



EQUAL JUSTICE SOCIETY



March 14, 2018

The Honorable Edmund G. Brown, Jr.
Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Re: **Sign SB 607 to Support Civil Rights**

Dear Governor Brown:

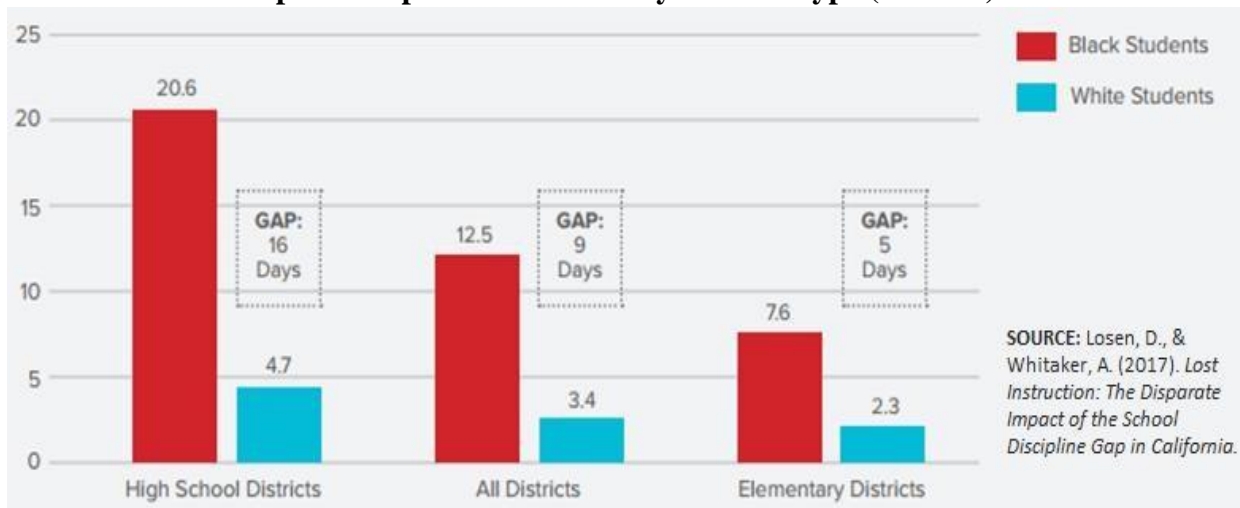
In the interest of protecting the civil rights of children of color and children with disabilities, we the undersigned state and national civil rights leaders urge you to sign SB 607 (Skinner). SB 607 will protect California K-12 students from punitive school climates by limiting the use of suspension and expulsion for minor offenses.

Background: The California Education Code authorizes school districts to suspend students based on 24 categories including harassment, obscenity, vulgarity, threats, bullying, stealing, damaging school property, use or possession of weapons, drugs, tobacco or alcohol, violence with and without injury and disruption or willful defiance (California Education Code §§ 48900, 48900.2, 48900.3, 48900.4, 48900.7 and 48915). The offense “disrupted school activities or otherwise willfully defied the valid authority” is a broad and highly subjective catch-all category covering a wide range of less serious misbehavior. These include not paying attention, failing to do homework, talking back, etc. **Before the state and districts began pursuing policy changes to limit suspensions, minor offenses were cited as the most serious grounds for roughly half of all suspensions.**

AB 420 (Dickinson 2014) eliminated the authority to suspend a pupil enrolled in grades K-3, inclusive, and the authority to recommend for expulsion a pupil enrolled in grades K-12, inclusive, for disruption or defiance. In July of 2018, AB 420 reforms will sunset. The U.S Department of Education’s anticipated rescission of student discipline civil rights protections will create additional vulnerabilities for students (Decker 2018). AB 420 reforms worked well for grades K-3 and had a positive impact on school climate, academic outcomes, and the California economy. Nonetheless, California’s students still lost an estimated 156,484 days of instruction due to disruption/defiance suspensions in the 2016-17 school-year because the state currently lacks adequate protections for grades 4-12 (inclusive).ⁱ According to the latest data reflecting removal of disruption and defiance as grounds for suspension in K-3, this broad and highly subjective category still accounts for more than 20% of school suspensions in California. This is most likely because the bulk of suspensions for disruption and defiance occur in the higher grades. SB 607 would extend AB 420 reforms and expand them to all grade levels, expanding the benefits that began with SB 420.

