

# From Fingerpaint to Fingerprints

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The School-to-Prison Pipeline in Utah



THE UNIVERSITY OF UTAH  
**S.J. QUINNEY  
COLLEGE OF LAW**

Public Policy Clinic

## From Fingerprint to Fingerprints The School-to-Prison Pipeline in Utah

This report was produced by students enrolled in the Public Policy Clinic at the S.J. Quinney College of Law, under the supervision of Associate Professor Emily Chiang. The contents of the report do not reflect the opinion, expertise, or advice of the University of Utah, the S.J. Quinney College of Law, or any of their employees.

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## **EXECUTIVE SUMMARY**

Over the past five years, students in Utah have been disciplined for things like having the wrong color hair,<sup>1</sup> interrupting a school basketball game,<sup>2</sup> and wearing a skirt that was half an inch too short.<sup>3</sup> The combination of overly harsh school policies and the increased involvement of law enforcement in schools has created a “school-to-prison pipeline,” in which students are funneled towards the criminal justice system instead of higher education with the use of suspensions, expulsions, and school-based arrests.<sup>4</sup> Discipline alienates students from school, makes it more likely that they will fall behind in their classes, and creates increased opportunities for misbehavior in the absence of adult supervision.

The school-to-prison pipeline is alive and well in Utah. The Utah State Office of Education reported that nearly one in five of all Utah students dropped out of high school in 2013.<sup>5</sup> Thirty-eight percent of students learning English dropped out, as did 31% of Native American students and 29% of Latinos.<sup>6</sup> Dropping out of high school has serious consequences not only for the income and employment potential of the students who do so, but for our community as well: one in three inmates at the Utah State Prison is a high school dropout.<sup>7</sup> Students who fail to finish high school are three and a half times more likely to be arrested as an adult.<sup>8</sup>

This Report analyzes public data made available by the federal Department of Education to reveal what the school-to-prison pipeline looks like in Utah. It has found the following:

- Many Utah school districts have overly subjective and harsh disciplinary policies that permit suspension, for example, for vague offenses like “immoral behavior” and “defiance.”<sup>9</sup>
- Schools in Utah begin disciplining students in elementary school, where the children range in age from five to twelve years old. There were 1,230 disciplinary actions in 2011-12, the most recent school year for which data is available. These actions included referrals to law enforcement, school related arrests and expulsions.
- Students with disabilities are twice as likely as other students to be disciplined, and about twice as likely to be suspended more than once, even though they are protected by federal statute from being disciplined for behavior that stems from their disability.
- American Indian students are three and a half times more likely to receive a disciplinary action in Utah schools than any other racial group. In some school districts, they are disciplined six times more frequently than one would expect based upon enrollment.
- Black students are disciplined more than three times more often than expected, and Hispanic students are disciplined one and a half times more often than expected.

Based upon the findings in the data and upon a study of the best practices recommended by national experts, the Report recommends the following:

- Utah should establish a statewide taskforce that includes stakeholders such as parents, educators, school administrators, juvenile court judges, and policymakers to study the effects of the school-to-prison pipeline on our state and to make additional recommendations for change.
- Schools and school districts should explore the use of restorative practices and/or Positive Behavioral Interventions and Supports (PBIS). There are both national and local models for doing so and they are both cost-effective and safe.<sup>10</sup>
- Schools and school districts should move immediately to reduce the use of expulsions and out-of-school suspensions, which have particularly devastating effects on students.

The school-to-prison pipeline problem in Utah is serious, but not insurmountable. Parents, educators, law enforcement, and policymakers all want to keep our children safe and in school. We can accomplish both of these things without continuing to push so many of our young people into the criminal justice system.

## **INTRODUCTION**

A number of factors contribute to Utah's low graduation rates, some of which are out of our control, such as lack of parental involvement or domestic violence.<sup>11</sup> But studies also consistently show that the use of school discipline plays a huge part in drop out rates, and that is a factor we *can* control. One researcher from Johns Hopkins found, for example, that students suspended only once in ninth grade were twice as likely to drop out as their peers.<sup>12</sup> Utah schools reported 20,153 disciplinary actions in 2011, the most recent year for which national data collected by the federal Department of Education's Office of Civil Rights is available.

The Public Policy Clinic at the S.J. Quinney College of Law has created this report to share publicly available information about the school-to-prison pipeline in Utah and best practices to put our children on a path to higher education instead of incarceration.

Part I of the Report will summarize and analyze the most recent available data on the school-to-prison pipeline in Utah, relying in large part on the publicly available data issued by the Department of Education in the spring of 2014. Part II will describe the positive steps Utah has already taken to address the school-to-prison pipeline problem, as well as the steps the federal government has recommended. Part III will provide a list of recommendations for next steps Utah can take, arranged from those requiring the least amount of investment and resources to those requiring more. Part IV will highlight the significant success other schools, districts, and states have experienced by undertaking recommendations similar to those highlighted in Part III. Finally, the Report also contains an array of appendices with additional data findings and a more thorough description of nationally recognized best practices.

### **I. THE SCHOOL TO PRISON PIPELINE IN UTAH: WHAT THE DATA REVEALS**

#### **A. Methodology**

Since 1968, the federal Department of Education has collected data on key education and civil rights issues in our nation's public schools through its office of Civil Rights Data Collection ("CRDC").<sup>13</sup> The data is intended for use by the department's Office of Civil Rights in its enforcement and monitoring efforts regarding equal educational opportunity. The CRDC collects a variety of information including student enrollment and educational programs and services. It disaggregates the data by race/ethnicity, sex, limited English proficiency and disability. The CRDC is also a tool for other Department offices and federal agencies, policymakers and researchers, educators and school officials, and the public to analyze student equity and opportunity. The numbers on which this Report relies are the more comprehensive and recent nation-wide statistics available and were released to the public in the spring of 2014.

The charts, graphs and statistics presented below are based upon our independent analysis of the raw data made available by the CRDC. That data, along with a school by school searchable database, is available at [www.ocrdata.ed.gov](http://www.ocrdata.ed.gov). Our analysis of the raw data, in the form of Excel pivot tables, is available from Associate Professor Emily Chiang, at the S.J. Quinney College of Law, upon request.

To arrive at the results presented below, we compared the number of students enrolled to the number of disciplinary actions to identify statistically significant differences in how often students in different categories (e.g. disabled vs. non-disabled, or of different races) were disciplined. We constructed a predicted value for each category as follows: for each school and each district, divide the number of enrolled students of a given race by the total student population then multiply that result by the total students disciplined. For example, if there were 10 Hispanic students in a 100-student population and 30 students were disciplined, we would predict that 3 of these students would be Hispanic. We then compared this predicted value against the actual values from the CRDC Survey using a test statistic to determine whether the deviation was statistically significant.<sup>14</sup>

For purposes of this report, “disproportionality” will refer to a variation between the actual and predicted values that generates a level of significance greater than 95%.<sup>15</sup> “Relative likelihood” will refer to the increased chance that any given student will receive any given disciplinary action by a particular characteristic based on the number of disciplinary actions per enrolled student of a particular category.

## **B. Findings**

In 2013, one in five Utah students dropped out of high school.<sup>16</sup> One in three disabled students did not graduate.<sup>17</sup> Over half of students learning English as a second language (52%) dropped out.<sup>18</sup> These statistics are significant. According to the Department of Justice, nearly 70% of those incarcerated in state prisons did not complete high school.<sup>19</sup>

Overuse of school discipline is contributing to this dropout rate. When students are removed from their traditional learning environments due to suspension and expulsions, they are more likely to enter the juvenile justice system, the adult criminal justice system, and/or to drop out of school.<sup>20</sup> Students who are suspended even once in the ninth grade are twice as likely to drop out than their peers.<sup>21</sup> Students suspended three or more times by the tenth grade are five times more likely to drop out.<sup>22</sup> Criminalizing student behavior alienates students and increases the propensity for school disconnectedness and academic problems. By the end of the suspension period, students tend to lag behind academically and feel excluded.<sup>23</sup>

In this section, we present our analysis of the OCR data and what the numbers tell us about school discipline rates at the state, district, and individual school levels. Our analysis found that 77% of school districts across the state showed statistically significant disproportionality in disciplinary actions. The burdens of the school-to-prison pipeline are not evenly distributed among our students. We will focus on the student populations in Utah most affected: younger children, children with disabilities, children of color, and male children.<sup>24</sup>

### **1. Younger Children**

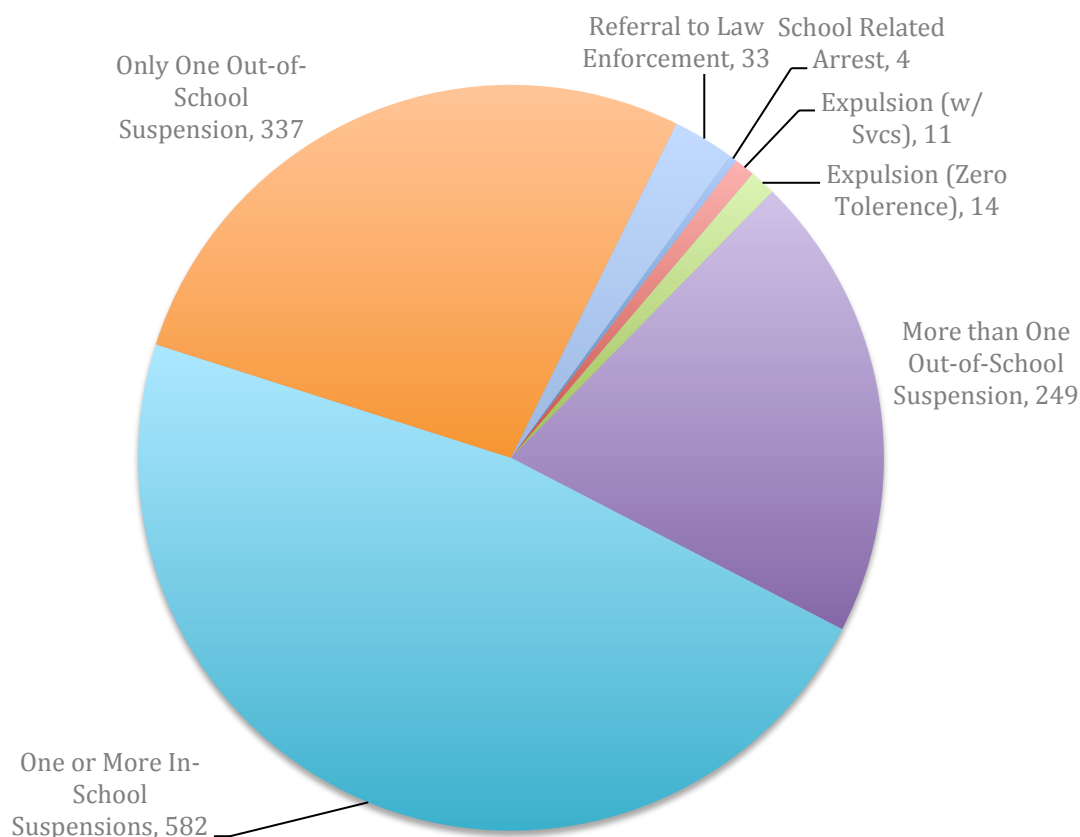
The school-to-prison pipeline in Utah starts with children in elementary school, ranging in age from five to twelve years old.<sup>25</sup> Of the 596,284 students in Utah as of 2011, 11.2% (67,035) are in a school with “elementary” in the title.<sup>26</sup> Our analysis of the data showed that there were 1,230 disciplinary actions in these elementary schools. These actions included:



- Thirty three referrals to law enforcement
- Four school related arrests
- Twenty five expulsions

The suspensions were nearly equally divided between in school and out of school suspensions. Figure 1 illustrates the breakdown of disciplinary actions in elementary schools.

**Figure 1: Breakdown of Disciplinary Actions in Elementary Schools**



Four of the 25 Utah schools with the most disproportionate results of disciplinary actions are elementary schools (see Appendix C). Children in this age group are still learning to read, control their bodies, and manage their emotions. According to a paper from the Civil Rights Project at UCLA and The Equity Project at Indiana University, suspension of children in this age group can harm students in the long-term.<sup>27</sup> Early contact with police in schools often sets students on a path of alienation, suspension, expulsion, and arrests.<sup>28</sup> Suspension and expulsion are known to increase the propensity for school disconnectedness, academic problems, delinquency, criminal activity and substance abuse. Discipline should be a teaching tool, particularly at this age, when positive interventions may have a much greater impact.

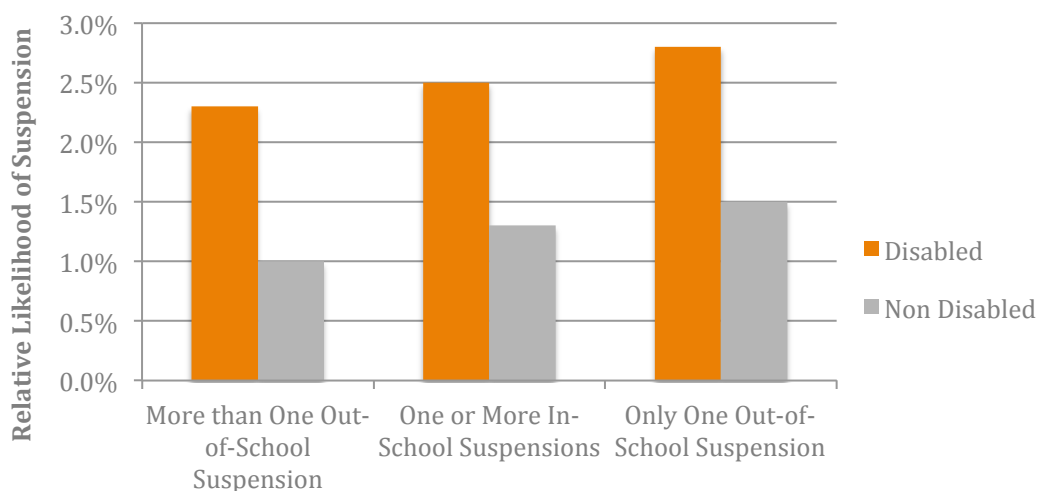
## 2. Children with Disabilities

The second category we examined is children with disabilities.<sup>29</sup> Our analysis shows that students with disabilities in Utah schools are twice as likely as other students to be disciplined, and about twice as likely to be suspended more than once. These numbers are particularly troubling in light of the special vulnerabilities these children have and the federal protections to which they are entitled.

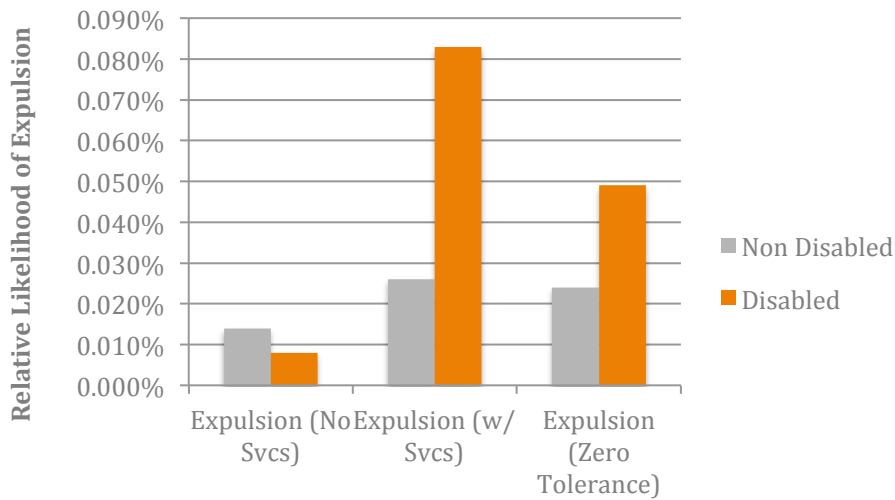
In Utah, only 26.2% of juveniles in the custody of the Utah Department of Juvenile Justice Services qualified for special education services during the 2010-2011 academic year.<sup>30</sup> This is a considerable discrepancy from the national average of 70% in the juvenile justice system and 85% in juvenile correctional facilities, and serves as a red flag that Utah is failing to identify children in the juvenile justice system who qualify for services.<sup>31</sup> Failure to provide these children with the services they need only increases the likelihood that they will enter the school-to-prison pipeline.

