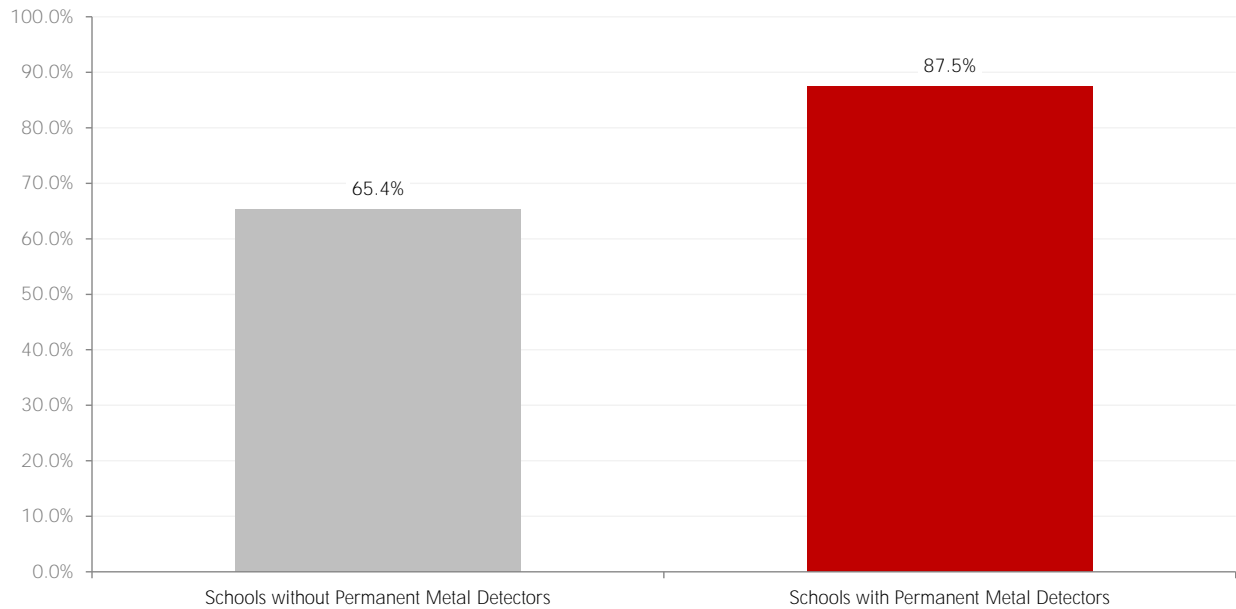
Sara Davis, a straight-A senior at one of the city’s top high schools<sup>218</sup> was rushing to rehearsal for the upcoming school musical, where she held second chair for trumpet. On her way into the building, she was stopped by an SSO, who asked for her ID. Unfortunately, Sara didn’t have one, because she had lost her ID card, which the school was in the process of replacing.

The SSO, a large man who towered above the teen, physically blocked her in a vestibule between a classroom and the hallway. He refused to listen to her explanation or let her pass. When Sara tried to walk around him, he pushed her backwards onto the floor and hand-cuffed her while she was on the ground. A police officer from the local precinct was called to the scene and issued Sara a summons for disorderly conduct. In addition, the school dean tried to suspend Sara for 90 days. None of the consequences listed in the discipline code for failing to produce a school ID permit the school to issue a suspension, much less execute a violent arrest.<sup>219</sup> The dean later reported to the student’s mother that the SSO was not disciplined for his excessive use of force.

At court, the disorderly conduct charge was dismissed and the superintendent immediately reinstated Sara to school. But the dean who sought to suspend Sara subsequently barred her from participation in the school musical. Sara was traumatized by the experience and feared returning to classes that she loved.

## Demographics of Metal Detector Schools: Black and Latino Enrollment

New York City, 2012-13



Source: NYCLU original research, Insideschools, DOE's J-Form

document that purports to govern SSO activity in schools is outdated, vague and sends the wrong message. In 1998, the NYPD and then-Board of Education signed a memorandum of understanding (MOU), or a contract between agencies, that transferred the responsibility of school safety to NYPD officers, or SSOs.<sup>253</sup> The contract makes no distinction between enforcing penal laws and responding to disciplinary issues.<sup>254</sup> In fact, the MOU encouraged SSOs to “enforce rules, regulations or procedures of the Board [of Education] and its schools,” even though SSOs are not educators, and often have little connection to the school or students.<sup>255</sup>

Testimony at a 2013 City Council hearing revealed a lack of clarity on the subject of whether and how SSOs are expected to work as an integrated part of the school's mission.<sup>256</sup> Councilmembers, students and teachers stated<sup>257</sup> that SSOs are not trained to follow the standards established by federal or local laws,<sup>258</sup> or even the rules and school culture set by individual principals. A Bronx Councilmember shared complaints from principals in his district that SSOs were “out of control” and that “principals don't have power to order school safety to do something.”<sup>259</sup>

As a result, nearly all infractions in the discipline code have the potential to be treated as crimes: A teen who

“I started to get really embarrassed because they were laughing at me in front of my peers, and I never felt so low in my whole life. I did not want to get suspended at all, so I just went along and did everything they told me.”



## “BEING GOOD” IS NOT ENOUGH

During the April 2013 City Council oversight hearing on school climate, 16-year-old Benia Darius testified that her bobby pins set off the metal detectors in her school.<sup>241</sup> She explained that the SSOs at the metal detector made fun of her hair style, asking her who had done her hair that morning? When she replied that it was her mother, they taunted her.<sup>242</sup>

“They scanned me and made me walk through the machine for about eight or nine times that morning. I started to get really embarrassed because they were laughing at me in front of my peers, and I never felt so low in my whole life. . . I started to cry because I thought that [the SSO] shouldn’t have gotten on such a person[al] level with me. . . I didn’t know how to express the anger I felt. I did not want to be sent to the dean’s office and miss a whole day of my classes, so I kept my mouth shut and didn’t say anything, and just cried. I did not want to get suspended at all, so I just went along and did everything they told me.”<sup>243</sup>

“I was very naïve in thinking that being quiet and getting good grades would keep you from being harassed by school safety agents established within our schools. How do you expect me to feel safe in my school if I am afraid of those that are supposed to protect me?”<sup>244</sup>

Earlier that year, students and educators at a Brooklyn high school with no history of disciplinary issues or high rates of suspension received some surprising news. A week before classes were scheduled to begin, the NYPD and DOE announced that the entrance to Bushwick Community High School (BCHS) would be closed off, and that students would be required to enter school through metal detectors located on another side of the building, which BCHS shared with another school. BCHS, which never had metal detectors, prides itself on its small size and attentive faculty, who have created a welcoming environment that students trust. The last-minute decision to reroute students through metal detectors disrupted the start of the school year.<sup>245</sup>

DOE Learning Environment Survey data document that 96 percent of BCHS parents and students feel safe at school; 97 percent say there is no bullying at the school and 100 percent of students say they can trust adults at BCHS.<sup>246</sup> In 2010-2011, less than 10 students were suspended from BCHS. But the DOE stated that if one school’s students had to walk through metal detectors, so did any other school’s students.

BCHS students, of whom 98 percent are black and Latino,<sup>247</sup> continue to experience what a school dean describes as a “police lockup” every morning.<sup>248</sup>

“Honestly,” one student told *The New York Times*, “these detectors add to my stress and isolation.”

Another explained: “The guards tell us, ‘When someone cracks an orange juice bottle over your head, you’ll feel different.’ [I said] Really? When I came here last year, I remember feeling one thing: This is family, and [that’s what] makes me feel safe.”<sup>249</sup>

shoves a peer might be arrested and charged with assault, as well as suspended from school.<sup>260</sup> In 2012, 1,072 summonses issued to students cited disorderly conduct, accounting for nearly two-thirds of all summonses issued that year.<sup>261</sup> Outcomes vary, depending on the school climate, the principal’s attitude toward discipline and the race of the student.

The demographic composition of school-based arrests closely mirrors rates of suspensions, with black and Latino students comprising 95 percent of arrests.<sup>262</sup> In the 2011-12 school year, black students were arrested 14 times more often than white students.<sup>263</sup> More than 11 students a day were ticketed or arrested by SSOs, on average.<sup>264</sup> Nearly 2 out of 3 school arrests involved black youth.<sup>265</sup> In the first quarter of 2013, the number of arrests and summonses declined to 6 per day, however black and Latino students still accounted for 94 percent of arrests.<sup>266</sup>

In the 2011-12 school year, black students were arrested 14 times more often than white students.

Geography is a factor in student arrests and summonses. A disproportionate number of summonses in the 2011-12 school year were issued in the Bronx, home to a higher percentage of students of color than any other borough.<sup>267</sup> Though it accounts for only 21 percent of the city's middle- and high-school enrollment, close to 48 percent of school-based summonses were issued in the Bronx.<sup>268</sup>

Students with disabilities are particularly vulnerable to aggressive policing in schools. The MOU does not mention any specific training required before SSOs work with students with disabilities<sup>269</sup>; whether SSOs currently undergo adequate training to prepare them for work with youth with disabilities is not publicly documented. While some parents prefer that SSOs are aware of their child's disability and accommodations, others fear that their child could become a target, particularly where SSOs have little experience working with challenged children.<sup>270</sup> Adequate training on how disabilities affect student behavior would help address these concerns – but would require a comprehensive training program that clearly identifies how SSOs and school staff must work together in addressing all types of student behavior.

While the Student Safety Act requires that NYPD report the number of students with disabilities who are arrested or issued a summons in schools,<sup>271</sup> the Police Department has yet to develop a mechanism for tracking these interactions.<sup>272</sup> By failing to track this information, the NYPD is out of compliance with the law, and students with disabilities are exposed to yet another obstacle to succeeding in school. In addition to failing to report demographics of student arrests and summonses, the NYPD does not report any information on arrests and summons issued by uniformed NYPD officers in schools. Students and attorneys frequently report that SSOs call uniformed NYPD officers from the local precinct to issue a summons or execute an arrest, a tactic that suggests that the total number of arrests and summonses in schools is likely a significant undercount.

Though it accounts for only 21 percent of the city's middle- and high-school enrollment, close to 48 percent of summonses were issued in the Bronx.

Recent data suggest that arrests and summonses in schools are on the decline,<sup>273</sup> due in part to collaboration between advocacy groups and the NYPD's School Safety Division,<sup>274</sup> but community members, school personnel and students continue to express concern about SSOs' role in schools.<sup>275</sup> Without adequate training on how best to address normal misbehavior, and what constitutes the line between criminal and merely disruptive, SSOs have dragged students to police precincts for the entire range of adolescent misconduct.<sup>276</sup>

**NICK SUTTON**, a 17-year old student from Crown Heights, Brooklyn, was issued a summons for riding his bike on the sidewalk. He misplaced the ticket – not an unheard-of act for a teenager. Nick went to summons court on what he believed was the correct date and time. (It wasn't.) He received a piece of paper from the court clerk. No one explained to Nick that he had to return on another day to respond to the summons. Nick believed that appearing in court was all that was required. The paper he received from the clerk, a half-page print-out of codes and numbers did not provide instructions. Nick believed the matter was closed. But a few months later, when Nick had a disagreement with a student at school and an SSO got involved, Nick was handcuffed and detained at school. Instead of receiving a summons, he was taken to the local precinct—because the warrant database revealed that he had not appeared on his first summons, and that a warrant had been issued for his arrest. The NYPD held Nick in jail until his arraignment, which occurred around midnight. Nick spent a day in jail and missed two days of school, riding a bike on the sidewalk — and losing the paper summons.

## Consequences

There is no clearer demonstration of the STPP than when a disciplinary interaction with an SSO leads to a student's arrest and detention in jail.<sup>277</sup> Studies show that students who have appeared in court for the first time are four times more likely to drop out of school.<sup>278</sup>

In New York City, a police officer can issue a summons for violations that are not criminal acts, such as riding a bicycle on the sidewalk or disorderly conduct.<sup>279</sup> The summons is a receipt-sized slip of paper, which instructs a person to appear before a judge at the date and time listed. There is no right to counsel in summons court,<sup>280</sup> and a missed court date can result in the issuance of an arrest warrant.<sup>281</sup> In 2011, more than 170,000 of these warrants were ordered.<sup>282</sup>

The maximum penalties for violations are fines of up to \$250<sup>283</sup> or up to 15 days in jail.<sup>284</sup> Students without sufficient funds whose

There is no clearer demonstration of the STPP than when a disciplinary interaction with an SSO leads to a student's arrest and detention in jail.

cases are not dismissed can face jail time.<sup>285</sup> Even students whose cases are ultimately dismissed can spend hours out of school, waiting in court. Parents must take time off work to accompany their children to court. (Sara, the trumpet player who was punished for trying to enter school without her ID, spent half a day in court with her mother before the charges were dismissed.)

