SCHOOLS FOR ALL CAMPAIGN:

The School Bias & Pushout Problem

ACLU of Northern California November 2008

THANKS TO ALL OF OUR ACLU-NC STAFF PARTICIPANTS

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SPECIAL THANKS The Evelyn & Walter Haas, Jr. Fund

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DESIGN Gigi Pandian • **PRINTING** Inkworks Press

THIS REPORT WAS PRINTED ON RECYCLED PAPER USING SOY INKS.

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PREFACE

The American Civil Liberties Union of Northern California (ACLU-NC) has a long history of defending those who have traditionally been denied their rights, including lesbians, gay men, bisexuals, and transgendered (LGBT) people; people of color; women; people with disabilities; and the poor.

Over the past ten years, the ACLU-NC has litigated and conducted policy advocacy on a myriad of civil liberties and civil rights issues in education. In defending the rights of openly gay students, students of color, English learners, foster youth, and other vulnerable student populations, a pattern of unaddressed bias and harassment in schools continues to resurface again and again. Different places, different cases; all involve a school environment that condones harassment based on sexual orientation, race, or other vulnerabilities, often in conjunction with aggressive, disproportionate discipline by school authorities targeting the same vulnerable populations. Through our work representing these students, the ACLU-NC has come to recognize the hostile experiences shared by different vulnerable youth in our schools.

In August 2007, the ACLU-NC hosted a twoday roundtable discussion with leading experts on bias, discipline, and education. Nationally, we are beginning to recognize and address our failure to protect, include and engage LGBT youth, youth of color, English learners, youth with learning disabilities, foster youth, and pregnant and parenting teens. However, there continues to be little acknowledgement of the fact that the experiences of many of these populations overlap and that a hostile school environment impacts all students. Without this awareness, research, support, and advocacy efforts for specific student populations are conducted in isolation from each other.

This report is a distillation of the roundtable discussion, which focused on the nature of the problem of school bias and pushout, how vulnerable youth populations intersect with one another, and the need to address these very complex and overlapping issues in a manner that is respectful of all students served by our education system. The report concludes with a discussion of various approaches that could be used to combat the problem of school bias and pushout and move us towards creating school environments that are welcoming and inclusive of all of our nation's schoolchildren.

The ACLU-NC would like to thank our expert participants for their contributions to a discussion that has greatly influenced and improved how we approach the problem of school bias and pushout. Our roundtable discussion and this report are only the beginning of the dialogue on the intersecting experiences of vulnerable student populations and the need to comprehensively address the problem of school bias and pushout.

The ACLU-NC continues to work to address the problem of school bias and pushout. The release of this report coincides with the launch of our Schools for All Campaign that works to ensure that all youth attend schools that are inclusive, respectful, and welcoming.

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PARTICIPANT BIOS

STUART BIEGEL has been a member of the faculty at the UCLA Graduate School of Education and Information Studies since 1985, and at the UCLA School of Law since 1989. He is a recognized expert in the fields of Education Law and Technology Law, having completed major works of scholarship in both areas.

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RUTH ZWEIFLER recently retired as the Executive Director of the Student Advocacy Center of Michigan. She was a founding member of the Center and has served in many capacities since 1975. She continues to advocate for schoolchildren on both individual and policy levels by providing written documentation of school systems' failure to serve students.

INTRODUCTION

n California and throughout the nation, students today are failing to graduate at alarming rates. Although the problems facing our nation's public education system and the reasons behind our failure to educate our youth are complex, it is clear that a leading factor is the phenomenon of students being subject to school bias and subsequent pushout from school.

Schools have long been a place where students experience adolescent teasing by their peers as well as a place where more serious bullying and harassment occur. The phenomenon of school bias and harassment is more troubling. It targets the most vulnerable students, singling them out for the defining characteristics of entrenched U.S. social and economic inequities (sexual orientation, race, disability, etc.). At times, it comes from school authorities, worsening the effect of bias among students and making it more pervasive because it is institutionally enforced, intentionally or not.

Schools differ in their approach to preventing and taking action against various forms of bias and harassment by students against one another, but increasingly they seem to struggle with appropriate responses to and protection of our most vulnerable students. More disturbing is the fact that schools today not only seem ill-equipped to address bias and harassment but often serve to exacerbate the problem, thus making the phenomenon more dangerous than schoolhouse bullying. The brunt of our schools' failure to protect students has been most heavily borne by vulnerable students, including lesbian, gay, bisexual, and transgendered (LGBT) and questioning students, students of color, English learners, special education students, foster youth, and pregnant and parenting teens.

The failure to address bias and harassment within a school creates an environment that serves to alienate and ostracize students, particularly those most vulnerable. These experiences lead to a lack of engagement, misbehavior, exclusionary discipline, and ultimately alienation to the point of students choosing to leave school or being forced out. Students who are pushed out of school have fewer life opportunities, including lower earning ability, higher rates of unemployment, and overrepresentation in the criminal justice system.

The problem of school bias and pushout is often discussed with respect to individual populations without consideration of how the experiences of one student population might overlap with that of another. For instance, the experiences of students of color are not often analyzed with respect to how they differ from or are similar to LGBT students, or how the experience of special education students might be intertwined with those of foster youth or pregnant and parenting teens. In order to create inclusive school environments, the problem of school bias and pushout and its correlating solutions must be framed, considered, and solved as a whole, recognizing the similarities and differences of the varied populations that comprise our schools.

