

Justice Delayed is Justice Denied



Milwaukee Public Schools, Persistent Disparities, and the School-to-Prison-and-Deportation Pipeline

March 2022

LIT
LEADERS IGNITING
TRANSFORMATION

**THE POPULAR
CENTER
FOR
DEMOCRACY**

Justice Delayed is Justice Denied

Milwaukee Public Schools, Persistent Disparities, and the School-to-Prison-and- Deportation Pipeline

Acknowledgements

This report was written by Marc Rodrigues (CPD). It was edited by Kate Hamaji and Kate Terenzi (CPD) and by Cendi Tena and Kathleen Otto (LIT). Graphic and visual design by Morgan Buck.

Cover photo credit: Leaders Igniting Transformation



The Center for Popular Democracy (CPD) is a nonprofit organization that promotes equity, opportunity, and a dynamic democracy in partnership with innovative base-building organizations, organizing networks and alliances, and progressive unions across the country. CPD strengthens our collective capacity to envision and win an innovative pro-worker, pro-immigrant, racial, and economic justice agenda.

populardemocracy.org | @popdemoc



Leaders Igniting Transformation (LIT) is a Black and Brown-led independent nonprofit. Founded in 2017, LIT organizes young people in Wisconsin to build independent political power for social, racial, and economic justice. LIT engages in values-based issues and electoral organizing, direct action, public policy advocacy, and leadership development.

litwi.org | @lit_wi

Introduction

Since as far back as the 1990's, Milwaukee Public Schools ("the District" or "MPS") has pushed Black students, students with disabilities, and other impacted students into the school-to-prison-and-deportation pipeline through its rampant and uneven use of exclusionary discipline.¹ Despite a multi-year investigation by the U.S. Department of Education Office for Civil Rights ("OCR"), MPS continues to punish Black students more often and more severely than their white peers, even as evidence shows similar behavior across groups.² By all accounts, MPS has failed to reform its disparate and punitive approach to discipline, causing extreme harm to Black students and students with disabilities across the district.

This report examines the impact of the District's disciplinary policies and practices, focusing on the time period since the 2014-2017 OCR investigation. The report will provide background on the investigation and its findings and an analysis of disparities between rates of discipline across lines of race and disability. The report will also examine the far-reaching ramifications of exclusionary discipline and provide recommendations from young people for addressing these injustices at their root.

Suspensions and Expulsions Undermine Young People's Right to Education

In Wisconsin, access to equal education, as defined in the state constitution and confirmed by the Wisconsin Supreme Court, is a fundamental right for all young people.³ However, MPS' punitive discipline policies and practices, including alarmingly high suspensions and expulsion rates which disproportionately affect Black students and students with disabilities, directly undermine impacted students' fundamental right to education.

In the 2019-2020 school year alone, MPS suspended 16,443, or 1 out of every 5, students overall.⁴ Although comprising just 51% of student enrollment that same year,⁵ Black students accounted for over 13,000, or 80%, of these suspensions.⁶ While comprising about 20% of enrollment,⁷ students with disabilities accounted for almost 40% of suspensions.⁸

Almost 60% of all ninth graders across MPS were suspended in 2019-2020.⁹

Federal Civil Rights Investigation Reveals Deep Disparities

Following a multi-year investigation¹⁰ into possible MPS violations of Title VI of the Civil Rights Act of 1964—which prohibits discrimination based on race, color, or national origin by a recipient of Federal financial assistance¹¹—the OCR published its findings in early 2018, identifying “several instances where [B]lack students were given more severe disciplinary sanctions than white students who appear[ed] to be similarly situated.”¹² OCR “identified a number of concerns, including, for example, significantly higher OSS [out-of-school suspensions] and expulsion rates for [B]lack students; a lack of consistency regarding under what circumstances students are to be referred for discipline; a lack of training for staff on the District’s discipline policies and procedures; a lack of criteria for when staff may remove a student from a classroom and send the student to the office; and a lack of or incomplete documentation regarding individual disciplinary incidents to ensure that students engaging in similar behavior are disciplined consistently.”¹³

Federal investigators found that over the course of two years, MPS expelled Black students more than 100 times while “similarly-situated” white students were suspended for similar behavior.¹⁴

At the tail end of the investigation, MPS submitted a Resolution Agreement¹⁵ to the OCR that committed the District to making concrete, sweeping changes in ten key areas of concern in order to “resolve the Title VI issues raised in [OCR’s] review.”¹⁶ The areas of concern included student and community input; staff education and training; disciplinary policies, practices, and procedures; and disciplinary data collection and analysis. Per the agreement, if MPS’ own data continued to show that the District punished Black students more harshly or more often than white students, the District committed to exploring possible causes for the disparate treatment and taking steps to mitigate it.

Under the Resolution Agreement, MPS agreed to provide data and other information at regular intervals through July 2020 so that OCR could determine “compliance with the regulation implementing Title VI.”¹⁷ Since then, **the District’s own data has continually shown that it has not yet fully met its obligations under the Resolution Agreement to “eliminate the disproportion to the maximum extent possible,”¹⁸ prolonging its disparate treatment of Black students and furthering the school-to-prison-and-deportation pipeline in Milwaukee.**

In order to actually change the reality for Black students and students with disabilities in MPS, the District must commit to truly transforming its relationship to students to be one rooted in support and restorative practices. It is not enough for MPS to merely work to limit the prominent disparities and disproportionality in its exclusionary discipline practices without addressing the underlying policies that are inherently discriminatory and racist. The current punitive approach has led to years of consistent, unremitting treatment of young people in MPS—particularly youth of color and those with disabilities—as disposable, excluding them from the learning environment. MPS must work toward ending the use of suspensions and expulsions and reimagine its approach to young people in order to end Milwaukee’s school-to-prison-and-deportation pipeline once and for all. It can start by truly valuing, listening to, and following the lead of the young people most impacted by these harmful policies and practices.

The Impact of Suspension on Young People:

The School-To-Prison-and-Deportation Pipeline

Exclusionary discipline—suspensions and expulsions—has extremely negative impacts on young people. Students suspended once are more likely to be suspended again.¹⁹ Students who are removed from the classroom miss out on valuable educational experiences, lowering their academic performance.²⁰



Photo credit: Leaders Igniting Transformation

In 2019-2020, Black students in MPS were 3.9 times as likely to be suspended as other students.²¹ And although the focus of the OCR investigation was on Black students, and MPS consistently doles out the most unequal and disproportionate punishment to Black students, inequities in MPS don't stop there. In 2019-2020, nearly 35% of Black students were suspended; 21% of Indigenous students were suspended; 19% of students identifying as "two or more races" were suspended; and 10% of Latinx students were suspended—compared to just 6% of their white peers. That same year, a startling 42% of students with disabilities were suspended compared to 18% of students without disabilities.²²

This disparate and unequal treatment has significantly impacted graduation rates, with Black students consistently falling below the statewide average. In 2019-2020, Black students statewide had a regular high school completion rate 19.6 percentage points below the average for all students,²³ which is consistent with research showing that being suspended "is associated with a 23 percentage-point decrease in the likelihood of graduating."²⁴ The negative impacts reach beyond those students suspended, ultimately hurting all students in the school community, including lowering the academic achievement of non-suspended students in schools with high rates of exclusionary discipline.²⁵

MPS' disciplinary policies and practices feed students into the criminal legal system. Once suspended, students are more likely to be arrested in the future and incarcerated as adults.²⁶ Students who are arrested for the first time in high school are twice as likely as their peers to drop out.²⁷ An analysis of the US Department of Education Civil Rights Data Collection for 2017-18 found that "[p]ublic schools in Wisconsin referred students to police twice as often as schools nationwide;" that, in Wisconsin, "students with disabilities and students of color [...] bore the brunt of school policing;" and that "Wisconsin was more likely than any other state to refer Native students to law enforcement, reporting a rate over three times higher than the rate of referral for their white peers."²⁸

This disproportionality, and the high suspension and expulsion rates in MPS, are core pillars of the school-to-prison-and-deportation pipeline.²⁹

Unequal and Unrelenting: From the OCR Investigation to Today

The purpose of OCR’s investigation and the resulting Resolution Agreement was to reduce racially-based disciplinary disparities and foster an environment where the fundamental dignity and civil rights of all students are upheld and respected. In Milwaukee, as in many other school districts across the country, Black students in particular experience these adverse outcomes despite no evidence that they “misbehave” more frequently or with a greater severity than white or other groups of students.³⁰ Other official data also demonstrate that MPS treats students with disabilities more harshly than their peers. BIPOC (Black, Indigenous, (and) People of Color) students with disabilities are especially likely to experience harsh treatment due to compounding disparities. The following section provides a detailed analysis of data that illustrates the disparate and harmful impact of the District’s practices over the past ten years.

