

Congress of the United States  
Washington, DC 20515

September 17, 2020

The Honorable Charlie Baker  
Governor  
Commonwealth of Massachusetts  
State House, Room 360  
Boston, MA 02133

Dear Governor Baker,

Across the Commonwealth, the education of Black and brown students is being disrupted as a result of discriminatory and overly punitive school discipline policies that too often criminalize and push them out of school. We write today to express our deep concerns regarding these racial inequities and disparities in school discipline that are plaguing our public education system and making it harder for students of color, including students with disabilities and LGBTQIA students to learn and thrive in school. We urge you to reduce these disparities and prioritize the implementation of statewide reforms that will redress these injustices and improve school climates for all students.

A report recently released by the Appleseed Network has once again shone a light on the disparate impact of school discipline practices nationwide on Black and brown students—particularly Black and brown girls—students with disabilities, LGBTQIA students and other marginalized students.<sup>1</sup> This report highlighted the ways in which overly punitive zero-tolerance school discipline policies disproportionately push girls of color out of school and into the criminal legal system as part of the school-to-confinement pathway.<sup>2</sup> For instance, in Massachusetts, Black girls are 4 times more likely to face suspensions, expulsions, referrals to law enforcement, and school-based arrests<sup>3</sup> than their white counterparts for the same minor infractions.<sup>4</sup> The punitive policies that are fueling our nation’s school pushout crisis stem from deeply entrenched biases that unfairly discipline Black and brown girls for the way they wear

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<sup>1</sup> Willkie Farr & Gallagher LLP, “Appleseed Network: Protecting Girls of Color From The School-To-Prison Pipeline” (September, 2020) [http://www.appleseednetwork.org/uploads/1/2/4/6/124678621/appleseed\\_network\\_-\\_protecting\\_girls\\_of\\_color\\_2020.pdf](http://www.appleseednetwork.org/uploads/1/2/4/6/124678621/appleseed_network_-_protecting_girls_of_color_2020.pdf)

<sup>2</sup> Monique W. Morris, PUSHOUT: The Criminalization of Black Girls in Schools (New York, The New Press, 2018)

<sup>3</sup> Willkie Farr & Gallagher LLP, “Appleseed Network: Protecting Girls of Color From The School-To-Prison Pipeline” (September, 2020) [http://www.appleseednetwork.org/uploads/1/2/4/6/124678621/appleseed\\_network\\_-\\_protecting\\_girls\\_of\\_color\\_2020.pdf](http://www.appleseednetwork.org/uploads/1/2/4/6/124678621/appleseed_network_-_protecting_girls_of_color_2020.pdf)

<sup>4</sup> The Education Trust and National Women’s Law Center, “...And They Cared, How to Create Better, Safer Learning Environments for Girls of Color,” (August, 2020) [https://edtrust.org/wp-content/uploads/2014/09/And-they-cared-How-to-create-better-safer-learning-environments-for-girls-of-color\\_Aug-2020.pdf](https://edtrust.org/wp-content/uploads/2014/09/And-they-cared-How-to-create-better-safer-learning-environments-for-girls-of-color_Aug-2020.pdf)

their hair,<sup>5</sup> their communication styles, their expressions, and the trauma they have experienced.<sup>6</sup> This dangerous cycle begins as early as preschool where Black girls make up only 20% of all students, but more than half of their school population's suspensions.<sup>7</sup> These punitive policies have profound and long-term effects on the safety, wellbeing, and academic success of young girls of color.

As the COVID-19 pandemic continues to wreak havoc on our communities—particularly Black and brown communities—and impose lasting trauma on our children, students deserve safe and supportive learning environments that will center their healing. H.R. 5325, the Ending Punitive, Unfair, School-based Harm that is Overt and Unresponsive to Trauma (PUSHOUT) Act provides a robust framework to bring an end to the criminalization of students experiencing trauma and instead create learning ecosystems where all students—including Black girls—can thrive. In light of the ongoing concerns around overly-punitive school discipline practices taking place across the Commonwealth, we urge you to take bold steps to implement state-wide reforms called for in the Ending PUSHOUT Act, including encouraging school districts to ban the use of suspensions and expulsions for minor infractions and reduce the presence of law enforcement in schools; supporting professional development for educators and school personnel on combatting implicit bias and supporting students experiencing trauma; and investing in behavioral and trauma-informed, culturally and linguistically responsive and gender-specific services, and supports that finally equip schools to be locations for healing so that they can be locations for learning.

In addition to supporting school districts throughout the Commonwealth in abandoning discriminatory discipline policies, we respectfully request that you provide answers to the following questions in writing by October 1, 2020:

1. Please provide a list of actions your administration has taken to combat discrimination in school discipline and any additional steps you plan to take to fully eliminate racial disparities in school discipline practices.
2. As you know, the Massachusetts Legislature passed Chapter 222 in 2012, which went into effect in 2014 with the goal of reducing the use of out of school suspensions for minor infractions by requiring the use of restorative justice and other alternatives. While initial data shows some improvements<sup>8</sup>, this recent report underscores the need for bold reforms and urgent actions to redress these injustices and build on these reforms. Please provide a list of actions your administration has taken to reduce these disparities and

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<sup>5</sup> Kay Lazar, Boston Globe, Black Malden Charter Students Punished for Braided Hair Extensions, (May, 2017) <https://www.bostonglobe.com/metro/2017/05/11/black-students-malden-school-who-wear-braids-face-punishment-parents-say/stWDIBSCJhw1zocUWR1QMP/story.html>