II. THE SCOPE OF THE PROBLEM

A. SCHOOL ENVIRONMENT

n order to succeed, all students need a school environment that is positive, supportive, safe, and equitable. The environment in which a student learns and the culture of the school she attends have an enormous impact on whether she feels welcomed and included, which in turn serves to either support or undermine her educational and academic success.

The environment of a school is heavily influenced by the varied demands on our nation's public education system. Increasingly high accountability standards coupled with systemic underfunding and lack of resources create significant pressure on both students and administrators to perform-not learn and teach-or face serious penalties. However, without the necessary support, teachers and administrators are not equipped with the appropriate tools to provide educational services to and address the needs of the children we leave in their care. Consequently, there is an incentive to limit instruction to only what is necessary to pass standardized tests and to remove any students seen as underperforming or disruptive in the classroom. All too often, the result is that the most vulnerable children are pushed out of school.

Schools are not immune from the problems, prejudices and discrimination that exist in our communities. However, schools have an obligation to welcome, support, and educate all students, regardless of personal bias and beliefs. The school environment must be one where mutual respect and dignity are the socially accepted and expected norms for students, teachers, and administrators. Despite our good intentions, we are failing to meet this goal.

B. BIAS AND ALIENATION WITHIN SCHOOLS

Too many students are confronted with bias, harassment, and discrimination upon entering the schoolhouse doors. The failure to provide a welcoming and inclusive atmosphere within our public schools disserves all of our schoolchildren, but it has a disproportionate and increasingly damaging impact on students from vulnerable populations that are even more susceptible to instances of bias and alienation. Within our school systems, students who are LGBT or questioning, racial minorities, learning English, learning disabled, foster children, and/or pregnant and parenting teens are often subject to subtle—and at times, intentional and overt—acts of discrimination.

The alienation experienced by students subjected to bias and harassment is further exacerbated when school officials fail to address the underlying harassment. Well-intentioned teachers and administrators frequently fail to intervene because they feel ill-equipped to handle such situations or fear talking about sensitive subjects, such as sexual orientation, race, and sexuality. However, failing to intervene when harassing language or behavior occurs creates a school environment where hateful speech is tolerated and harassment is socially acceptable behavior.

School officials may participate in harassment not only through inaction, but by actively engaging in subtle forms of bias and discrimination towards students. This is evidenced by teachers who espouse their personal beliefs that homosexuality is wrong or immoral, or who demoralize, humiliate, or belittle students of color by suggesting that they are slow, unintelligent, or gang members. Moreover, school officials who disproportionately target students of color for discipline based on their own stereotypes and prejudices alienate students and ultimately exclude them from school.

For many vulnerable student populations, the social and historical roots of their vulnerabilities are unique, leading to specific forms of bias and harassment, as illustrated below. However, for each of these student populations, the causes and outcomes of their experiences share a common thread.

LGBT AND QUESTIONING YOUTH

The experience of LGBT and questioning students in school is one frequently characterized by pervasive harassment from their peers. In schools across America, students use the words "faggot" "Kids are exposed to far too many incidents of bias and prejudice that are coming from not only other kids but from teachers and other staff and obviously from parents and from the media."

-Stephen Wessler

"What we've learned... through their own admission... and through students' admissions, is that staff hear homophobic name calling and gender biased language and don't respond. We found that a lot of times they don't respond because they don't know how to respond." —Emily Greytak or "gay", sometimes without actual knowledge of the harm caused by those words, but in many instances with the intent to harass or instill fear. Over the years, there has been a rise in the report of LGBT harassment within schools and the need to create "safe schools" for students who are openly gay, questioning their sexuality, or perceived to be gay.¹ These students experience bias not only from their peers, but often from teachers, adults, and religious institutions. The problems of these youth may be compounded by their experience at home, a place where they may be unwelcome, thus making school and peers essential for providing muchneeded support and acceptance.

STUDENTS OF COLOR

Students of color also have school experiences permeated by harassment and alienation as well as institutional racism, as exemplified by a phenomenon known as the "school-to-prison pipeline." Students of color are often subject to unchecked racial harassment by peers, teachers, or administrators that frequently precede the students "acting out." This eventually leads to misbehavior on the part of the students of color, who are subsequently disciplined, while the initial perpetrators and underlying racial harassment are often not addressed. The disproportionate, thus discriminatory, discipline used against black and brown kids is further exacerbated by the widespread use of rigid "zero tolerance" discipline policies that require severe discipline in response to misbehavior without consideration of the underlying circumstances of any individual incident. These policies in turn have led to the school-to-prison pipeline where students are pushed out of school into a pipeline that leads, whether indirectly or directly, to the juvenile or criminal justice systems.²

ENGLISH LEARNERS

Students who are learning English frequently experience alienation from school as linguistic minorities and sometimes as students of color as well. As language minorities, they often encounter severe shortages of appropriate educational services to meet their needs. English language learners are commonly assigned to teachers who are unable to effectively communicate with and/or who are not appropriately credentialed to work with non-English speaking students. The inability of students and teachers to communicate with one another leads to a myriad of academic and social problems within the classroom. Furthermore, parents of students learning English are often non-English speakers themselves. School officials' failure to communicate with such parents in their native language effectively precludes parents from participating in their children's educational experience.