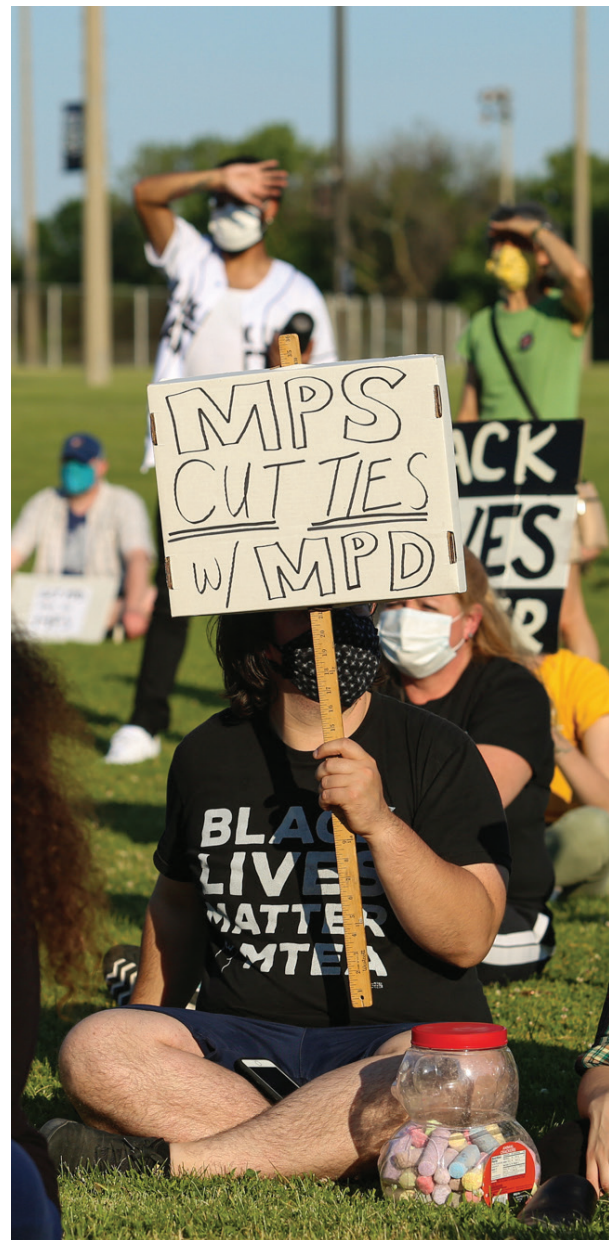


Photo credit: Leaders Igniting Transformation

“All they do is suspend kids, sometimes for the most petty things . . . Most Black/Brown kids get suspended for walking the halls in my school. But there is this white girl at my school and I always see her in the hallway. It’s like she never goes to class. But no one ever says anything to her . . .

My friend was suspended and was not able to take her finals. She transferred schools and they didn’t give her any of the credits she earned from her old school so now she has to take summer school . . .”

—Kamyia Johnson, LIT High School Fellow and MPS 9th-grader

A Decade of Disparities

Data show at least a decade of abject failure by MPS to treat Black students and students with disabilities fairly, a decade of feeding young people to the school-to-prison-and-deportation pipeline.

Black students in MPS are continually disciplined at disproportionately high rates relative to their enrollment and compared to their white peers.

The OCR's investigation into MPS for Civil Rights (Title VI) violations was sparked by the findings of the biennial Civil Rights Data Collection (CRDC)³¹ for 2011-2012 which showed that Black students in MPS were overrepresented in the exclusionary discipline categories of in-school suspensions, out-of-school suspensions, and expulsions. In 2011-12:

- Black students represented 84% of the students receiving **in-school** suspensions, a **27 percentage point disparity** between student enrollment at the time and in-school suspensions;³²

- Black students represented 82% of the students receiving out-of-school suspensions, a **26 percentage point disparity**.³³ **Today, there is a 31 percentage point disparity between Black enrollment and suspension rates.**³⁴

Meanwhile, white students currently comprise 10% of enrollment but account for only 3% of suspensions.³⁵

- Black students represented 85% of the students receiving expulsions, a **29 percentage point disparity**.³⁶ In 2019-2020 (the year with the most recently available public data), **there is still a 22 percentage point disparity**.³⁷ Meanwhile, white students have continually been expelled at lower rates relative to their enrollment. For example, in 2019-2020, white students comprised 10% of enrollment but 5% of expulsions.³⁸

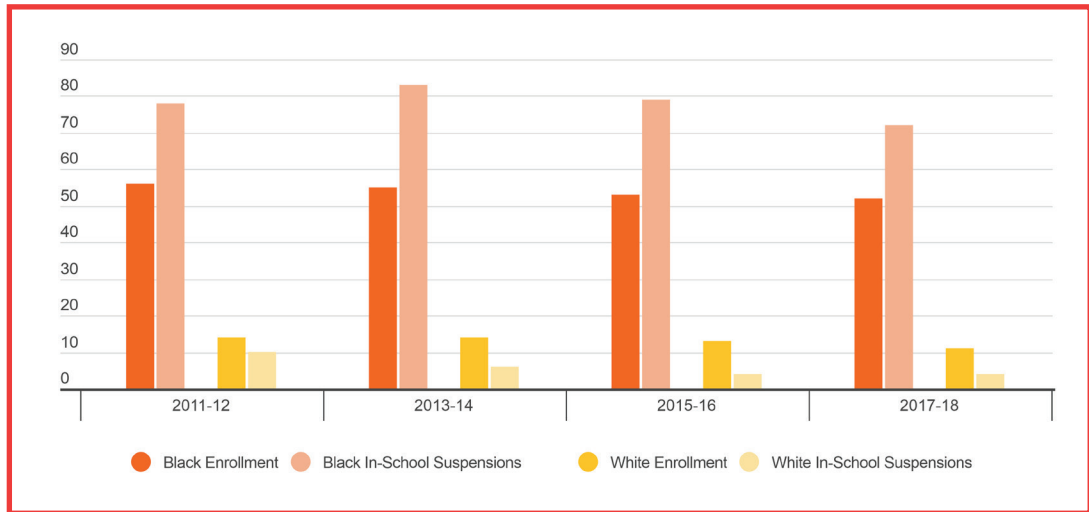


Photo credit: Leaders Igniting Transformation

Rates of Disciplinary Action for Black Students and White Students

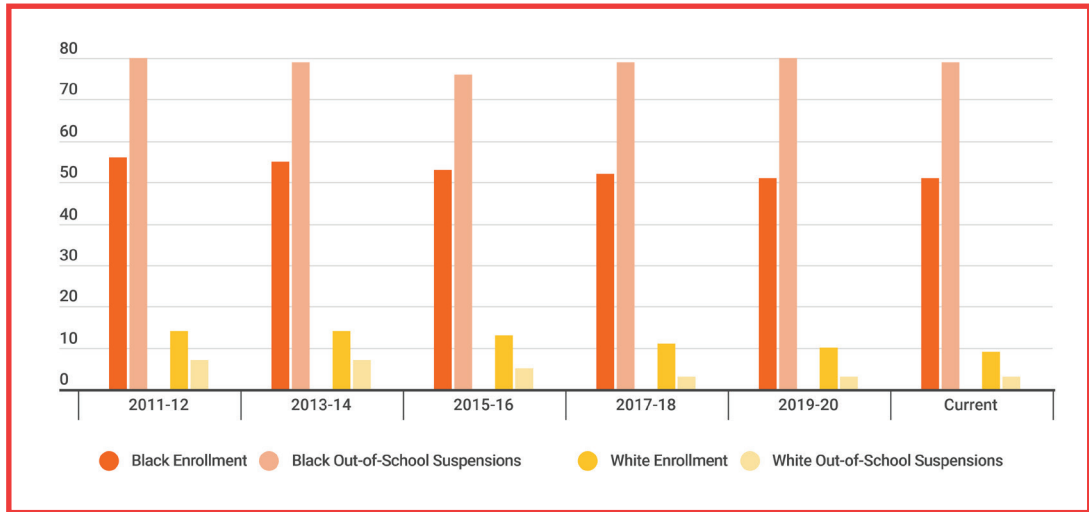
Disproportionality:

Black students and white students as percentage of MPS student enrollment compared to their percentage of students receiving an in-school suspension



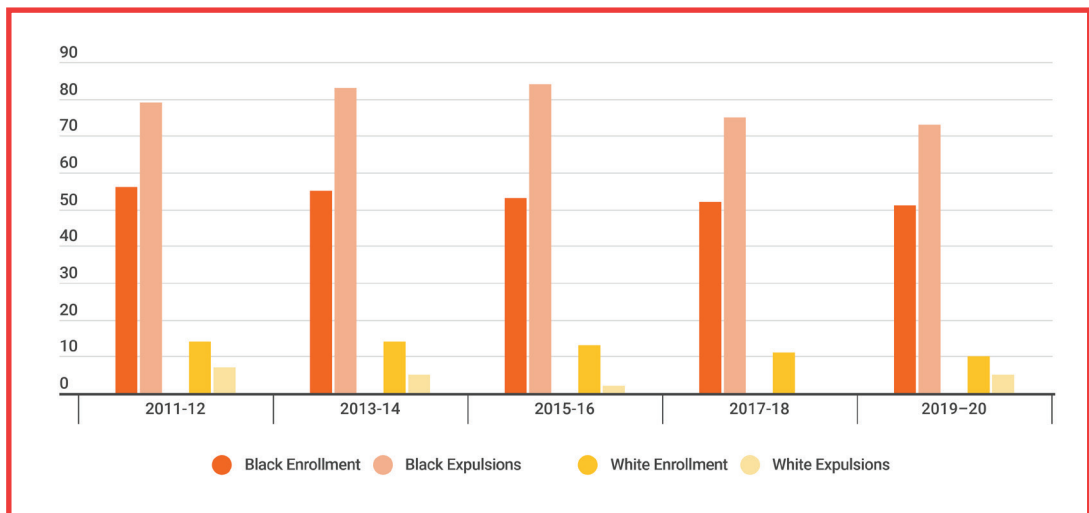
Disproportionality:

Black students and white students as percentage of MPS student enrollment compared to their percentage of students receiving an out-of-school suspension



Disproportionality:

Black students and white students as percentage of MPS student enrollment compared to their percentage of students receiving an expulsion



See notes for data sources.³⁹

Black students receive harsher discipline for the same behaviors as white students.

In addition to blatant disproportionality, data also reveal racially-based disparities in how staff and administrators apply discipline to the same or similar behaviors exhibited by members of different racial categories.

Analyzing the District’s discipline records for the 2013–2014 and the 2014–2015 school years, OCR found “over one hundred incidents at the District’s schools where [B]lack students were expelled, while similarly-situated white students were suspended for similar misconduct [. . .] OCR also identified numerous incidents where [B]lack students received harsher discipline than white students for similarly coded misconduct”⁴⁰ (emphasis added), including the following examples:

- “[A] white student given a one-day [out-of-school suspension] for possession of illegal drugs and a [B]lack student given three-day [out-of-school suspension] for the same infraction”;
- “a [B]lack student given a five-day [out-of-school suspension] for gang activity and a white student given a three-day [out-of-school suspension] for disorderly conduct that was annotated as gang activity”;
- “two students cited for cell phone use and chronic disruption, the [B]lack student received a one-day [out-of-school suspension] and the white student received a warning and counseling”;
- “a [B]lack student received a five-day [out-of-school suspension] for chronic disorder and extreme profanity and a white student received a three-day [out-of-school suspension] for chronic disorder, profanity and threats to staff.”⁴¹

Black students are more likely to be disciplined for “subjective” behaviors.

In 2019-20, Black students represented 51% of the District’s enrollment, but **accounted for 79% of all disciplinary referrals for all behaviors considered “subjective,”⁴² including:**

- “disorderly conduct,”
- “inappropriate use of electronics,” and
- “inappropriate personal property” (defined as possession of items such as “food” and “beverages”).⁴³

In addition, **once a student received a referral for discipline under one of these subjective categories, the District imposed harsher discipline on Black students than “similarly-situated” white students.**

For example, a Black student who received a referral for “inappropriate use of electronics” was 12% more likely to receive a suspension than a white student who received the same referral.⁴⁴ Once suspended, Black students also tend to receive longer suspensions compared to white students for the same behaviors. In 2020, Black students were suspended an average of 2.25 days for “inappropriate personal property;” their white peers averaged 1 day for the same category. Black students were suspended for bullying for an average of almost 2 days; white students, 1.3.⁴⁵

Students with disabilities are disciplined at disproportionately high rates; BIPOC students with disabilities face compounded disparities in discipline.

According to an analysis conducted by MPS in 2020:

- All Special Education students were almost 5 times as likely to be suspended as their white, non-Special Education peers.⁴⁶
- Black, male, Special Education students were more than 7 times as likely to be suspended as white, non-Special Education students;
- All Black Special Education students were nearly 7 times as likely to be suspended as white, non-Special Education students. (All Black students, regardless of Special Education status or gender, were nearly 5 times as likely to be suspended as white, non-Special Education students.)

Since the 2011-2012 school year, students with disabilities have consistently received higher rates of in-school and out-of-school suspensions and expulsions relative to their enrollment:

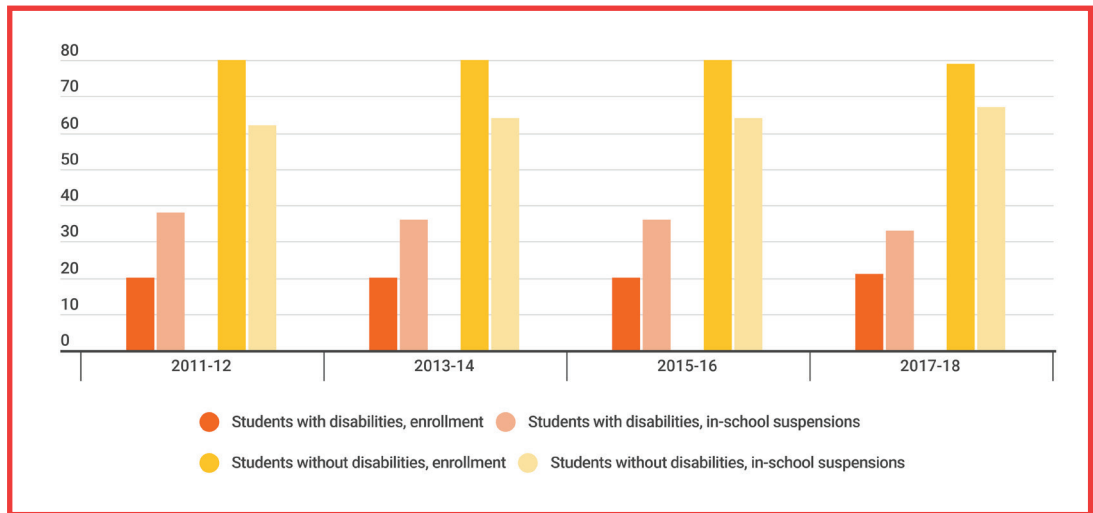
- In 2011-2012, students with disabilities represented 38% of students receiving in-school suspensions but 20% of enrollment, an 18 percentage point disparity.⁴⁷ This disproportionality remains consistent, with a 12 percentage point disparity between enrollment and in-school suspensions in 2017-2018 (the most recent year for which this data is publicly available).⁴⁸
- The share of students with disabilities receiving out-of-school suspensions had a 15 percentage point disparity in 2011-2012;⁴⁹ in 2019-2020, it was 18 percentage points. Stated otherwise, in 2019-2020, over 42% of students with disabilities faced out-of-school suspension, compared to 18% of students without disabilities.⁵⁰
- The share of students with disabilities receiving expulsions has grown since 2011-2012, from a 15 percentage point disparity⁵¹ to a 20 percentage point disparity in 2019-2020 (the most recent year for which this data is publicly available), when students with disabilities accounted for 40% of all MPS expulsions despite comprising just 20% of enrollment.⁵² This is particularly egregious given that expulsion is one of the harshest forms of punishment.