Frequent suspensions for disruption/defiance are a civil rights concern because, among other reasons, they disproportionately harm students with disabilities and students of color. Students with disabilities were less than 11% of California’s student enrollment in the 2016-17 school year, yet they comprised nearly 28% of disruption/defiance suspensions. Further, research suggests that disparities in discipline for students of color are due in part to both unconscious and intentional discriminatory practices (Gordon 2018). This is particularly true for highly subjective offenses like disruption/defiance (Gordon 2018). Several studies confirm that Black students receive harsher punishments for minor and more subjective violations than White students (Fabelo, Thompson, Plotkin, Carmichael, Marchbanks, & Booth 2011; Skiba, Michael, Nardo, & Peterson 2002; McCarthy & Hoge 1987). Disruption/defiance suspensions accounted for more than 70% of the school discipline gap in California’s districts with the five largest Latino/White suspension disparities (Losen & Whitaker, 2017). The Oroville Union High School District had the highest suspension rate for Black students in California in 2016-17, and over 73% of these suspensions were for disruption/defiance. Using census enrollment, the Oroville Union High School District suspended Black students at a rate of 126 suspensions per 100 students enrolled in the 2016-17 school year. It was one of four California school districts that had a higher number of Black student suspensions than Black students enrolled.

Figure 1: California’s Racial Gap in Days of Lost Instruction for Disruption/Defiance Suspensions per 100 Students by District Type (2014-15)



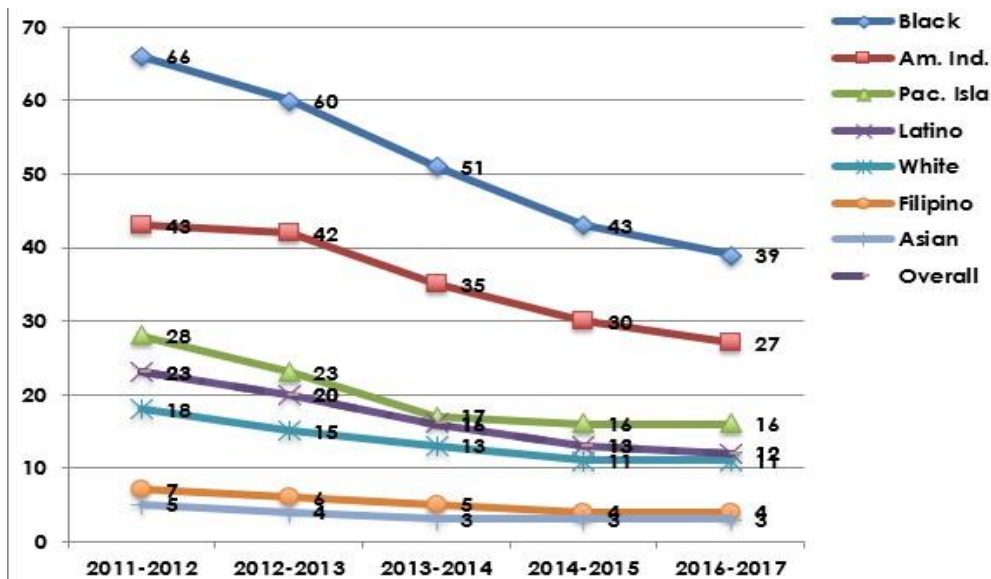
California’s discipline gap contributes to the state’s achievement gap. There is a racial gap in days of instruction lost due to defiance/disruption suspensions (Figure 1). This gap contributes to the racial achievement gap in the state. Studies have shown that school suspensions account for roughly one-fifth of Black/White racial differences in school performance (Morris & Perry, 2016). Suspensions also increase the likelihood of a student dropping out of school and entering the juvenile justice system. A 2018 report tracked children for 12 years after they were suspended and controlled for 60 variables that might have otherwise explained the subsequent negative outcomes. The study found that suspensions predicted higher dropout rates and greater risk of adult incarceration. Other studies have shown that lower suspension rates are correlated with higher achievement for every racial group in California schools (Losen, Keith, Hodson, Martinez, & Belway, 2015).