Despite explicit language in the MOU preserving school discipline as a "pedagogical function," the presence of SSOs and other NYPD

The Mayor's decision to import broken-windows policing into the public schools, via his Impact Schools initiative, has fed the STPP with a steady flow of students who face outside consequences, including summonses, hearings, arrests and hours in precinct jails, for behavior that is more appropriately—and far less disruptively—addressed by educators.

personnel in the schools has been linked with greater numbers of summonses and arrests of students. The Mayor's decision to import broken-windows policing into the public schools, via his Impact Schools initiative, has fed the STPP with a steady flow of students who face outsize consequences, including summonses, hearings, arrests and hours in precinct jails, for behavior that is more appropriately—and far less disruptively—addressed by educators. Criminalizing the academic environment by overly aggressive policing threatens already-fragile connections to school for some students – often, the same youth at greatest risk of dropping out.

## VI. CONCLUSION AND RECOMMENDATIONS

Mayor Bloomberg’s disciplinary and school safety practices consistently reinforce the school-to-prison pipeline that harms New York City’s most vulnerable youth. Black general- and special-education students have been most profoundly impacted over the last decade.<sup>286</sup> Black youth are disproportionately represented in suspensions, arrests and school-discipline practices that criminalize school climate and culture<sup>287</sup> – effects that strongly echo the NYPD’s racially disproportionate patterns in its stop-and-frisk practices, and set the stage for the disproportionate representation of black men in the criminal justice system. These students tend to live in low-income neighborhoods and often attend schools with fewer resources,<sup>288</sup> which have been stretched all the more by recent changes in school funding, mental health access and special education.<sup>289</sup>

Black youth are disproportionately represented in suspensions, arrests and school-discipline practices that criminalize school climate and culture – effects that strongly echo the NYPD’s racially disproportionate patterns in its stop-and-frisk practices, and set the stage for the disproportionate representation of black men in the criminal justice system.

While a majority of city schools suspend less than 5 percent of students with special needs, more than 6 percent – more than 100 schools – suspend 1 in 4 IEP students every year.

Many New York City public schools do not fit this picture.<sup>290</sup> Suspension and arrest rates vary greatly, even within school districts—a symptom of the DOE’s gross lack of clear instruction and oversight. This leadership vacuum may explain why some schools arrest and suspend significantly more high-need students, and more black students, than others. While a majority of city schools suspend less than 5 percent of students with special needs, more than 6 percent – more than 100 schools – suspend 1 in 4 IEP students every year.<sup>291</sup> Fourteen percent of schools suspend at least 1 in 4 black students with IEPs, severely limiting these students’ right to a free public education.<sup>292</sup> The churn of ‘innovation’ and reform that has characterized the Department of Education under Mayor Bloomberg has led to policies and practices that foster inconsistent access to education in New York City.

### Recommendations

**1. Close loopholes in the Student Safety Act to improve public disclosure of comprehensive data on school suspensions and law enforcement activity, including every instance a student is handcuffed at school.**

Under current law, the NYPD and DOE must report some demographic information about students who receive suspensions or summonses, or who are arrested (including the race, age, gender, special education and English Language Learner status of the student).<sup>293</sup> But amendments are needed. Incomplete data does not serve the interests of the children of New York City, the adults who work with them, or the city leaders who make decisions about the schools.

The Student Safety Act's added transparency, coupled with advocates' and researchers' findings, has led to some moderation of the DOE's most strident positions on student misbehavior and has begun to reduce the frequency of suspensions. Unfortunately, the Act has serious limitations, primarily the excessive censorship of key data points due to a misapplication of student privacy law. Expanded reporting must include meaningful data points that are currently missing, including *all* school summonses and arrests, with demographic information and the name of the school; *all* suspensions, with demographic information, not just for those schools that suspend more than nine students; and every use of handcuffs on students, with school and demographic information. Additionally, the DOE must be notified of all summonses and arrests by the NYPD in DOE schools.

The churn of 'innovation' and reform that has characterized the Department of Education under Mayor Bloomberg has led to policies and practices that foster inconsistent access to education in New York City.

The NYPD is not currently required to report data in several key categories, such as arrests and summonses recorded by officers outside of the School Safety Division. This omission results in a probable undercount of arrests. The NYPD has also failed to report information in several required categories, including students' special-education status. More pressing, the Act permits redactions of fewer than 10 suspensions in any particular category of information. Effectively, this means that if nine students at one school are suspended for fighting, the DOE will not report any student suspensions for fighting at that school. This allows the DOE to regularly omit data under the guise of protecting student

privacy. Through these excessive redactions, the DOE effectively censors 97 percent of the data it reports under the Student Safety Act.<sup>294</sup>

Protecting student privacy is a vital responsibility, but excessive redactions have no logical basis. The Family Educational Rights and Privacy Act (FERPA) mandates that "personally identifiable information" not be shared in any way that would compromise a student's anonymity.<sup>295</sup> But the Federal Committee on Statistical Methodology, an interagency committee of the United States Office of Management and Budget, recommends a method of de-identifying confidential records by redacting a minimum cell size of five.<sup>296</sup> Under such a policy, a reasonable person in the school community could not identify a student with reasonable certainty, which is the standard required under FERPA regulations.<sup>297</sup> Guidance from the U.S. DOE recommends using a case-by-case basis to determine whether release of large data sets of student information would compromise a particular student's privacy rights.<sup>298</sup>

**2. Eliminate zero tolerance in the discipline code and in practice.** Zero tolerance has been widely discredited as discriminatory and ineffective.<sup>299</sup> It equates the most serious misbehavior with the most trivial. Eliminating zero tolerance means eliminating from the text of the New York City Department of Education's discipline code vague infractions that carry mandatory suspension, and correcting the one-strike culture that has proliferated under this system. It also means eliminating the practice of immediately suspending students from school without considering potential extenuating circumstances or attempting other interventions.

The DOE must mandate positive discipline as a first-line response and suspension as a last resort. The systematic implementation of positive discipline alternatives makes schools safer, calmer and more effective places for young people to learn. The DOE has communicated its faith in positive discipline by



piloting programs around the city and including positive-discipline language in the revised discipline code and elsewhere. But without a mandate and meaningful training, the effective use of these alternatives remains questionable. For many years, the DOE instructed principals to use zero-tolerance discipline for many types of infractions in the discipline code, from bullying to possession of contraband. Without that same strong leadership from the DOE to replace zero tolerance with positive alternatives, these changes will not happen in most schools.

Evidence-based alternatives to punitive discipline have been proven to keep schools safe, including positive-behavioral intervention and supports (PBIS), conflict resolution and restorative justice.<sup>300</sup> In New York City, schools such as the Urban Academy and Vanguard High School have created safe and nurturing school climates by implementing alternatives to harsh discipline.<sup>301</sup> In helping some city schools implement PBIS and other restorative justice practices, New York City has taken a step in the right direction, but these tools, and the training to use them, must be available to the city's 1,800 public schools.

School districts across the country, from Los Angeles to Baltimore, are working to end the use of overly harsh school discipline.<sup>302</sup> Most recently, the Los Angeles Unified School District, the nation's second-largest urban school district, voted to abolish the subjective "willful defiance" infraction from its discipline code. This infraction, similar to New York City's "defying authority" infraction, accounted for almost half of all L.A. school suspensions in the 2011-12 school year.

**3. End the criminalization of school discipline.** This requires overhauling the agreement between the NYPD and DOE to limit the role of SSOs and ensure that their activities are consistent with sound educational practices. Arresting and handcuffing students in school for minor misbehavior does not make schools or students safer. Flashpoints of confrontation between students and SSOs escalate quickly with the result that the student may be handcuffed, arrested, issued a summons, or suspended. These interactions foster a hostile school climate and push out students who need the most support from educators.<sup>303</sup>

The Department of Education must mandate positive discipline as a first-line resource and suspension as a last resort.

In order to return the balance of power in school discipline matters to educators, SSOs must always work in consultation with school officials, and their responsibilities should be limited to confronting serious safety concerns. Educators, not SSOs, should be responsible for enforcing school rules. Other jurisdictions -- the states of Connecticut, Texas, and Florida, and districts in California, Georgia, Colorado, Alabama and other states -- have begun to more closely restrict police involvement in student misbehavior because the potential harm to students is so great.

In April 2013, former New York State Chief Judge Judith Kaye's School Justice Partnership Task Force laid important groundwork for a local solution. Comprised of a diverse group of stakeholders, the task force recommended that the DOE and NYPD work together to implement positive discipline strategies and to reduce reliance on suspensions, summonses and arrests.<sup>304</sup> In September 2013, the Student Safety Coalition released "A New Vision for School Safety," which outlines nine guiding principles for creating a safe school environment that is conducive to learning. The Coalition proposals have gained support from many elected officials. In this context, New York's next mayor has a viable opportunity to restore school discipline to the hands of educators.<sup>305</sup>

**4. Ensure adequate training for SSOs to be supportive members of the school community.** Recent nationwide research on school suspensions clearly demonstrates that schools which provide culturally competent training to members of the school community are able to reduce both overall suspensions and racial disparities.<sup>306</sup> But current SSO training is handled almost completely by the NYPD, and includes no contact with students or school staff, no adequate cultural competency training, and scant training on the missions, goals or organization of the school system.

Community activists in the Bronx, the borough with the highest number of student arrests, have started to make some progress with training SSOs. Last spring, the Bronx School Justice Working Group coalition and the New Settlement Parent Action Committee, both members of the Dignity in Schools Campaign-New York, hosted trainings for SSOs. The training focused on contact between SSOs and students, giving all parties a chance to humanize abstract issues and better understand each other. This is the first time parents and students have been included in an SSO training on youth development; the new mayor should study the effectiveness of this and similar trainings in other jurisdictions and incorporate those strategies for all SSOs.

**5. Inform parents and students of their rights, and honor due process and special-education protections. Students' due process rights should be explained in the Discipline Code.** In addition, the notice of suspension letter parents receive must include, in accessible language, explanations of these rights -- at minimum, the right to written notice within 24 hours, the right to receive alternate instruction,<sup>307</sup> the right to a hearing with representation within five days of a superintendent's suspension, appropriate notice of special education protections<sup>308</sup> and information on how to access surveillance footage to defend themselves in suspension hearings and appeals.<sup>309</sup> Current procedure, which restricts students' access to only that footage which will be used to make the school's case, but not exculpatory footage, is fundamentally unfair.<sup>310</sup>

The DOE must support schools to help meet the needs of students with disabilities and behavioral challenges, including their due process rights and procedural rights created by special education laws. The DOE must create a meaningful system for parents to communicate with the DOE about their child's school placement and whether it is appropriate.<sup>311</sup> The DOE must also facilitate the process for students to transfer to other schools if their assigned or zoned school does not offer appropriate services.<sup>312</sup>

New York City is uniquely poised to serve as a national model for dismantling the STPP.

**6. Implement positive behavioral supports in all schools, and train all adults in each building.** Many New York City Schools are already implementing these practices with meaningful results, though funding and support from the DOE is often unpredictable. Unfortunately, schools are sometimes only able to train a few adults on a particular program. And gaps in the management, supervision, and training of SSOs mean that officers are not included in these trainings, and are not aware how their actions affect the success of positive discipline programs. The next mayor must ensure that positive behavior supports are available in every building, and that all adults in the building are part of making the system work.

School staff must also be trained to better identify and refer students with unmet mental health needs to special education and other services.<sup>313</sup> Because students are best served in their community setting, schools should hire more mental health professionals, instead of making referrals to hospitals via EMS transport.<sup>314</sup> Increasing access to "mobile mental health teams," psychiatrists and other mental-health

professionals, who serve a group of schools in a particular community, is a first step towards filling this critical gap in services in city schools.<sup>315</sup>

As the largest school district in the country, New York City is uniquely poised to serve as a national model for dismantling the STPP. Students, teachers and advocates have achieved important disciplinary and school safety reforms in New York City. Through public testimony, training, and meetings with the DOE and the NYPD, advocacy groups like the Dignity in Schools Campaign and the Bronx School Justice Working Group have succeeded in reducing the number of suspensions and arrests in schools over the last year.