The following tables illustrate the relative likelihood of suspension for disabled and non-disabled students in Utah, the relative likelihood of expulsions for disabled and non-disabled students in Utah, and the districts that discipline disabled students at the highest rates statewide.

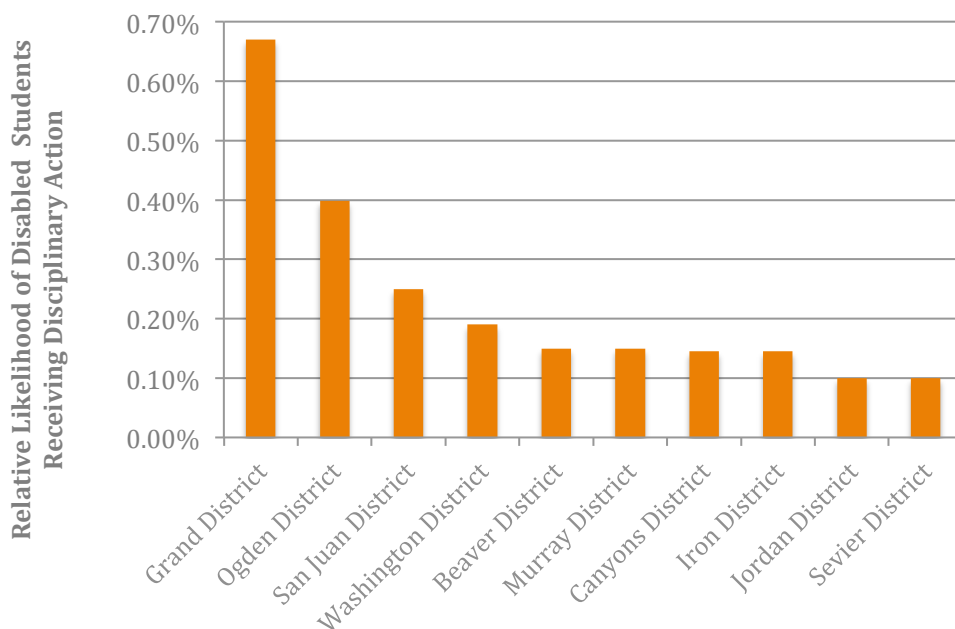
**Figure 2: Relative Likelihood of Suspension for Disabled & Non-Disabled Students**



**Figure 3: Relative Likelihood of Expulsion for Disabled and Non-Disabled Students**



**Figure 4: Worst Performing Districts for Disciplinary Action – Disabled Students**



This disparity in punishment exists even though it is illegal to discipline children with disabilities if their misbehavior was a result of their disability. The Individuals with Disabilities Education Act (IDEA) is a federal statute designed to ensure children with disabilities have access to appropriate and free education that addresses their unique educational needs. It recognizes that students with disabilities are more likely to have behavior issues that they cannot

control. While this is obviously true for children with emotional and behavioral disabilities, it is also true for children with learning disabilities, who are more likely to fall behind academically, and then act out.

In theory, the number of expelled or suspended students with disabilities should be *lower* than the number of expelled or suspended students without disabilities because of the additional safeguards afforded by the IDEA. The fact that a student with a disability is twice as likely to be suspended or expelled highlights the severity of conditions for students with disabilities in Utah. It also demonstrates the shortcomings of our current special needs programs.

### 3. Children of Color

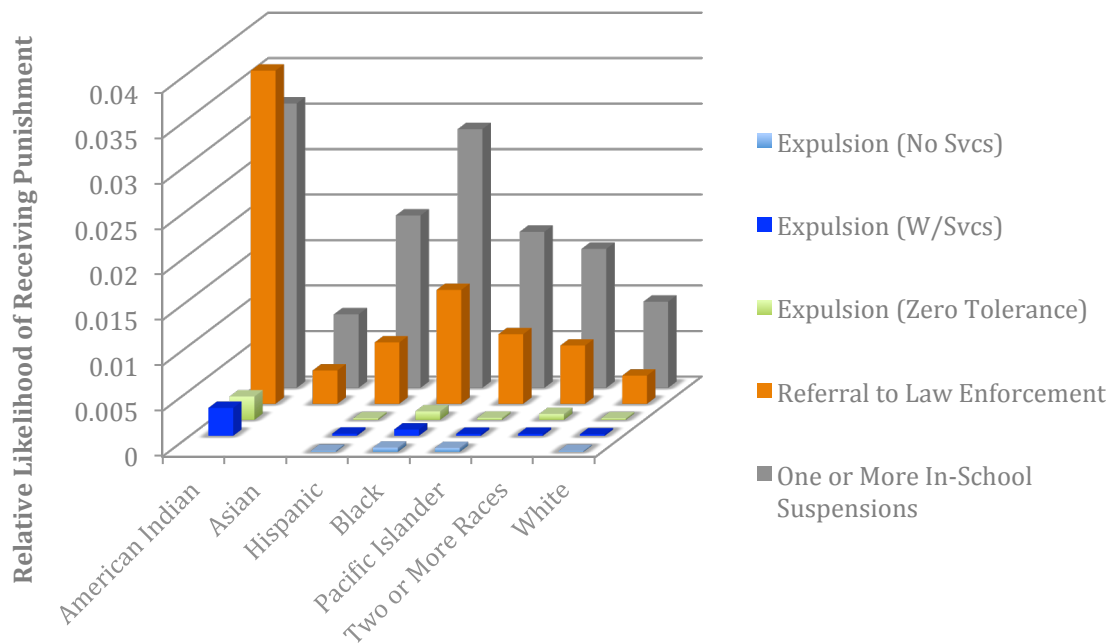
The Office of Civil Rights Education Data (CRDC) reports 20,153 disciplinary actions in Utah schools in 2011.<sup>32</sup> Based on the total student population, we found that American Indian, Black, and Hispanic students all faced discipline at disproportionately higher rates. American Indians were disciplined three and a half times more often than expected, Black students were disciplined more than three times more often than expected, and Hispanic students were disciplined one and a half times more often than expected.<sup>33</sup> The following chart illustrates these results.

	Expected % of Disciplinary Action	Actual
American Indian	1.3%	4.4%
Black	1.4%	4.3%
Hispanic	15%	25%
White	73.3%	58.8%

The CRDC data also shows racial disparity based on the type of punishment. By looking at the total number of students in Utah who received a given punishment and dividing by the total number of students enrolled for each race, we can determine the relative likelihood of receiving a particular punishment by race.

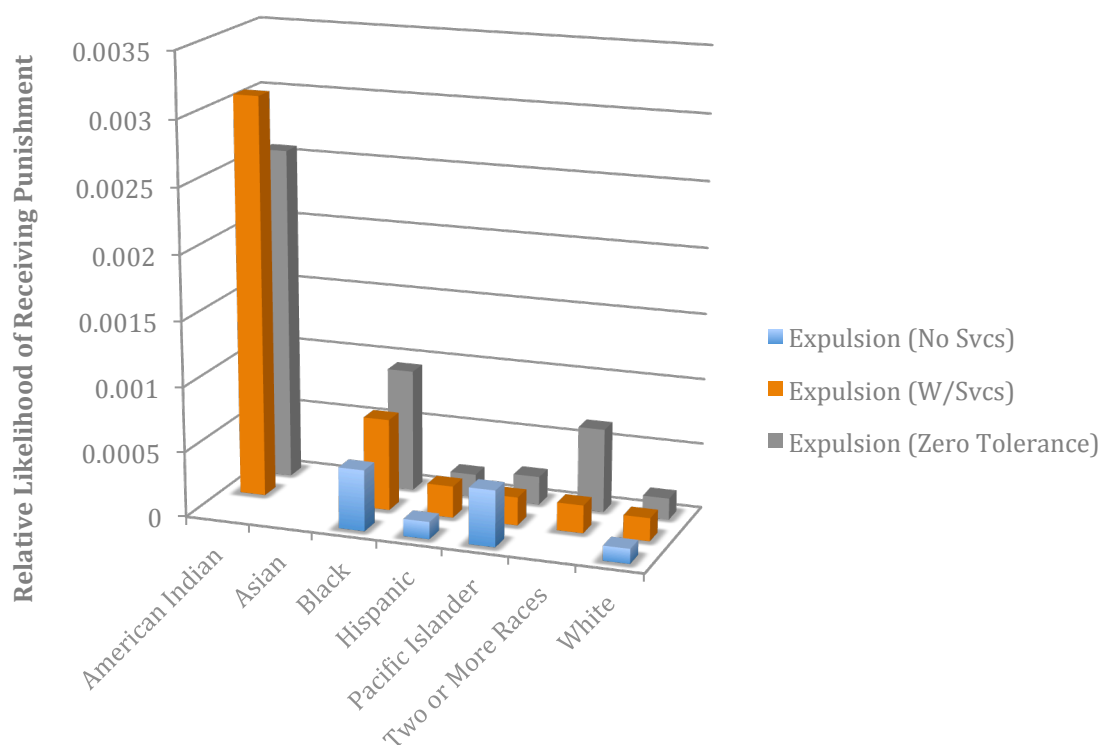
In all categories of punishment, we found that American Indian students were much more likely to be punished than White students. Additionally, Pacific Islander and Black students were more likely to receive referrals to law enforcement or a suspension than were white and Asian students. The chart below compares the relative likelihood of a receiving a particular punishment by race—the higher the bar, the greater likelihood of receiving the corresponding punishment.

**Figure 5: Relative Likelihood of Disciplinary Actions by Race**



A comparison of expulsions alone is also revealing. Utah schools generally use one of three types of expulsions: expulsions under a zero tolerance program (where there is no discretion), expulsions with services<sup>34</sup> (less severe), and without services<sup>35</sup> (more severe). American Indian students were again the most likely to be expelled, but Blacks and Pacific Islanders were more than twice as likely to be given the more severe form of expulsion than Whites or Hispanics. Figure 6 illustrates this comparison.

**Figure 6: Relative Likelihood of Expulsion by Race**



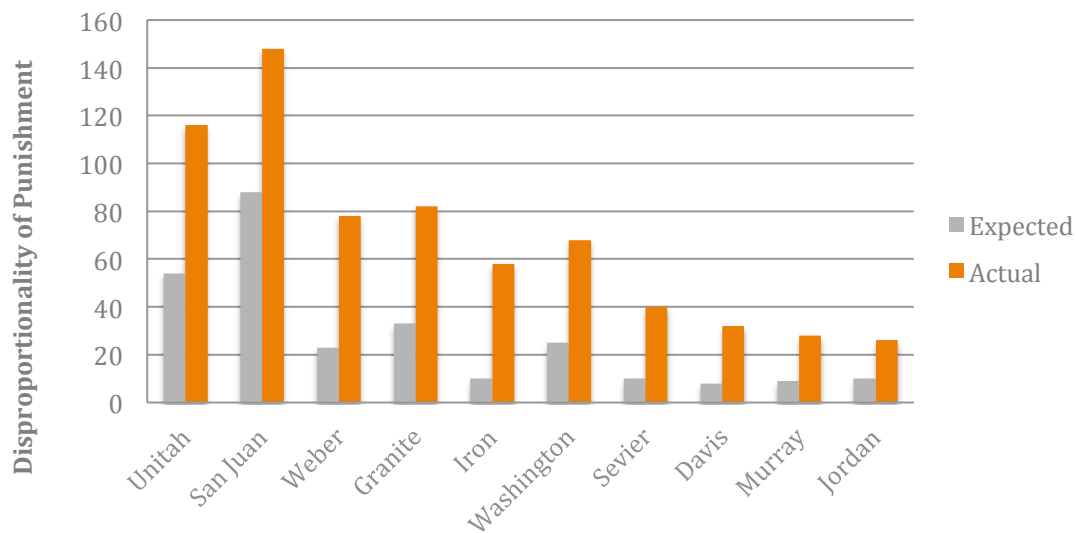
Although racially disproportionate discipline affects a number of races, we found the data on American Indian students particularly noteworthy. Utilizing the methodology described above, we used the result from the test statistic to compare expected results in this student population.<sup>36</sup> Across every category of punishment, American Indian students in Utah are much more likely to be punished than their white counterparts, and they are the students most likely to be expelled.

In several Utah schools, the rate at which American Indian students are disciplined is significant. The Uintah District has the most statistically disproportionate results for American Indian students, with an observed value more than double that of the expected value for a large student population. San Juan and Weber districts follow, with an observed value nearly double and three and a half times greater than expected, respectively. In smaller school districts, results as high as six times higher than expected were observed.

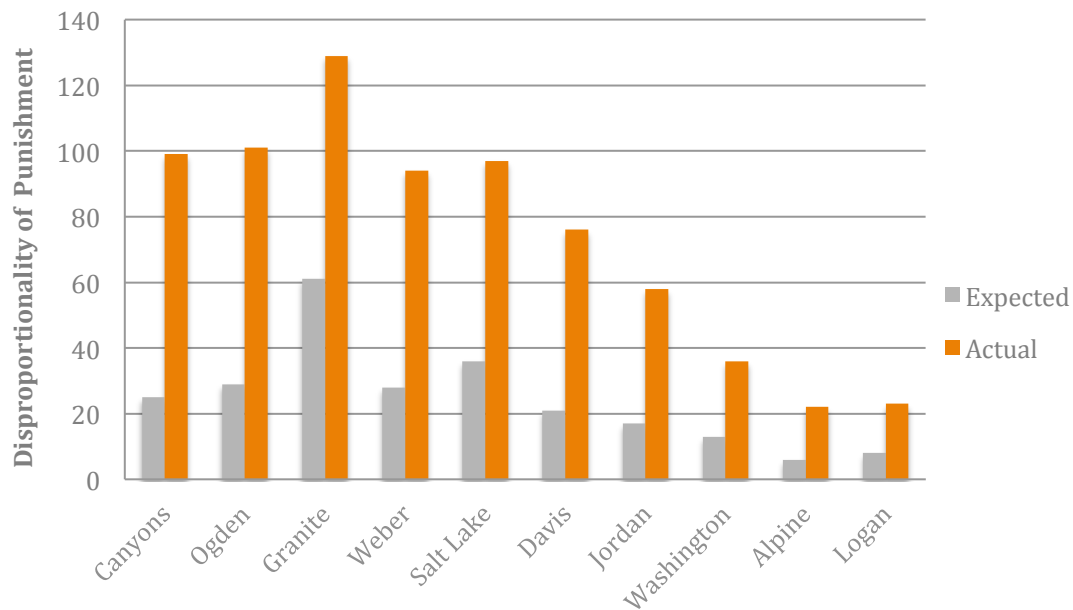
Districts show different results among racial groups. For example, American Indian students in Iron District were disciplined almost 6 times more often than expected. Pacific Islanders in Cache and Alpine districts faced a rate of discipline four times higher than expected. Likewise, in Canyons District, Black students faced a rate of discipline four times higher than

expected.<sup>37</sup> The charts below show the worst performing districts for American Indian, Black, Pacific Islander and Hispanic students based on the results from the statistical test.