Rates of Disciplinary Action for Students with Disabilities

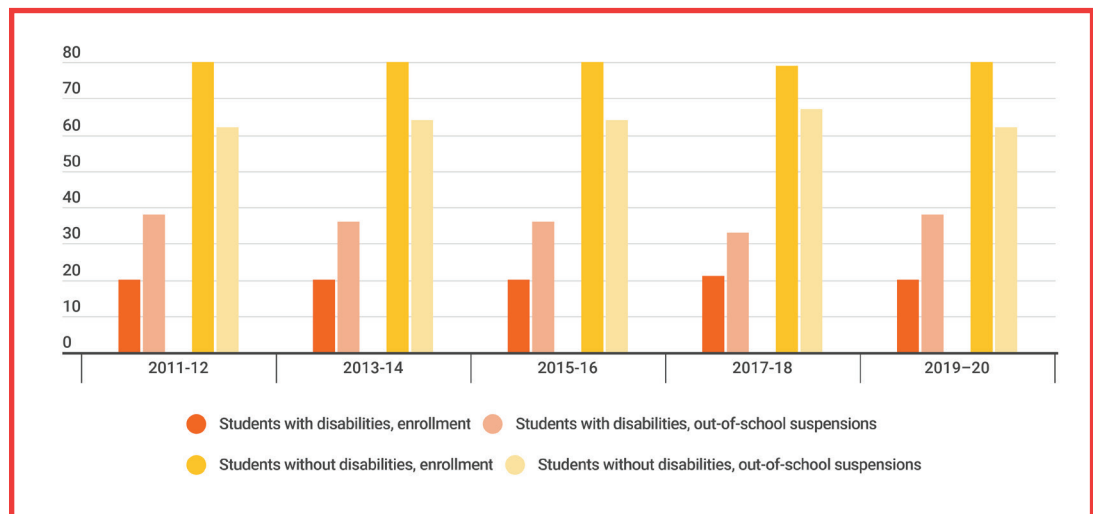
Disproportionality:

Students with disabilities and students without disabilities as percentage of MPS student enrollment compared to their percentage of students receiving an in-school suspension



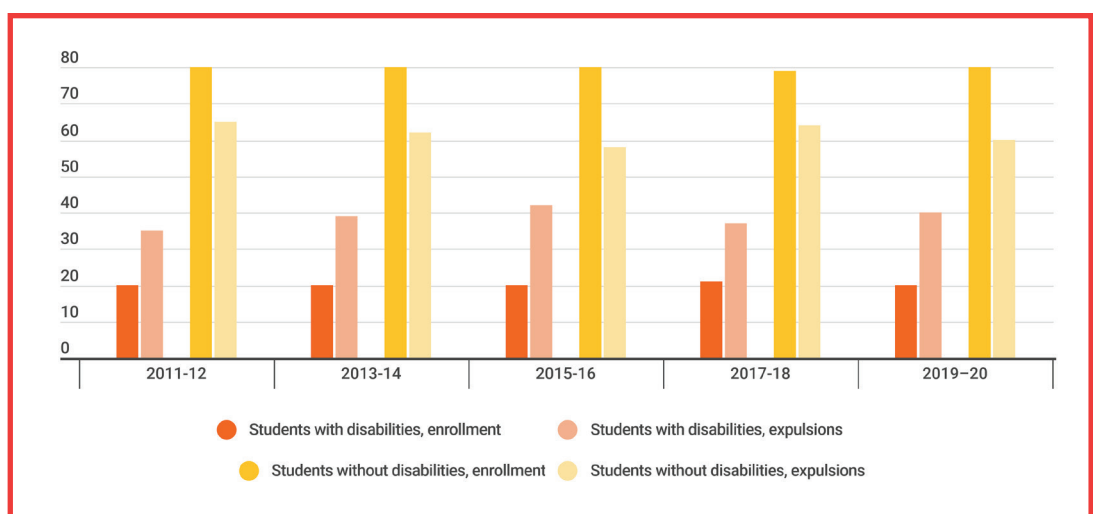
Disproportionality:

Students with disabilities and students without disabilities as percentage of MPS student enrollment compared to their percentage of students receiving an out-of-school suspension



Disproportionality:

Students with disabilities and students without disabilities as percentage of MPS student enrollment compared to their percentage of students receiving an expulsion



See notes for data sources.⁵³

A Snapshot of the Current Moment

In December 2021, MPS exceeded its suspension rate for the same month in 2019. There were a total of 2,180 suspensions in December 2021 compared to 2,005 in December 2019⁵⁵ (175 more suspensions) even though enrollment was down in 2021 compared to 2019 (5,500 fewer students).⁵⁶

In just the first two months of 2022 (two weeks of which, in January, were conducted entirely virtually due to the Omicron variant of COVID), 14 Black first-grade students were suspended (out of 16 total first-grade suspensions in MPS). During the same period, a total of 380 Black children in grades 1 through 5 were suspended, representing 82% of total suspensions of that young cohort. Black students overall accounted for 79% of all suspensions doled out these two months while representing just 51% of enrollment. So far in 2022, white students, who represent 9% of enrollment, account for just 3% of suspensions.⁵⁷

In February 2022, 4 Latinx students in the 4K/5K grade level (4- and 5- year-old kindergarten) were suspended. Along with 8 Black students, these were the only 12 students at this grade level suspended. Also in February 2022, 332 Latinx students were suspended compared to 65 white students, just over 5 times as many despite accounting for just over 3 times the white student enrollment.⁵⁸

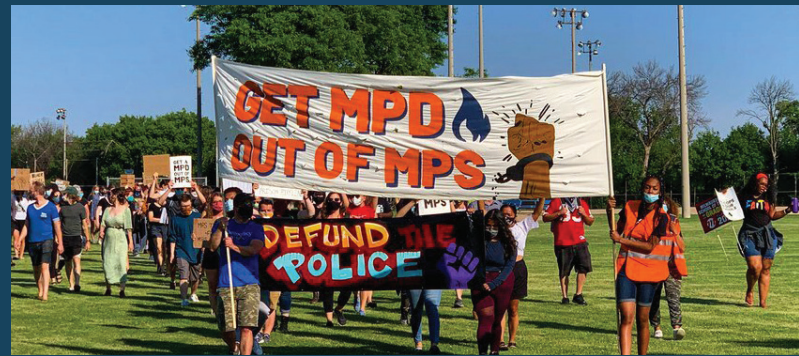
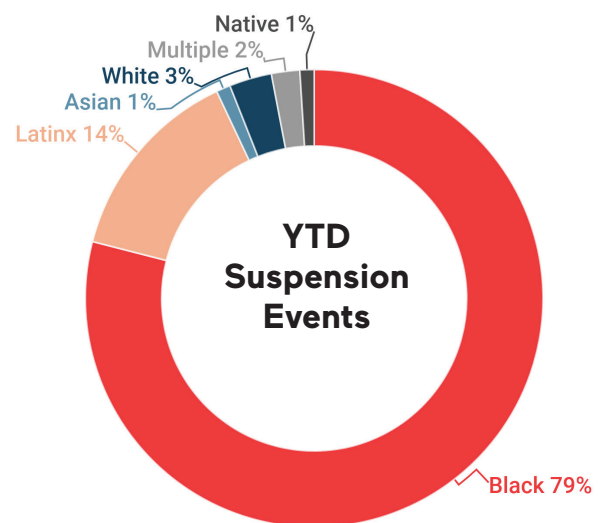
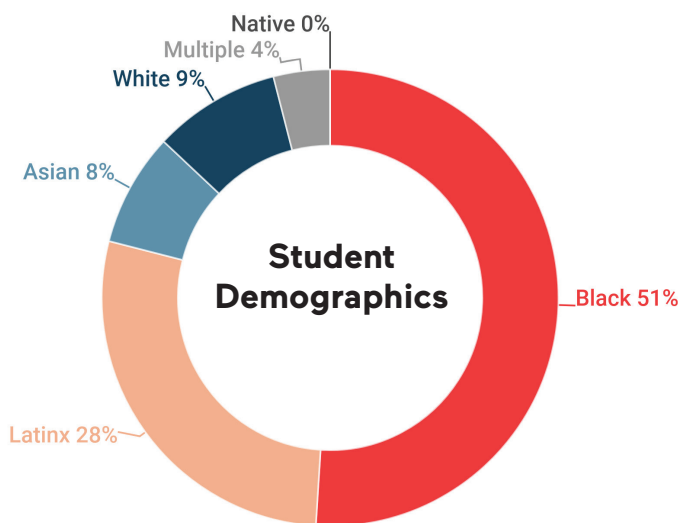


Photo credit: Leaders Igniting Transformation

District Demographics versus Year to Date Disproportionality of Suspensions Through February 28, 2022 (per MPS Monthly Disproportionality Report)





“At this point it should really be embarrassing for the administration and the board to continue to present data that looks like this. . . The data in this district is a direct reflection about how we feel about our Black students.”