The next mayor must follow these grass-roots examples and commit to an overhaul of this ineffective and overly punitive system that has harmed students for over a decade. The next administration must examine suspension and arrest data and implement meaningful reforms that keep our most vulnerable students in the classroom and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.

The next administration must implement meaningful reforms that keep our most vulnerable students in the classroom and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.

# APPENDIX A

## Glossary

### The ABCs of Discipline and Special Education

Parents of students who are disciplined by school safety officers and school administrators, or whose children qualify for special education services and instruction, must master an alphabet soup of abbreviations and acronyms to support their children in the city schools.

This knowledge is particularly crucial for parents who represent themselves “pro se” – without a lawyer – in disciplinary matters. Most parents appear pro se, without professional representation.

- ALC     Alternate Learning Center. A site where students who have been suspended receive instruction. High-school students must receive a minimum of two hours of instruction daily, compared to a 6-hour school day.
- BIP     The Behavior Intervention Plan outlines different approaches teachers and administrators can take to reduce future ‘problem’ behavior.<sup>316</sup>
- DOE     Department of Education. Created by Mayor Bloomberg in his first term; replaced the independent New York City Board of Education. Under mayoral control of the public schools, the Mayor names the Chancellor and the majority of the Panel for Education Policy, which votes on proposed reforms.
- FAPE     A free and appropriate public education, including instruction and special services to meet the needs of all disabled and challenged students.
- FBA     The Functional Behavioral Assessment process articulates the behavior of a special-needs student that led to suspension.<sup>317</sup>
- GED     A general education diploma, often earned by older students who are no longer eligible for public education (the right to public high school education ends when a student turns 21).
- IDEA     The federal Individuals with Disabilities Education Act, which guarantees the rights of all disabled students to a free and appropriate public education, encompassing students with various cognitive, emotional, behavioral and physical impairments, such as learning disabilities and emotional disturbances.<sup>318</sup>
- IEP     Individualized Education Plans, developed to address special-needs students’ academic, emotional and/or medical deficits and related learning needs.
- LRE     Least Restrictive Environment. The goal of current DOE special education reform is to place students in the least restrictive environments possible, for the greatest amount of instructional time.
- MDR     Manifestation determination review, a meeting to assess school discipline, that includes the parent/s or guardian of a student with an IEP, the committee on special education, and

relevant members of the student's IEP team to determine whether the student's behavior was a manifestation of the student's disability or a result of the school's failure to properly implement the student's IEP.<sup>319</sup>

- MOU Memorandum of Understanding, originally agreed between Mayor Rudolph Giuliani and the NYPD and renewed by Mayor Bloomberg, placing NYPD officers in the city's public schools.
- SSDI A project of the US Department of Education to gather and analyze school discipline data "to ensure disciplinary policies...are administered in a non-discriminatory manner."<sup>320</sup>
- SSO School Safety Officer – employees of the New York Police Department placed at public schools. SSOs receive 14 weeks of training (NYPD cadets train for 6 months) and no specific training on working with youth, adolescent development, or children with special needs.
- STPP School to Prison pipeline, the disciplinary and school safety policies and practices that force children out of the classroom and into the criminal justice system.
- YMI The Young Men's Initiative, a \$43 million effort by the Bloomberg administration to address low graduation rates, high unemployment, and disproportionate involvement in the criminal justice system among African-American and Hispanic young men.

## Endnotes

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73 Losen, *Opportunities Suspended* at 17: "The CRDC data for Florida and New York on the enrollment of students with disabilities varied dramatically from other reliable sources. When we contacted OCR, they acknowledged these problems and are in the process of seeking corrected data from these states. *New York City had additional concerns about data on the reporting of suspensions, which OCR is seeking to resolve. Given the absence of New York City data, state estimates for New York are not reliable.*" Emphasis added.

74 American Psychological Association at 852.

75 Judge Steven C. Teske and Judge J. Brian Huff, *The Court's Role in Dismantling the School-to-Prison Pipeline*, *Juvenile and Family Justice Today*, Winter 2011: 14-17; National Council for Juvenile Court and Family Judges (NCJFCJ), *NCJFCJ's Position on Increased Police Presence in Schools*, 15 Jan. 2013. Available at: [http://www.ncjfcj.org/ncjfcjs-position-increased-police-presence-schools#\\_edn2](http://www.ncjfcj.org/ncjfcjs-position-increased-police-presence-schools#_edn2) (last visited 25 Aug. 2013): "Many counties across the country experienced significant increases in minor school arrests when police began to be placed on campus during the 1990s. However, school safety did not improve with increased police presence and graduation rates fell. When police were placed on school campuses in Clayton County, Ga., in 1994, the number of referrals from the school system increased approximately 1,248 percent. Approximately 90 percent of these referrals were infractions previously addressed by administrators."

76 Udi Ofer, *Criminalizing the Classroom: The Rise of Aggressive Policing and Zero Tolerance Discipline in New York City Public Schools*, 56 N.Y.L. Sch. L. Rev. 1373, 1376-1379. Available at [http://www.nylslawreview.com/wordpress/wp-content/uploads/2012/04/56-4.Criminalizing-the-Classroom.Ofer\\_.pdf](http://www.nylslawreview.com/wordpress/wp-content/uploads/2012/04/56-4.Criminalizing-the-Classroom.Ofer_.pdf) (last visited 4 Sept. 2013).

77 Kaufman, P., Chen, X., Choy, S.P., Peter, K., Ruddy, S.A., Miller, A.K., Fleury, J.K., Chandler, K.A., Planty, M.G., and Rand, M.R., *Indicators of School Crime and Safety*, U.S. Departments of Education and Justice. NCE 2002-113/NCJ-190075, Oct. 2001: 4. Available at <http://nces.ed.gov/pubs2002/2002113.pdf> (last visited 25 Aug. 2013).

78 Ofer, *Criminalizing the Classroom* at 1376-1379.

79 American Federation of Teachers, "Newtown, A Call for Ideas" available at: <https://afl.salsalabs.com/o/4013/c/44/images/AFT%20Newtown%20Call%20for%20Ideas%202013.pdf> (last visited 25 Aug. 2013).

80 *Id.*

81 "Bloomberg Throws Punch at NRA, Obama," *Nightline*, 21 Dec. 2012. Available at <http://abcnews.go.com/Nightline/video/nyc-mayor-michael-bloomberg-nra-18041670> (last visited 25 Aug. 2013).

82 Position Statement of the Interdisciplinary Group on Preventing School and Community Violence, "A Call for More Effective Prevention of Violence," 19 Dec. 2012. Available at <http://curry.virginia.edu/articles/sandyhookshooting> (last visited 25 Aug. 2013).

83 *Id.*

- 84 The Safe Schools Against Violence in Education (SAVE) Act, L. 2000, ch. 181; N.Y. Educ. §2801 (l) and (m)(2009). Importantly, the New York City DOE interprets the SAVE Act as requiring suspensions for certain behaviors, and has expressed this interpretation to advocates.
- 85 *Id.*
- 86 Office of the Mayor, “Mayor Michael R. Bloomberg and Schools Chancellor Joel I. Klein Announce New York School Safety Plan,” 23 Dec. 2003. Available at: [http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor\\_press\\_release&catID=1194&doc\\_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2003b%2Fpr375-03.html&cc=unused1978&rc=1194&ndi=1](http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2003b%2Fpr375-03.html&cc=unused1978&rc=1194&ndi=1) (last visited 25 Aug. 2013).
- 87 There were seven infractions in 2001. Miller at 11; Today, the Citywide Standards of Intervention and Discipline Measures, 2013-2014 (hereinafter “2013 Discipline Code”) shows 16 infractions. Available at: <http://schools.nyc.gov/NR/rdonlyres/188AF3E2-F12B-4754-8471-F2EFB344AE2B/0/DiscCodebooklet2013final.pdf> (last visited 25 Aug. 2013).
- 88 Miller at 15; DOE FOIL, student suspensions 1999-2000 through 2007-2008 and school and district suspensions 2008-2009; DOE “Official Audited October 31st Register (SFORM)”, 2000-2009 (on file with author).
- 89 NYCLU analysis of DOE reporting via the Student Safety Act available at [http://www.nyclu.org/files/releases/SSA\\_FactSheet\\_2011-2012.pdf](http://www.nyclu.org/files/releases/SSA_FactSheet_2011-2012.pdf) (last visited 27 Aug. 2013).
- 90 *Id.*; IBO Data Set Number 1.
- 91 2013 Discipline Code.
- 92 *Id.*
- 93 *Id.*
- 94 NYCLU analysis of IBO Data Set Number 2.
- 95 See, e.g. Student Safety Act Top Ten Infractions List, available at [http://www.nyclu.org/files/releases/SSA\\_FactSheet\\_2011-2012.pdf](http://www.nyclu.org/files/releases/SSA_FactSheet_2011-2012.pdf) (last visited 25 Aug. 2013).
- 96 Compare Discipline Codes from 2011, 2012 and 2013, available at [www.schools.nyc.gov](http://www.schools.nyc.gov).
- 97 IBO Data Set Number 1
- 98 Ben Jealous and Marc H. Morial, “Reforming Exclusionary School Discipline Policies as a Strategy for Equity and Excellence.” Available at [http://www.foreachandeverchild.org/T\\_T\\_P/Reforming%20Exclusionary%20Discipline%20Policies.pdf](http://www.foreachandeverchild.org/T_T_P/Reforming%20Exclusionary%20Discipline%20Policies.pdf) (last visited 25 Aug. 2013); Skiba et al., *The Color of Discipline* at 13. See also note 67.
- 99 IBO Data Set Numbers 1, 2, and 3.
- 100 DOE Accountability Data, Graduation and Dropout Reports, available at: <http://schools.nyc.gov/Accountability/data/GraduationDropoutReports/default.htm> (last visited 25 Aug. 2013); New York Communities for Change, New York City Coalition for Educational Justice, *School Closures a Shell Game with Students*, Jan. 2012: 1. Available at <http://www.nyccej.org/wp-content/uploads/2012/01/school-closures-report.pdf> (last visited 25 Aug. 2013); Students with disabilities who do not earn a Regents Diploma may still earn an IEP diploma. However an IEP diploma is “not a standards-based diploma and is not recognized in this State as equivalent to a regular high school diploma. Therefore, a student who exits school with an IEP diploma, and not a regular diploma, is likely to be significantly limited in his/her post-secondary education opportunities, employability and earning potential.” James P. DeLorenzo, Letter to District Superintendents et al., 2010. Available at <http://www.p12.nysed.gov/specialed/publications/iepdiploma.htm> (last visited 25 Aug. 2013)
- 101 DOE Accountability Data, Graduation and Dropout Reports, available at: <http://schools.nyc.gov/Accountability/data/GraduationDropoutReports/default.htm> (last visited 25 Aug. 2013).
- 102 IBO Data Set Number 2.