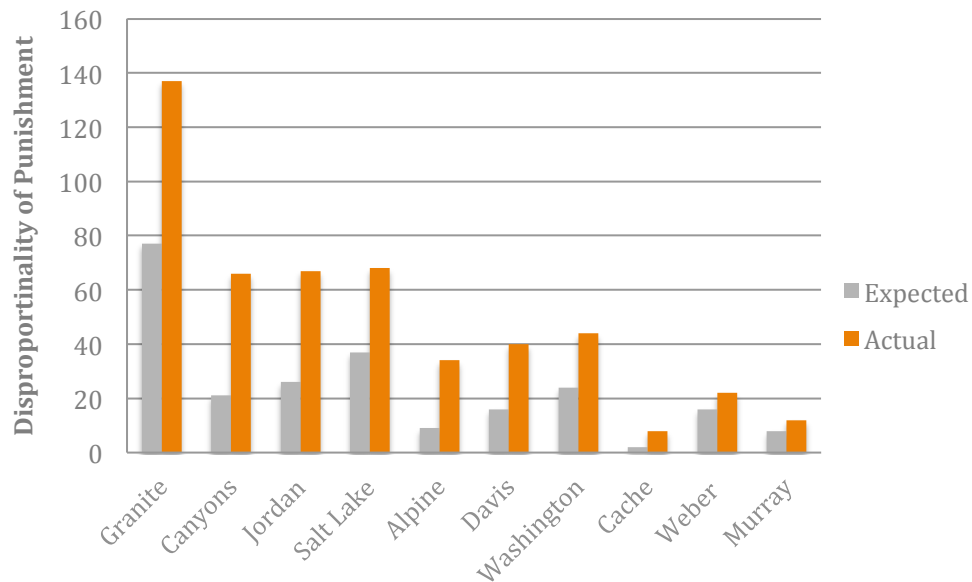
**Figure 7: Worst Performing Districts for Disciplinary Action – American Indian Students**



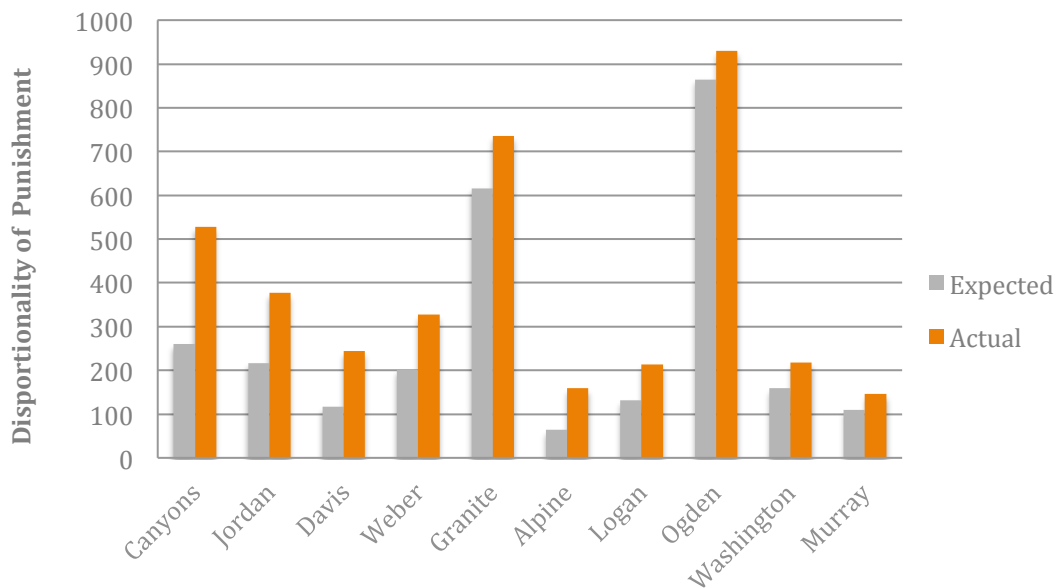
**Figure 8: Worst Performing Districts for Disciplinary Action – Black Students**



**Figure 9: Worst Performing Districts for Disciplinary Action – Pacific Islander Students**



**Figure 10: Worst Performing Districts for Disciplinary Action – Hispanic Students**



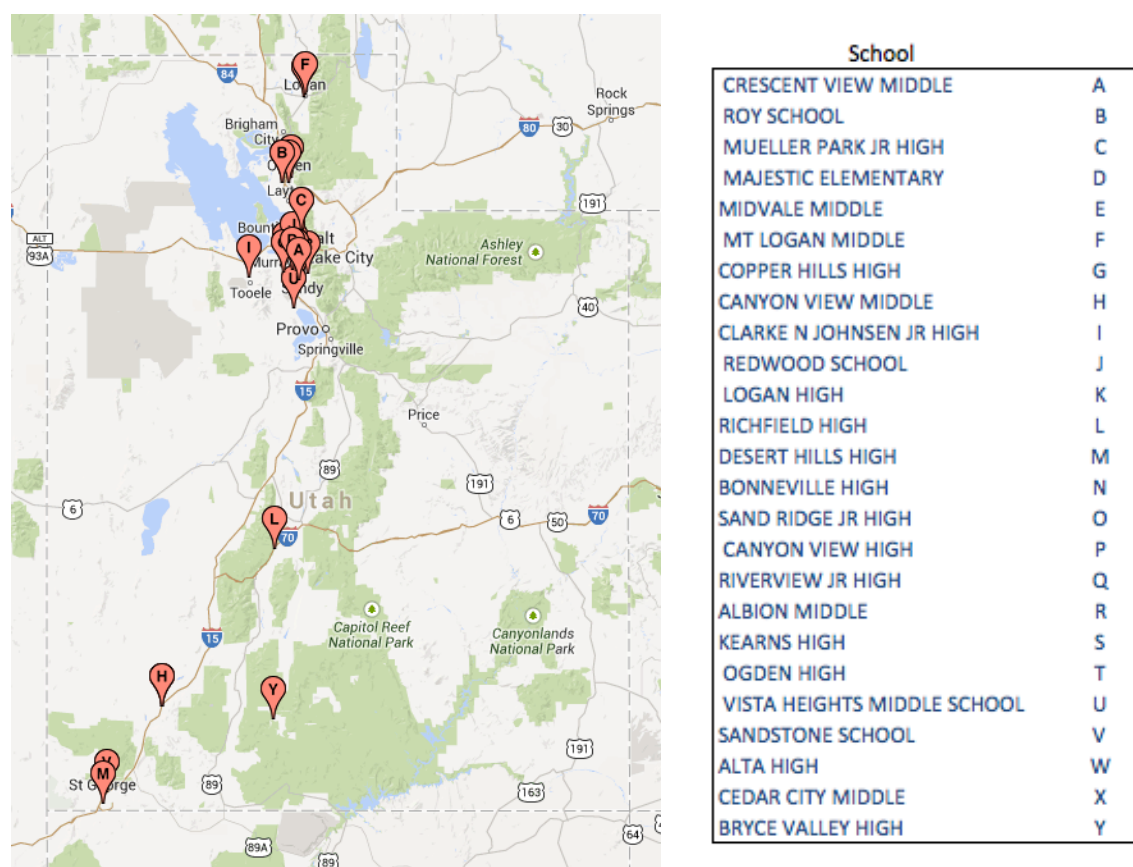
Disproportionate results were also identified at the school level. In several Utah public and private schools, the rate at which students of color are disciplined is significantly higher than expected. For example, students of two or more races were disciplined at a rate eleven times higher than that of white students at Majestic Elementary, in West Jordan, Utah, and eight times



higher than their white counterparts at both Mt. Logan Middle, in Logan, Utah, and Clarke N. Johnson Jr. High, in Tooele. For more information on schools with the highest disproportionality by racial group, see Appendices B and C.

As shown below, the disparity is not isolated to a geographic area. It spans different counties and schools with different student compositions. The issue is not isolated to a single district or an area of the state.

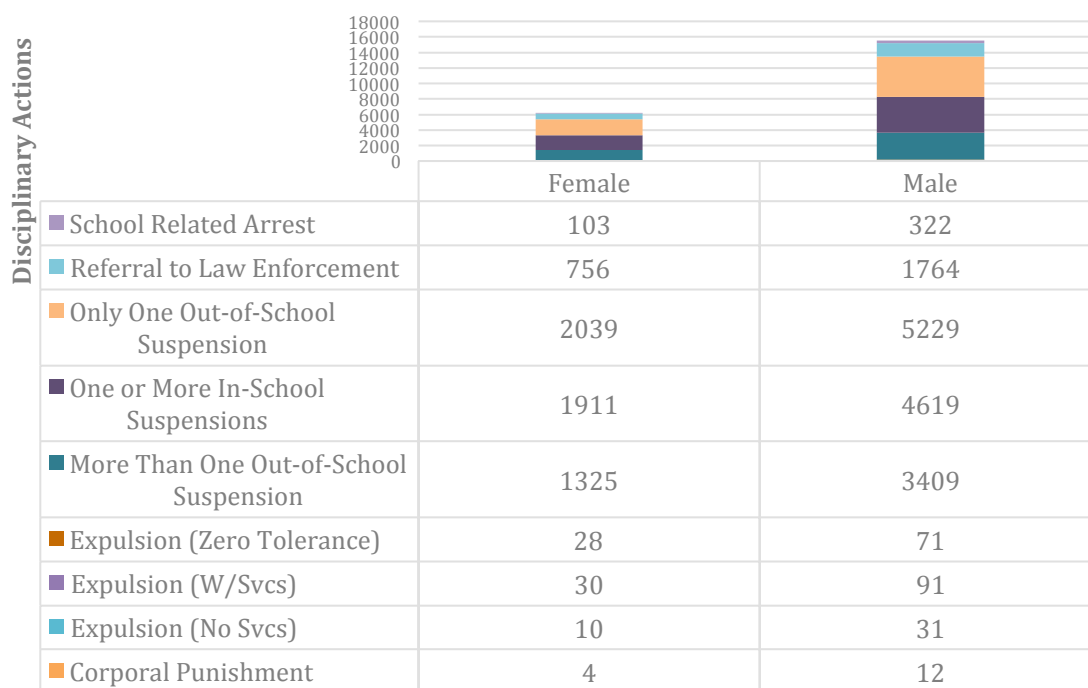
**Figure 11: Geographic Distribution of Schools Exhibiting the Most Disproportionality in Disciplinary Actions Among Students of Different Races**



#### 4. Male Students

Our analysis showed that male students received more than twice as many disciplinary actions overall as female students. Interestingly, the punishments they received were in proportion to those imposed on female students, *i.e.* male students were not punished more severely than female students.

**Figure 13: Overall Disciplinary Actions Taken Against Female and Male Students**



## II. POSITIVE STEPS TAKEN BY UTAH AND THE FEDERAL GOVERNMENT

The outlook on the school-to-prison pipeline problem in Utah is not all bleak, as individual schools, school districts, and government agencies have begun to take steps in the right direction. This Section will describe the federal government’s recent actions to put an end to the pipeline, the use of Positive Behavioral Interventions and Supports (“PBIS”) and Restorative Practices in Utah’s schools, and the state’s existing guide for “Dropout Prevention in Utah.”

### A. Federal Action Addressing the School-to-Prison Pipeline

In January 2014, the federal Department of Justice and Department of Education released a guidance package designed to help states and school districts rethink their student discipline practices to boost academic success and close achievement gaps.<sup>38</sup> The package urges schools to improve safety by making sure that the school climate is welcoming and that responses to misbehavior are fair, non-discriminatory and effective.

The package is available at <http://www.ed.gov>. It provides a guidance letter on civil rights and discipline, a guiding principles document that draws on emerging research and best practices, a directory of federal resources available to schools and states, and a compendium of school disciplinary practices throughout the country.

Consistent with this Report, the guiding principles recommend that schools and school districts prioritize the use of evidence-based prevention strategies, such as tiered supports;

provide regular training and support to all school personnel; ensure that any school-based law enforcement officers' roles focus on improving school safety and reducing inappropriate referrals to law enforcement; create policies that include appropriate procedures for students with disabilities and due process for all students; remove students from the classroom only as a last resort, ensure that alternative settings provide academic instruction, and return students to class as soon as possible.

## **B. Utah Action Addressing the School-to-Prison Pipeline**

### **1. PBIS and Restorative Practices in Utah**

PBIS is a multi-tiered systems approach for establishing social culture and individualized behavioral supports needed for schools to achieve both social and academic success for all students.<sup>39</sup> It is endorsed by psychologists, educational experts, and sociologists alike, and by organizations like the American Academy of Pediatrics.<sup>40</sup> The goal of PBIS is to improve the school climate and to reduce the need for disciplinary action. To ensure that students are both socially and academically successful, the program seeks to provide individual support for students. The program is designed to produce a school with:

(a) students expecting appropriate behavior from each other, (b) a social context that encourages academic success, and (c) the social supports that make individualized intensive behavior interventions more effective and more durable.<sup>41</sup>

Restorative practices are practices that are intended to build healthy communities, increase social capital, decrease crime and antisocial behavior, repair harm and restore relationships through balancing the need for support and the need for control.<sup>42</sup> These practices are based on the premise that conflict and disputes arise from the breakdown of relationships, which then results in the breakdown of the community.<sup>43</sup> Through balancing encouragement and nurture with the need for set limits and discipline, implementation of these methods drives people to make positive changes when those in positions of authority act *with* them instead of *to* or *for* them.<sup>44</sup>

For additional information about PBIS and restorative practices, please see Appendix D.

Several schools and school districts in Utah have begun to incorporate PBIS and restorative practices in their school discipline policies and practices. We are heartened by this development and hope that other schools and districts will follow their lead.

In the Canyons School District, in Salt Lake County, Utah, PBIS has been utilized to encourage students to make positive decisions, particularly those that impact their education. This process has involved setting school wide expectations and providing varying levels of support for students depending on their individualized needs and circumstances. The district has been working on a re-evaluation of their disciplinary policies, moving away from zero tolerance toward a restorative justice approach. Although both the implementation and the district itself are fairly new, some positive changes have already been identified, such as a decrease in the number of discipline hearings.<sup>45</sup>

West Lake Junior High, in West Valley City, Utah, has also implemented a PBIS program. Student leaders are selected by their peers to promote respect and accountability throughout the school. These leaders are responsible for being examples to their peers in promoting an open and caring atmosphere for all students.<sup>46</sup> Student leaders indicated that students seemed to understand the “Stop, Walk, and Talk” plan that has been implemented for handling confrontation.<sup>47</sup> Although students tend to downplay the value they place on PBIS while around other students, the changes that have been observed around the school speaks to student buy-in.

Student buy-in can be partially attributed to the school’s efforts to implement a simple and understandable plan and to allow all students some say in the program as seen in the student elected student leaders of the program. The PBIS implementation at West Lake Junior High is still relatively new and the school is committed to reviewing their efforts and modifying the program as needed. Although teachers and counselors at the school indicated that there were still some obstacles they were working around with the program, they recommended incorporation of PBIS practices in other schools. Both students and teachers report an increased sense of community within the school, increased camaraderie among students, fewer fights, and decreased need for disciplinary referrals.<sup>48</sup>

UMTSS, or the Utah Multi-Tiered System of Supports, is another example of PBIS being implemented in Utah. UMTSS is a program within the Utah State Office of Education that helps address student behavioral and academic needs through evidence based practices. The overall goal of UMTSS is to have an impact on student outcomes by providing support and guidance to Utah schools as they create and implement a multi-tiered system of supports.<sup>49</sup>

The critical components of UMTSS include:

- Evidence-based practices for academics and behavior
- Instructionally-relevant assessments
- Team-based problem-solving
- Data-based decision making
- Evidence-based professional development
- Supportive leadership
- Meaningful parent and student involvement

## 2. Utah State Office of Education’s Dropout Prevention in Utah Guide

The Utah State Office of Education promotes the use of PBIS in its model policies, and in its 2014 Dropout Prevention Guide.<sup>50</sup> The Utah guide is based on the IES Practice Guide for Dropout Prevention from the What Works Clearinghouse of the U.S. Department of Education. The IES Practice Guide states its goal “is not to endorse specific branded interventions, but to identify a set of strategies and practices that are key components of interventions that have demonstrated promise in reducing dropout rates.”<sup>51</sup>

The Utah guide makes six primary recommendations.

**Recommendation 1.** Utilize data systems that support a realistic diagnosis of the number of students who drop out and that help identify individual students at high risk of dropping out (diagnostic).

**Recommendation 2.** Assign adult advocates to students at risk of dropping out (targeted intervention).

**Recommendation 3.** Provide academic support and enrichment to improve academic performance (targeted intervention).

**Recommendation 4.** Implement programs to improve students' classroom behavior and social skills (targeted intervention).

**Recommendation 5.** Personalize the learning environment and instructional process (school-wide intervention).

**Recommendation 6.** Provide rigorous and relevant instruction to better engage students in learning and provide them skills needed to graduate and to serve them after they leave school (school-wide intervention).

The recommendations in the Guide are well worth following, with two important caveats. First, the Guide itself notes a possible shortcoming: it cites a study that used official school data collected over a ten year period and found the younger the age of entry into a mentoring program, the less likely students were to graduate from high school.<sup>52</sup> The study cited refers to “a litany of research that suggests the younger a child is labeled as at risk, the more likely they will experience a life-persistence course of problematic behavior.”<sup>53</sup> This possibility suggests that PBIS and restorative practices programs be carefully implemented so as not to stigmatize children as “at risk.”

Second, the Guide does not provide any discussion of the relationship between school discipline and dropping out, instead focusing on chronic absenteeism as the main reason for the State's dropout rate. Although chronic absenteeism is certainly an important issue, there is overwhelming data that demonstrates the link between school discipline and the dropout rate—and every reason to believe that school discipline may also itself lead to chronic absenteeism.