—Angela Harris, Black Educators Caucus of Milwaukee, February 2022⁵⁹

Patterns of Racial Discrimination in Schools Mirror those in Communities

Milwaukee is one of the country’s most segregated cities. Black men in Milwaukee are incarcerated or unemployed at among the highest rates in the country; nearly one out of eight Black men in Milwaukee County had served time behind bars according to a 2013 study.(endnote 59) A 2021 study by The Sentencing Project found that Wisconsin “leads the nation in Black imprisonment rates” with a “staggering” 1 in 36 Black Wisconsin adults in prison and that Black people compose 42% of the state’s prison population while composing just 6% of the state’s population.⁶⁰ The predominantly Black Milwaukee zip code 53206 was recently found to have the “highest incarceration rate in the country” while dealing with the ruinous consequences of deindustrialization, job loss, and systemic racism, among other factors.⁶¹ There are 10 MPS K-12 schools in or near 53206.⁶²

During the height of the COVID-19 pandemic, majority-Black neighborhoods in Milwaukee saw a higher percentage of workers

(in both the categories of “low wage workers” and workers overall) filing unemployment claims than Latinx- or white-majority neighborhoods.⁶³

“[These suspension policies] mirror the practices of our criminal justice system . . . It enforces the school-to-prison pipeline . . . preparing [MPS students] for the system that targets them as young Black and Brown people.” —Maya Neal, LIT⁶⁶

more likely, respectively, with white men 21% less likely than non-white men to receive a prison sentence.⁶⁴

Another recent study on the state of Black Milwaukee by the University of Wisconsin-Milwaukee’s Center for Economic Development described the city as “the epitome of a 21st century racial regime” with rules that “undergird the persistence of caste-like conditions for vast numbers of Blacks in the metropolitan area.”⁶⁵ Clearly, conditions in MPS mirror those in the broader area, and vice-versa.

The Way Forward: The Youth Power Agenda

Fortunately, there is a way forward for MPS, and that way is charted by the Youth Power Agenda created by Leaders Igniting Transformation (“LIT”), a Wisconsin based, Black- and Brown-led organization fighting for educational justice and to put an end to the school-to-prison-and-deportation pipeline. LIT’s Youth Power Agenda calls on the district to reimagine its response to student behavior by ending the use of exclusionary discipline (suspension and expulsion) as a fundamentally flawed way of treating young people and of responding to student behavior. Instead, MPS must create an inclusive school code and invest deeply in the supports and resources that allow young people to thrive.

For this change to work, those most directly affected by the problem—and their expertise—must be centered in devising and implementing solutions. The young people who are most at risk of harm due to harsh disciplinary policies are uniquely situated to lead the dialogue about revamping the MPS discipline code and developing truly safe and equitable learning environments in Milwaukee.

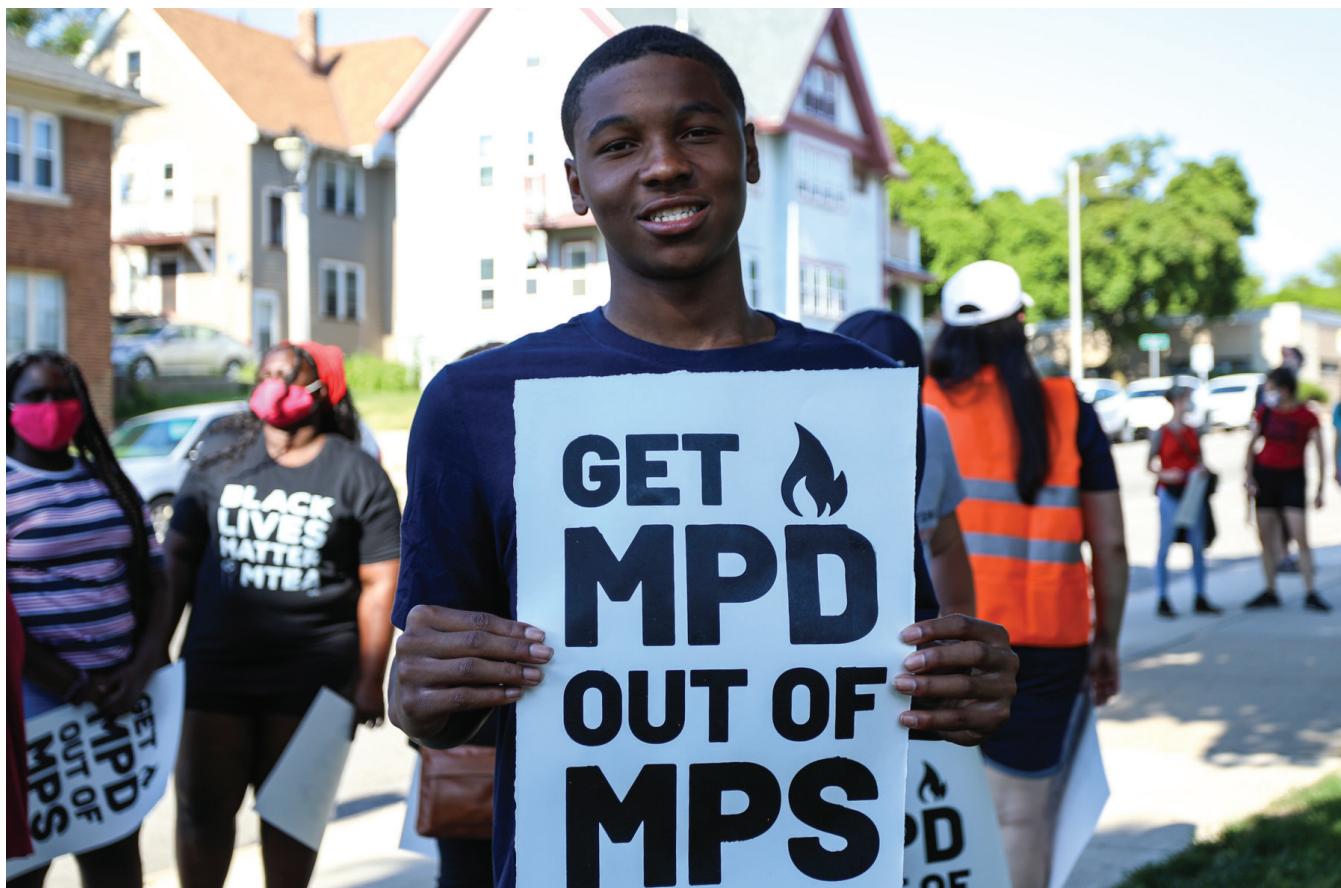


Photo credit: Leaders Igniting Transformation

Recommendations

Updated and Re-Issued from LIT's 2018 Youth Power Agenda

Reimagine Response to Student Behavior

End suspensions and expulsions. MPS should end the regular use of suspensions and expulsions. Schools' responses to behavior should be rooted in respect and should rely on understanding, restorative practices, and mental health care. MPS must phase out all forms of student exclusion, including classroom removals, suspensions, and expulsions. Ultimately, exclusionary discipline can't be tweaked or reformed only to reduce disparities. The act of pushing young people out of schools will always be deeply harmful and perpetuate the school-to-prison-and-deportation pipeline. At its core, exclusionary discipline denies young people education, treats them as disposable, and leads to the racist and ableist outcomes presented throughout this report.

Create an inclusive school code. The evidence is clear. Disparate treatment of Black students and students with disabilities continues to be a chronic and severe problem that remains unaddressed in any serious way by the District. A real overhaul of MPS discipline code away from punitive measures

toward a vision of support and empowerment of students is long overdue, and students and youth themselves must be at the forefront of making and implementing these changes. Only then will we see the critically needed shift away from the school-to-prison-and-deportation pipeline in MPS and an end to the persistent and blatant disproportionate treatment of Black and other impacted students. The Dignity in Schools Campaign along with advocates across the country have developed a model school code premised on a belief in the human right to education and the dignity of all young people.⁶⁷ MPS should adopt this code to eliminate the harmful practices embedded in its current code. The new school code must, at a minimum, include robust and enforceable due process for disciplinary actions;⁶⁸ require school personnel to implement supportive interventions, such as restorative practices or therapy; eliminate all vague or subjective offense categories; and create a clear and accessible complaint process.