- 103 IBO Data Set Number 1.
- 104 *Id.*
- 105 IBO Data Set Number 3.
- 106 Sweeten at 473; NAACP LDF at 4; Fabelo et al., at 61-72.
- 107 NYCLU FOIL of Student Safety Act count of SSOs in NYC Schools 11 Jun. 2013. On file with author.
- 108 Memorandum of Understanding Among the Board of Education, The Chancellor of the City School District, and the City of New York on the Performance of School Security Functions by the New York City Police Department for the Benefit of the City School District of the City of New York and Its Students and Staff (1998). Hereinafter "1998 MOU." On file with author.
- 109 Including summer school, there were 216 high school days and 209 middle school days during this 12 month period. NYCLU analysis of NYPD reporting on Student Safety Act data available at: <http://www.nyclu.org/files/releases/School%20Safety%20Fact%20Sheet%202011-2012.pdf> (last visited 25 Aug. 2013).
- 110 *Id.*
- 111 *Stop and Frisk NYCLU Briefing* at 2. Young men are counted here as 14 to 24 years old.
- 112 NYCLU analysis of NYPD Stop and Frisk Database; Ofer, "To Help Close the Achievement Gap, Address Stop and Frisk."
- 113 *Id.* Only 1 percent of frisks of young people in 2011 recovered a weapon. Force was used by the police on young people in 22 percent of the stops. Force can range from the pointing of a gun to an officer placing his or her hands on the young person.
- 114 *Id.*
- 115 *Id.*
- 116 *Stop and Frisk NYCLU Briefing 2011* at 6. 99 percent of all stops in these neighborhoods were of black and Latino people. *Id.* (same as 2011 cite above).
- 117 *Stop and Frisk NYCLU Briefing 2011, 2012* at 6; IBO Data Set Number 2.
- 118 Young Men's Initiative, "About the Young Men's Initiative," Available at: <http://www.nyc.gov/html/yimi/html/about/about.shtml> (last visited 25 Aug. 2013).
- 119 DOE Graduation Statistics, available at: <http://schools.nyc.gov/Accountability/data/GraduationDropoutReports/default.htm> (last visited 25 Aug. 2013).
- 120 IBO Data Set Number 1.
- 121 IBO Data Set Number 3.
- 122 IBO Data Set Number 1; NYPD reporting via Student Safety Act data.
- 123 IBO Data Set Number 2.
- 124 *Id.*
- 125 IBO Data Set Number 2.
- 126 NAACP LDF, New York City Specialized High School Complaint, available at <http://www.naacpldf.org/case-issue/new-york-city-specialized-high-school-complaint> (last visited 25 Aug. 2013).
- 127 IBO Data Set Number 1.
- 128 *Id.*



- 129 IBO Data Set Number 4.
- 130 Laura Bomfreund, Senior Policy Analyst, Early Education at the New America Foundation, "Why Suspension Makes No Sense in the Early Grades," *Huffington Post*, 20 Mar. 2011. Available at: [http://www.huffingtonpost.com/laura-bornfreund/why-suspension-makes-no-s\\_b\\_1369554.html](http://www.huffingtonpost.com/laura-bornfreund/why-suspension-makes-no-s_b_1369554.html) (last visited 25 Aug. 2013).
- 131 Increasing high stakes climate has disproportionately harmed low income students who cannot afford to pay private tutors to teach them "the test." The National Center for Fair and Open Testing, "How High Stakes Testing Feeds the School to Prison Pipeline," Mar. 2010. Available at <http://www.fairtest.org/how-testing-feeds-schooltoprison-pipeline> (last visited 25 Aug. 2013).
- 132 Deputy Chancellor Kathleen Grimm, testimony, New York City Council Oversight Hearing: DOE School Suspension Data, 30 Nov. 2011: 51. Transcript available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1011796&GUID=A7AB6DA7-4368-4C83-AF59-A70F0C089CCC&Options=&Search=> (last visited 3 Sept. 2013).
- 133 DOE Attendance Rate by District, available at <http://schools.nyc.gov/NR/rdonlyres/B7CC89D2-F7B0-4DFA-92A0-3AA5BBFB597D/138966/PARbyDistrictanalysisreportinternet.pdf> (last visited 25 Aug. 2013).
- 134 DOE, Regulations of the Chancellor, A-443 § III.B.1(e).
- 135 National Council of La Raza, *School to Prison Pipeline Zero Tolerance for Latino Youth*, 2011:4. Available at [http://www.sccgov.org/sites/pdo/ppw/pubs/Documents/ZeroTolerance\\_FactSheet22011.pdf](http://www.sccgov.org/sites/pdo/ppw/pubs/Documents/ZeroTolerance_FactSheet22011.pdf) (last visited 25 Aug. 2013).
- 136 Peter Leone, University of Maryland, Department of Special Education, Lois Weinberg, California State University, Los Angeles, Division of Special Education and Counseling, *Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems*, May 2010: 11.
- 137 This is a state constitutional right; there is no federal right to an education. See N.Y. Const. art. XI, § 1 (establishing that students in New York have the right to a free, public education); *See also Campaign for Fiscal Equity, Inc. v. New York*, 655 N.E.2d 661, 666 (N.Y. 1995) (stating that the New York State Constitution requires the State "to offer all children the opportunity of a sound basic education").
- 138 IBO Data Set Number 4.
- 139 Miller at 6.
- 140 *Id.* at 15.
- 141 DOE Chancellor's Regulation A-443 § III.B.3; *See also Goss v. Lopez*, 419 U.S. 565, 573-574 (1975) (explaining that, "The state must recognize a student's legitimate entitlement to a public education as a property interest that is protected by the Due Process Clause, and that may not be taken away for misconduct without observing minimum procedures required by that clause.").
- 142 2013 Discipline Code.
- 143 Deputy Chancellor Kathleen Grimm, testimony, New York City Council Oversight Hearing: School Climate 15 Apr. 2013: 81. Transcript available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1326517&GUID=4B192B42-E95B-4EEE-A21C-65B99149F820&Options=&Search=> (last visited 3 Sept. 2013).
- 144 N.Y. Const. art. XI, §1; *Campaign for Fiscal Equity, Inc.*, 655 N.E.2d at 666.
- 145 *Matter of Rome City School District v. Grifasi*, 10 Misc.3d 1034, 1036 (Sup. Ct. 2005).
- 146 Elayna Konstan, CEO Office of Safety and Youth Development, testimony, DOE School Suspension Data, *supra* note 132 at 126.
- 147 20 U.S.C. 1415k (5)(d); DOE Chancellor's Regulations A-443 § II.B.3; N.Y. Comp. Codes R. & Regs. tit. 8, § 201.6(b).

- 148 Elmhurst Psychiatrist Letter to the DOE, November 2011. On file with author.
- 149 DOE, Regulations of the Chancellor, A-443 § IV.
- 150 *Id.* at 1 (Changes to 2004 Version, bullet 2).
- 151 Deputy Chancellor Kathleen Grimm, testimony, *supra* note 132 at 22.
- 152 Advocates for Children, *E.B. v. Department of Education*, available at: [http://advocatesforchildren.org/litigation/class\\_actions/eb\\_vs\\_doe](http://advocatesforchildren.org/litigation/class_actions/eb_vs_doe) (last visited 25 Aug. 2013).
- 153 Memorandum of Understanding between E.B and All Others Similarly Situated and the New York City Department of Education: 4. On file with author.
- 154 IBO data Set Number 2.
- 155 Anna Louise Sussman, "Suspension Trap," *The Progressive*, Apr. 2011. Available at: <http://www.progressive.org/sussman0411.html> (last visited 25 Aug. 2013).
- 156 Losen & Gillespie at 13; NAACP LDF at 4; Fabelo et al., at 68; James P. DeLorenzo, Letter to District Superintendents et al. 2010. Available at <http://www.p12.nysed.gov/specialed/publications/iepdiploma.htm> (last visited 25 Aug. 2013).
- 157 NAACP LDF at 4-6.
- 158 "Disabilities," as defined by federal law, include various cognitive, emotional, behavioral and physical impairments, such as learning disabilities and emotional disturbances. 34 C.F.R. § 300.7(a)(9); In order to provide an appropriate education to students with disabilities, the DOE receives federal funding to create programs and supports, evaluate students, and implement individualized education plans (IEPs) based on the evaluations. An IEP is a written statement of the educational program designed to meet a child's individual needs. *Id.*
- 159 20 U.S.C. § 1415(k)(1)(E) (2013); N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4 (c). This is called a Manifestation Determination Review (MDR).
- 160 *Id.* The review includes a representative of the school district knowledgeable about the student, the parent and relevant members of the IEP team. 20 U.S.C. § 1415(k)(1)(F); N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4
- 161 *Id.*
- 162 *Sch. Bd. of Prince William Cnty., Va. v. Malone*, 762 F.2d 1210, 1212 (4th Cir. 1985).
- 163 *Id.*
- 164 Federal protections have also diminished somewhat since this decision was issued. Before 2004, the special education committee was required to consider more factors during the manifestation review than they do today, including whether the school appropriately evaluated and provided services for the student. Melinda Baird Jacobs, Esq., Manifestation Determinations, *The Search for Meaning*, 2009: 4. Available at <http://www.ksde.org/LinkClick.aspx?fileticket=4F7lh40PRJE%3D&tabid=3339> (last visited 3 Sept. 2013). Today, the committee is only required to determine whether the behavior had a direct and substantial relationship to the child's disability or whether the conduct in question was the direct result of the school's failure to implement the IEP. 20 U.S.C. § 1415(k)(1)(E); N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4 (c).
- 165 If a student with a disability is suspended for over 10 days, following a review where his behavior is determined *not* to be a manifestation, he must be provided with services at the Alternate Learning Center. 34 CFR § 300.530.
- 166 Critically, in 2011, only 12 percent of students with disabilities graduated with a Regents diploma on time – the only credential now recognized by the New York State Regents as criteria for high school graduation. New York City Department of Education Accountability pages, citywide spreadsheet, 2007 cohort, available at <http://schools.nyc.gov/Accountability/data/GraduationDropoutReports/default.htm> (last visited 3 Sept. 2013).
- 167 ARISE Coalition, *Include! Educate! Respect!*, Apr. 2009: 2 available at <http://arisecoalition.org/Include!%20%20>

- Educate!%20%20Respect!.pdf (last visited 3 Sept. 2013).
- 168 IBO Data Set Number 3; Citywide, IEP students served 29 percent of suspensions in 2010-11, while constituting only 16 percent of the overall student population. IBO Data Set Number 1. Nearly one in six students in New York City public schools -- 169,000 children -- have been diagnosed with disabilities that affect their education. New York City Department of Education Statistics and Budget, available at <http://schools.nyc.gov/Common/Templates/MainTemplate/CommonMainTemplate.aspx?NRMODE=Published&NRNODEGUID=%7bBB6A5758-B9B7-4363-B18A-BDAD80E3CC8B%7d&NRORIGINALURL=%2fSchoolPortals%2f21%2fK410%2fAboutUs%2fStatistics%2fregister%2ehtm&NRCACHEHINT=Guest> (last visited 3 Sept. 2013).
- 169 IBO Data Set Number 3.
- 170 *Id.*
- 171 IBO Data Set Number 3.
- 172 Formerly the Education for All Handicapped Children Act (“EAHCA” or “the Act”), 20 U.S.C. §§ 1400–1461 (1976 and Supp.1980).
- 173 *Honig v. Doe*, 484 U.S. 305, 309 (1988) (quoting H.R.Rep. No. 94–332, p. 2 (1975)).
- 174 Statement of Advocates for Children of New York (AFC) in response to the Fund for Public Advocacy’s new report, “Educating All Students Well: Special Education Reform in New York City Public Schools” available at [http://www.advocatesforchildren.org/sites/default/files/library/statement\\_re\\_fund\\_for\\_public\\_advocacy\\_report.pdf?pt=1](http://www.advocatesforchildren.org/sites/default/files/library/statement_re_fund_for_public_advocacy_report.pdf?pt=1) (last visited 3 Sept. 2013); ARISE Coalition at 2; New York City Department of Education, *Special Education Reform Reference Guide*, June 2012. Available at <http://schools.nyc.gov/NR/ronlyres/4C52B390-1162-4D9F-8ED0-0D96E21E4B55/0/SpecialEducationReformReferenceGuide060512.pdf> (last visited 3 Sept. 2013).
- 175 *Id.*
- 176 ARISE Coalition at 8; Office of the New York City Public Advocate, *Overworked, Underutilized: How the Department of Education’s Reorganizations of Special Education Turned School Psychologists from Mental Health Professionals into Paper Pushers*, A Report by Public Advocate Besty Gotbaum, Nov. 2008: 2. Available at <http://publicadvocategotbaum.com/policy/documents/SchoolPsychologistsWebFinal.pdf> (last visited 3 Sept. 2013); New York City Department of Education, Implementation Plan for the Reform of Special Education, Jan. 2010. Available at [http://www.resourcesnyc.org/sites/default/files/DOE%20Plan%20for%20Reform%20of%20Special%20Ed%20-%20Jan.%202010\\_0.pdf](http://www.resourcesnyc.org/sites/default/files/DOE%20Plan%20for%20Reform%20of%20Special%20Ed%20-%20Jan.%202010_0.pdf) (last visited 3 Sept. 2013).
- 177 Each reform increasingly shifted responsibility from the district to local schools and specifically to school psychologists. In 2003, the DOE required school psychologists to handle special education evaluations instead of the district’s Committee on Special Education. The DOE failed to hire enough psychologists to keep pace with these changes or the rising number of special education students. *Overworked, Underutilized* at 2; This resulted in serious delays in evaluations. *Id.* at 8; Kenneth Bleiwas, Jane Moore, *Waiting for Special Education*, Office of the New York State Comptroller, June 2008:1. Available at <http://www.osc.state.ny.us/osdc/rpt3-2009.pdf> (last visited 3 Sept. 2013). In 2008, there were 180 special education students for every one school psychologist and only one school psychologist for every two schools. *Overworked, Underutilized* at 11; New York Lawyers for the Public Interest, “Testimony to be delivered to the New York City Council’s Education Committee Re: DOE’s Special Education Reform,” 12 Jun. 2012. Available at <http://arisecoalition.org/NYLPi%20-%20Special%20Ed%20Reform%20Testimony.pdf> (last visited 3 Sept. 2013).
- 178 *Id.*; Statement of Advocates for Children, *supra* note 174.
- 179 Bleiwas, *supra* note 177.
- 180 *Id.*
- 181 *Id.*
- 182 New York City Department of Education, *Raising the Bar for All Students, New York City’s Special Education Reform*, available at <http://schools.nyc.gov/NR/ronlyres/E2E8B314-7076-45C0-837F-B2F223F3F9DD/0/OnePagerSpecialEd.pdf> (last visited 3 Sept. 2013); Michael Winerip, “Keeping Students’ Mental Healthcare Out of the ER,” *New York Times*, 2 Apr. 2012. Available at <http://www.nytimes.com/2012/04/09/nyregion/trying-to->