SPECIAL EDUCATION STUDENTS

Special education students are subject to social stigma from their peers and generally have the added burden of not receiving all of the educational support services they need. Schools with limited resources find it difficult to meet the needs of special education students, particularly because the individualized services that are at times required tend to be costly. As a result, these schools are hesitant to evaluate and designate a student as having special education needs. Conversely, schools sometimes overuse special education designations as a means to remove students deemed behavior problems from regular classrooms. The resulting academic isolation prevents students from achieving academically and subjects them to further alienation and stigma.

FOSTER YOUTH

Foster youth have unstable and ever-changing home lives. In addition to the normal ups and downs of being an adolescent, these youth suffer emotional trauma from the experiences that necessitated their placement within the foster care system. Moreover, foster youth are subject to frequent home assignment changes, thus being transferred in and out of schools. Moving from school to school prevents students from making friends or otherwise feeling socially connected to their teachers and their schools. In addition, they face the social stigma of not having parents or a stable home to bring friends to. Frequent school changes further result in students falling behind in their class work, a problem which is only exacerbated by administrative delay and the difficulty of getting pertinent records transferred in a timely manner for enrollment in a new school. These experiences

only serve to further alienate foster youth from school and subsequently push them out.

PREGNANT AND PARENTING TEENS

Pregnant and parenting students face the burden of coping with adult responsibilities while still maturing and trying to complete their education. They are often ostracized not only by their peers but by their families and other adults. Pregnant teens are sometimes precluded from attending regular classes because they are seen as a distraction. In many instances, parenting teens are not provided with the necessary support services, such as day care and adequate transportation, which they need to stay in school. Studies have shown that parenthood is the leading reason why teen girls drop out of school and that up to 70 percent of teen mothers drop out of high school.³

INTERSECTION OF MULTIPLE IDENTITIES

Although the experience of each individual student is unique, vulnerable student populations experience similar types of pervasive bias and harassment at school. The problem of bias and alienation is compounded when students are members of multiple vulnerable populations, leading to marginalization on several fronts. For example, 57 percent of the youth in California's foster care system are children of color,⁴ and a San Francisco Bay Area study found that as much as one-third of the foster youth population is enrolled in special education classes.⁵

C. PUSHOUT: DISENGAGEMENT TO EXCLUSIONARY DISCIPLINE The failure of schools to create an inclusive and welcoming environment free of bias and harassment for all students leads to students being pushed out of the public education system. Students who do not feel welcome at school tend to be disengaged academically and/or socially. This, in turn, often leads to poor academic performance or discipline for misbehavior, which only furthers their sense of hopelessness and disconnectedness from school. For many of these students, poor performance and alienation eventually leads them to drop out of school entirely.

Pushout can occur when a student remains in school, but is not engaged academically and her basic educational needs are not being met. All too frequently students attend failing schools in which resources are scarce, teachers are inadequately trained, and expectations are low. Some students have special educational needs that have not been identified or are not being met. Other students are impacted by administrative delay and red tape or a lack of services necessary for the facilitation of their education. Still other students attend schools where no effort is made to ensure that the curriculum reflects the culture and experiences of diverse groups, such as the LGBT community, communities of color and immigrant communities. The lack of opportunities and resources and the cultural non-responsiveness that students experience lead many of them to check out, act out, and feel disconnected from their peers, teachers, and school generally.

Even when students' basic educational needs are being met, many students are pushed out of school because they are subjected to severe harassment by their peers. Regrettably, school officials are generally ineffective in addressing peer harassment or are inattentive to it. Both because of the harassment they experience and because school officials do not adequately respond, many students feel extremely vulnerable and unsafe at school.

Unaddressed harassment in school leads to disengagement in the classroom, absenteeism on the part of harassed students, and behavioral problems that may lead to exclusionary discipline such as suspension or expulsion. As a result of harassment, students may lose interest in their schooling or be distracted to the point of failing to learn and declining in academic performance. In effect, these students are being pushed out of school, although they remain in the classroom. Other harassed students will skip specific classes in which they are victimized or entire days of school in order to avoid harassment. Students who are frequently absent tend to fall behind in their studies, leading to ineligibility for promotion because of failing grades and the possibility of being disciplined for truancy.

Other students who experience pervasive harassment will act out in frustration and desperation, particularly in situations where school officials "The schools, first of all, have a tremendous incentive right now—I think they have had it for a long time—to push out the children who are not doing well." —Ruth Zweifler "African American and Latino kids are not acting out more in similar school situations; in fact, they seem to be punished for less serious or less objectionable behavior." —Russell Skiba

"We are teaching kids to be racist and biased in school by the way we treat people." —Dorothy Steele fail to protect them from harassment. Anecdotal evidence suggests that when victims of harassment act out or seek to defend themselves against their harassers, they are frequently punished (often through suspension and expulsion), while their harassers suffer little or no consequences. This experience of injustice often leads victims of harassment to feel even more disempowered and unsafe in school.