Invest in Freedom

Implement robust restorative justice practices

citywide. All school personnel, along with the school community, including young people and parents when possible, should be trained in using restorative practices. Schools should adopt a restorative approach to the school environment. Restorative approaches should follow nationally-developed models and could include peer-counseling, drug and alcohol treatment, community service, non-fiscal restitution, mental health care, and behavioral contracts. But schools cannot create a restorative whole school approach while young people face metal detectors, discrimination, or harsh treatment: True restorative approaches require a transformation of the school culture. Implementation of this approach should be citywide, prioritizing those schools with the highest rates of suspensions, expulsions, and disparities. Some components of strong restorative practices include:

- **Full-time restorative practices coordinators:** Schools need dedicated personnel for implementation of restorative justice practices and to create and deliver training to all staff. These restorative justice coordinators will also facilitate restorative circles, which bring members of the school community together to build relationships and/or to heal relationships by bringing together all those affected by wrongdoing and collectively considering the needs and responsibilities of those involved.⁶⁹
- **School-wide training and practice:** To truly be effective, restorative approaches need to be embedded within the school. Ensuring community understanding and investment in this process, the coordinator needs to be given the resources to run regular trainings throughout the year.
- **Leadership of young people and parents:** Young people are necessary to the implementation of restorative practices. Their leadership should be leveraged to develop and participate in running the restorative practices in their schools. Parents also shape much of the school culture and their involvement in restorative practices can maintain the continuity between school and home culture.
- **Community involvement:** Restorative practices offer schools the opportunity to develop partnerships with community-based organizations with experience, expertise, and credibility in developing community solutions for safety beyond punishment and exclusion.

Increase the number of culturally competent licensed support professionals, including therapists, social workers, psychologists, and guidance counselors.

Licensed support professionals provide vital services to students including mental health services, college and career readiness, and connecting young people to community-based groups. While some increases in staffing have happened in MPS due to student pressure, many students still have no access to guidance counselors or mental health professionals. The District should drastically increase the number of licensed support professionals in schools. For example, based on the 2021 budget, MPS would need to add 641 full-time counselors to reach the nationally-recognized counselor-to-student ratio for general education students, and many more to reach the ratio needed to ensure appropriate services for all young people, including those with disabilities.⁷⁰

MPS must also provide trauma-informed care and mental health training for all school personnel who are involved in making discipline referrals and imposing disciplinary sanctions. As The Communities for Just Schools Fund notes: **“Simply adding these positions is not enough. Counselors, school social workers, school psychologists, and nurses must also be actively anti-racist and anti-bias and use culturally-affirming practices in their work.”**⁷¹

Provide culturally-responsive education and training. A culturally-responsive approach to teaching acknowledges that students and families come from diverse socioeconomic backgrounds and treats this diversity as a positive asset. Another aspect of this approach is to understand and address institutional, personal, and instructional biases. Providing culturally-responsive education can lead to safer communities and learning environments for women, youth of color, and LGBTQ students.

Reduce classroom size. Small class sizes improve student outcomes, especially for students of color and low-income students.⁷² In particular, smaller class sizes lead to improvements in student behavior and reductions in discipline referrals.⁷³ With fewer discipline issues to contend with, teachers can spend more time engaging students in learning and less time “controlling” the class.⁷⁴ Milwaukee’s student-to-teacher ratio exceeds the state average.⁷⁵ Critical funding must be provided for MPS to hire more teachers and educational assistants, which will help reduce class sizes and provide professional development for the sustained growth of teachers and school staff.



Photo credit: Leaders Igniting Transformation

Conclusion

Eight years after the OCR initiated its investigation into Title VI Civil Rights violations in MPS, and over four years since District administration entered into a Resolution Agreement, little has changed. Thousands of students, mostly Black, have grown up and experienced school—one of the fundamental touchstones of a young person’s emotional, social, and intellectual development—under a regime of disparate, discriminatory, punitive disciplinary policies and practices.

Given the repeated and severe failure by the District to address its racist and harmful disciplinary practices, urgent action must be taken to prevent further harm to Black students and students with disabilities in MPS. It is imperative that the District take immediate steps to follow the leadership of LIT and the young people of Milwaukee so we can collectively forge a better path forward for our schools, students, and communities.



Photo credit: Leaders Igniting Transformation

Endnotes

- 1 “Exclusionary” discipline refers to all forms of discipline that remove students from the educational environment, including classroom removals, in-school suspensions, out-of-school suspensions, and expulsions. See: “Exclusionary Discipline,” School Discipline Support Initiative, accessed March 7, 2022, <https://supportiveschooldiscipline.org/learn/reference-guides/exclusionary-discipline>. “Rise in Suspensions Found,” *Milwaukee Journal Sentinel*, October 1, 1995, <https://drive.google.com/file/d/1c-NWr4ahbVrrhvyat3crGYd1AtvMd417/view?usp=sharing>; “MPS Suspensions Skyrocket,” *Rethinking Schools*, Fall 1998, <https://rethinkingschools.org/articles/mps-suspensions-skyrocket/>.
- 2 “OCR was able to identify over the two school years analyzed [2013-14, 2014-15], over one hundred incidents at the District’s schools where [B]lack students were expelled, while similarly-situated white students were suspended for similar misconduct . . . OCR also identified numerous incidents where [B]lack students received harsher discipline than white students for similarly coded misconduct.” See: Resolution Letter for Case No. 05-14-5003, U.S. Department of Education, Office for Civil Rights, January 31, 2018, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/05145003-a.pdf>, 11-12.
- 3 *Buse v. Smith*, 74 Wis. 2d 550 (1976). See also Wis. Const. art. X, § 3.
- 4 WISEdash: Wisconsin Information System for Education Data Dashboard, “Discipline,” 2019-20, <https://wisedash.dpi.wi.gov/Dashboard/dashboard/20218?filtersetId=81f8a749-f49e-4eda-9b67-1e2684d5c873>.
- 5 WISEdash, “Enrollment,” 2019-20, <https://wisedash.dpi.wi.gov/Dashboard/dashboard/18110?filtersetId=c1ad9389-ce32-49fd-a2be-faed3f9fdaea>.
- 6 WISEdash, “Discipline,” 2019-20.
- 7 WISEdash, “Enrollment,” 2019-20.
- 8 WISEdash, “Discipline,” 2019-20.
- 9 WISEdash, “Discipline,” 2019-20.
- 10 Resolution Letter for Case No. 05-14-5003, U.S. Department of Education, Office for Civil Rights, January 31, 2018, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/05145003-a.pdf>. The investigation included reviewing almost 600 MPS student discipline files, analyzing District data, and conducting scores of interviews.
- 11 Specifically, Title VI of the Civil Rights Act of 1964 and its implementing regulation, 34 C.F.R. Part 100, <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr100.html>.
- 12 Resolution Letter for Case No. 05-14-5003, 13.
- 13 *Ibid.*, 12.
- 14 *Ibid.*
- 15 Resolution Agreement No. 05-14-5003, Milwaukee Public Schools, 2017, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/05145003-b.pdf>.
- 16 “Discipline,” Milwaukee Public Schools, accessed March 1, 2022, <https://mps.milwaukee.k12.wi.us/en/Families/Family-Services/Discipline.htm>; Resolution Letter for Case No. 05-14-5003, 13.
- 17 Resolution Agreement No. 05-14-5003, 8.
- 18 *Ibid.*
- 19 E. Christine Baker-Smith, “Schools or Students? Identifying High School Effects on Student Suspensions,” 2015, <https://files.eric.ed.gov/fulltext/ED562452.pdf>, A1, A3; “Suspending young students risks future success in school,” *Michigan News-University of Michigan*, accessed March 1, 2022, <https://news.umich.edu/suspending-young-students-risks-future-success-in-school/>.
- 20 Amity L. Noltemeyer, Rose Marie Ward, and Caven McLoughlin, “Relationship Between School Suspension and Student Outcomes: A Meta-Analysis,” *School Psychology Review*, 2015, Volume 44, No. 2, https://edsources.org/wp-content/uploads/2018/09/Noltemeyer_Ward_2015_Meta-Analysis.pdf, 2.
- 21 WISEdash, “Discipline,” 2019-20; WISEdash, “Enrollment,” 2019-2020; “Are my students at risk?” Measuring Disciplinary Disproportionality,” New York University Metropolitan Center for Research on Equity and Transformation of Schools, 2017, <https://steinhardt.nyu.edu/metrocenter/perspectives/are-my-students-risk-measuring-disciplinary-disproportionality-2017>.
- 22 WISEdash, “Discipline,” 2019-20; WISEdash, “Enrollment,” 2019-20.
- 23 See, e.g. WISEdash, “High School Completion,” Regular, 2019-20, By Race/Ethnicity, <https://wisedash.dpi.wi.gov/Dashboard/dashboard/17880?filtersetId=de768b36-404f-42d5-8def-a73152ea8f3f>; WISEdash, “High School Completion,” Regular, 2019-20, All Students, <https://wisedash.dpi.wi.gov/Dashboard/dashboard/17880?filtersetId=6a27a930-7da8-4772-b438-cdba52a167f6>.
- 24 Russell W Rumberger and Daniel J. Losen, “The High Cost Of Harsh Discipline And Its Disparate Impact,” The Center for Civil Rights Remedies at the Civil Rights Project, University of California Los Angeles, June 2, 2016, https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf.]
- 25 Brea L. Perry and Edward W. Morris, “Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools,” *American Sociological Review*, Volume 79, Issue 6, November 5, 2014,