- keep-students-mental-health-care-out-of-the-er.html?pagewanted=2&\_r=0&ref=michaelwinerip (last visited 3 Sept. 2013).
- 183 *Overworked, Underutilized* at 11.
- 184 Office of Bill De Blasio, *Educating All Students Well: Special Education Reform in New York City Public Schools*, Fund for Public Advocacy, 31 Aug. 2012: 11. Available at <http://advocate.nyc.gov/sites/advocate.nyc.gov/files/NYC-PA-SpecialEd-Report-8-31-12.pdf> (last visited 3 Sept. 2013).
- 185 *Id.*
- 186 At a Community Education Council meeting on November 28, 2012, advocates' fears were made tangible when Gary Hecht, the superintendent of District 75, noted that referrals to his district had increased since the reform began. Hecht said that District 75 enrollment was 273 students "over projection" in November. Hecht additionally said that his staff was reviewing new referrals to ensure that students had not been placed there because schools lacked specific services. Citywide District 75 Council Meeting Minutes, available at <http://schools.nyc.gov/documents/d75/parent/cd75/Calendar%20Meeting%20November%2028%20%202012.pdf> (last visited 3 Sept. 2013).
- 187 Winerip at 2.
- 188 *Id.*
- 189 *Id.* The principal testified at the education hearing that all paraprofessionals were already assigned to other students.
- 190 Rachel Monahan, "Education Department statistics show schools called 911 a whopping 3,600 times last year to deal with non-suicide-related mental health problems," *Daily News*, 28 Jun. 2012. Available at <http://www.nydailynews.com/new-york/education/education-department-statistics-show-schools-called-911-whopping-3-600-times-year-deal-non-suicide-related-mental-health-problems-article-1.1103635#ixzz2d0EV0CT4> (last visited 3 Sept. 2013). "These schools don't have the resources to deal with students who are either having a bad day or having issues going on," said Nelson Mar of Legal Services NYC - Bronx, which sued the city for more data on EMS removals. *Id.*
- 191 *Id.*; Winerip at 2; Rachael Monahan, "Kindergarten cops! Say 5-year-old autistic boy's tantrum at school gets 3 generations in scrap with NYPD," *The Daily News*, 17 Apr. 2012. Available at <http://www.nydailynews.com/new-york/brooklyn/kindergarten-cops-5-year-old-autistic-boy-tantrum-school-3-generations-scrap-nypd-article-1.1062717#ixzz2d0Gje1RP> (last visited 3 Sept. 2013); David Rosen, "Has School Disciplining Gone Too Far?" *Salon*, 16 May 2013. Available at [http://www.salon.com/2013/05/16/has\\_school\\_disciplining\\_gone\\_too\\_far\\_partner/](http://www.salon.com/2013/05/16/has_school_disciplining_gone_too_far_partner/) (last visited 3 Sept. 2013).
- 192 Monahan, "Kindergarten Cops" at 1.
- 193 Winerip at 2; Rosen at 1.
- 194 Monahan, "Kindergarten Cops" at 1.
- 195 *Id.*
- 196 *Id.* New York City charges affected families \$704 for the ambulance response, \$1,190 for an ambulance ride with a single paramedic, \$1,290 for a ride with two paramedics; \$12/mile traveled and \$60 if oxygen is provided during the trip. *De Blasio v. Bloomberg*, No.100573 (N.Y. Sup. Ct. 2012), available at <http://pubadvocate.nyc.gov/EMS> (last visited 3 Sept. 2013).
- 197 Dr. Randi Herman, First Vice President Council of School Supervisors and Administrators, testimony, New York City Council Oversight Hearing: School Based Mental Health Services, 1 May 2012: 178. Transcript available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1108301&GUID=28898978-357B-42F3-AD8D-C88BE8C88482&Options=&Search=> (last visited 3 Sept. 2013). Medical providers note that students who threaten themselves or others do need and should receive a same-day mental health evaluation. But, most of the time the "whole shebang" of EMS transport to an ER is not necessary. *Id.*, Dr. Charles Soulé, Chair, New York City Department of Education School-Based Mental Health Committee at 149.
- 198 *Id.*; Following involuntary EMS removals from school, children were reported as "anxious, withdrawn and

- emotionally seared” by the experience. *De Blasio v. Bloomberg*, at 2.
- 199 Dr. Charles Soulé, testimony, *supra* note 197 at 149.
- 200 Dr. Charles Soulé, personal interview, 18 Jul. 2013.
- 201 Dr. Charles Soulé, personal interview, 14 Nov. 2012.
- 202 *Id.* These numbers vary slightly, depending on when the data was captured and how programs were counted.
- 203 This is not an exhaustive list. Dr. Charles Soulé, personal interview, 18 Jul. 2013.
- 204 Rachel Monahan, “Advocates: Schools Overusing 911 for Behavior Problems,” *The Daily News* 1 May 2012, stating: “The spike in calls comes amid budget cuts to school counseling services. Since 2008, the number of guidance counselors in city schools has fallen 8 %, while psychologists fell by 6% and social workers fell by 11%, teachers union officials said. In the last few years, the number of mental health programs in schools has dropped from 268 to 216, officials acknowledge.” Available at <http://www.nydailynews.com/new-york/education/advocates-school-overusing-911-behavior-problems-article-1.1070834> (last visited 4 Sept. 2013).
- 205 Dr. Charles Soulé, testimony, *supra* note 197 at 148; Winerip at 1.
- 206 Deputy Chancellor Kathleen Grimm, testimony, *supra* note 197 at 52.
- 207 *De Blasio v. Bloomberg* at 2; 3631 students over 180 school days is 20 students per day (180 school days in one school year).
- 208 Rosen at 1; Dr. Charles Soulé, testimony, *supra* note 197 at 148.
- 209 Nelson Mar, Esq. Director, Senior Staff Attorney and Education Law Specialist, testimony, *supra* note 197 at 122-126.
- 210 IBO Data Set Number 1; Student Safety Act Data: compare 2011 data available at [http://www.nyclu.org/files/releases/SSA\\_FactSheet\\_2010-2011.pdf](http://www.nyclu.org/files/releases/SSA_FactSheet_2010-2011.pdf) with 2012 data, available at [http://www.nyclu.org/files/releases/SSA\\_FactSheet\\_2011-2012.pdf](http://www.nyclu.org/files/releases/SSA_FactSheet_2011-2012.pdf) (last visited 3 Sept. 2013).
- 211 IBO Data Set Numbers 1 and 3.
- 212 Miller at 20.
- 213 IBO Data Set Number 3. Most schools suspend fewer than five percent of students with IEPs.
- 214 Rachel Monahan, “Officials were given advance warning on special-ed suspension, memo shows,” *The Daily News*, 28 Jan. 2011. Available at <http://www.nydailynews.com/new-york/education/officials-advance-warning-special-ed-suspensions-memo-shows-article-1.154314> (last visited 3 Sept. 2013).
- 215 *Id.*
- 216 *Id.*
- 217 Adapted from: Adamma Ince, “Preppin for Prison, Cops in Schools Teach a Generation To Live in Jail,” *The Village Voice*, 12 Jun. 2001. Available at: <http://www.villagevoice.com/2001-06-12/news/preppin-for-prison/> (last visited 25 Aug. 2013).
- 218 This high school is one of New York City’s premier selective high schools.
- 219 2012 Discipline Code at 23, infraction B11. Available at <http://schools.nyc.gov/nr/rdonlyres/f7da5e8d-c065-44ff-a16f-55f491c0b9e7/0/discocode20122013final.pdf> (last visited 4 Sept. 2013).
- 220 NYCLU FOIL of Student Safety Act count of SSOs in NYC Schools 11 Jun. 2013. On file with author.
- 221 Office of the Mayor, “Mayor Michael R. Bloomberg and Schools Chancellor Joel I. Klein Announce New York School Safety Plan,” 23 Dec. 2003. Available at: [http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor\\_press\\_release&catID=1194&doc\\_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2003b%2Fpr375-03.html&cc=unused1978&rc](http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2003b%2Fpr375-03.html&cc=unused1978&rc)

- =1194&ndi=1 (last visited 25 Aug. 2013).
- 222 NAACP LDF at 13.
- 223 Deputy Chancellor Grimm, testimony, *supra* note 143 at 81.
- 224 Michael R. Bloomberg, Mayor of the City of New York, *Mayor's Management Report – Fiscal 2005*, (New York: Office of the Mayor, 2006) 28.
- 225 Susan Edelman, “Tempers Flare Over Timing of School-Crime Report Card,” *New York Post*, 18 Sept. 1998.
- 226 *Mayor's Management Report – Fiscal 2005* at 28.
- 227 *Id.*
- 228 *Mayor's Management Report – Fiscal 2005* at 28; “Criminalizing Children at School,” *New York Times*, editorial, 19 Apr. 2013. Available at: <http://mobile.nytimes.com/2013/04/19/opinion/criminalizing-children-at-school.html> (last visited 25 Aug. 2013); Edelman at 1.
- 229 Ince at 2. The MOU required that a Joint Committee on School Safety – with representatives from the mayor’s office and the then-board of education – evaluate the School Safety Division annually, “with the goal of improving and enhancing the program.” 1998 MOU. However, only one such report over the last fifteen years appears to have been publicly issued.
- 230 Chongmin Na of The University of Houston, Clear Lake, and Denise Gottfredson of the University of Maryland, *Criminalizing Children at School*, 2011: 4 (stating that crimes in schools across the country began decreasing in 1993, before zero tolerance and steep increases in policing personnel occurred), 24 (“This study found no evidence suggesting that [SSA] or other sworn law-enforcement officers contribute to school safety. That is, for no crime type was an increase in the presence of police significantly related to decreased crime rates.”), 26 (“This program [officers in schools] has grown dramatically without the benefit of scientific evaluation. No rigorous study to date has demonstrated that placing police in schools promotes school safety.”); Jason Langberg, Barbara Fedders, Drew Kukorowski, *Law Enforcement Officers in Wake County Schools: The Human, Education, and Financial Costs*, Advocates for Children’s Services, Feb. 2011: 5. Available at: [http://www.legalaidnc.org/public/ACS/IssueBrief\\_Feb-11\\_SROs\\_Rev.pdf](http://www.legalaidnc.org/public/ACS/IssueBrief_Feb-11_SROs_Rev.pdf) (last visited 25 Aug. 2013); Peter Price, *When Is A Police Officer an Officer of the Law?: The Status of Police Officers in Schools*, 99 *J. Crim. L. & Criminology* 541, 545 (2009).
- 231 *New York Times*, editorial at 1; Na & Gottfredson at 26; Langberg at 9.
- 232 For all types of crime, the harsher response was more likely in schools with the presence of at least one full-time SRO or other sworn law-enforcement officer. Na & Gottfredson at 18.
- 233 In schools with permanent metal detectors, 77 percent of police personnel interventions are in non-criminal incidents. This percentage was twice as high as those in similarly-sized schools without metal detectors. Ofer, *Criminalizing the Classroom*, at 1392.
- 234 *Id.*; Elora Mukherjee, Marvin M. Karpatkin Fellow, *Criminalizing the Classroom*, New York Civil Liberties Union, Mar. 2007: 22.
- 235 *Id.*
- 236 See Appendix B.
- 237 NYCLU analysis of 2013 Metal Detector data. See Appendix B. Black students are disproportionately impacted by metal detectors. In total, 27.4% of students are black, but 43.1% of students passing through metal detectors are black.
- 238 *Id.*
- 239 *Id.*
- 240 Mukherjee at 19; Benia Darius, testimony, *supra* note 143 at 150.



