

Charter Schools, Civil Rights and School Discipline

A Comprehensive Review

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The Center for Civil Rights Remedies

at The Civil Rights Project | *Proyecto Derechos Civiles*

Executive Summary • March 2016

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Executive Summary

In 2011-12, every one of the nation's 95,000 schools was required to report its school discipline data, including charter schools. This report, along with the companion spreadsheet, provides the first comprehensive description of the use of suspensions by charter schools. This report, which covers more than 5,250 charter schools, focuses on out-of-school suspension rates at the elementary and secondary levels. It specifically examines the extent to which charter schools suspend children of color and children with disabilities at excessive and disparate rates.

The report lists the highest-suspending charters in the nation for several racial/ethnic groups, and also describes the discipline gaps by race/ethnicity and by disability status. Here are some examples:

- In the 2011-12 school year, 374 charter schools suspended 25% of their enrolled student body at least once.
- Nearly half of all Black secondary charter school students attended one of the 270 charter schools that was hyper-segregated (80% Black) and where the aggregate Black suspension rate was 25%.
- More than 500 charter schools suspended Black charter students at a rate that was at least 10 percentage points higher than the rate for White charter students.
- Even more disconcerting is that 1,093 charter schools suspended students with disabilities at a rate that was 10 or more percentage points higher than for students without disabilities.
- Perhaps the most alarming finding is that 235 charter schools suspended more than 50% of their enrolled students with disabilities.¹

On the other hand, some readers will also be surprised to learn that lower-suspending charter schools are more numerous than high-suspending charters. One can reasonably infer that, like non-charter schools, there are likely many effective charter schools that reserve suspension as a measure of last resort.² Therefore, while this report suggests that many charter schools with excessive suspension rates are contributing to the school-to-prison pipeline and that some are likely violating

the civil rights of their students, it also suggests that other charter schools likely offer excellent examples of effective non-punitive approaches to school discipline and could help close the pipeline.

Part II of this report explores the question, "How do charter school suspension rates compare with rates for non-charter schools?" In 2011-12, the average suspension rate for all charter schools combined was 7.8%. The average for all non-charter schools was 6.7%. This 1.1 point absolute difference, expressed in purely relative terms, means that, nationally, the charter school suspension rate was 16% higher than the non-charter school suspension rate.

The data raise concerns that are especially relevant in light of the fact that the federal Every Student Succeeds Act (ESSA) has added several provisions relating to school discipline, including a requirement that every state review its schools and districts and reduce the "overuse of suspension."³ By fall 2016, every state must submit a plan for implementing the ESSA requirements for approval by the U.S. Secretary of Education. That plan must include assurances that it will meet this obligation. Unless a state law explicitly exempts charter schools, ESSA makes it clear that charters are expected to comply fully with the requirements of the new law.⁴

The additional core findings listed below inform the recommendations we make for policymakers, which will conclude this report.

- The 20 highest-suspending charter schools in 2011-12 all suspended more than two-thirds of their student body at least once; all but six of these schools had Black enrollment greater than 50%.
- At 484 charter schools, the suspension rate for students with disabilities was 20 percentage points higher than for those without disabilities.
- Racial disparities in Black and White charter students' suspension rates were found to be quite large at both the elementary and secondary school levels; however, the 6.4 percentage point Black-White discipline gap at the elementary level more than doubled to 16.4 points at the secondary level.

- Charter schools consistently suspended students with disabilities at a higher rate than non-charters; the rate was 15.5% for charters, compared with 13.7% for non-charters.
- However, charters were not consistently higher suspending than non-charters for each racial group at each grade configuration.
- Data from the U.S. Office for Civil Rights (OCR) suggest that more than 17% of all secondary-level charter schools suspended no students. For non-charters, just over 8% of secondary schools suspended zero students. This raises questions about whether charter schools may be violating civil rights law by not reporting the data on whom they exclude from school on disciplinary grounds.
- Several civil rights investigations have been conducted into charter schools' disciplinary policies, and some charters have subsequently agreed to change their policies and practices and to use more effective approaches.

Part III addresses concerns that charter school leaders won't respond to growing knowledge about the harm caused by harsh discipline policies or to evidence of the effectiveness of non-punitive alternatives. Therefore, our core recommendation is that, when it comes to efforts to curb the overuse of disciplinary exclusion and to replace unjustifiable policies with more effective alternatives, there should be no exemptions or excuses for charter schools.

Our findings in this report also support the following specific recommendations:

1. States should ensure that the state plans they create to implement ESSA do not exempt charters from their required efforts to improve the conditions of learning, including identifying and curbing the overuse of suspension.
2. Pursuant to the new ESSA requirements, states should select school climate as the required additional indicator for their

statewide accountability systems, and also include a review of discipline disparities by race, disability, and gender as one of the ways school climate is evaluated.

3. To ensure that parents can make an informed choice of school for their children, charter and non-charter schools should publicly report their disaggregated discipline data annually, in keeping with ESSA's required annual state and district report cards.
4. Federal civil rights enforcement agencies should monitor charter schools closely for discipline disparities generated by harsh policies and practices.
5. OCR should hold all schools accountable if they fail to collect or report the required data, and also indicate such non-compliance in public reports.
6. In the course of monitoring charter schools with high and disparate discipline rates, federal and state civil rights enforcement agents should insist that schools relying on "broken windows" theory or similar zero-tolerance approaches consider less discriminatory alternatives.
7. Researchers should identify and study charter schools that demonstrate an exemplary school climate, including the infrequent use of disciplinary exclusion.
8. Legislators should support the replication of charters that have created an exemplary school climate without relying on punishment or exclusion, in particular those that also provide a diverse learning environment and help reduce racial isolation.
9. Federal and state policymakers should take action to ensure that charter schools enroll a representative population of students with disabilities and English learners.

In this report's companion spreadsheet, readers will see the wide range of suspension rates at elementary and secondary schools and can use the spreadsheet to find the data on a particular charter school or to rank all the charters in a given state by suspension rate, enrollment, grade configuration, or other demographic factors.

Endnotes

¹ To get this count, we started with schools that had at least 50 students enrolled, and we excluded alternative schools, schools identified as part of the juvenile justice system, virtual schools, and schools that enrolled fewer than 10 students with disabilities. Any school where rounding of the data or another error produced a suspension rate of over 100% for a subgroup was also excluded.

² This is a general inference that is not based on an analysis conducted with these data. Other studies have found that, after controlling for poverty and other variables, high-suspending schools predicted lower achievement rates (Skiba, 2006) and lower graduation rates (Fabelo, 2011).

³ The Every Student Succeeds Act of 2015 (ESSA), in Section 1111(g) says that the state plan "shall describe...(C) how the State educational agency will support local educational agencies receiving assistance under this part to improve school conditions for student learning, including through reducing...(ii) the overuse of discipline practices that remove students from the classroom."

⁴ For example, the law makes it clear at Section 1111(c)(5) that the accountability provisions apply to charter schools, and that charter schools will be overseen in accordance with state charter school law.



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