Research has established that frequently suspending students for minor offenses is educationally unsound. In 2013, the American Academy of Pediatrics issued a position statement concluding that “out of school suspension and expulsion are counterproductive to the intended goals, rarely if ever are necessary,

and should not be considered as appropriate discipline in any but the most extreme and dangerous circumstances, as determined on an individual basis rather than as a blanket policy.” (American Academy of Pediatrics, 2013). The American Psychological Association has issued similar research-based statements against excessive disciplinary exclusion (American Psychological Association Zero Tolerance Task Force, 2008).

Suspensions cost billions: A study followed every tenth-grade student in the state for three years and, after controlling for most of the other major dropout factors, conservatively estimated that suspensions in California lowered graduation rates by nearly seven percentage points (Rumberger & Losen 2017). The study used economic estimates specific to California to forecast that the long-term cost of suspensions for the state, for that one cohort, will be \$2.7 billion.

Figure 2: California’s 5-Year Trend of Estimated Days of Lost Instruction for Suspension



SOURCE: UCLA Civil Rights Project, Center for Center for Civil Rights Remedies, CALPADS

Reforms are working. Since legislation was first introduced in 2012 to limit disruption/defiance suspensions, California has been a national leader in addressing the overuse of suspensions. The state’s efforts have resulted in a 46% reduction in suspensions. There has been a steady increase in 3rd grade test scores since AB 420 was implemented to protect K-3 learning time. The school district with the largest decreases in suspensions since the 2015-16 school year reported that decreased disruption/defiance suspensions accounted for more than half of that progress. However, Black students still lost 28 more days (per 100) of instruction compared to their White counterparts during the 2016-17 school year (39 vs 11). Disparities in disruption/defiance suspensions were a large reason why.

Several districts have already prohibited all disruption/defiance suspensions and effectively implemented alternatives. School districts that collectively enroll 12% or 781,000 of California’s K-12 students have already reformed discipline policies to prohibit the use of disruption/defiance as grounds for suspensions for all grade levels. This includes the Los Angeles, San Francisco, Azusa, Pasadena, and Oakland Unified School Districts. In 2007, community organizing efforts in the Los Angeles Unified School District (LAUSD) solidified School-Wide Positive Behavior Interventions and Supports (SWPBIS) as the foundation of school discipline and resulted in dramatic improvements in school climates. Since 2013, further commitments to integrate Restorative Justice and SWPBIS and eliminate disruption/defiance as a suspension

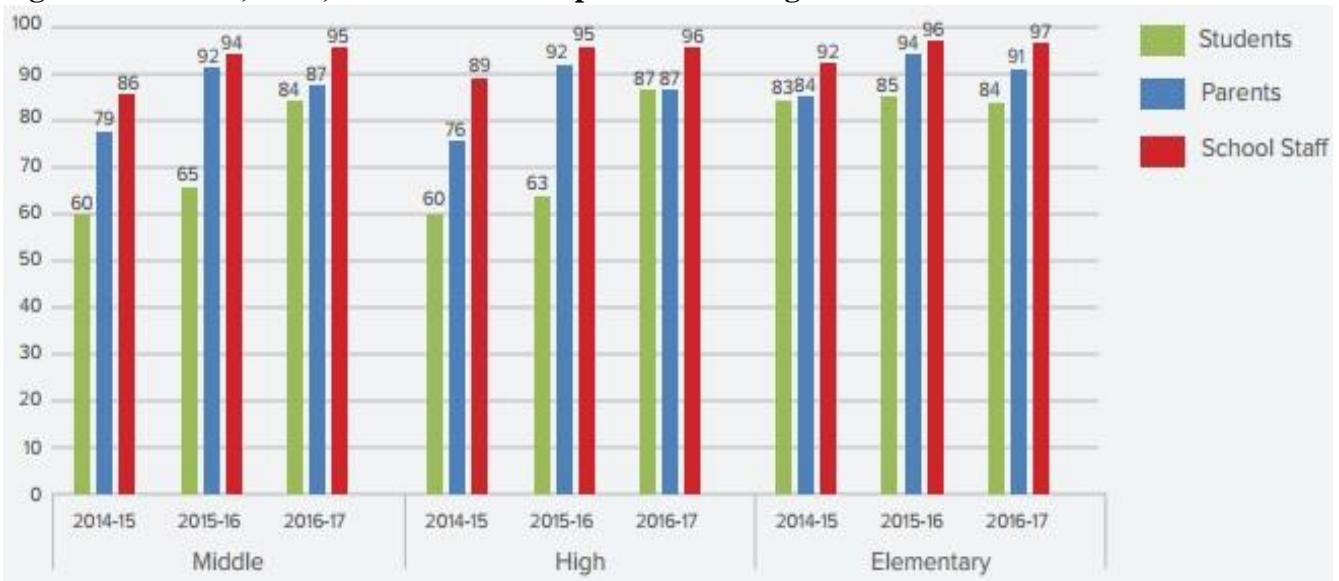
category have also contributed to decreased behavior problems and improved school climates. In over 50,000 district surveys completed by staff during the same school years, teachers at all grade levels reported less disrespectful behavior, lack of respect for staff, and physical fighting (LAUSD, 2017).