- 241 Benia Darius, testimony, *supra* note 143 at 150-151.
- 242 *Id.*
- 243 *Id.*
- 244 *Id.* at 148-149.
- 245 Michael Powell, "In School Built on Trust, Metal Detectors Inject Fear," *New York Times*, 17 Sept. 2012. Available at <http://www.nytimes.com/2012/09/18/nyregion/in-a-brooklyn-school-metal-detectors-inject-fear.html?partner=rss&emc=rss> (last visited 25 Aug. 2013).
- 246 *Id.*; DOE Learning Environment Survey, available at: <http://schools.nyc.gov/Accountability/tools/FindAReport/default.htm> (last visited 25 Aug. 2013).
- 247 DOE Demographic Survey from 2011-2012, available at: <http://schools.nyc.gov/Accountability/data/default.htm> (last visited 4 Sept. 2013).
- 248 Powell at 1.
- 249 *Id.*
- 250 DOE, Regulations of the Chancellor, A-432 available at <http://docs.nycenet.edu/docushare/dsweb/Get/Document-21/A-432.pdf> (last visited 5 Sept. 2013).
- 251 Assistant Chief Commanding Officer of the School Safety Division, Brian Conroy, testimony, *supra* note 143 at 30.
- 252 The 1998 MOU does not specify training on these topics.
- 253 *Id.*; Edelman at 1.
- 254 1998 MOU.
- 255 *Id.*
- 256 Statements of New York City Council Members Robert Jackson, Sara Gonzalez and G. Oliver Koppel *supra* note 143 at 9, 13, and 74-76; Ann Luser, teacher, testimony, *supra* note 143 at 251-253.
- 257 *Id.*
- 258 *New Jersey v. TLO*, 469 U.S. 325 (1985); DOE, Regulations of the Chancellor, A-432.
- 259 G. Oliver Koppel, statement, *supra* note 143 at 75.
- 260 N.Y. Penal Law § 120.00; 2013 Discipline Code at 29, infraction B53.
- 261 NYCLU analysis of Student Safety Act data, 2011-2012. On file with author.
- 262 1Q 2013 NYPD reporting on Student Safety Act data.
- 263 NYPD reporting on Student Safety Act data, First Full Year 2011-2012.
- 264 *Id.*; Including summer school, there were 216 high school days and 209 middle school days during this 12 month period. NYCLU Fact Sheet available at <http://www.nyclu.org/files/releases/School%20Safety%20Fact%20Sheet%202011-2012.pdf> (last visited 4 Sept. 2013).
- 265 NYPD reporting on Student Safety Act data, First Full Year 2011-2012.
- 266 1Q 2013 NYPD reporting on Student Safety Act data.
- 267 New York City J-Form Data available at: <http://schools.nyc.gov/AboutUs/data/stats/Register/JFormbyDistricts/default.htm>. (last visited 14 Aug 2013).
- 268 The New York Civil Liberties Union, "First Full Year of NYPD Data Shows Black Students Disproportionately Arrested at School," available at <http://www.nyclu.org/news/first-full-year-of-nypd-data-shows-black->

- students-disproportionately-arrested-school. (last visited 14 Aug. 2013).
- 269 1998 MOU.
- 270 The Chancellor's Regulations and federal law prohibits schools from disclosing student records to outside agencies without parental consent. Even so, parents may choose to grant permission to school staff to inform SSOs that their child is a child with a disability without disclosing records.
- 271 New York City Administrative Law Title 14 § 14-152.
- 272 Despite the fact that this information is required under the Student Safety Act, the NYPD has consistently failed to report this data.
- 273 1Q 2013 NYPD reporting via the Student Safety Act.
- 274 Patrick Wall, "Bronx Students Will Help Train the School Safety Agents Who Guard Them," *DNAinfo New York*, 27 Mar. 2013. Available at <http://www.dnainfo.com/new-york/20130327/mott-haven/bronx-students-will-help-train-school-safety-agents-who-guard-them> (last visited 4 Sept. 2013); Patrick Wall, "City Mulls Changes to School Discipline Policy After Meeting with Parents," *DNAinfo New York*, 29 Aug. 2012. Available at <http://www.dnainfo.com/new-york/20120829/high-bridge/city-mulls-changes-school-discipline-policy-after-meeting-with-parents> (last visited 4 Sept. 2013).
- 275 Statements of New York City Council Members Robert Jackson, Sara Gonzalez and G. Oliver Koppel *supra* note 143 at 9, 13, and 74-76; Ann Luser, teacher, testimony, *supra* note 143 at 251-253.
- 276 *Bruno v. City of New York*, CV No. 10 CV 0210 (E.D.N.Y. 2010); Chapman at 1; Parascandola, et al., at 1; Monahan, "Queens girl Alexa Gonzalez hauled out of school in handcuffs" at 1.
- 277 Students aged 16 and older may be issued a summons in New York. N.Y. Penal Law § 30.00 (McKinney). If a student under 16 is charged with a crime, the case normally goes before a judge in Family Court. *Id.*; See also New York City Bar, *Introductory Guide to New York City Family Court*, Feb. 2012 available at <http://www.nycourts.gov/courts/nyc/family/IntroductoryGuidetoNYCFamilyCourt.pdf> (last visited 28 Aug. 2013).
- 278 Sweeten at 473-477.
- 279 Disorderly Conduct accounts for over 60 percent of summonses in schools. NYCLU analysis of Student Safety Act Data 2011-2013 available at <http://www.nyclu.org/content/student-safety-act-data> (last visited 28 Aug. 2013). See, e.g., N.Y. Penal Law § 240.20 (McKinney).
- 280 The right to counsel does not apply to state non-felony offenses. *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Argersinger v. Hamlin*, 407 U.S. 25 (1972).
- 281 N.Y. Crim. Proc. Law § 150.60 (McKinney).
- 282 Brent Staples, "Inside the Warped World of Summons Court," *New York Times*, 16 Jun. 2012. Available at <http://www.nytimes.com/2012/06/17/opinion/sunday/inside-the-warped-world-of-summons-court.html> (last visited 2 Sept. 2013).
- 283 N.Y. Penal Law § 80.05.
- 284 N.Y. Penal Law § 70.15.
- 285 *Id.*; N.Y. Penal Law § 80.05.
- 286 NYCLU analysis of Student Safety Act data on arrests from 2011-2012 showing that black students constitute 64 percent of arrests; IBO data set Numbers 1 and 3 showing that black students and black students with IEPs are disproportionately represented in suspensions.
- 287 *Id.*; Mukherjee at 2,3, 20; NYCLU analysis of schools with permanent metal detectors, Appendix A. Total school population has decreased over Bloomberg's tenure, yet black students still bear the brunt of these policies.
- 288 See *Campaign for Fiscal Equity v. State*, 719 N.Y.S.2d 475, 490 (Sup. Ct. 2001) (stating that "a defining

- characteristic of the New York City public school system is its high concentration of students from low-income families” [internal citations omitted]. This is as true today as it was in 1995. IBO Data Set Number 2; New York City Independent Budget Office, *New York City Public School Indicators: Demographics, Resources, Outcomes*, Annual Report 2011:9. Available at <http://www.ibo.nyc.ny.us/iboreports/2011edindicatorsreport.pdf> (last visited 2 Sept. 2013).
- 289 *Id.*; Maggie Moroff, Special Education Policy Coordinator of Advocates for Children and the Coordinator of the ARISE Coalition, testimony, New York City Council Oversight Hearing on Special Education Reform, 12 Jun. 2012: 187-191. Available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1130254&GUID=E93FAB4E-29CD-44CB-AB3D-2D180AB90C60&Options=&Search=> (last visited 2 Sept. 2013); Monahan, “Advocates: Schools Overusing 911 for Behavior Problems” at 1; Winerip at 1.
- 290 For example, looking at all races, a majority of schools suspend less than 5 percent of their students with special needs. Queens, where more than a quarter of New York City students attend school, has the lowest suspension rate of the five boroughs. IBO Data Set Number 2.
- 291 IBO Data Set Number 3.
- 292 *Id.*
- 293 New York City Administrative Law Title 14 § 14-152.
- 294 Of the 69,643 suspensions in 2011-12 that would be reported across nine categories (total, gender, race, IEP status, ELL status, grade, age, infraction, length), 33.8% of suspensions by category have been redacted. Including the zero-valued data points, the DOE redacted 97.3% of what would have been reported. In other words, for every value that should be reported, 97 percent of that information is redacted. NYCLU Analysis of Student Safety Act data available on file with author.
- 295 20 U.S.C. § 1232g(b)(1).
- 296 Office of Management and Budget, *Statistical Policy Working Paper 22 – Report on Statistical Disclosure Limitation Methodology* 108 (Revised 2005), available at [http://www.fcs.gov/working-papers/SPWP22\\_rev.pdf](http://www.fcs.gov/working-papers/SPWP22_rev.pdf) (last visited Apr. 11, 2013).
- 297 34 C.F.R. § 99.3
- 298 73 Fed. Reg. 74,835 (Dec. 9, 2008). “Decisions regarding whether to use data suppression or some other method or combination of methods to avoid disclosing personally identifiable information in statistical information must be made on a case-by-case basis.”
- 299 American Psychological Association at 852-855; NAACP LDF at 2; Miller at 6; Skiba and Rausch, *supra* note 1.
- 300 The Annenberg Institute, Make the Road New York, and New York Civil Liberties Union, *Safety With Dignity: Alternatives to the Over-Policing of Schools*, Jul. 2009. Available at [http://www.nyclu.org/files/Safety\\_with\\_Dignity.pdf](http://www.nyclu.org/files/Safety_with_Dignity.pdf) (last visited 4 Sept. 2013).
- 301 *Id.* at 33-37.
- 302 Ending the Schoolhouse to Jailhouse Track available at <http://safequalityschools.org/pages/success-stories> (last visited 2 Sept. 2013). Teresa Watanabe, “L.A. schools will no longer suspend a student for being defiant,” *Los Angeles Times*, 15 May 2013. Available at <http://articles.latimes.com/2013/may/15/local/la-me-ln-lauid-suspensions-20130515> (last visited 2 Sept. 2013).
- 303 NAACP LDF at 3; Skiba & Rausch at 106, 1072-1075; Miller at 22. Stuart Henry, *What Is School Violence? An Integrated Definition*, 567 *Annals Am. Acad. Pol. & Soc. Sci.* 16, 20-21 (2000); Na & Gottfredson at 4, 24, 26; Langberg et al., at 5.
- 304 New York City School-Justice Partnership Task Force, *Keeping Kids In School and Out of Court, Report and Recommendations*, May 2013. Available at <http://www.nycourts.gov/ip/justiceforchildren/PDF/NYC-School-JusticeTaskForceReportAndRecommendations.pdf> (last visited 2 Sept. 2013). See Members and Representatives in first five introductory pages of report.
- 305 Several city officials have called for increased control for school principals and better training for school safety