In schools across the country, suspension and expulsion rates, as well as the use of "zero tolerance" policies as a means for dealing with student misbehavior, have increased dramatically in recent years. Concerns about school violence are often used to justify the use of policies resulting in high suspension and expulsion rates; however, school violence has declined in recent years and only a small percentage of suspensions are the result of serious offenses. Instead, students are often suspended for vague, minor infractions like "disruption" and "willful defiance."

Studies have consistently demonstrated that, particularly when highly subjective offenses such as "defiance" are the basis for discipline, students of color and students with disabilities are punished more harshly and frequently than their peers—often for conduct that most would consider ordinary adolescent behavior. Research on why students of color are suspended and expelled in much greater numbers than white students has revealed that students of color do not misbehave at greater rates than white students. Even when one controls for the socioeconomic status of the child, or other factors often correlated with race, significant disparities in the rates at which children of color are being suspended and expelled remain.⁶

Students of color are aware of these disparities, and recognize that they are often being unfairly and inappropriately punished. As a result, they frequently feel distrustful, resentful, and disconnected from teachers, administrators, and other authority figures.⁷ This distrust often leads to further run-ins with school officials, which in turn only exacerbates students' sense that they are being targeted on the basis of race. Indeed, exposing children to race discrimination at such an early age has significant and life-long consequences in that it teaches them to distrust authority and to expect to be treated unfairly based on prevailing stereotypes and assumptions, regardless of their individual attributes.

The fact that suspension and expulsion are being used so widely is particularly disconcerting given that research has failed to show that suspension teaches students positive behavior or reduces school violence.⁸ The negative consequences of policies resulting in high suspension rates, by contrast, are well documented. Removing children from school disrupts their education and can escalate poor behavior. Indeed, studies have shown that a child who has been suspended is more likely to drop out or become involved in criminal activity, and to end up incarcerated as a result.⁹ Thus, high suspension and expulsion rates actually increase criminal activity, thereby harming not only individual students but also society at large.

Alienation, exclusionary discipline, and other means through which children are pushed out of school have additional negative consequences as well. These children are being deprived of the opportunity to earn a high school diploma or more advanced degree, and are therefore relegated to the lowest-paying sectors of the job market and a life with significantly decreased opportunity. Accordingly, these children are far more likely to live in poverty or to need public assistance to survive.

III. THE ROOT CAUSES OF THE PROBLEM

The school bias and pushout phenomenon reflects our failure to invest in all of our schoolchildren and our lack of a common understanding as to how to make schools better. In our national discourse, public schools are often characterized as unsafe, in need of being managed authoritatively, and filled with kids who are trouble. These numerous negative narratives have become commonplace in the media and lead to the impulse to punish, control, and blame children themselves for the problems within schools. At times, these narratives are also racially defined and/or place the blame squarely at the feet of students of color or other vulnerable student populations.

Our failure to adequately support our schools and the individuals within them helps perpetuate these negative narratives. Teachers are given insufficient instruction about discipline and student behavior as well as appropriate and effective classroom management. They are told that if they give interesting enough instruction, kids will behave. The message sent to both students and teachers is that they are failing and that the problems faced by public education exist because they are not trying hard enough. This message becomes a self-fulfilling prophecy as public education fails to educate our children and thus strengthens pre-existing narratives.

Furthermore, teachers are not always encouraged to meet students where they are and to recognize that students are learning not only academically, but socially and emotionally. A core problem in schools is the lack of social connectedness. Because schools are such authority-centered environments, students do not talk directly with each other about difficult issues such as racism and homophobia. Students need to be able to express their emotions, and need a chance to see other people express theirs. There should be greater emphasis on teaching children in a holistic way, including taking the time to interact, break down barriers, and teach appropriate behavior instead of immediately resorting to discipline that removes students from the classroom.

Parents also contribute to the cacophony around public schools and their shortcomings, often without providing useful suggestions for positive change. In a world of limited resources where self-interest for one's own child trumps equity for all, many parents view education as a zero-sum game. At times, parents operate under a belief that some kids are inherently bad and undeserving of what they may want for their own children. This perspective creates a situation where parents compete for limited resources and think in terms of "my child" and "your child" rather than "our children." As a society, we must move away from the personal responsibility mindset and begin to focus on collective responsibility and creating high-quality public education for all schoolchildren.

"School is the society with all of its contradictions and children are people; they are not in some innocent state of Rousseau-ian childhood... nor are they monsters." —Bernardine Dohrn

IV. STRATEGIES FOR CHANGE

"Rather than sorting out blame, we really need to look at the situation that teachers and their kids are in and the climate they're in, the outcomes they are being held responsible for, the pressure from and on parents depending on the school district." —Dorothy Steele The school bias and pushout phenomenon is increasingly common and significantly undermines the success of our nation's public schools. Developing strategies to combat this phenomenon requires understanding the matrix of issues contributing to the problem and employing solutions that are integrated and comprehensive.