### **III. ADDITIONAL STEPS UTAH SHOULD TAKE**

This Part offers industry best practices and recommendations for Utah schools and school districts to work toward eliminating the school-to-prison pipeline in Utah. Recommendations are divided into three sub-sections, according to the amount of effort and cost (low, medium, or high) likely required in order to implement. This Part also considers the costs involved with implementing PBIS and restorative practices.

## **A. Low Effort and Cost**

Individual schools or school districts can implement the following recommendations with relative ease, often by effecting simple revisions to the discipline handbook.

- Eliminate or reduce the offenses for which students can be expelled.
- Reduce or eliminate offenses that qualify for zero tolerance.
- Reduce reliance on out-of-school suspensions.
- Eliminate discipline entirely for minor offenses (e.g. “abnormal hair color/styles”).
- Refrain from involving police in school discipline issues unless a student has committed a serious crime or has otherwise endangered others.
- Focus efforts on students who require extra attention and provide them with the opportunity to be taught in small group settings.
  - Where necessary, provide these students with counseling and other individualized resources to address the underlying causes for behavioral issues.
- Increase awareness among teachers and administrators that school discipline is linked to drop out rates (e.g. add language to the discipline handbook emphasizing this connection, include this as a topic of discussion at back-to-school orientations, in faculty meetings, etc.).
- Eliminate or conceptually tighten overly vague, subjective or ambiguous disciplinary policies.
- Apply discipline policies objectively and equally without regard to race or ethnicity.
- Educate faculty regarding effective mediation of conflict among students, including how to hold impromptu conferences that allow students the opportunity to resolve their own conflicts.
- Educate teachers on ways to make students aware of how their behavior impacts others.
- Improve collaboration and communication between the community, schools, teachers, parents, and students.
- Ensure every child with a disability is given a manifestation determination hearing before being disciplined.

## **B. Moderate Effort and Cost**

The following recommendations will require more coordination among schools within districts, and within districts themselves.

- Enact policies that promote student accountability and provide positive reinforcement for desired behavior.
- Encourage teachers to use verbal or written behavior agreements with students in their classrooms, and hold students accountable for these agreements through mediation.
- Hold formal conferences between offenders and victims, including the families of both parties, to discuss problems and find a solution that will satisfy the interests of both parties.
- Implement bullying prevention programs to prevent students from being threatened while at school.
- Train teachers to be circle facilitators and implement the use of circles in the classroom to foster a sense of camaraderie at school.
- Train teachers, student resource officers, and staff on the school-to-prison pipeline and its consequences.

## **C. Higher Effort and Cost**

The recommendations under this category require a higher degree of involvement and resources, but should result in long-term savings to the state in the form of increased high school graduation rates.

- Provide individualized attention to and support for students with the most serious behavioral issues through counseling, behavioral plans, and intensive intervention.
  - Provide students with access to therapeutic groups.
  - Use qualified professionals and comprehensive teams made up of individuals from their home, school, and community to help students achieve their goals.
  - Establish relationships with various health and social agencies for referrals for students with disciplinary issues.

## **D. Costs and Benefits of Implementation**

Administrators are rightly concerned about the potential costs of implementing and sustaining alternative disciplinary programs in their schools. It is difficult to place a dollar amount on the cost because of factors such as the number of schools implementing the program, existing training capabilities, data systems capabilities, the proposed level of implementation, and the number of competing or concurrent initiatives.<sup>54</sup> However, for a mid-sized district

beginning with 15 schools, professionals estimate that implementing and running PBIS would cost \$5,000-\$10,000 per school over a two year period.<sup>55</sup> This cost includes the trainer costs per workshop, personnel time, and visits from the leadership team. Integrating additional “clusters” of schools is estimated to cost significantly less, at around \$3,000 per school.

More importantly, implementing restorative programs is both more effective and less expensive than traditional methods of school discipline, which often result in the expenditure of millions of dollars in lost future incomes, the provision of public benefits, and adjudication and incarceration costs.<sup>56</sup> More anticipated and immediate benefits, which are difficult to quantify, include increased camaraderie among students and reductions in school violence, freeing staff and teacher time for education.

In addition to the enhanced earning capacity of students who graduate, school districts receive long-term benefits, such as a decreased need for imposing fewer student referrals to the criminal justice system.<sup>57</sup> Local governments will also save, as cities and counties pay for fewer arrests, prosecutions, and juvenile defenders. A report on the effect of zero tolerance policies in Chicago illustrates the high cost of bringing municipal law enforcement into the classroom. It found that, over the long-term, school-based arrests in Chicago cost taxpayers \$240 million in 2009 alone.<sup>58</sup>

There are also many sources of funding available to support the implementation of restorative practices and PBIS.<sup>59</sup> Title IV Safe and Drug Free Schools, the Department of Education, school discretionary funds, fundraising, and partnerships with local service agents are all potentially available for schools seeking to implement restorative practices. Moreover, according to the principal of Pioneer High School in Woodland, California, which saved \$97,200 in one year of restorative practices, administrators may save on implementation costs by researching existing literature on their own and using it to train faculty and directly implement the programs in their schools.<sup>60</sup>

The costs and benefits of PBIS should not just be considered from a traditional monetary standpoint, but also in the reallocation of the school’s time. When a teacher must take disciplinary action, time from the classroom is taken away. An Illinois study found that the average school suspension cost a school administrator 45 minutes, the student six hours of education time, and the staff five minutes of teaching time.<sup>61</sup> The same study found that implementation of PBIS resulted in a gain of 26 days for administrators, 144 days for students, and 11 days for staff and teachers.<sup>62</sup>

#### **IV. SUCCESS STORIES IN OTHER STATES**

When and if Utah decides to undertake these changes, it will not be doing it alone. A number of other school districts across the country have begun the process of dismantling their school-to-prison pipeline and the results have been highly encouraging.

##### **A. Denver, Colorado**

Denver has had great success with the implementation of restorative practices in its public school districts. One high school has reported suspension rates cut in half, from 80% to



40%, and 60% drop in expulsions.<sup>63</sup> Dropout rates at that school have also decreased by 50 percent.<sup>64</sup>

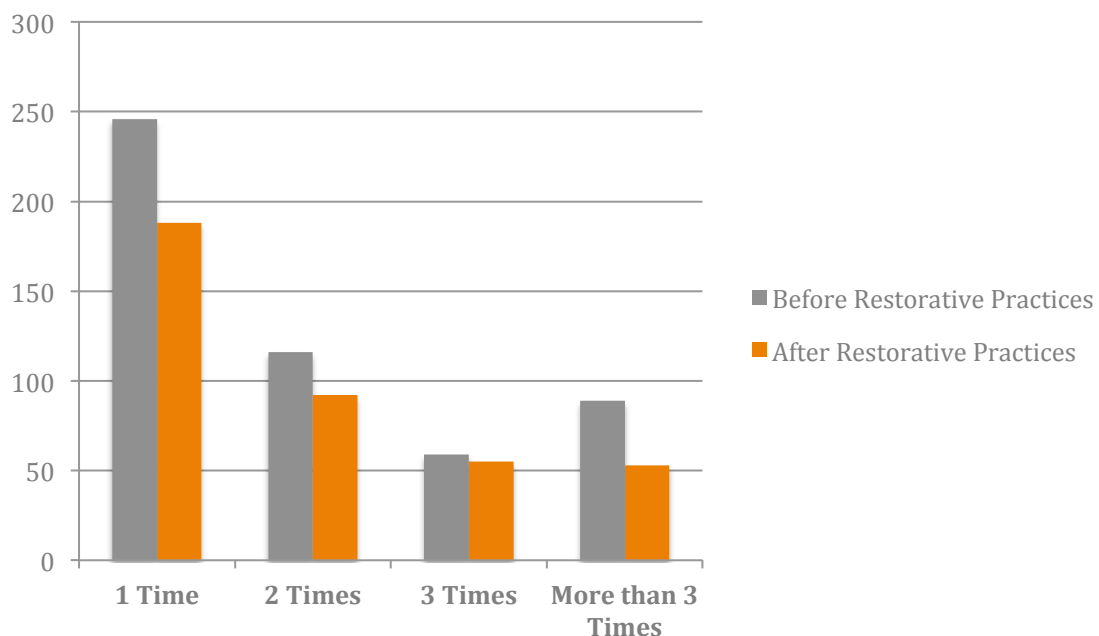
The school attributes its accomplishments to the fact that everyone has been made accountable for their own future.<sup>65</sup> Under this new approach, school administrators no longer rely on the police, and instead must differentiate between disciplinary and criminal matters to respond appropriately. This requires incidents be handled in a de-escalating manner and administrators now rely on alternative procedures to avoid the use of law enforcement interventions.

Implemented techniques range from formal written agreements between disputing parties, mediation, group conferences, and more informal verbal agreements. These methods have not only empowered students to stay in school and receive an education; they have also improved students' social skills. Students reported improvements in intrapersonal/interpersonal skills, handling stress effectively, adaptability, and overall emotional stability.

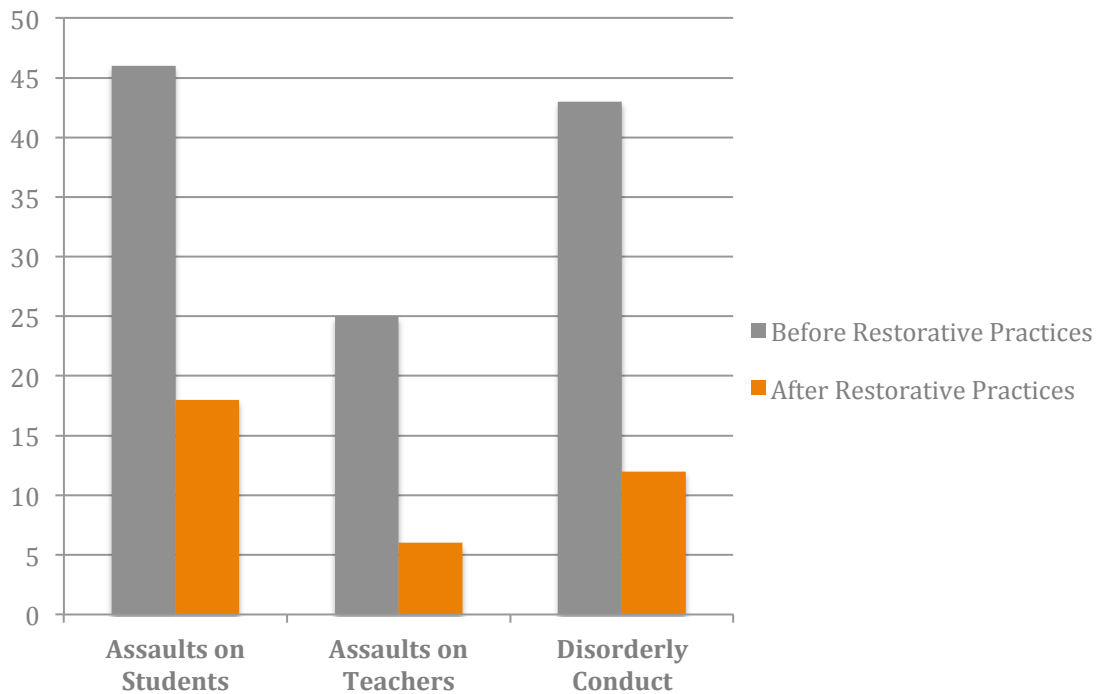
### **B. West Philadelphia High School, Philadelphia, Pennsylvania**

West Philadelphia High School, adopted restorative practices in 2007 and has experienced a marked drop in suspensions.<sup>66</sup> The high school was previously considered one of the most dangerous in Philadelphia, but since the implementation of restorative practices, violent acts and serious incidents dropped 52% within the first year the practices were implemented and another 40% after the second year. In addition to this, as evidenced in the charts below, the total number of students suspended has also dropped significantly and the violence in the school has largely disappeared.

**Figure 13: Number of Suspensions Before and After Implementation – West Philadelphia**



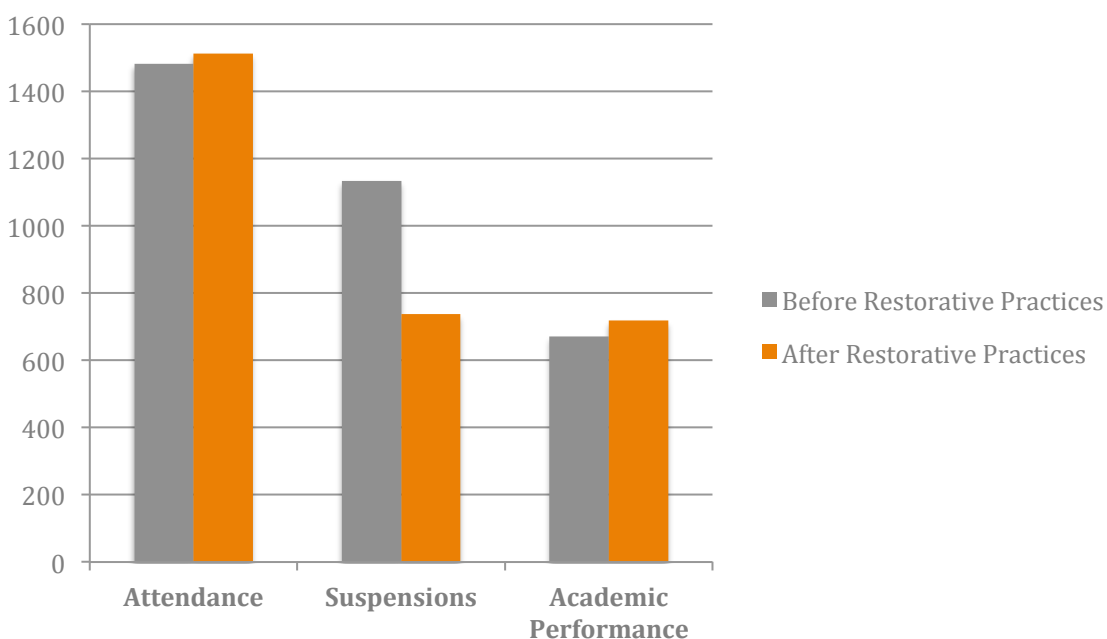
**Figure 14: Number of Serious Behavior Incidents Before and After Implementation – West Philadelphia**



### **C. Pioneer High School, Woodland, California**

Pioneer High School in Woodland, California successfully decreased gang-related fights and suspensions by implementing Positive Behavioral Interventions & Supports.<sup>67</sup> Pioneer High School was known for its gang related violence and high suspension rates, but since implementing PBIS, there have been no gang related fights, the suspension rate has dropped by 65%, and daily school attendance is up.<sup>68</sup> Academic performance also increased 46 points on California's Academic Performance Index (API) within the first year of implementation.<sup>69</sup>

**Figure 15: Number of Suspensions Before and After Implementation – Pioneer High**



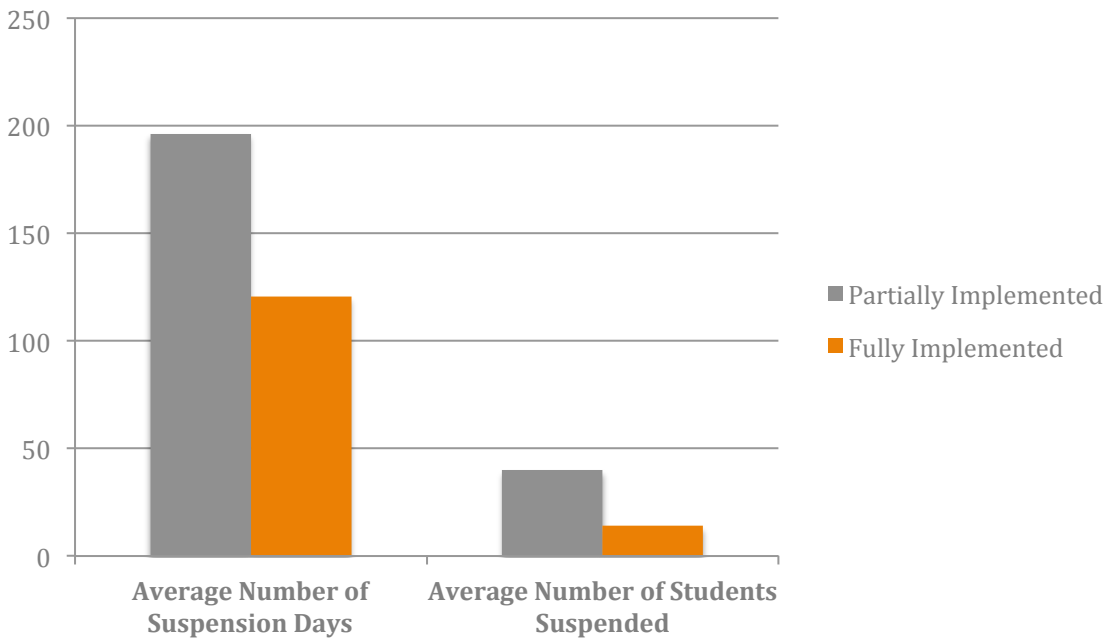
These results have been accomplished through teachers taking alternative actions before sending a student to the office for discipline.<sup>70</sup> Teachers worked with students to encourage better behavior and to change attitudes instead of just punishing students who were violating school rules.