- agents. Anika Anand, “Quinn calls for school principals to have more discipline power,” *Gotham Schools*, 23 Aug. 2013. Available at <http://gothamschools.org/2013/08/23/quinn-calls-for-principals-to-have-more-school-discipline-power/> (last visited 2 Sept. 2013); Bill De Blasio for Mayor, “Preparing Every Student for Success in College and Career,” available at <http://www.billdeblasio.com/issues/education> (last visited 2 Sept. 2013); Philissa Cramer, “Liu extends call for discipline changes, starting in middle school,” *Gotham Schools* 16 Jul. 2013. Available at <http://gothamschools.org/2013/07/16/liu-extends-call-for-discipline-changes-starting-in-middle-school/> (last visited 2 Sept. 2013).
- 306 Dan Losen & Tia Elena Martinez, *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools*, The Center for Civil Rights Remedies, 8 Apr., 2013: 21-23. Available at [http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack\\_UCLA\\_4-8.pdf](http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack_UCLA_4-8.pdf) (last visited 6 Sept. 2013).
- 307 DOE, Regulations of the Chancellor, A-443§ III.B.3(n). Available at <http://docs.nycenet.edu/docushare/dsweb/Get/Document-22/> (last visited 5 Sept. 2013).
- 308 *Id.*
- 309 *See Matter of Rome City School District v. Grifasi*, 806 N.Y.S.2d 381 (Sup. Ct. 2005) (holding that a student’s due process right to access video evidence to contest his suspension outweighed fellow students’ rights to privacy under FERPA).
- 310 The notice of suspension letter for superintendent suspensions is the only place in which the DOE has articulated this policy. The sample appended to Chancellor’s Regulation A-443 is outdated and does not include the language currently used in superintendent suspension notices. The current notice of suspension letter includes this statement: “The right to view and obtain in person at the school a copy of any video recording of the incident if the school shows you or your child a video recording of the incident prior to the suspension and/or the school intends to introduce the video recording at the hearing.” Letter from a former client of the NYCLU, on file with author.
- 311 *See, e.g.* “How to Make an Informal Complaint about Your Child’s Education” § 2 available at <http://schools.nyc.gov/Offices/FACE/KeyDocuments/Parent+Complaint+Procedures.htm> (last visited 6 Sept. 2013). “Please note if the child is a student with a disability and you have an unresolved special education issue you may call 311 and request to speak to the Special Education Call Center. The Special Education Call Center staff will work with you to resolve your issue.” *Id.*
- 312 *Id.*
- 313 Nelson Mar, Esq. Senior Staff Attorney and Education Law Specialist, testimony, *supra* note 45 at 122-126.
- 314 Dr. Charles Soulé, testimony, *supra* note 45 at 149.
- 315 *Id.* at 185.
- 316 34 CFR § 300.530(f); N.Y. Comp. Codes R. & Regs. tit.8 § 201.4.
- 317 *Id.*
- 318 20 U.S.C. § 1400.
- 319 20 U.S.C. § 1415 (k)(1)(E).
- 320 The Supportive School Discipline Initiative (SSDI) will promote data collection on disciplinary and school safety practices, ensure these practices comply with Civil Rights laws and promote knowledge about evidence-based alternatives to exclusionary discipline among state judicial and educational leadership. In addition, the SSDI will “build upon the Department of Education’s Office for Civil Rights’ work to increase and enhance the school discipline data available through the Civil Rights Data Collection and the Departments’ proactive efforts to ensure disciplinary policies support students and are administered in a non-discriminatory manner. Department of Justice, Office of Public Affairs.” *Attorney General Holder, Secretary Duncan Announce Effort to Respond to School-to-Prison Pipeline by Supporting Good Discipline Practices*, 11 Jul. 2011. Available at <http://www.justice.gov/opa/pr/2011/July/11-ag-951.html> (last visited 25 Aug. 2013).

# APPENDIX B

## Data from the Independent Budget Office

Data cited in this report come from a range of sources, including [www.schools.nyc.gov](http://www.schools.nyc.gov) and DOE reporting via the Student Safety Act and the New York City Independent Budget Office (IBO).<sup>1</sup> The NYCLU requested from the IBO the most recent enrollment and suspension data, disaggregated by student demographics and other variables, which the IBO provided to the NYCLU between January 2013 and July 2013. All data from the IBO are from the 2010-2011 school year. They are on file with the NYCLU and available upon request. The report also cites to suspension data reported from the Department of Education (DOE) in compliance with the Student Safety Act (SSA) (<http://www.nyclu.org/content/student-safety-act-data>). While both IBO and SSA data originate from the Department of Education, differences in counting cause suspension totals to vary. Whenever this occurs, it is noted in the report.

## Metal Detector Data

Between August 2011 and August 2013, NYCLU staff called every public school in New York City<sup>2</sup> to determine whether it had permanent metal detectors. These are metal detectors that students are required to pass through to enter school on a daily basis. Additionally, NYCLU staff consulted each individual school page available on the Insideschools website ([www.insideschools.org](http://www.insideschools.org)) to serve as a secondary source of information. While this list may not fully represent NYC public schools with permanent metal detectors, the DOE refuses to provide such a list despite repeated requests, and we believe this list comes very close to approximating what the DOE might be able to provide. Using DOE enrollment data from the J-Form, we found that 118,017 students (12 percent of the student population) pass through permanent metal detectors every day at 232 schools and 76 school buildings. This is an increase of 24,259 students (26 percent) from the 2006-2007 school year when an estimated 93,758 students (nine percent of the student population) passed through permanent metal detectors at 88 schools.<sup>3</sup> A list of these schools included on the 2012-13 list of metal detector schools is available in Appendix C of this report.

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- 1 The IBO is a publicly funded city agency that provides nonpartisan data and information about New York City's budget to the public and their elected officials.
  - 2 This list excludes community based organizations.
  - 3 In a 2006 press release the DOE reported 82 schools with metal detectors. Mayor's Office, "Launch of Mobile 'Unannounced' Scanning Program Increases Breadth and Depth of School Safety Initiatives Citywide," press release 13 Apr. 2006. Available at [http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pagelD=mayor\\_press\\_release&catID=1194&doc\\_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2006a%2Fpr114-06.html&cc=unused1978&rc=1194&ndi=1](http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pagelD=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2006a%2Fpr114-06.html&cc=unused1978&rc=1194&ndi=1) (last visited 6 Sept. 2013). Estimates of total number of students passing through metal detectors in 2006-2007 come from the DOE's J-Form based on a list from Appendix A of the NYLCU's report, *Criminalizing the Classroom: The Over-Policing of New York City Schools*. Available at [http://www.nyclu.org/pdfs/criminalizing\\_the\\_classroom\\_report.pdf](http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf) (last visited 6 Sept. 2013).

# APPENDIX C

## Metal Detectors in New York City Public Schools

### Schools with Permanent Metal Detectors

New York City, 2012-13

Bronx Schools (87)	Enrollment	% Black, Latino	% SPED	% Free/Reduced Lunch
Pan American International HS	404	100.0%	0.0%	95.8%
HS for Violin & Dance	354	99.7%	22.6%	89.5%
International School of Liberal Arts*	541	99.6%	2.8%	94.1%
New Venture Academy - IS #219*	401	99.0%	19.5%	92.5%
School for Excellence	382	99.0%	19.4%	92.4%
Entrada Academy*	350	98.9%	18.6%	96.0%
Bronx Expeditionary Learning HS	323	98.8%	18.9%	100.0%
Mott Haven Community HS	160	98.8%	21.9%	100.0%
Learning To Work YABC at Monroe	223	98.7%	0.0%	61.0%
The Hunts Point School*	405	98.5%	16.5%	88.9%
Alfred E. Smith HS	518	98.5%	23.4%	87.8%
Morris Academy for Collaborative Studies	437	98.4%	22.9%	90.4%
Communication Technology*	661	98.2%	17.2%	96.4%
Leadership Development - IS #313*	429	98.1%	13.1%	100.0%
Monroe Academy for Visual Arts & Design	472	98.1%	16.1%	93.4%
Bronx HS of Business	362	98.1%	21.3%	100.0%
John F. Kennedy HS	394	98.0%	13.7%	91.1%
Frederick Douglas Academy III*	447	97.8%	12.1%	89.5%
Bronx Theater HS	437	97.5%	12.4%	85.1%
Grace Dodge YABC	235	97.4%	0.0%	100.0%
Jonathan Levin HS for Media & Communications	351	97.4%	12.8%	100.0%
John F. Kennedy YABC	232	97.4%	0.0%	49.1%
HS for Contemporary Arts	499	97.4%	10.2%	100.0%
Walton YABC	304	97.4%	0.0%	77.0%
Samuel Gompers HS	410	97.3%	21.2%	100.0%
Alfred E. Smith Campus YABC	184	97.3%	0.0%	59.2%
Grace H. Dodge HS	733	97.3%	17.9%	100.0%
Bronx Haven HS	178	97.2%	11.2%	74.2%
The Forward School*	213	97.2%	21.1%	82.6%
The Urban Assembly Academy for History & Citizenship for Young Men	70	97.1%	22.9%	100.0%
The Felisa Rincon de Gautier Institute for Law & Public Policy	349	97.1%	18.3%	74.5%
Fordham HS for the Arts	384	96.9%	19.5%	88.8%
Bronx International HS	402	96.8%	3.0%	92.3%
Bronx HS of Music	428	96.7%	0.0%	83.4%
Millennium Art Academy	494	96.6%	19.0%	100.0%
Bronx Compass HS	86	96.5%	18.6%	100.0%
Bronx Design & Construction	297	96.3%	24.6%	92.3%
Bronx School of Law & Finance	416	96.2%	17.3%	87.5%
The Metropolitan Soundview HS	206	96.1%	15.0%	92.2%
Bronx Arena HS	204	96.1%	0.0%	77.9%
Stevenson YABC	177	96.0%	0.0%	100.0%
Crotona International HS	148	95.9%	0.0%	100.0%
Fordham Leadership Academy	442	95.9%	16.5%	87.6%
Bronx HS of Law & Community Service	404	95.8%	15.3%	91.8%
Knowledge & Power Preparatory Academy International HS	427	95.8%	9.6%	86.9%
School of Diplomacy*	341	95.6%	12.0%	89.1%
Discovery HS	536	95.5%	12.9%	89.0%
Bronx HS for Writing	419	95.5%	13.6%	100.0%
Bronx Academy of Health Career	479	95.4%	15.2%	100.0%
Harry S. Truman HS	1,826	95.4%	13.2%	61.2%
Bronx Aerospace HS	390	95.4%	24.6%	100.0%
Monroe Academy Business & Law	150	95.3%	10.7%	90.7%
Foreign Language Academy	235	95.3%	20.0%	93.2%
HS for Energy & Technology	106	95.3%	16.0%	100.0%
HS for Community Research & Learning	102	95.1%	31.4%	100.0%
The Bronx Guild HS	304	95.1%	28.6%	100.0%
Belmont Preparatory HS	405	95.1%	7.9%	93.6%
Bronx Lab School	477	95.0%	11.9%	100.0%



<b>Bronx Schools (87)</b>	<b>Enrollment</b>	<b>% Black, Latino</b>	<b>% SPED</b>	<b>% Free/Reduced Lunch</b>
HS for Teaching & the Professions	496	95.0%	11.9%	87.7%
Globe School for Environmental Research*	353	94.9%	14.4%	93.2%
Pablo Neruda Academy for Architecture & World Studies	343	94.8%	28.6%	100.0%
The Young Scholars Academy of the Bronx*	321	94.7%	11.2%	84.7%
The New School for Leadership & Journalism*	695	94.7%	13.2%	93.4%
Dreamyard Preparatory School	313	94.6%	15.3%	100.0%
West Bronx Academy for the Future*	605	94.5%	19.5%	92.6%
Antonia Pantoja Preparatory: A College Board School*	446	94.4%	23.1%	100.0%
Bronx HS for Medical Science*	467	94.2%	7.1%	100.0%
Bronx Community HS	200	94.0%	0.0%	100.0%
Bronx Engineering & Technology Academy	414	93.7%	18.8%	82.6%
School of Performing Arts*	351	93.4%	20.5%	85.8%
Passages Academy*	378	93.1%	3.2%	-
Bronx Health Sciences HS	347	93.1%	8.9%	85.0%
English Language Learners & International Support Preparatory Academy	312	92.6%	0.0%	84.0%
HS of Computers & Technology	555	92.6%	15.0%	100.0%
The Marie Curie HS for Medicine, Nursing & Health Professions	567	92.6%	13.2%	100.0%
Gateway School for Environmental Research & Technology	324	92.6%	22.8%	100.0%
Kingsbridge International HS	487	91.6%	0.0%	95.9%
Kappa*	385	91.2%	4.9%	90.9%
Herbert H. Lehman YABC	247	91.1%	0.0%	44.9%
Christopher Columbus YABC	264	90.9%	10.6%	49.2%
Claremont International HS	77	90.9%	5.2%	100.0%
Pelham Preparatory HS	504	89.9%	12.3%	72.4%
Dewitt Clinton HS	3,654	89.9%	13.4%	78.7%
Bronx Bridges HS	236	89.8%	8.5%	100.0%
High School of World Cultures	392	89.5%	0.0%	95.9%
Global Enterprise HS	163	89.0%	17.8%	74.2%
Bronxdale HS	222	88.7%	16.7%	78.4%
Renaissance HS for Musical Theater & Technology	463	87.3%	14.7%	100.0%
Westchester Square Academy	108	85.2%	14.8%	100.0%
Herbert H. Lehman HS	2,944	83.3%	19.0%	66.7%
Marble Hill HS for International Studies	440	82.7%	6.1%	92.5%
Astor Collegiate HS	475	81.5%	15.2%	80.8%
Columbus Institute for Math & Science	641	80.8%	12.8%	78.9%
Christopher Columbus HS	435	78.9%	21.8%	64.6%
HS of Language & Innovation	179	72.6%	2.2%	95.5%