In developing these solutions, advocates must remain cognizant of the fact that a solution for one population may negatively impact another vulnerable population. For example, the language of "safe schools" in the context of combating LGBT harassment and the more general dialogue around needing to make schools safe for all students may negatively affect attempts to reduce racial discrimination in schools. The language of safety easily plays into the widespread misperception-based on stereotypes and personal prejudices-that students of color are often the individuals who make schools unsafe. Thus, developing strategies to reduce and eliminate school bias and pushout also requires the creation of a public school narrative that builds consensus around providing educational opportunity for all schoolchildren and making schools inclusive and welcoming for each student.

A. COLLABORATION IS KEY

Developing goals and strategies requires creative collaboration on the part of invested individuals to ensure school improvement and best practices for education. Sustainable solutions to school problems necessitate engaging all stakeholders, including community members, school board members, school administrators, teachers, parents, and students. Bringing together these stakeholders—as well as building coalitions among dedicated organizations—is critical to making sure that school change not only occurs, but that it lasts.

Developing solutions together instills a sense of responsibility for all school community members to uphold the values of respect and dignity. Establishing the expectations, policies, and practices for the whole school in collaboration with all school community members can have a tremendous impact on altering a hostile school environment. Such change does not require changing individuals' core beliefs, but only changing behavior to ensure that everyone feels welcome and included. For example, engaging all school stakeholders in deciding how to effectively address discipline issues in a fair and equitable way allows for greater accountability on the part of students, teachers, and administrators. A disciplinary system that includes the input of students, parents, and teachers is far less likely to result in students being unfairly or arbitrarily suspended or expelled. Accordingly, a fair process must involve engagement, participation, and clarity of expectations.

Collaboration has the added benefit of creating greater school connectedness. A major predictor of positive educational outcomes is the extent to which a student feels connected to her school community. Accordingly, one important element of creating a more inclusive school environment is for schools to reevaluate or eliminate "zero tolerance" policies, which rely on exclusionary discipline with little regard for the particular circumstances of individual incidents. Schools have embraced the simplicity of the "zero tolerance" message: we will not tolerate violence in our schools. But in practice, "zero tolerance" policies have created disconnected school communities where increasing numbers of students are suspended and expelled from comprehensive schools for minor offenses. The "zero tolerance" approach has also turned schools into environments that are increasingly policed and monitored. Reducing the presence of police on school campuses to what is actually necessary for school safety is also an important step in restoring schools to positive learning environments. Only then can we start building school communities where students feel respected and welcome, and are focused on learning.

B. LEADERSHIP WITHIN THE SCHOOL COMMUNITY

Sustained progress toward eliminating school bias and pushout occurs when school leadership is invested in making necessary changes to create inclusive and welcoming schools. School principals have a significant impact on the school environment and set the tone for the way schools function as a community, particularly how teachers interact with students. Similarly, school district superintendents also have a profound impact on how school environments develop, given their supervision and guidance of principals. If principals and superintendents are invested in improving the environment of schools and empowering teachers and youth to make changes, then sustained change is possible.

Although administrative and staff leadership is a central component of school change, it is essential that students be intimately involved in the process of improving their schools. Providing ways for students to invest in their educational community, be involved in school decision-making and take a leadership role in addressing school issues is vital to the transformation of school culture. In order for this to happen, school leaders must support and encourage student goals for change.

School change is most effective when facilitated by all members of the school community. Together they can most easily develop creative solutions to address school issues that relate directly to how the school functions on a daily basis. Students, teachers, administrators, and parents can be active in developing ways to address bullying and harassment at schools. Students can use peer leadership to model positive intervention when they witness bullying or harassing words or behavior. Teachers can address the challenging issues of race, sex, and sexuality within their curricula and intervene when inappropriate language or behavior occurs. Finally, school administrators and parents can support the efforts of both students and teachers and create an environment where inclusivity and equity are paramount.

C. MULTIPLE STRATEGIES SHOULD BE USED SIMULTANEOUSLY

Addressing school bias and pushout not only requires collaboration and leadership development, but also requires creativity and the use of multiple approaches for strategies to combat the problem. In order to create meaningful change, a multi-tiered approach employed by some or all of the larger community is necessary and may include public education, community organizing and movement building, youth leadership development, professional development, legislation, and possibly litigation.

PUBLIC EDUCATION

A public education strategy is perhaps the best way to reach all stakeholders. Media campaigns can help promote a realistic view of children by presenting children as real people, telling young people's stories, listening to their voices, and thereby counteracting many of the negative images of youth currently projected by the media. A successful media campaign would consider and make use of all available mediums: print, video, live reports, photographs, and the Internet. Incorporating individual stories is essential as a compelling means to shift people's thinking about young people and to increase public investment in creating schools that serve all students and thereby society as a whole. Parents often view school improvement as a zero sum game. Therefore, a media campaign should aim to create a broader view of public schools and their improvement, including students, who are a critical voice in reforming public education.

COMMUNITY ORGANIZING AND MOVEMENT BUILDING

Building a movement among community members-not just students, parents, and school officials-is a vital part of sustainable school change. Communities as a whole must be invested and must find common interests and concrete goals to organize around. Creating a communitybased coalition serves the dual purpose of fostering sustained investment in schools as well as increasing the number of individuals working toward a common goal. Community organizing and movement building necessitates defining: (1) the goals, (2) how they will be accomplished, and (3) what is needed to achieve the desired outcome. These efforts should not overlook the most obvious stakeholders, such as teachers and students, who are able to build from within.