Figure 3: LAUSD Staff Perception of Student Behavioral Problems (Moderate or Severe)



The latest LAUSD survey shows that the district now has the highest “sense of safety” ratings in the last five years, with more than 80% of students agreeing with the statement that they “feel safe at school” in 2016-17. While LAUSD is not perfect, school discipline disparities have decreased significantly since the reforms. School districts in California show that successful alternatives to disruption/defiance suspensions improve schools for students. Unfortunately, not all school districts have embraced reform and students in far too many districts in the state are still facing harsh punishment for these minor offenses, which leads to worse outcomes.

Figure 4: Student, Staff, and Parent Perceptions of Feeling Safe in LAUSD Schools



(Losen & Whitaker, 2017)

Conclusion: California should continue to lead the nation and ensure the AB 420 sunset and federal rescissions do not leave students vulnerable to punitive school climates. Signing SB 607 into law to extend AB 420 restrictions and expand them to all grade levels, will translate into higher achievement and improved graduation rates for all children, and will especially help the subgroups that are too often entirely excluded from school because of minor school code infractions.

Studies have found that out-of-school suspensions for minor infractions are not effective and there is no policy justification for the disproportionate impact of these policies on Black students and students with disabilities. Further, the disparities highlighted above could be avoided if schools employed alternative responses in place of suspension and expulsion. In addition to cases of intentional discrimination, the frequent and disparate harm from an unsound policy or practice raises civil rights concerns and potentially violates state and federal civil rights laws. **Given the civil rights implications of frequently and disproportionately suspending these subgroups, objections to the proposed reasonable limits based on deference to local control are unjustified. Local control is important as long as it does not become an obstacle to civil rights protections.** SB 607 encourages the use of research-based effective alternatives to suspension, providing support for teachers. All teachers, both elementary and secondary, would still be able to suspend children from their classrooms for exhibiting “disruptive or willfully defiant” behavior for up to 2 days for any incident (California Education Code § 48910). Moreover, consistent with current law, administrators could still suspend children after other attempts to correct “materially disrupting classwork” or “creating substantial disorder” failed (California Education Code § 48900.4).

The state has a constitutional and statutory duty to ensure equal application of the law and equal educational opportunity for all children. In light of the profound disparities highlighted above, we urge your support for SB 607.

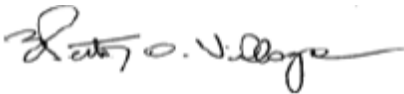
Signed,



Barbara R. Arnwine
President & Founder
Transformative Justice Coalition



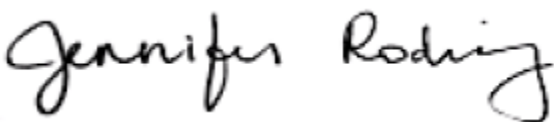
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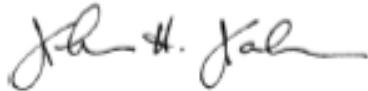
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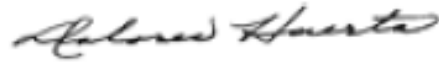
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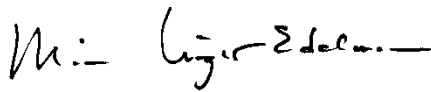
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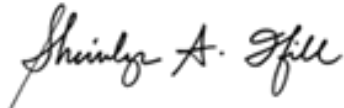
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¹ Additional data analysis for the of the 2016-17 CALPAD data provided by the UCLA Civil Rights Project Center for Civil Rights Remedies.