#### **D. Illinois**

Over 600 schools in the state of Illinois have implemented PBIS with positive results.<sup>71</sup> Schools have reported has not only reduced disciplinary referrals and improved academic performance, but PBIS has also improved school security, prevented bullying, and ensured protection for the schools most vulnerable populations.

Illinois schools that have implemented PBIS have far lower rates of office discipline referrals than national schools that have not implemented the program. Furthermore, as demonstrated by the chart below, schools that fully implemented PBIS had lower office discipline referral rates than schools that had only partly implemented the techniques.

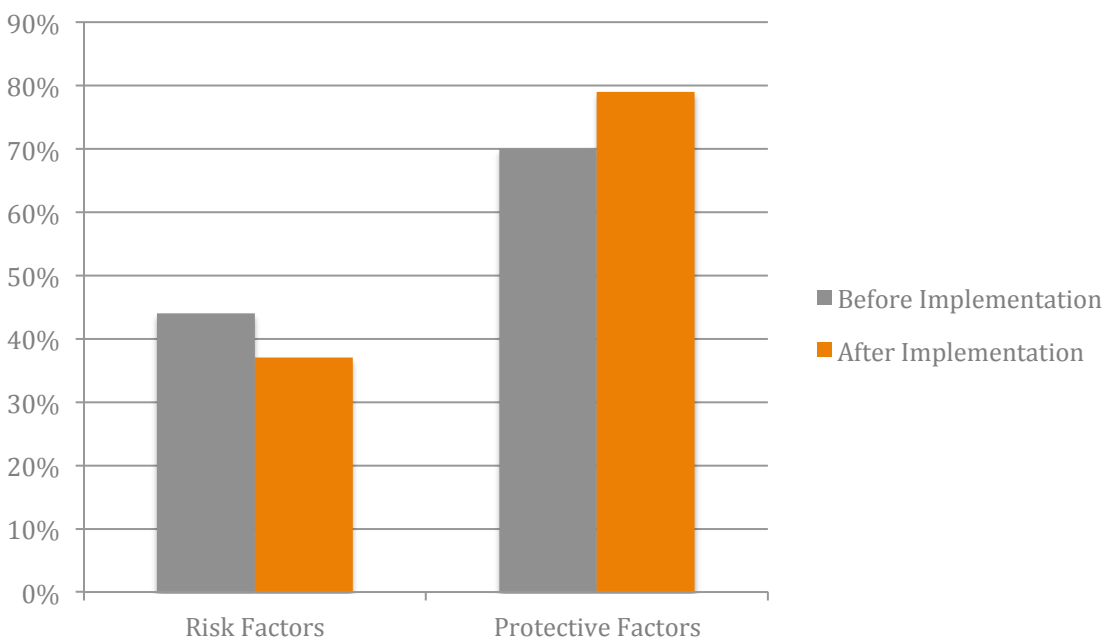
**Figure 16: Suspensions at Partially Implemented and Fully Implemented Illinois Schools<sup>72</sup>**



In addition to this, schools using PBIS show marked academic improvement.<sup>73</sup> With a decrease in the amount of time that teachers need to address disciplinary issues, there has been an increase in the time available for academic instruction. Consequently, reading and math scores have greatly increased for schools that are fully implementing PBIS, with over 300% improvement in scores than schools that are only partially implementing the program.

The use of PBIS has also led to improvement in school security. Through the administration of a school safety survey, staff members assessed risk factors and protective factors<sup>74</sup> within their respective schools. The results indicated that schools that have implemented PBIS are safer than those that have not implemented the measures.

**Figure 17: School Safety with PBIS in Illinois Schools<sup>75</sup>**



Finally, PBIS has reduced the number of disciplinary incidents for students with disabilities or who may require special attention.<sup>76</sup> Through full implementation, these students are receiving the attention that they need and consequently, are being referred to the office far less frequently than they were before implementation.

#### **E. Florida**

Florida schools have also seen progress within one year of implementing PBIS.<sup>77</sup> Schools are reporting lower rates of incidents requiring disciplinary action and higher academic performance.<sup>78</sup> Within a single year, office disciplinary referrals decreased by over 15%, out of school suspensions decreased by over 8%, and in school suspensions decreased by over 18%. Furthermore, under PBIS only 9% of students were referred for discipline more than once. In addition to these benefits, Florida schools implementing PBIS have also reported higher test scores.

#### **F. Los Angeles, California**

Los Angeles, California, the second largest school district in the country, began to rethink and redefine its school disciplinary policies in 2012. First, the city stopped citing students for being late to class—a change that, according to the presiding judge of the Los Angeles Juvenile Courts, Judge Nash, has cut the number of citations for absences by 90 percent and has led to overall improved or similar numbers in terms of attendance.<sup>79</sup> Shortly after, the city modified its suspension policy to ban suspensions of students for “willful defiance,” which previously accounted for nearly half of the district’s suspensions.<sup>80</sup> Finally, earlier this year, Los Angeles announced that school authorities, as opposed to law enforcement, will now address issues such

as using tobacco, defacing or damaging school property, and fighting on-campus, in a change designed to keep students out of juvenile court.<sup>81</sup>

### **CONCLUSION**

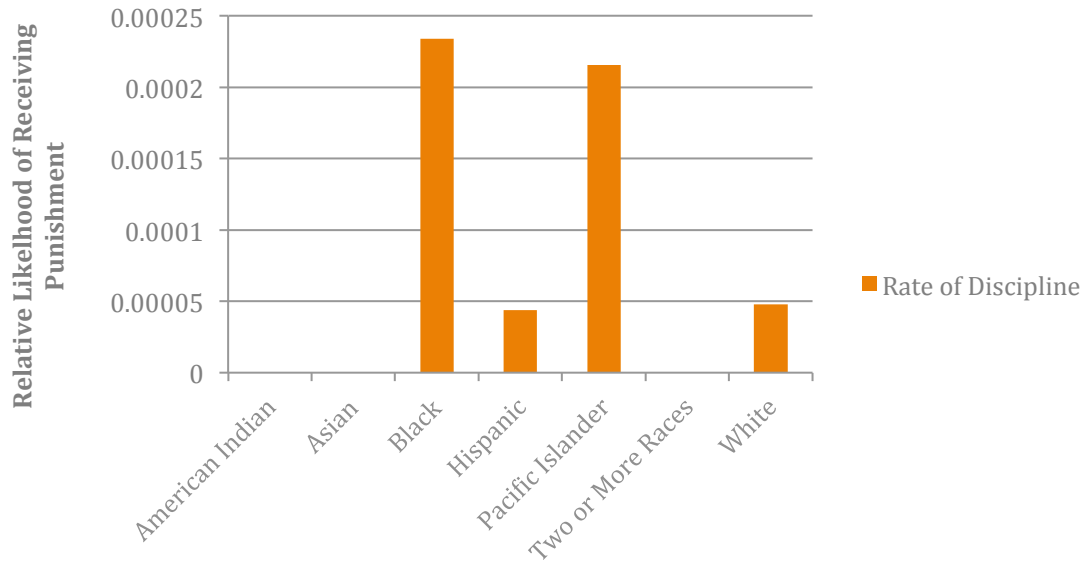
Utah is known across the nation for the value it places on its children and on community. When it comes to our most vulnerable students, however, our state can and should be doing more. The school-to-prison pipeline victimizes us all, depriving us of the gifts and talents of those who fail to complete high school. It will require hard work to dismantle the pipeline, but it is a job well worth doing.

## APPENDICES

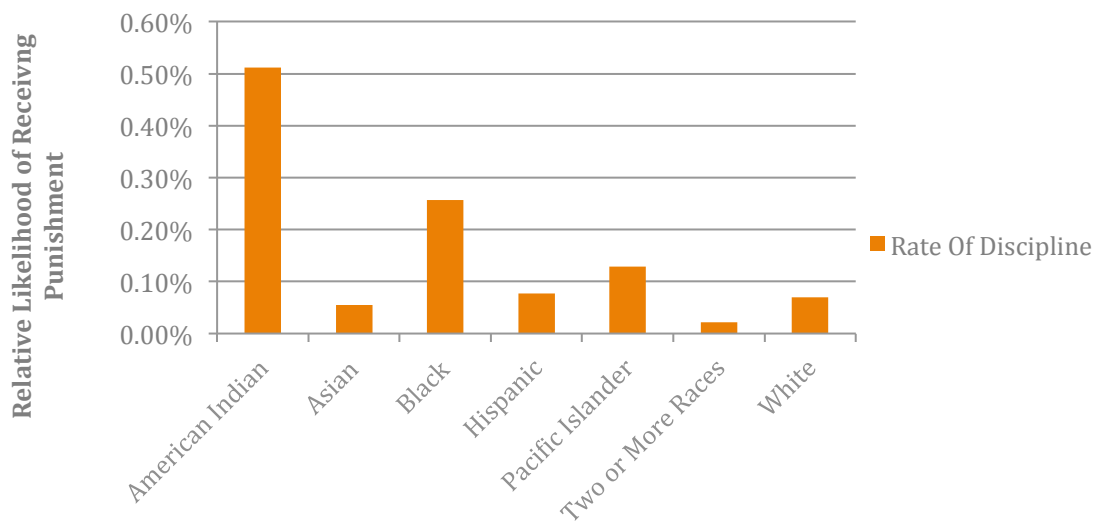
### Appendix A – Relative Likelihood of Disciplinary Actions

The following charts show the relative likelihood of a given student receiving a particular type of disciplinary action based on disciplinary actions per enrolled student for each race.

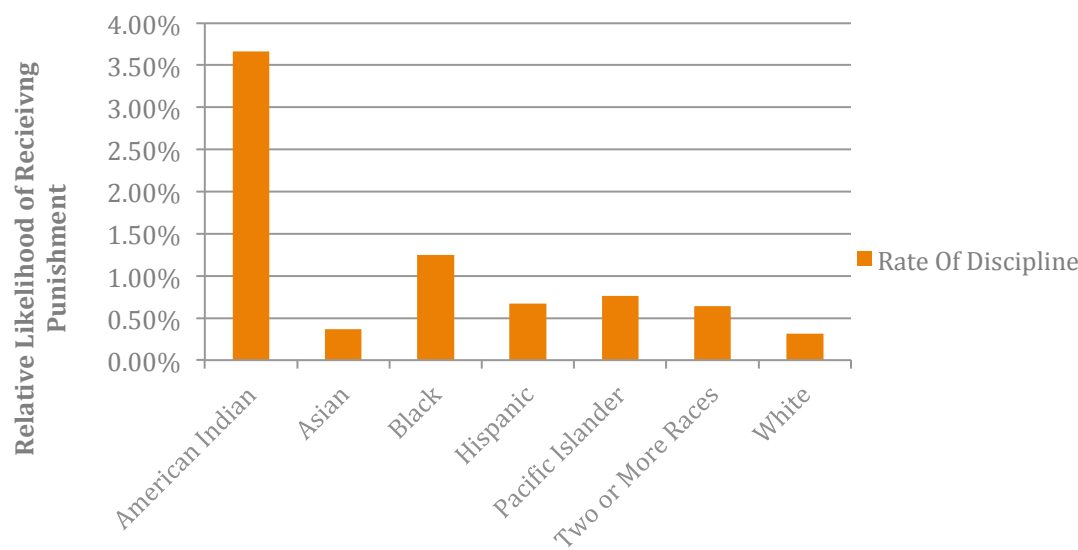
**Figure 18: Relative Likelihood of Corporal Punishment in Utah Schools**



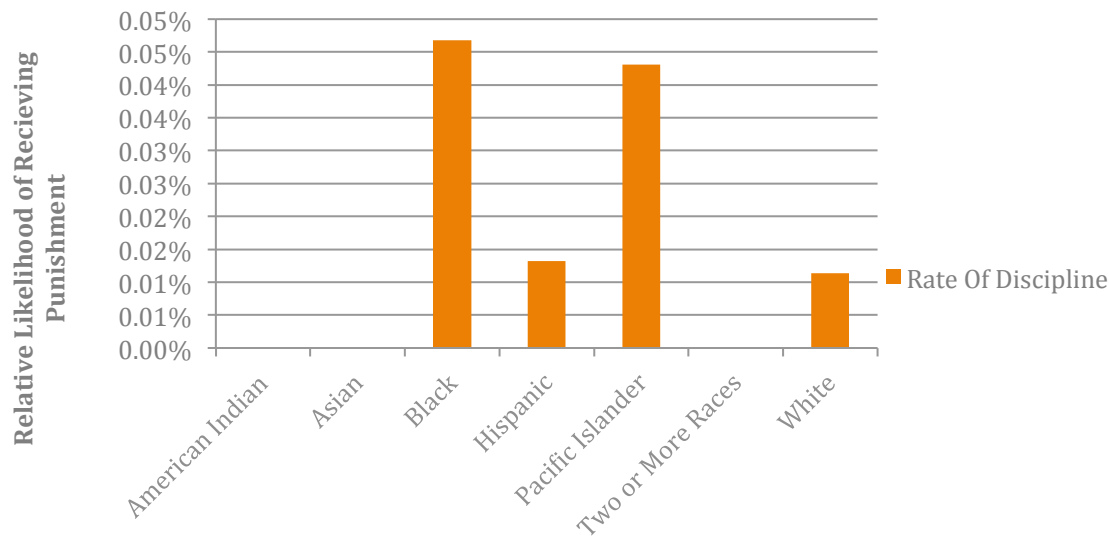
**Figure 19: Relative Likelihood of School Related Arrest in Utah Schools**