"The principal can really make a difference. It might sound like a cliché, but a principal sets the tone."

—Stuart Biegel

YOUTH LEADERSHIP DEVELOPMENT

Securing student investment is essential to creating a welcoming and robust school environment. Schools need student leadership to move issues forward because students are integral to transforming how student bodies relate. For example, the Restorative Justice model provides a method to support student interaction. The model encourages students to meet face-to-face and resolve conflicts by acknowledging what they did, recognizing the impact of their actions, and addressing the harmful impact their actions caused. This method has been found to be quite effective in schools as a means of restoring the school community. It provides a positive alternative to top-down solutions to school problems and discipline, which typically get poor results. It enables students to be active participants in developing solutions and creates a more positive school environment. In order for models such as Restorative Justice to work, students and teachers should receive training in the specific intervention tools and students should be given the opportunity to practice those tools while being supported by school administration.

PROFESSIONAL DEVELOPMENT

Teachers and school administrators—as well other staff within a school—must be provided with professional development opportunities that address school environment and culture issues. Teachers must be trained and supported as educators in order to improve the student experience at school as well as the overall school climate. Educators need more professional development opportunities focused on engaging students in a framework that emphasizes human development in addition to academic performance.

Professional development may include: (1) workshops that give teachers specific tools to indentify and intervene when harassment and/or discrimination occurs, and (2) programs that focus on effective classroom management and how to teach acceptable behavior when students do act out or otherwise misbehave. At the most basic level, educators must be encouraged to think more creatively about establishing inclusive classrooms and educating the whole person. Teachers and administrators must also be actively engaged in evaluating problems and creating solutions for their schools. They should be presented with data and stories from their students, so that they understand the realities of their students' experiences. They must also be provided time and space to talk together about strategies and approaches for creative and collaborative problem solving.

LEGISLATION

Legislation is a powerful tool when there are barriers to positive school change that are created or facilitated by state law or by a lack of state mandates. For instance, if school districts experience disproportionate discipline on the basis of race, it is essential that they collect disciplinary data disaggregated by race in order to evaluate and solve the problem. State law can be passed to mandate the collection of this imperative data and provide the necessary resources for doing so. Further, state law can be used to address disproportionate school discipline by narrowing or eliminating the discretion within school disciplinary codes that lead to disproportionate discipline. In addition, state-wide legislation may be the most appropriate strategy to create baseline protections for vulnerable populations that lack appropriate protection under existing law.

Legislation is most valuable when it not only addresses the necessary changes in policy but also builds in accountability mechanisms for implementation, to ensure the intended results. This prevents unintended consequences like reincorporating "zero tolerance" back into well-intentioned efforts like anti-bullying initiatives.

LITIGATION

Litigation is an effective way to create change, particularly when the legal violation is clear and the problem affects multiple students. Litigation—or the threat of litigation—can provide an incentive for school districts to work collaboratively to address school problems or to prevent them. Litigation against school districts often results in settlement negotiations and leads to a settlement agreement or consent decree. These agreements often include remedial steps a district must im-

"If we are really going to change things, it is to get kids to have opportunities to hear each other and experience each other's feelings in a real and meaningful way... that will break down the barriers." —Ted Wachtel



plement over a period of time to ensure that the problems identified are adequately addressed.

To ensure effectiveness and sustained change, consent decrees or settlement agreements should last longer than four years in order for the student population that was present when the problems were originally identified to have graduated. New policies adopted through settlement agreements must be implemented comprehensively, in order to build staff and student understanding of the changes. Third party individuals should be engaged to collect and analyze data and otherwise implement the terms of the settlement. This creates a less adversarial ongoing process and allows the district to take responsibility for problems that arise without the fear of further litigation. To be effective, the analyzed data should be distributed to all relevant stakeholders for further consideration and use in problem solving. This allows schools to identify and address the problems themselves, increasing and sustaining investment and responsibility for the problem and for its solution.

Training both students and staff is a necessary part of an ideal settlement agreement, especially where any form of discrimination or harassment is involved. Such training has been found most useful when the individuals within the school are trained to be the trainers. This creates school-based leadership and underscores the fundamental point: that school change must occur from the inside out and the strategies employed must be crafted to build increased investment and commitment to the improvement of public education for every student who attends pubic school.

D. EVALUATION OF POSSIBLE SOLUTIONS

Solutions to the school bias and pushout phenomenon should be evaluated for effectiveness with the recognition that both evidence and action-based research provides useful and essential information.

School officials, decision-makers, and researchers are often interested in programs or solutions that have been evaluated, thus offering "evidencebased" proof of their effectiveness. However, there is a growing recognition that program evaluation can be deeply flawed and that what works in one school may not work in another. Program evaluations often de-emphasize the context in which a strategy was a success or failure and fail to recognize that two similarly-situated schools can respond differently to the same program. Additionally, true evidence-based studies require the use of randomized control groups, which is inappropriate when conducting studies of our nation's public education system because it would require knowingly giving students fewer resources.