<b>Brooklyn Schools (80)</b>	<b>Enrollment</b>	<b>% Black, Latino</b>	<b>% SPED</b>	<b>% Free/Reduced Lunch</b>
Multicultural HS	378	100.0%	0.0%	83.1%
Victory Collegiate HS	320	99.1%	18.1%	77.0%
The Performing Arts & Technology HS	429	98.6%	13.1%	92.8%
Brooklyn Frontiers HS	135	98.5%	33.3%	87.4%
Frederick Douglass Academy IV*	268	98.5%	16.4%	85.4%
Bushwick Community HS	328	98.5%	5.2%	100.0%
The School for Human Rights*	392	98.5%	9.9%	90.1%
Brooklyn Theatre Arts HS	377	98.4%	2.1%	84.1%
Academy for College Prep & Career Exploration: A College Board School*	557	98.4%	14.2%	77.4%
Cultural Academy for the Arts	305	98.4%	17.4%	82.6%
Brooklyn HS for Music & Theater	393	98.2%	12.7%	74.3%
HS of Legal Studies	696	98.1%	9.5%	84.9%
Bushwick HS for Social Justice	427	98.1%	18.3%	100.0%
Boys & Girls HS	1,199	98.1%	14.0%	70.1%
Progress HS	1,120	98.0%	9.9%	87.4%
Madiba Prep MS*	92	97.8%	15.2%	93.5%
Academy of Hospitality & Tourism	307	97.7%	13.0%	83.1%
The Academy of Urban Planning HS	382	97.6%	20.2%	79.4%
It Takes a Village Academy	417	97.6%	11.0%	83.7%
Boys & Girls YABC	203	97.5%	0.0%	51.7%
School for Democracy & Leadership*	360	97.5%	19.7%	87.2%
Brooklyn Academy HS	155	97.4%	0.0%	78.1%

Brooklyn Schools (80)	Enrollment	% Black, Latino	% SPED	% Free/Reduced Lunch
Erasmus YABC	230	97.4%	0.0%	40.4%
Academy for Environmental Leadership	344	97.4%	18.6%	100.0%
Aspirations Diploma Plus HS	255	97.3%	9.4%	78.4%
Frances Perkins Academy	144	97.2%	27.8%	91.7%
Bedford Stuyvesant Preparatory	107	97.2%	0.0%	80.4%
William H. Maxwell HS	465	97.0%	29.0%	83.2%
HS for Medical Professions	464	97.0%	10.6%	92.7%
Brooklyn Generation School	298	97.0%	22.5%	80.9%
HS for Civil Rights	364	97.0%	17.3%	74.5%
Roland Hayes*	590	96.9%	12.4%	89.0%
Paul Robeson HS	163	96.9%	23.3%	73.6%
HS for Global Citizenship	291	96.9%	12.7%	77.0%
Clara Barton HS	1,609	96.9%	11.1%	77.3%
FDNY HS for Fire & Life Safety	347	96.8%	18.4%	79.3%
Brooklyn Bridge Academy	198	96.5%	4.0%	81.8%
Brooklyn Preparatory HS	454	96.3%	15.4%	83.0%
Academy for Health Careers	232	96.1%	13.4%	94.4%
Downtown Brooklyn YABC	283	96.1%	0.0%	44.9%
South Shore Educational Complex	282	96.1%	0.0%	59.6%
International Arts Business HS	205	96.1%	13.2%	69.3%
World Academy for Total Community Health HS	357	96.1%	17.6%	85.7%
HS for Youth & Community Development at Erasmus	382	96.1%	17.8%	84.8%
Academy for Conservation & the Environment	285	95.8%	17.5%	71.9%
Kurt Hahn Expeditionary Learning School	276	95.7%	17.0%	81.2%
HS Public Service: Heroes of Tomorrow	434	95.6%	1.2%	83.9%
Pathways in Technology Early College HS	226	95.6%	16.4%	74.8%
Automotive HS YABC	246	95.5%	0.0%	81.3%
Science, Technology & Research Early College HS at Erasmus*	529	95.5%	1.9%	82.8%
HS for Innovation in Advertising & Media	330	95.5%	14.5%	77.6%
HS for Service & Learning at Erasmus	409	95.1%	17.8%	74.6%
George Westinghouse HS	817	95.1%	13.0%	76.6%
Brooklyn School for Career Development	243	95.1%	100.0%	-
Automotive HS	620	94.8%	19.8%	75.3%
W.E.B. Du Bois Academic HS	134	94.8%	0.0%	81.3%
The Williamsburg HS for Architecture & Design	534	94.8%	17.6%	84.3%
Brooklyn Institute for Liberal Arts	92	94.6%	15.2%	91.3%
Thomas Jefferson YABC	274	94.2%	0.0%	70.4%
Brooklyn Academy of Science & the Environment	490	93.9%	2.7%	79.6%
Brooklyn School for Math & Research	129	93.8%	11.6%	87.6%
Urban Action Academy	302	93.7%	15.6%	84.1%
Brooklyn Lab School	377	93.6%	18.6%	77.7%
HS of Enterprise, Business & Technology	1,003	93.6%	8.8%	84.4%
Secondary School for Law*	437	93.1%	9.4%	84.2%
Transit Tech HS	1,227	92.7%	11.6%	76.2%
HS of Sports Management	347	91.9%	16.1%	79.3%
Cypress Hills Collegiate Preparatory School	411	91.7%	10.2%	83.0%
Franklin K. Lane Campus YABC	267	91.0%	0.0%	67.4%
Academy of Innovative Technology	412	90.8%	13.3%	78.4%
William E. Grady HS	780	89.0%	19.5%	85.1%
City Polytechnic HS of Engineering, Architecture & Technology	426	88.3%	12.4%	70.4%
Williamsburg Preparatory School	636	88.2%	10.5%	81.9%
Secondary School for Research*	382	86.4%	14.4%	79.8%
Secondary School for Journalism*	305	85.9%	9.8%	77.4%
Life Academy HS for Film & Music	254	76.4%	18.5%	83.1%
Sheepshead Bay HS	1,681	76.1%	12.6%	62.1%
The Jim Thorpe School***	252	67.5%	100.0%	-
Abraham Lincoln YABC	264	66.3%	0.0%	33.3%
Expeditionary Learning School	251	64.9%	13.1%	77.3%
Robert Fulton School**	42	64.3%	0.0%	13.6%
The International HS	421	63.7%	0.7%	100.0%
Abraham Lincoln HS	2,419	59.1%	12.7%	64.3%

<b>Brooklyn Schools (80)</b>	<b>Enrollment</b>	<b>% Black, Latino</b>	<b>% SPED</b>	<b>% Free/Reduced Lunch</b>
Millennium Brooklyn HS	224	52.7%	8.0%	42.9%
Kingsborough Early College School*	547	48.3%	9.3%	76.1%
James Madison HS	3,158	33.4%	9.7%	59.3%
International HS at Lafayette	357	29.4%	0.0%	83.5%

<b>Manhattan Schools (37)</b>	<b>Enrollment</b>	<b>% Black, Latino</b>	<b>% SPED</b>	<b>% Free/Reduced Lunch</b>
Manhattan Bridges HS	561	100.0%	0.0%	100.0%
The Urban Assembly Institute for New Technologies*	114	99.1%	38.6%	82.5%
George Washington YABC	287	98.6%	0.0%	58.9%
Urban Assembly School for the Performing Arts	353	98.6%	14.4%	86.4%
HS of Media Communications	550	98.0%	15.1%	82.2%
HS of International Business & Finance	571	97.9%	9.1%	94.0%
Academy for Social Action: A College Board School*	398	97.7%	15.8%	83.4%
HS of Law & Public Service	688	97.5%	10.5%	73.5%
Renaissance Leadership Military Academy - IS #286*	220	97.3%	15.5%	89.1%
The School for Arts, Imagination & Inquiry	434	97.0%	15.0%	82.5%
HS for Health Careers & Science	657	97.0%	11.0%	81.9%
Norman Thomas HS	703	96.9%	16.1%	76.0%
The Facing History School	412	96.6%	21.6%	100.0%
The Urban Assembly School for Green Careers	390	96.2%	15.9%	85.9%
Manhattan Theatre Lab HS	241	95.9%	13.3%	78.8%
PS #035 - Manhattan School	262	95.8%	100.0%	-
Business of Sports School	388	95.1%	14.7%	100.0%
The Urban Assembly School for Media Studies	369	94.6%	19.8%	81.0%
HS of Graphic Communication Arts	1,236	94.6%	13.7%	100.0%
MLK Law, Advocacy & Community Justice	547	94.3%	8.6%	85.2%
Manhattan Academy for Arts & Language	266	92.9%	1.9%	85.7%
MLK Arts & Technology	603	92.7%	11.3%	87.1%
HS of Hospitality Management	399	91.7%	14.3%	90.5%
Washington Irving HS	631	91.4%	15.8%	70.0%
Gramercy Arts HS	513	91.4%	13.1%	68.6%
Food & Finance HS	433	91.0%	16.4%	81.1%
The Global Learning Collaborative	434	90.8%	15.7%	87.3%
Urban Assembly School of Design	418	90.4%	18.4%	75.8%
Washington Irving YABC	355	90.1%	0.0%	73.0%
Murray Hill Academy	286	87.8%	17.5%	81.5%
Unity HS	261	87.7%	18.0%	82.8%
Urban Assembly Gateway School for Technology	248	86.3%	15.7%	100.0%
Union Square Academy for Health Sciences	124	81.5%	17.7%	81.5%
Academy for Software Engineering	128	81.3%	11.7%	69.5%
Innovation Diploma Plus	191	80.1%	1.6%	62.8%
Manhattan/Hunter College HS for Sciences	456	65.4%	2.9%	69.7%
Frank McCourt HS	294	56.8%	6.5%	43.2%
International HS at Union Square	254	54.7%	0.4%	82.7%
The HS for Language & Diplomacy	335	53.7%	14.0%	81.2%

<b>Queens Schools (28)</b>	<b>Enrollment</b>	<b>% Black, Latino</b>	<b>% SPED</b>	<b>% Free/Reduced Lunch</b>
Brian Piccolo - MS #53*	403	98.3%	22.6%	100.0%
Frederick Douglass Academy VI	451	96.5%	10.0%	66.5%
Village Academy*	302	96.0%	19.9%	100.0%
Excelsior Preparatory HS	458	94.5%	12.2%	77.1%
New Rikers Island School*	1,039	94.4%	0.0%	-
Law, Government & Community Service HS	401	94.3%	10.7%	70.1%
Preparatory Academy for Writers: A College Board School*	477	93.3%	8.6%	72.3%
Queens HS for Information, Research & Technology	313	93.3%	12.8%	84.7%
Queens Preparatory Academy	441	93.0%	13.4%	72.2%
Humanities & the Arts Magnet	510	92.4%	10.6%	67.1%
Knowledge & Power Preparatory Academy VI*	268	92.2%	4.9%	81.3%
Business, Computer Applications & Entrepreneurship HS	326	91.4%	12.6%	72.4%
August Martin HS	1,012	90.9%	21.0%	63.9%
Beach Channel HS	397	90.4%	13.6%	69.0%

Queens Schools (28)	Enrollment	% Black, Latino	% SPED	% Free/Reduced Lunch
Mathematics, Science Research & Technology Magnet HS	442	90.0%	8.1%	69.0%
Rockaway Collegiate HS	231	89.2%	19.0%	77.1%
George Washington Carver High School for the Sciences	485	88.2%	8.7%	66.6%
Academy of Medical Technology: A College Board School*	600	88.0%	13.2%	71.7%
Rockaway Park HS for Environmental Sustainability	291	79.7%	12.7%	74.2%
Channel View School for Research*	674	79.5%	8.3%	73.1%
HS for Community Leadership	271	75.6%	7.7%	88.2%
Queens Collegiate: A College Board School*	625	72.0%	9.9%	77.9%
John Adams YABC	287	71.8%	0.0%	30.0%
Grover Cleveland HS	1,936	68.5%	8.9%	69.1%
Hillside Arts Letters Academy	331	66.5%	11.8%	75.2%
John Adams HS	3,253	65.0%	10.4%	79.9%
Jamaica HS	265	61.9%	10.9%	70.6%
Hillcrest HS	3,109	56.9%	6.6%	81.2%
Jamaica Gateway to the Sciences	309	56.6%	5.5%	78.6%

Sources: NYCLU original research, Insideschools, DOE's J-Form, DOE's Demographic Snapshot

\*Schools with any students below 9<sup>th</sup> grade

\*\*Robert Fulton 6<sup>th</sup> graders pass through metal detectors at George Westinghouse. Enrollment listed does not include lower grades.

\*\*\*Jim Thorpe is a District 75 school serving profoundly challenged students, some of whom enter through metal detectors, some of whom do not.





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