**Figure 20: Relative Likelihood of Referral to Law Enforcement in Utah Schools**

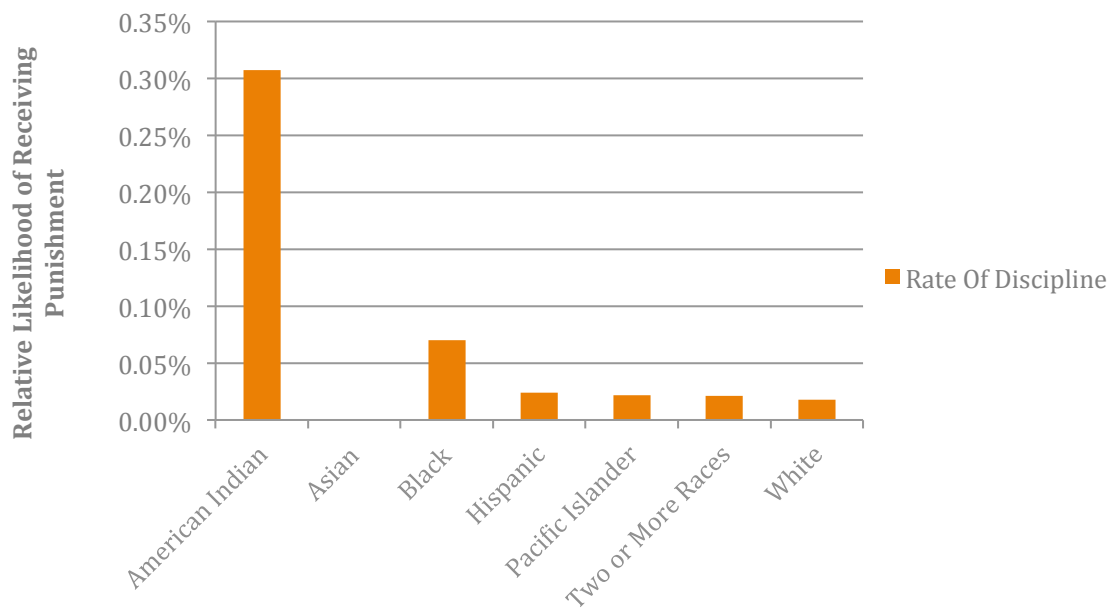


**Figure 21: Relative Likelihood of Expulsion with No Services in Utah Schools**

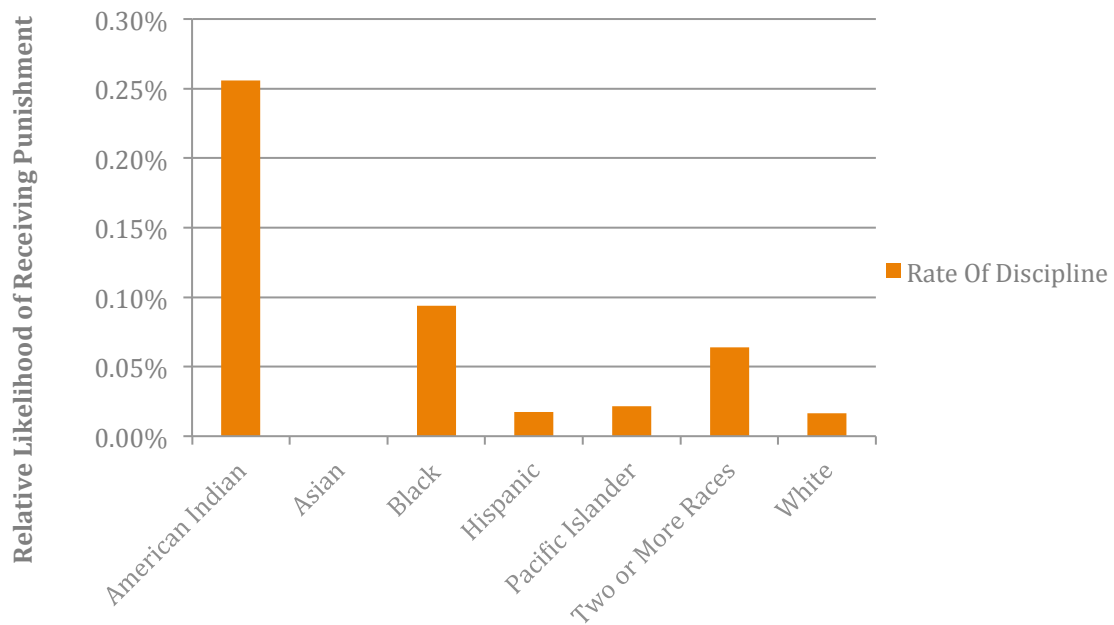




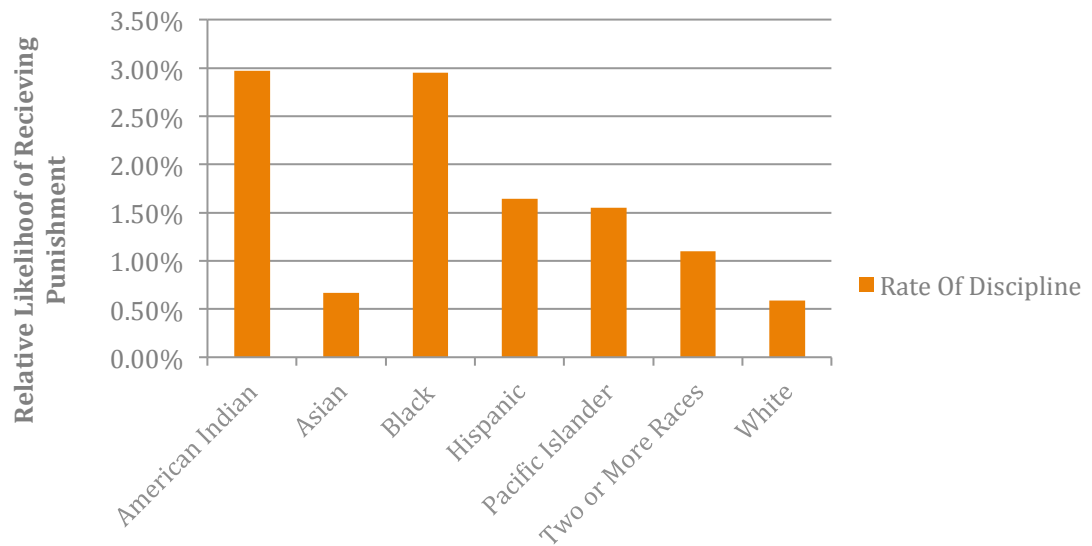
**Figure 22: Relative Likelihood of Expulsion with Services in Utah Schools**



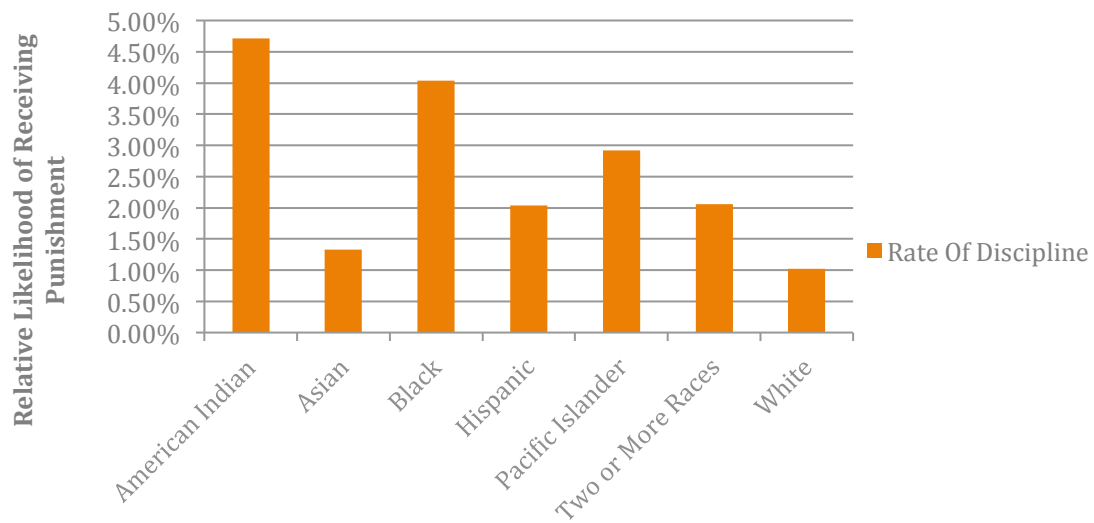
**Figure 23: Relative Likelihood of Expulsion – Zero Tolerance in Utah Schools**



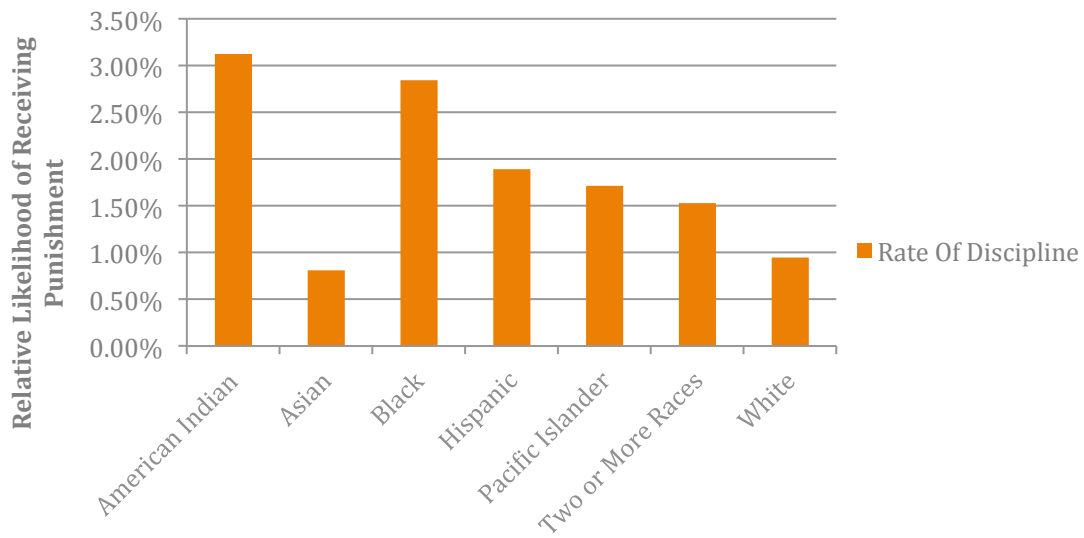
**Figure 24: Relative Likelihood of More than one Out-of School Suspension in Utah Schools**



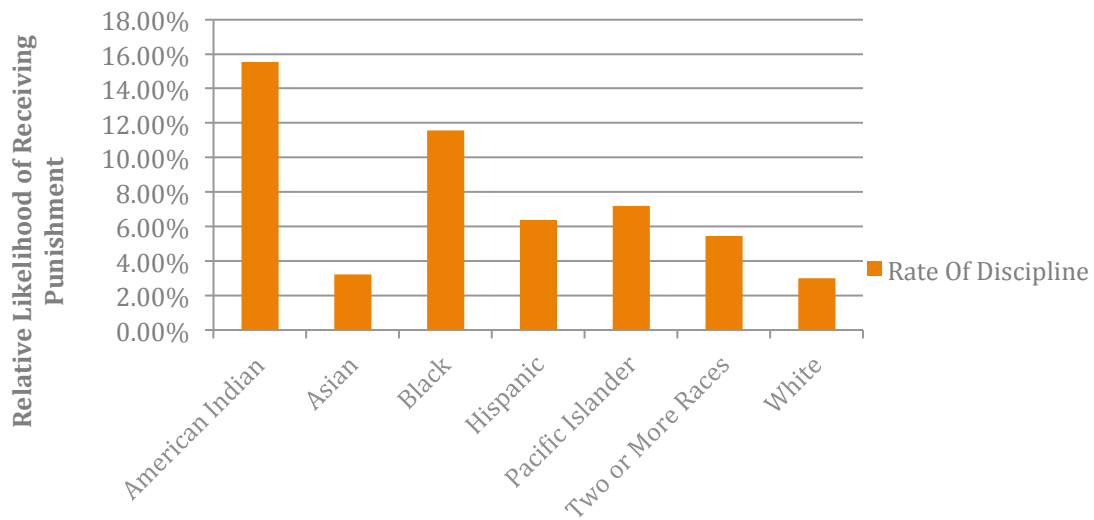
**Figure 25: Relative Likelihood of Only One Out-of-School Suspension in Utah Schools**



**Figure 26: Relative Likelihood of one or More In-School Suspensions Utah Schools**



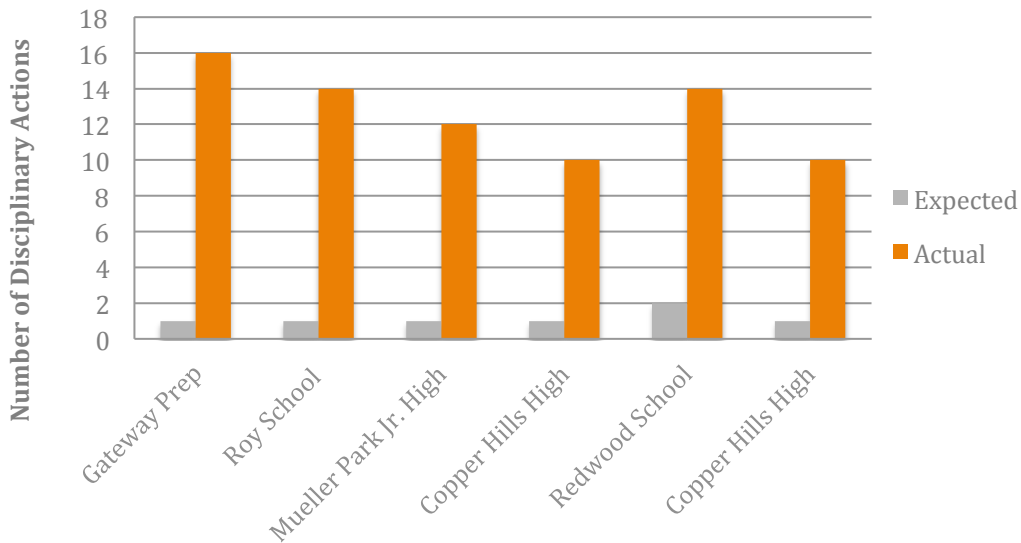
**Figure 27: Relative Likelihood of all Types of Disciplinary Actions by Rate**



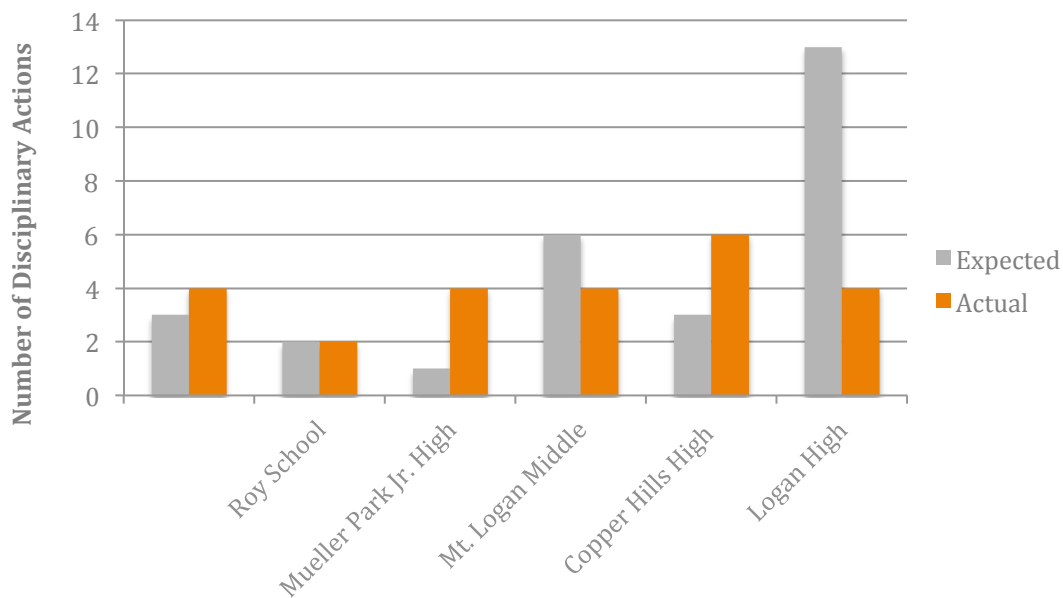
## Appendix B – Districts and Schools with the Highest Disproportionality by Racial Group

The following charts show the most disproportionate schools for each of seven racial groups, American Indian, Asian, Black, Hispanic, Pacific Islander, and students of two or more race.