Increasingly, stakeholders are valuing actionbased research that studies what is occurring within an organization or school to then determine how to improve the situation. The qualitative data that comes from being on the ground and witnessing the impact of programmatic changes in schools is invaluable and can help determine what specific changes a school needs in order to create a welcoming and inclusive environment. Accordingly, action-based research for the evaluation of school-based programs deserves a more legitimate place in the process of evaluating best practices in our education system. "Our schools are set up in a way that is selecting kids out. And so you have systems with AP tracks that are predominately white and higher income. And then you have discipline tracks that are predominately Latino and African American and that then affects identity, who goes where." -Anne Gregory



V. CONCLUSION

The problem of school bias and pushout is prevalent but not insurmountable. Despite its widespread existence, the phenomenon can be overcome if students, parents, teachers, administrators, advocates, and communities rise to the challenge of creating systemic change to create welcoming and inclusive schools. Every child has the right to "be a kid" and to enjoy that right while still receiving an education. As a society, we have a responsibility—to our own benefit—to educate all of our children and to do so in a manner that allows each child dignity.

<u>ENDNOTES</u>

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APPENDIX A SCHOOL BIAS & PUSHOUT FACT SHEET

BIAS/HARASSMENT

- In 2002, 75% of the harassment reported by California middle and high school students surveyed was bias-related harassment.¹
- California students who reported being victims of harassment were more likely to miss school, have low grades, abuse substances and suffer from depression than students who were not harassed.²
- The majority of students in the 2005 National Climate Survey reported experiencing harassment and violence at school.³ Three quarters of students participating in the survey reported feeling unsafe in school because of personal characteristics, including race, ethnicity, religion, gender and sexual orientation.⁴

LGBT STUDENTS

- Almost four out of five students participating in the 2005 National Climate Survey reported hearing homophobic comments at school.⁵ Only 16.5% of students reported that staff who were present when homophobic comments were made intervened frequently.⁶
- According to a 2002 California student survey, 7.5% of California students report being harassed on the basis of actual or perceived sexual orientation.⁷
- ◆ 46% of students said their schools were not safe for lesbian, gay, bisexual and transgender (LGBT) students.⁸
- Four out of five gay and lesbian youth report feeling severe social isolation.⁹
- According to a 2002 California student survey, students who are harassed based on actual or perceived sexual orientation are more than three times as likely to carry a weapon to school more than twice as likely to report depression, more likely to report low grades and more than three times as likely to report missing school in the last 30 days because they felt unsafe.¹⁰

STUDENTS OF COLOR

- In 2007, almost 35% of Latinos and 38% of African Americans attended overcrowded high schools, nearly twice the rate of white students.¹¹
- African-American children in state-funded pre-kindergarten are expelled at about twice the rate of Latinos and whites, and over five times the rate for Asian-American children.¹²
- African-American students are suspended at a rate two to three times that of other students.¹³ African-American students receive harsher and more frequent punishment even when controlling for socio-economic status.¹⁴
- African American students are more likely than their white peers to be suspended orexpelled for the same kind of conduct at school.¹⁵
- In 2007, 31% of Native Americans, 30% of Latinos, 42% of African Americans, 28% of Pacific Islanders, 15% of Whites, and 10% of Asian Americans dropped out.¹⁶

ENGLISH LANGUAGE LEARNERS (ELL)

- Although only 8% of the nation's teens are born outside of the United States, nearly 25% of teen school dropouts were born outside the United States.¹⁷
- As of 2005, 24.8% of students in California were Limited English Proficiency, and of these only 68.8 - 79.5% graduated from high school.¹⁸
- Latino English Language Learners are over represented over-represented in special education and have the lowest graduation rates of all students.¹⁹

SPECIAL EDUCATION STUDENTS

- ♦ According to the U.S. Department of Education (2006), approximately 13.5% of all students in K–12 schools receive special education services.²⁰
- In 2006-2007, California enrolled 677,875 students who received special education services.²¹
- ◆ In 2002, only 51% of students with disabilities received a standard diploma upon exiting school.²²
- Approximately 61.2% of students who do not complete high school are students with emotional/behavioral disabilities, 35% are students with learning disabilities.²³
- One-third of students with disabilities who drop out of high school have spent a night in jail; a rate three times that of students with disabilities who complete high school.²⁴

FOSTER YOUTH

- ◆ California has more children in foster care than any state in the country²⁵ 26,000 of whom are 16 or older.²⁶
- In one survey of foster care alumni, more than 68% attended three or more elementary schools; 33% attended five or more.²⁷
- Foster youth tend to lag behind their non-foster peers academically and are more likely to have behavior and discipline problems.²⁸
- A 2006 report by the EPE Research Center found that changing schools, repeating grades, and behavior problems indicate that a student is likely to leave school without a regular diploma.²⁹
- Studies indicate that youth in out-of-home care have dropout, truancy, and disciplinary rates far higher than the general student population.³⁰
- According to the May 12, 2006, Select Committee of the State Legislature (California), over 70% of all State Penitentiary inmates have spent time in the foster care system.³¹