<sup>6</sup> National Black Women's Justice Institute, "End School Pushout for Black Girls and Other Girls of Color," (Sept. 2019) [https://static.wixstatic.com/ugd/0c71ee\\_7d6b6469aa144b0397a4d7cd5d0f8051.pdf](https://static.wixstatic.com/ugd/0c71ee_7d6b6469aa144b0397a4d7cd5d0f8051.pdf)

<sup>7</sup> Mackenzie Chakara, Center for American Progress, "From Preschool to Prison: The Criminalization of Black Girls" (December, 2017) <https://www.americanprogress.org/issues/race/news/2017/12/08/443972/preschool-prison-criminalization-black-girls/>

<sup>8</sup> National Women's Law Center, "...And They Cared, How to Create Better, Safer Learning Environments for Girls of Color," (August, 2020) <https://edtrust.org/wp-content/uploads/2014/09/And-they-cared-How-to-create-better-safer-learning-environments-for-girls-of-color-Aug-2020.pdf>

repair the trauma already inflicted on students of color—particularly Black girls—who have disproportionately borne the brunt of these discriminatory school discipline practices.

3. Please provide an overview of actions your administration has taken to encourage school districts throughout the Commonwealth to abandon discriminatory school policies and instead develop and implement restorative, trauma-informed alternatives that do not disrupt a student’s education and push them into the school-to-prison pipeline.
4. Across the Commonwealth, more than 600,000 students attend a school that fails to meet the adequate school to counselor ratios and more than 33% of students attend a school with a police officer but no school psychologist, school nurse, counselor or social worker.<sup>9</sup> Research has shown that schools with police officers report nearly 5 times the amount of arrests than schools without police. Please provide an overview of actions your administration has taken to increase the number of mental health practitioners, counselors, and school nurses in schools and reduce the use of police in schools?
5. The COVID-19 pandemic has exacerbated existing inequities that disproportionately impact communities of color. For instance, students of color who do not have reliable access to broadband and other remote learning technology are more likely to fall behind in coursework in school districts that have chosen to reopen classrooms in remote settings. Please share your administration’s plan for continuing to collect school discipline data, monitor and reduce disparities in school discipline in remote learning settings.
  - a. Does your administration plan to release guidance to school districts on ways to reduce the use of overly punitive school discipline practices in light of COVID-19, including: recommendations to eliminate the use of suspensions, expulsions, and referrals to law enforcement?
  - b. How does your administration plan to support school districts in providing anti-racist, anti-sexist bias training and other professional development to educators and staff to help reduce overly punitive school discipline practices?
  - c. Does your administration plan to release guidance to districts on ways to perform wellness checks, use multiple methods to contact hard to reach families, and keep students connected and engaged during distance learning that do not threaten family separation or involvement in the criminal justice system?
6. How has the U.S. Department of Education supported or assisted your administration in addressing the disparate impact of school discipline at the state-level? Are there ways in which they could be more helpful?
7. In December of 2018, the Federal School Safety Commission, chaired by U.S. Secretary of Education Betsy DeVos, released its recommendations on school discipline. The commission’s report ultimately led to the repeal of the 2014 Obama administration

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<sup>9</sup> American Civil Liberties Union, “Cops and No Counselors, How the Lack of Mental Health Staff is Harming Students,” (2020), Amir Whitaker, Sylvia Torres-Guillen, Michelle Morton, Harold Jordan, Stephanie Coyle, <https://www.aclu.org/issues/juvenile-justice/school-prisonpipeline/cops-and-no-counselors>

guidance on civil rights protections for students of color and instead encouraged increased police presence in schools and the arming of school personnel.<sup>10</sup> How has this report or the school discipline guidance released by Secretary DeVos impacted your administration's approach to developing safe and affirming learning environments in schools?

8. Is there any additional support or resources that Congress can provide on the federal level to help Massachusetts end discriminatory school discipline practices?

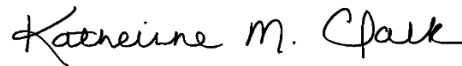
In this moment of national reckoning on racial justice, we must confront and uproot all forms of systemic racism, which includes school discipline practices that criminalize Black and brown students. As your administration continues to address these issues, we urge you to advance reforms that protect and uplift our students of color.

Thank you for your attention to this matter.

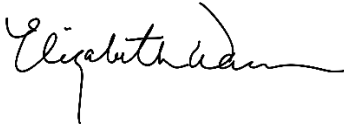
Sincerely,



Ayanna Pressley  
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Katherine Clark  
MEMBER OF CONGRESS



Elizabeth Warren  
UNITED STATES SENATOR



Edward J. Markey  
UNITED STATES SENATOR



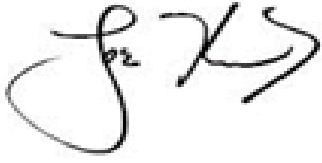
Richard E. Neal  
MEMBER OF CONGRESS



James P. McGovern  
MEMBER OF CONGRESS

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<sup>10</sup> Department of Education, Final report of the Federal Commission on School Safety (December, 2018)  
[https://www2.ed.gov/documents/school-safety/school-safety-report.pdf?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term=](https://www2.ed.gov/documents/school-safety/school-safety-report.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=)




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