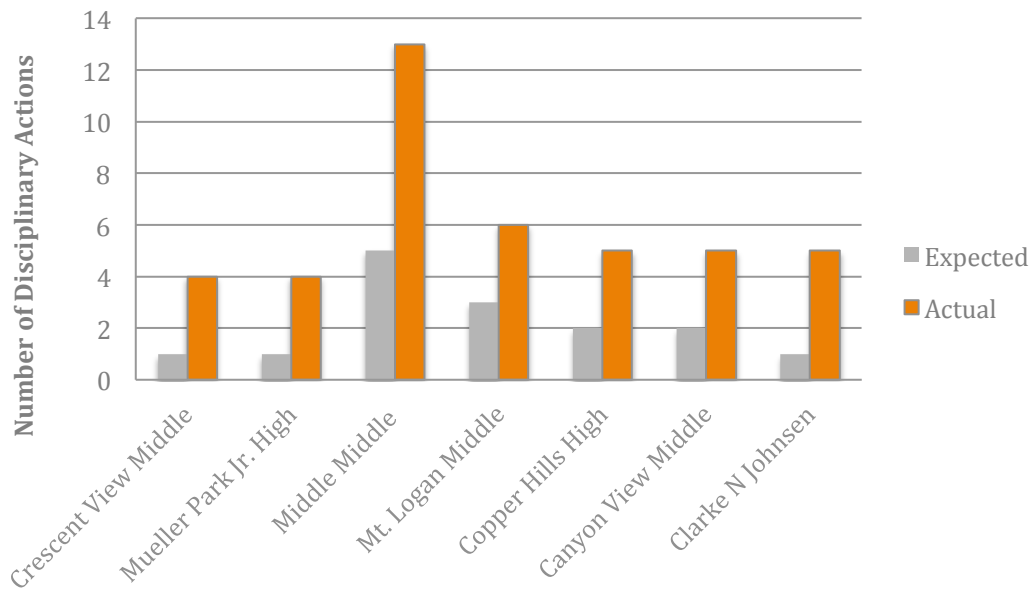
**Figure 28: Worst Performing Schools for Disciplinary Action – American Indian Students**



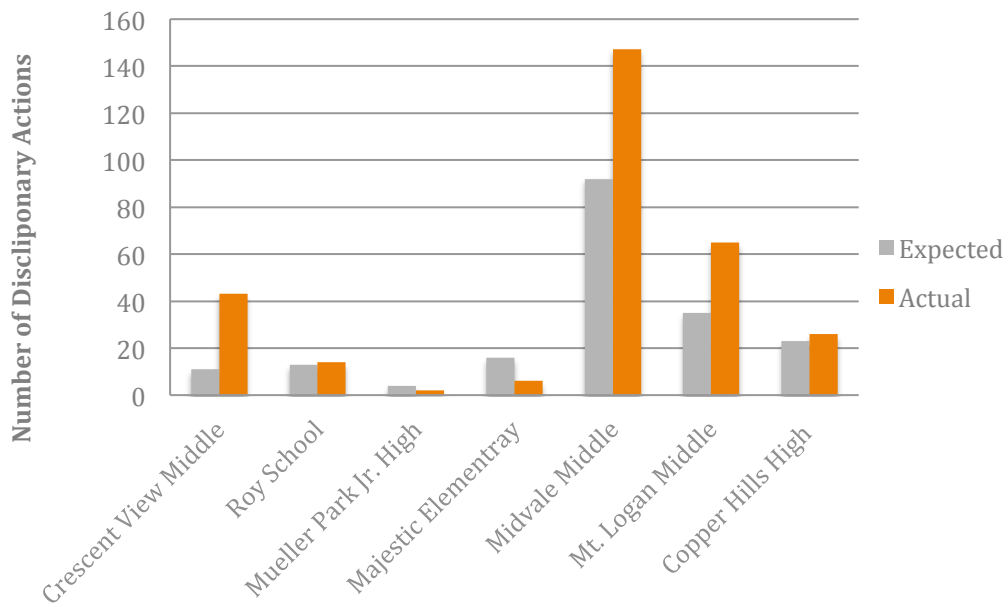
**Figure 29: Worst Performing Schools for Disciplinary Action – Asian Students**



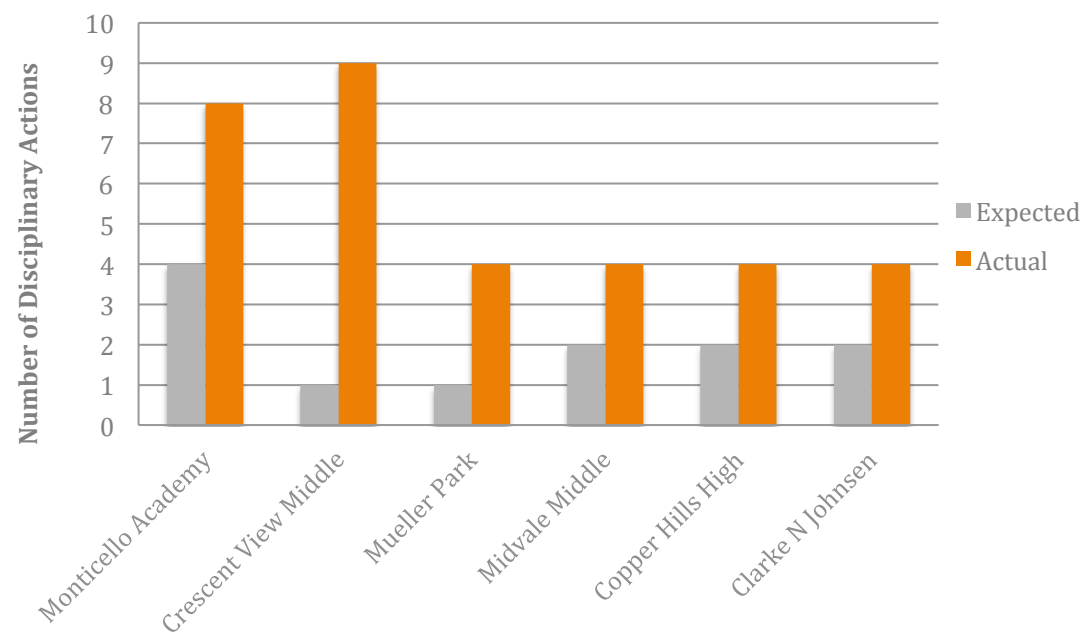
**Figure 30: Worse Performing Schools for Disciplinary Action – Black Students**



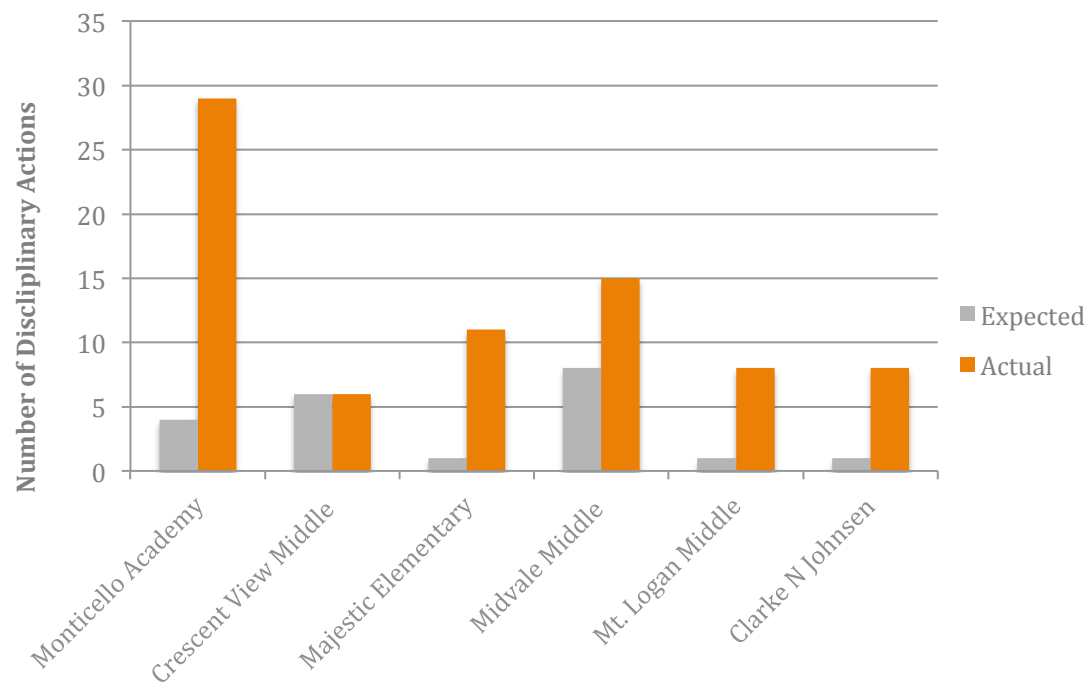
**Figure 31: Worst Performing Schools for Disciplinary Action – Hispanic Students**



**Figure 32: Worst Performing Schools for Disciplinary Action – Pacific Islander Students**



**Figure 33: Worst Performing Schools for Disciplinary Action – Students of Two or More Races**



## Appendix C: Utah Districts and Schools with the Highest Degree of Disproportionality

Utilizing the same methodology described above, we used the result from the test statistic to compare districts and schools.

The bottom ten districts—those with the highest degree of disproportionality were:

District	Level of Disproportionality
Canyons District	171.0817
Weber District	161.036
Davis District	140.5078
Jordan District	97.7906
Logan District	88.2342
Iron District	82.3223
Toole District	80.3208
Granite District	73.5816
Sevier District	60.968
Washington District	60.4583

The bottom twenty-five schools—those with the highest degree of disproportionality for students of color were:

School	District
Crescent View Middle	Canyons District
Roy Elementary	Weber District
Mueller Park Jr High	Davis District
Majestic Elementary	Jordan District
Midvale Middle	Canyons District
Mt Logan Middle	Logan District
Copper Hills High	Jordan District
Canyon View Middle	Iron District
Clarke N Johnsen Middle	Toole District
Redwood School	Granite District
Logan High	Logan District
Richfield High	Sevier District
Desert Hills High	Washington District
Bonneville High	Weber District
Sand Ridge Jr High	Weber District
Canyon View High	Iron District
Riverview Jr High	Murray District
Albion Middle	Canyons District
Kearns High	Granite District
Ogden High	Ogden District
Vista Heights Middle	Alpine District
Sandstone Elementary	Washington District
Alta High	Canyons District
Cedar City Middle	Iron District
Bryce Valley High	Garfield District

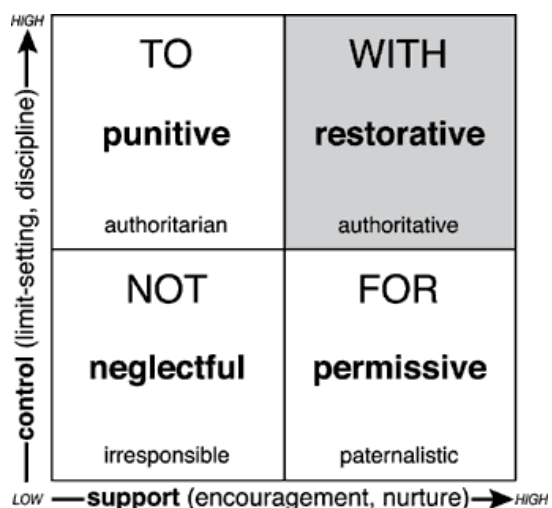
## Appendix D: PBIS & Restorative Practices

### I. Positive Behavioral Interventions & Supports

Under PBIS, core values for the school community are developed and positive interventions are used for disciplinary issues. Tactics such as counseling, conflict resolution, mediation, and team interventions are used to help students change their behavior, ultimately reducing the number of disciplinary referrals. In applying these methods, PBIS has three main tiers.

Tier 1 seeks to prevent the need for disciplinary action before the need for such action arises. Consequently, this tier focuses on setting school-wide expectations, establishing positive behavior through direct enforcement, and utilizing positive reinforcement and practices. Under this tier, schools utilize bullying prevention programs and other methods designed to improve learning and social skills.

In Tier 2, the selected tier, 5-15% of students that are not succeeding in Tier 1 receive additional support through methods like instruction in small groups or through the establishment of behavior plans. These methods specifically target those students who are considered to be more at risk for severe behavioral problems and who have not responded to the Tier 1 methods. Consequently, Tier 2 methods include small groups—which teach learning and social skills—as well as consultations with teachers and families.



Finally, in Tier 3, the targeted-intensive tier, 1-5% of students that exhibit high-risk behavior receive tailored supports. These supports include: individual intensive intervention, individual counseling, therapeutic groups, the use of qualified professionals, behavior plans, and the utilization of comprehensive teams made up of individuals from their home, school, and community to help students achieve their goals.

### II. Restorative Practices

Studies conducted by the Thelton E. Henderson Center for Social Justice at the University of California Berkeley, School of Law<sup>82</sup> and the International Institute for Restorative Practices<sup>83</sup> demonstrate that when used in the educational setting, restorative practices have been very successful in improving the educational environment for students and teachers alike. In fact, these policies have been proven to reduce discipline referrals by 50% nationwide.<sup>84</sup>

There are several common methods utilized as restorative practices, as demonstrated in the illustration below, ranging from informal statements made to students to formal meetings held with students and administrators.<sup>85</sup>



i. Affective Statements

The first method, affective statements, is designed to communicate a person's feelings. This might include something as simple as a teacher telling a student how their behavior has affected him or her. For example, a teacher might tell a student, "Your behavior in class today made me feel disrespected."

ii. Affective Questions

Affective questions are very similar to the first method. However, through this tactic, students will be asked how they think their behavior affects others. An administrator might ask, "Who do you think your behavior is affecting?" or "How do you think your behavior affects your classmates?"

iii. Small, Impromptu Conferences

The third method involves having a conference at the site of the conflict.<sup>86</sup> These are small meetings held between all parties involved and they may take place anywhere from the hallway to the lunchroom. Teachers are intended to serve as a mediator in these meetings, and work towards problem solving with the students, rather than acting as a firm disciplinary.

iv. Circle Groups

Circles are the fourth tactic, used for conflict resolution, healing, support, decision-making, information exchange, and to develop relationships. A circle is a communication tool where all participants are given an opportunity to speak. The circle may be formal where participants speak sequentially and discussion is led by a facilitator or more informal where participants speak non-sequentially and discussion is group member-driven. In these circles, students are able to talk freely and they find support for their struggles and the challenges that they face. New friendships are formed as all in the school have the opportunity to speak with one another in an open, unthreatening environment. Students are educated as to the importance of their education and begin to understand the reasoning behind school rules and then desire to follow the rules for themselves. Circles have proven to be effective because they provide students with a way to express themselves, and provide the support they need to stay in school despite all the challenges that they face in their lives. A key feature of circles is a set of rules and decorum for interactions that fosters trust and a non-hostile environment for group members.

v. Formal Conferences

Finally, the most formal tactic is a conference between offenders, victims and the family and friends of both parties. In this meeting, all parties discuss the consequences of the wrongdoing and seek to reach a solution as to how to repair the harm created by it. These conferences are not only intended to allow the victim the opportunity to confront the wrongdoer, but also to give the wrongdoer the opportunity to hear how his or her behavior as affected the victim.

- <sup>1</sup> Adam Edelman, *Utah 15-year-old suspended for dying her hair a 'distracting' red*, NY Daily News (Feb. 11, 2013), available at <http://www.nydailynews.com/news/national/utah-15-year-old-suspended-dying-hair-distracting-red-article-1.1261418>.
- <sup>2</sup> Danny Crivello, *AFHS Student United School After He is Handcuffed and Suspended for Breaking Rules*, American Fork Citizen (Feb. 15, 2013), available at [http://www.heraldextra.com/afcitizen/afhs-student-united-school-after-he-is-handcuffed-and-suspended/article\\_224c19b4-76c8-11e2-8cd1-001a4bcf887a.html](http://www.heraldextra.com/afcitizen/afhs-student-united-school-after-he-is-handcuffed-and-suspended/article_224c19b4-76c8-11e2-8cd1-001a4bcf887a.html).
- <sup>3</sup> Jared Page, *Tooele teen's 'inappropriate' outfit makes national headlines*, KSL (May 24, 2012), available at <http://www.ksl.com/?nid=148&sid=20551012>.
- <sup>4</sup> Advancement Project, *Ending the Schoolhouse to Jailhouse Track* (Dec. 12, 2012), available at <http://www.advancementproject.org/issues/stopping-the-school-to-prison-pipeline>.
- <sup>5</sup> Utah State Office of Education, *2013 Cohort Graduation and Dropout Rate Report 2* (Dec. 20, 2013), available at <http://www.schools.utah.gov/data/Educational-Data/Graduation-Dropout-Rates/6-Graduation-Report-2013.aspx>.
- <sup>6</sup> *Id.*
- <sup>7</sup> U.S. Dep't of Justice Bureau of Justice Statistics Special Report, *Education and Corrections Populations*, (2003).
- <sup>8</sup> Sarah Biehl, *School Expulsion: A Life Sentence?*, American Bar Association: Section of Litigation Children's Rights Litigation (March 15, 2011).
- <sup>9</sup> See e.g., West High School, *West High School 2012-2013 Student Planner* (2013), <http://tinyurl.com/qhcsecd>; Davis School District, *Davis School District Policy and Procedures* (Sept. 17, 2013), <http://tinyurl.com/o2w3ncq>; Garfield County School District, *2014-2015 GCSD Student Handbook* (2014), <http://tinyurl.com/lwmutz2>; Jordan School District, *Statement of Policy* (March 26, 2013), <http://tinyurl.com/l5723vl>; South Summit High School, *South Summit High School 2014-15 Student handbook* (2014), <http://tinyurl.com/nmjungl>.
- <sup>10</sup> See *infra*, Sections II.B.1 & IV, and Appendix D.
- <sup>11</sup> Over 3 million children are at risk of exposure to parental violence each year. Some investigators have suggested that a history of family violence or abuse is the most significant difference between delinquent and non-delinquent youth. Joseph S. Volpe, *Effects of Domestic Violence on Children and Adolescents: An Overview* available at <http://www.aets.org/article8.htm>. (last visited Sept. 15, 2014).
- <sup>12</sup> Robert Balfanz, Vaughan Byrnes, and Joanna Fox, *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade* (Dec. 2012), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/sent-home-and-put-off-track-the-antecedents-disproportionalities-and-consequences-of-being-suspended-in-the-ninth-grade/balfanz-sent-home-ccrr-conf-2013.pdf>.
- <sup>13</sup> Office for Civil Rights, U.S. Department of Education, <http://www2.ed.gov/about/offices/list/ocr/data.html>.
- <sup>14</sup> Pearson's chi-squared test statistic was used to calculate the amount the predicted value differed from the observed value. Because some of the data included numbers less than 5, Yates's correction for continuity was implemented as follows:  $((O-E-.5)^2)/E$ .
- <sup>15</sup> The sample size of the population also plays a role. For example, the odds of getting a group of five students that are just "problem" students is greater than getting a group of 500 "bad" students.
- <sup>16</sup> Utah State Office of Education, *2013 Cohort Graduation and Dropout Rate Report* *supra* n.5 at 2.
- <sup>17</sup> *Id.*
- <sup>18</sup> *Id.*
- <sup>19</sup> U.S. Dep't of Justice Bureau of Justice Statistics Special Report, *Education and Corrections Populations*, (2003).
- <sup>20</sup> Symposium, *Introduction: Challenging the School-to-Prison Pipeline*, 54 N.Y.L. Sch. L. Rev. 867, 868 (2010).
- <sup>21</sup> Balfanz, Byrnes & Fox, *supra* n.12.
- <sup>22</sup> M.E. Goertz, J.M. Pollack & D.A. Rock, *Who Drops Out of High School and Why?: Findings From a National Study*, 87 Teachers C. Rec. 3, 357-73 (1986).
- <sup>23</sup> The Advancement Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline* (Jun. 2000), available at <http://www.advancementproject.org/resources/entry/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and>; The Advancement Project, *Test, Punish, and Pushout: How "Zero Tolerance" and High-Stakes Testing Funnel Youth Into the School-to-Prison Pipeline* (2010), available at <http://www.advancementproject.org/resources/entry/test-punish-and-push-out-how-zero-tolerance-and-high-stakes-testing-funnel>, (last visited Sept. 16, 2014).
- <sup>24</sup> We were not able to analyze the data to determine whether a relationship exists between discipline and a student's socioeconomic status because OCR does not disaggregate the discipline data in this way.
- <sup>25</sup> Ages range by district and school as some elementary schools are K-4 while others are K-6.