- <https://journals.sagepub.com/doi/abs/10.1177/0003122414556308>.
- 26 Rumberger and Losen, "The High Cost Of Harsh Discipline And Its Disparate Impact;" See, for example: "Out-of-School Suspension and Expulsion," American Academy of Pediatrics, February 25, 2013, <https://www.ncsl.org/documents/fsl/aap-out-of-school-suspension-and-expulsion.pdf>; Jason P. Nance, "Dismantling the School-to-Prison Pipeline: Tools for Change," <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1783&context=facultypub> (citing Wolf and Kupchik, "School Suspension and Adverse Experiences in Adulthood"); Tony Fabelo et al., "Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement," <https://www.ojp.gov/ncjrs/virtual-library/abstracts/breaking-schools-rules-statewide-study-how-school-discipline-0>, 55-57.
- 27 Gary Sweeten, "Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement," Justice Quarterly 23, Issue 4, 2006, <https://www.masslegalservices.org/system/files/library/H.S.ed.and.arrest-ct.involvement.study.by.Sweeten.pdf>, 473. ("Put another way, first-time arrest during high school nearly doubles the odds of high school dropout...")
- 28 "Wisconsin schools called police on students at twice the national rate — for Native students, it was the highest," *Wisconsin Watch*, September 24, 2021, <https://wisconsinwatch.org/2021/09/wisconsin-schools-called-police-on-students-at-twice-the-national-rate/>; "When schools call police on kids," Center for Public Integrity, September 8, 2021, <https://publicintegrity.org/education/criminalizing-kids/police-in-schools-disparities/>
- 29 "The school-to-prison pipeline is a national trend in which various K12 policies and practices directly and indirectly push students – particularly students of color – out of school and into juvenile detention, prison and the criminal justice system. These practices include zero tolerance and harsh discipline policies, and practices ranging from suspensions, expulsions, arrests, hyper-surveillance, police presence in schools, underinvestment in public schools and high-stakes testing. For immigrants and undocumented youth, school pushout can result in detention and deportation." "The School-to-Deportation Pipeline," Advancement Project, 2017, <https://advancementproject.org/wp-content/uploads/2017/11/School-to-Deportation-Pipeline-Action-Kit-FINAL-compressed.pdf>, 5.
- 30 Russell J. Skiba and Natasha T. Williams, "Are Black Kids Worse? Myths and Facts about Racial Disparities in Behavior," The Equity Project at Indiana University, March 2014, https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/african-american-differential-behavior_031214.pdf, 5; Jessika H. Bottiani, Catherine P. Bradshaw and Tamar Mendelson, "A Multilevel Examination of Racial Disparities in High School Discipline: Black and White Adolescents' Perceived Equity, School Belonging, and Adjustment Problems," *Journal of Educational Psychology*, 2016, <https://curry.virginia.edu/sites/default/files/uploads/resourceLibrary/Bottiani.pdf>, 1-2; Edward Morris and Brea L. Perry, "The Punishment Gap: School Suspension and Racial Disparities in Achievement," *Social Problems*, January 2016, https://www.researchgate.net/profile/Edward-Morris-4/publication/289687063_The_Punishment_Gap_School_Suspension_and_Racial_Disparities_in_Achievement/links/56a139fd08ae2afab8829324/The-Punishment-Gap-School-Suspension-and-Racial-Disparities-in-Achievement.pdf, 70-71; Mark J. Chin, David M. Quinn, Tasmina K. Dhaliwal, and Virginia S. Lovison, "Bias in the Air: A Nationwide Exploration of Teachers' Implicit Attitudes, Aggregate Bias, and Student Outcomes," *Educational Researcher*, July 14, 2020, <https://journals.sagepub.com/doi/10.3102/0013189x20937240>, 6-10.
- 31 "CRDC Data Reports and Presentations," Civil Rights Data Collection, accessed March 1, 2022, <https://ocrdata.ed.gov/resources/datareports>; "The CRDC collects school-level data from all school districts in the United States. The data contain school-level enrollment counts by race/ethnicity along with counts by race/ethnicity of students who received at least one in-school or out-of-school suspension over the 2011–2012, 2013–2014, and 2015–2016 [and 2017-18] school year." Chin, Quinn, Dhaliwal, and Lovison, 2020, 3. The 2019-20 Collection was delayed due to COVID. See: Andrew Ujjifusa, "Education Department Delays Civil Rights Data collection, Citing COVID-19," *Education Week*, July 14, 2020, <https://www.edweek.org/education/education-department-delays-civil-rights-data-collection-citing-covid-19/2020/07>.
- 32 Resolution Letter for Case No. 05-14-5003, 3.
- 33 Ibid.
- 34 "Monthly Discipline Disproportionality Report, January 1, 2022-January 31, 2022," Milwaukee Public Schools, <https://milwaukeepublic.ic-board.com/attachments/e2a8a92a-137e-44cf-9bed-97054694fb45.pdf>, 4.
- 35 Ibid.
- 36 Resolution Letter for Case No. 05-14-5003, 3.
- 37 WISEdash, "Discipline," 2019–2020; WISEdash, "Enrollment," 2019–2020.
- 38 Ibid.
- 39 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011, <https://ocrdata.ed.gov/profile/6/district/29660/disciplinereport>; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2013, <https://ocrdata.ed.gov/profile/7/district/29660/disciplinereport>; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2015, <https://ocrdata.ed.gov/profile/8/district/29660/>