PREGNANT AND PARENTING YOUTH

- California has the second highest rate of teen pregnancy in the nation.³² Of all births in California, approximately one in ten births were to teen mothers.³³
- In California the teen birth rate per 1,000 is 39 for African Americans, 13 for Asian Americans, 67 for Hispanics and 19 for Native Americans.³⁴
- Teen mothers are less likely to finish school, have higher rates of poverty, and are more likely to be dependent on public assistance than their peers.³⁵
- The leading reason for teen girls to drop out of high school is parenthood.³⁶ Various studies report that up to 70% of teen mothers drop out of high school.³⁷
- 30% of teen mothers never earn their high school diploma.³⁸
- Men who have a child with a teen mother complete fewer years of education than their peers do other men, and are less likely to receive a traditional high school diploma or GED.³⁹

MULTIPLE IDENTITIES

- Black, Hispanic, Native American, and ELL students with disabilities are more likely to be taught in separate classrooms or schools than students who are White or Asian/Pacific Islanders.⁴⁰
- Students with disabilities who were from Black, Hispanic, and American Indian backgrounds were 67% more likely to be removed from school by a hearing officer on the grounds that they were dangerous during the 1999 - 2000 school year than their White peers.⁴¹
- By age 19, almost 50% of women in foster care have been pregnant, whereas only 20% of young women who have not been in foster care have been pregnant.⁴²

- A study of youth who have been in foster care found that more than half of those studied had mental health problems, compared with 22% of the general population. 25% of the youth with mental health problems had post-traumatic stress disorder (PTSD) compared to 4% of the general population. 20% also experienced major depression, compared to 10% of the general population.⁴³
- It is estimated that between 30 and 40% of foster youth are in the special education system.⁴⁴
- African American and Native American children are overrepresented in foster care. African American children make up 15% of the U.S. population, but 41% of the foster care population. Native American children are 1% of the U.S. population, but 2% of the foster care population.⁴⁵

DROPOUT

- As of 2007, only 70% of all entering freshmen nationwide—and just half of students of color—finish high school within four years with a regular diploma. Nearly 7,000 American high school students drop out of school each day.⁴⁶
- ◆ In 2004, the dropout rate in California for males was 14.9% and 11.7% for females.⁴⁷
- ◆ In 2007, 24% of students in California dropped out of high school.⁴⁸
- Dropout rates are higher for students with disabilities, sexual minority youth and among low income ethnic and linguistic minorities in overcrowded schools.⁴⁹

SUSPENSION/EXPULSION AND SCHOOL VIOLENCE

- ◆ In 2002, one out of every five expelled students in the United States attended a California school.⁵⁰
- In 2003, more than 396,000 students in California were suspended and another 18,682 were expelled.⁵¹
- According to the California Department of Education in 2006-2007 there were 19,460 expulsions and 347,528 suspensions in California.⁵²
- According to the California Department of Education, disruption of school activities or willfully defying the authority of school personnel is the number one offense leading to expulsion.⁵³
- In 1998, more than 3.1 million children in America were suspended and another 87,000 were expelled, mostly for minor offenses.⁵⁴
- ◆ Between 1992 and 2002, violent crimes against students aged 12 18 at schools dropped by 50%.⁵⁵

CONSEQUENCES OF PUSHOUT

- Suspension and expulsion reduce the likelihood of graduating on time and often lead to student drop-out.⁵⁶
- Students who do not graduate from high school have reduced earning capacity, are more likely to be unemployed, and are over-represented in the criminal justice system.⁵⁷
- In California, every cohort of dropouts costs state and local government \$9.5 billion in fiscal losses.⁵⁸
- Suspension and expulsion are linked to increased likelihood of involvement in the juvenile justice system and higher rates of juvenile incarceration.⁵⁹
- Students who are suspended are more likely to drop out; students who drop out are more likely to be incarcerated.⁶⁰
- ◆ 68% of prison inmates do not have a high school diploma.⁶¹
- Reducing the high school dropout rate by 50% for one year in California would save the state and local government 3.2 billion. The value of social gains would amount to 23.2 billion.⁶²
- High school graduates are 68% less likely than dropouts to participate in any welfare programs.⁶³
- High school graduation reduces violent crime by 20%, property crimes by 11% and drug crimes by 12%.⁶⁴

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APPENDIX B

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APPENDIX C

RESOURCES

1. DIGNITY IN SCHOOLS

www.dignityinschools.org

- 2. FACING HISTORY AND OURSELVES www.facinghistory.org/campus/reslib.nsf
- 3. UNITY PROJECT

www.unityproject.org

- 4. CENTER FOR PREVENTION OF HATE VIOLENCE www.preventinghate.org/index.htm
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- 6. GSA NETWORK

www.gsanetwork.org

7. TOLERANCE.ORG www.tolerance.org/index.jsp

8. RESTORATIVE JUSTICE

www.restorativejustice.org/resources/programme



SCHOOLS FOR ALL CAMPAIGN: Preventing Bias and Pushout

In California and throughout the nation, youth are being subjected to bias, harassment, and discrimination in schools. The failure to address these experiences is leading to a dangerous trend: students stop engaging, misbehave, and become so alienated that they choose to leave school or are forced out.

The ACLU of Northern California's Schools for All Campaign works to ensure that all youth attend schools that are inclusive, respectful, and welcoming—schools that do not give up on students but rather strive to foster the potential of every child.



FOR MORE INFORMATION: www.aclunc.org/SchoolsForAll SchoolsForAll@aclunc.org



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