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<sup>26</sup> This means that “elementary” is actually in the name of the school. If a school name is “Smith Elementary School,” it is included, but a school named “Smith School” is not. The actual number of disciplinary actions in elementary schools overall may thus be higher than reported.

<sup>27</sup> Losen, Daniel, *Suspended Education in California*, Civil Rights Project, UCLA (April 10, 2012) *available at* <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/suspended-education-in-california> (last visited Sept. 16, 2014).

<sup>28</sup> Advancement Project, *supra* n. 23.

<sup>29</sup> The IDEA (Individuals with Disabilities Education Act) defines “child with a disability” as a child “with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and...who, by reason thereof, needs special education and related services.” 20 U.S.C.A. § 1401.

<sup>30</sup> NAVINA FORSYTHE & JOHN DEWITT, EDUCATIONAL OUTCOMES FOR CHILDREN IN THE CARE OF THE DEPARTMENT OF HUMAN SERVICES AND ITS DIVISIONS: PRELIMINARY DATA MATCH REPORT, 9–10 (2012).

<sup>31</sup> Kristina Menzel, *The School-to-Prison Pipeline: How Schools are Failing to Properly Identify and Service their Special Education Students and How One Probation Department Has Responded to the Crisis*, 15 PUB. INT. L. REP. 198, 200 (2010).

<sup>32</sup> Note that this number does not reflect the number of students disciplined, but rather the number of disciplinary actions. The number of students disciplined is likely lower, as some students were disciplined multiple times.

<sup>33</sup> These numbers are slightly worse than those for neighboring states, with American Indian and Black students in Colorado two and a half times higher than expected, and twice as high in Arizona.

<sup>34</sup> Expulsion with educational services: An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the continuation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy. Expulsion with educational services also includes removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days. CRDC Data Definitions 2011-2012, *available at* <http://ocrdata.ed.gov/DataDefinitions> (last visited Sept. 14, 2014).

<sup>35</sup> Expulsion without educational services: An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the cessation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy. Expulsion without services also includes removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days. *Id.*

<sup>36</sup> Pearson’s chi-squared test statistic was used to calculate the amount the predicted value differed from the observed value. Because some of the data included numbers less than 5, Yates’s correction for continuity was implemented as follows:  $((O-E-.5)^2/E)$ . If the chi-squared test yielded a 5% or lower likelihood of observing a more extreme result than the one we observed, we concluded that there was statistically significant disproportionality in disciplinary actions—no less than a 95% level of significance.

<sup>37</sup> Canyons School District recently changed its disciplinary policies and practices, *see infra*, at II.B.1.

<sup>38</sup> U.S. Department of Education. *Rethinking School Discipline*, *available at*: <http://www.ed.gov/news/speeches/rethinking-school-discipline> (last visited Sept. 13, 2014).

<sup>39</sup> Rob Horner & George Sugai, School-wide Positive Behavioral Interventions & Supports (2002), *available at*, [https://faculty.unlv.edu/sloe/Courses/EPY%20715/SWPBS%20articles/Sugai%20and%20Horner\\_2002.pdf](https://faculty.unlv.edu/sloe/Courses/EPY%20715/SWPBS%20articles/Sugai%20and%20Horner_2002.pdf); Hand Bohanon-Edmonson et al., *Positive Behavior Support in High Schools: Monograph from the 2004 Illinois Positive Behavioral Interventions and Supports* 84 (April 2005), *available at* <http://www.pbis.org/common/cms/files/pbisresources/PBSmonographcomplete.pdf> [hereinafter *High School Monograph*].

<sup>40</sup> *See* American Academy of Pediatrics, *Out of School Suspension and Expulsion*, 112 *Pediatrics* 5, pgs. 1206-09 (Nov. 5, 2003) *available at* <http://pediatrics.aappublications.org/content/112/5/1206.full.pdf>.

<sup>41</sup> High School Monograph, *supra* n.39 at 84.

<sup>42</sup> Ted Wachtel, *Defining Restorative 1*, International Institute for Restorative Practices (IIRP) Graduate School, 2013, <http://www.iirp.edu/what-is-restorative-practices.php>.

<sup>43</sup> Ted Wachtel, International Institute for Restorative Practices, *Restoring Community in a Disconnected World*, *available at* [http://www.iirp.edu/article\\_detail.php?article\\_id=NjAx](http://www.iirp.edu/article_detail.php?article_id=NjAx) (last visited 9/17/2014)

<sup>44</sup> Bob Costello and Joshua Wachtel, *The Restorative Practices Handbook for Teachers, Disciplinarians and Administrators* 50 (2009).

<sup>45</sup> Interview with Jeffrey Christensen, Policy Director, Canyons School District, Utah (Nov. 21, 2013).

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- <sup>46</sup> West Lake Junior High Official Website *available at* <http://schools.graniteschools.org/westlakejr/programs/care-team/> (last visited Sept. 6, 2014).
- <sup>47</sup> Interview with Counselor, West Lake Junior High, in West Valley City, Utah (Apr. 15, 2014).
- <sup>48</sup> *Id.*
- <sup>49</sup> Utah State Office of Education Official Website *available at* <http://www.schools.utah.gov/umtss/> (last visited Sept. 6, 2014).
- <sup>50</sup> Utah State Office of Education, *Dropout Prevention in Utah*, (January 2014), *available at* <http://www.schools.utah.gov/prevention/DOCS/DropoutPrevention/WebBOOK2014.aspx> [hereinafter *Dropout Prevention*].
- <sup>51</sup> U.S. Department of Education Institute of Education Sciences Practice Guide, Dropout Prevention (Sept. 2008) *available at* <http://ies.ed.gov/ncee/wwc>.
- <sup>52</sup> *Dropout Prevention*, *supra* n. 50.
- <sup>53</sup> Hickman, G.P., & Wright, D., *Academic and School Behavioral Variables as Predictors of High School Graduation Among At-Risk Adolescents Enrolled in a Youth-Based Mentoring Program*, *The Journal of At-Risk Issues* 16(1), pp. 25-33 (2011).
- <sup>54</sup> Horner, Rob, George Sugai, Don Kiincaid, et. al., *What Does it Cost to Implement School Wide PBIS?* (July 2012) *available at*: [http://www.pbis.org/common/pbisresources/publications/20120802\\_WhatDoesItCostToImplementSWPBIS.pdf](http://www.pbis.org/common/pbisresources/publications/20120802_WhatDoesItCostToImplementSWPBIS.pdf)
- <sup>55</sup> *Id.*
- <sup>56</sup> See Voices of Youth in Chicago Education, *Failed Policies, Broken Futures: The True Cost of Zero Tolerance in Chicago* July 2011, pp. 23-24, *available at* <http://www.publicinterestprojects.org/wp-content/uploads/downloads/2011/08/VOYCE-report-2011.pdf> [hereinafter *Voices*].
- <sup>57</sup> *Id.* at n.18.
- <sup>58</sup> *Id.*
- <sup>59</sup> Jessica Ashley & Kimberly Burke, *Implementing Restorative Justice: A Guide for Schools*, Illinois Criminal Justice Authority 16 (Oct. 1, 2009), *available at* <http://www.icjia.state.il.us/public/pdf/BARJ/SCHOOL%20BARJ%20GUIDEBOOOK.pdf>.
- <sup>60</sup> Fix School Discipline. *Highlight: Pioneer High School, Woodland* <http://www.fixschooldiscipline.org/toolkit/community/pioneerhs/> (Last visited Sept. 17, 2014).
- <sup>61</sup> Wisconsin PBIS Network. *Benefits and Costs*, *available at* <http://www.wisconsinpbisnetwork.org/coaches/getting-started/benefits-costs.html> (Last visited Sept. 19, 2014).
- <sup>62</sup> *Id.*
- <sup>63</sup> Myriam Baker, DPS Restorative Justice Project: Year Three Year End Report, 2008-2009 (2009), *available at* [http://www.restorativejusticecolorado.org/\\_literature\\_55812/Denver\\_Public\\_Schools\\_Restorative\\_Justice\\_Program\\_Final\\_Report\\_2008-2009](http://www.restorativejusticecolorado.org/_literature_55812/Denver_Public_Schools_Restorative_Justice_Program_Final_Report_2008-2009). (Last visited Sept. 19, 2014).
- <sup>64</sup> *Id.*
- <sup>65</sup> Poppen, Julie, *Role of Police Redefined in Denver Schools*. EdNews Colorado (Feb. 19 2013), *available at* <http://www.ednewscolorado.org/news/role-of-police-redefined-in-denver-schools>. (Last visited Sept. 19, 2014).
- <sup>66</sup> International Institute for Restorative Practices, *Improving School Climate: Findings from Schools Implementing Restorative Practices* (last updated June 5, 2014, *available at* <http://www.iirp.edu/pdf/IIRP-Improving-School-Climate.pdf>. (Last visited Sept. 19, 2014).
- <sup>67</sup> Fix School Discipline, *Highlight: Pioneer High School, Woodland*, *available at* <http://www.fixschooldiscipline.org/toolkit/community/pioneerhs/>. (Last visited Sept. 19, 2014).
- <sup>68</sup> *Id.* (30 more students are attending school per day).
- <sup>69</sup> *Id.* The academic performance index (API) is part of California's *Public Schools Accountability Act of 1999* (Cal. Educ. Code § 52052 as amended by MAINTENANCE OF CODES, 2013 Cal. Legis. Serv. Ch. 76 (A.B. 383). The API "measure[s] the performance of schools and school districts, especially the academic performance of pupils" on a range of 200-1000.
- <sup>70</sup> *Id.*
- <sup>71</sup> Dignity in Schools, *Fact Sheet: Creating Positive School Discipline* (October 13, 2010), *available at* [http://www.dignityinschools.org/sites/default/files/Fact\\_Sheet\\_RestorativeJustice\\_PBIS.pdf](http://www.dignityinschools.org/sites/default/files/Fact_Sheet_RestorativeJustice_PBIS.pdf). (Last visited Sept. 19, 2014).
- <sup>72</sup> Eber, L. et. al, *End of Year Report FY12*, 60-61 Illinois PBIS Network (December, 2012).
- <sup>73</sup> *Id.* at 65-66.

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<sup>74</sup> PBIS Apps, *School Safety Survey*, (Last Visited Sept. 19, 2013), available at <https://www.pbisapps.org/Applications/Pages/PBIS-Assessment-Surveys.aspx#sss>.

<sup>75</sup> *End of Year Report FY12*, *supra* n. 75 at 64-65.

<sup>76</sup> *Id.* at 66-67.

<sup>77</sup> Dignity in Schools, *Fact Sheet: Creating Positive School Discipline* (October 13, 2010), available at [http://www.dignityinschools.org/sites/default/files/Fact\\_Sheet\\_RestorativeJustice\\_PBIS.pdf](http://www.dignityinschools.org/sites/default/files/Fact_Sheet_RestorativeJustice_PBIS.pdf).

<sup>78</sup> Florida PBIS, *Florida's Positive Behavioral Support Project: Annual Outcome and Evaluation Report*, (December 2012), available at <http://flpbs.fmhi.usf.edu/pdfs/FLPBS%20Annual%20Report%202011%202012.pdf>.

<sup>79</sup> Medina, Jennifer, *Los Angeles to Reduce Arrest Rates in Schools*, The New York Times (Aug. 19, 2014), available at [http://www.nytimes.com/2014/08/19/us/los-angeles-to-reduce-arrest-rate-in-schools.html?\\_r=0](http://www.nytimes.com/2014/08/19/us/los-angeles-to-reduce-arrest-rate-in-schools.html?_r=0).

<sup>80</sup> Wantanabe, Teresa, *L.A. Schools Will No Longer Suspend a Student for Being Defiant*, L.A. Times (May 15, 2013), available at <http://articles.latimes.com/2013/may/15/local/la-me-ln-laUSD-suspensions-20130515>) (noting that students were frequently suspended under this broad and highly discretionary category for actions such as refusing to take off a hat, turn off a cellphone, or wear a school uniform).

<sup>81</sup> See *Medina*, *supra* n.79.

<sup>82</sup> Michael D. Sumner et al., *School Based Restorative Justice as an Alternative to Zero Tolerance Policies: Lessons from West Oakland* (2010).

<sup>83</sup> International Institute for Restorative Practices a Graduate School (IIRP), *Improving School Climate: Findings From Schools Implementing Restorative Practices* (2009), available at <http://www.iirp.edu/pdf/IIRP-Improving-School-Climate.pdf>.

<sup>84</sup> Fix School Discipline, *Fix School Discipline: The Solution*, <http://www.fixschooldiscipline.org/solutions/>.

<sup>85</sup> Ted Wachtel, *Defining Restorative* (Aug. 16, 2012), available at <http://www.iirp.edu/pdf/Defining-Restorative.pdf>.

<sup>86</sup> *Tools of Restorative Practices*, Center for Professional Development (Sept. 13, 2013), available at <http://lms.dcsdk12.org/pd/mod/book/view.php?id=8697&chapterid=3707>.

## The University of Utah S.J. Quinney College of Law Clinical Program

The College of Law's Clinical Program allows student to gain hands-on experience while earning academic credit in a wide range of diverse settings, from judicial chambers and civil rights organizations to business, technology and environmental placements, in local community agencies and in international arenas. The program was recently ranked second in the nation by the *National Jurist* magazine for the number of opportunities it provides for clinical experiences in the community.

Clinics include a classroom component, which helps students prepare for their legal work and offers a forum for students to reflect on their experiences. Clinical placements help students to develop a range of practice-related skills and to gain insights into their strengths and career preferences. Clinic students donated 40,000 hours of service in 2012-2013.

The Public Policy Clinic provides second and third year law students at the S.J. Quinney College of Law with an opportunity to effect public policy change through public education, the legislative process, and litigation. The Clinic is currently focused on helping to put an end to the school-to-prison pipeline in Utah.

For more information, visit [law.utah.edu](http://law.utah.edu)

For more information on the Public Policy Clinic or the School to Prison Pipeline  
visit [publicpolicyclinic.com](http://publicpolicyclinic.com) or [law.utah.edu](http://law.utah.edu) or email the clinic at  
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