- [disciplinereport](#); Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2017, <https://ocrdata.ed.gov/profile/9/district/29660/disciplinereport>; WISEdash, "Discipline," 2019–2020; WISEdash, "Enrollment," 2019–2020. Data for the current school year through February 28, 2022 provided in "Monthly Discipline Disproportionality Report," <https://milwaukeepublic.ic-board.com/attachments/a97f7fa4-cc78-413e-96e8-bb34d2b0f7b3.pdf>, 4; and "Discipline Disproportionality Updates & Progress," <https://milwaukeepublic.ic-board.com/attachments/a90e3b4f-cbf6-49c8-b20c-dfd3b32fb20.pdf>, 9.
- 40 Resolution Letter for Case No. 05-14-5003, 12.
- 41 Ibid., for all bullet points.
- 42 MPS Resolution 05-14-5003, Report #10, July 2020, <https://milwaukee.ic-board.com/attachments/109ab390-5971-46c3-a965-88e349627dd1.pdf>, 30. Subjective discipline categories have an increased potential to be applied unevenly and were one of the factors identified by the OCR in its investigation: "[B]lack students were disproportionately disciplined for incidents in several categories of misconduct that are subjective in nature [. . .] [T]he District subjects students to exclusionary discipline for subjective discipline categories that have not been clearly defined. The evidence also did not demonstrate that the District has in place effective safeguards to monitor the exercise of discretion in referrals and imposition of sanctions to ensure it is nondiscriminatory." Resolution Letter for Case No. 05-14-5003, 12-13.
- 43 "Administrator Guide to Discipline and Behavioral Management Tool 2021-22," https://issuu.com/mpsissu/docs/mps_discipline_booklet_2021-22_721_combo, 15.
- 44 MPS Resolution 05-14-5003, Report #10, July 2020, 30.
- 45 Ibid, 31.
- 46 "Risk ratio" analysis (essentially, a way to calculate disproportionality) available here: <https://app.smartsheet.com/b/publish?EQBCT=52d4677023094180ae22c1bc9d1076e9> (Accessed March 4, 2022; link obtained by author via open records request, link contained in "End of year 2019-2020 discipline data" artifact attached to MPS Resolution 05-14-5003, Report #10, July 2020.)
- 47 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011.
- 48 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2017.
- 49 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011.
- 50 WISEdash, "Discipline," 2019-20; WISEdash, "Enrollment," 2019-20.
- 51 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011.
- 52 WISEdash, "Discipline," 2019-20; WISEdash, "Enrollment," 2019-20.
- 53 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2013; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2015; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2017; WISEdash, "Discipline," 2019-20; WISEdash, "Enrollment," 2019-20.
- 54 Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2011; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2013; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2015; Civil Rights Data Collection, Milwaukee School District Discipline Report, Survey Year 2017; WISEdash, "Discipline," 2019-20; WISEdash, "Enrollment," 2019-20.
- 55 Milwaukee Board of School Directors, proceedings of the January 27, 2022 Regular Board meeting, <https://mps.milwaukee.k12.wi.us/MPS-English/OBG/Clerk-Services/Proceedings/2021-22/ProceedingstoDate.pdf>, 620-621.
- 56 WISEdash, "Enrollment," 2021-22, <https://wisedash.dpi.wi.gov/Dashboard/dashboard/18110?filtersetId=93aec4b7c21b-4370-ae29-4cf5fc5ad350>; WISEdash, "Enrollment," 2019-20.
- 57 Totals for January 2022 and February 2022 are available in each month's respective Disproportionality Report: <https://milwaukeepublic.ic-board.com/attachments/e2a8a92a-137e-44cf-9bed-97054694fb45.pdf> (January); <https://milwaukeepublic.ic-board.com/attachments/a97f7fa4-cc78-413e-96e8-bb34d2b0f7b3.pdf> (February). Pages 4 and 5 on each report give the data that were combined to arrive at the figures in this paragraph.
- 58 "Monthly Discipline Disproportionality Report, February 1, 2022-February 28, 2022," Milwaukee Public Schools, 4-5
- 59 "MPS data shows disproportionate number of Black student suspensions," TMJ-4 Milwaukee, February 8, 2022, <https://www.tmj4.com/news/local-news/mps-data-shows-disproportionate-number-of-black-student-suspensions>.
- 60 "The Color of Justice: Racial and Ethnic Disparity in State Prisons," The Sentencing Project, 2021, <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>, 5; Clare Amari, "Wisconsin Imprisons 1 in 36 Black adults. No state has a higher rate," *Wisconsin Watch*, October 13, 2021, <https://wisconsinwatch.org/2021/10/wisconsin-imprisons-1-in-36-black-adults-no-state-has-a-higher-rate/>.
- 61 "How Wisconsin Became the Home of Black Incarceration," *Bloomberg CityLab*, 2016, <https://www.bloomberg.com/news/articles/2016-08-17/how-wisconsin-became-the-home-of-black-incarceration>; "Inside the "Most Incarcerated" Zip Code in the Country," *The New Republic*, 2019, <https://>

- newrepublic.com/article/155241/inside-most-incarcerated-zip-code-country.
- 62 Using the MPS “find a school” tool yields 10 K-12 public schools within a 1-mile radius of 53206, <https://mps.milwaukee.k12.wi.us/en/Schools/Find-a-School.htm>.
- 63 “Unemployment Impacts of the COVID-19 Pandemic on Milwaukee Workers,” City of Milwaukee Office of Equity and Inclusion, April 2021, <https://city.milwaukee.gov/ImageLibrary/Groups/cityOEI/Documents/UnemploymentImpactsofCOVID-19onMilwaukeeWorkers.pdf>.
- 64 “Race and Prison Sentencing in Wisconsin: Initial Outcomes of Felony Convictions, 2009-2018 (Draft), Wisconsin Court System, Office of Research and Justice Statistics, January 2020, https://s3.documentcloud.org/documents/20478391/race-prison-sentence-felony-report-draft_2020_02_05.pdf, 4.
- 65 Talis Shelbourne, “UWM study on the state of Black Milwaukee describes the city as ‘the epitome of a 21st century racial regime,’” *Milwaukee Journal Sentinel*, July 24, 2020, <https://www.jsonline.com/story/news/local/milwaukee/2020/07/24/uwm-study-calls-milwaukee-epitome-21st-century-racial-regime/5482781002/>.
- 66 Julian Emerson, “Part Three: System Fails Black Students,” *Up North News*, June 19, 2020, <https://upnorthnews.wi.com/2020/06/17/wisconsins-public-education-system-sets-up-black-students-to-fail/>.
- 67 “A Model Code on Education and Dignity: Presenting a Human Rights Framework for Schools,” The Dignity in Schools Campaign, Revised 2019, https://dignityinschools.org/toolkit_resources/full-version-of-model-code-on-education-and-dignity/?toolkits=model-code.
- 68 Appropriate due process would include, at a minimum, specific and timely written notice of the school code violation charged, a robust and documented process for giving young people an opportunity to be heard before being removed from the school environment, providing all evidence in a discipline case before a disciplinary hearing, and providing an avenue to appeal discipline decisions. Students and families should also be aware of the factors that are considered in disciplinary hearing decisions and the range of possible interventions available besides suspension, administrative transfer, and expulsion.
- 69 “Whole School Restorative Justice,” Oakland Unified School District, Family, School, and Community Partnership Department, accessed March 10, 2022, <https://www.ousd.org/cms/lib/CA01001176/Centricity/Domain/134/Whole%20School%20Restorative%20Justice%20info%20sheet%20FINAL.pdf>.
- 70 Calculations based on: 2021-22 Superintendent's Proposed Budget, July 1, 2021-June 30, 22, Milwaukee Public Schools, <https://mps.milwaukee.k12.wi.us/MPS-English/CFO/Budget-Finance/SuperintendentsProposedBudget.pdf>, 3A-10; Milwaukee Public Schools Referendum Supplement, July 1, 2021-July 30, 2022, Milwaukee Public Schools, <https://mps.milwaukee.k12.wi.us/MPS-English/CFO/Budget-Finance/MPSReferendum.pdf>, 7; American School Counselor Association, “School Counselor Roles & Ratios,” accessed March 10, 2022, <https://www.schoolcounselor.org/About-School-Counseling/School-Counselor-Roles-Ratios>.
- 71 “Reclaim Social Emotional Learning: Centering Organizing Praxis for Holistically Safe Schools,” The Communities for Just Schools Fund, 2020, <https://drive.google.com/file/d/1NmfOOCumhYsB5IRpBGDKBRoTRAw2zXBT/view>, 19.
- 72 William J. Mathis, “Research-Based Options for Education Policymaking: The Effectiveness of Class Size Reduction,” National Education Policy Center, 2016, http://www.greatlakescenter.org/docs/Policy_Briefs/Research-Based-Options-2015/09-Mathis-Class-Size.pdf, 4.
- 73 Tim Walker, “Educators and Parents Reset the Class Size ‘Debate,’” National Education Association, February 8, 2019, <https://www.nea.org/advocating-for-change/new-from-nea/educators-and-parents-reset-class-size-debate> citing “Class Size Reduction: A Proven Reform Strategy,” National Education Association, 2008, <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.204.7689&rep=rep1&type=pdf>, 3.
- 74 “Class Size,” American Federation of Teachers, accessed March 11, 2022, <https://www.aft.org/position/class-size>.
- 75 The statewide enrolled student to Licensed Staff ratio in the 2019-20 school year was 854,959 to 67,622, or 12.6 (https://dpi.wi.gov/sites/default/files/imce/eis/pdf/schools_at_a_glance.pdf); the MPS ratio of enrolled students to Licensed Staff was 74,683 to 5,256, or 14.21 (<https://wisedash.dpi.wi.gov/Dashboard/dashboard/18110?filtersetId=81f8a749-f49e-4eda-9b67-1e2684d5c873>). Note the category of “Licensed Staff” (predominantly teachers but also includes counselors, social workers, librarians and others) is used in order to make a direct comparison.