

Congress of the United States
Washington, DC 20515

September 17, 2020

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary DeVos,

We write today to express our strong concerns regarding the racial inequities and disparities in school discipline that are plaguing our public education system and disproportionately impacting students of color—particularly Black girls across Massachusetts and the rest of the United States. Our nation is in the midst of a moment of reckoning on racial justice and these times require us to be unapologetic in our efforts to confront and uproot all forms of systemic racism, including discriminatory school discipline policies that criminalize students of color.

A report recently released by the Appleseed Network has once again shone a light on the long-standing racial disparities that students of color, students with disabilities, and LGBTQIA students face in school discipline practices nationwide.¹ This report highlights the need to redress the impact of unjust disciplinary practices rooted in bias that unfairly disciplines Black and brown girls for their appearance, their communication styles, and the trauma they have experienced. Studies have previously shown that across the nation, Black girls are nearly 7 times more likely to be suspended and 4 times more likely to be arrested at school than white female students.² In the Commonwealth of Massachusetts, Black girls are 4 times more likely to face suspensions, expulsions, referrals to law enforcement, and school-based arrests than their white counterparts for the same minor infractions.³ 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.⁴ These punitive policies have profound consequences on young girls of color and push them into juvenile and adult justice systems, also known as the “school-to-prison pipeline.”

¹ 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

² National Black Women's Justice Institute, “End School Pushout for Black Girls and Other Girls of Color,” (September, 2019) https://static.wixstatic.com/ugd/0c71ee_7d6b6469aa144b0397a4d7cd5d0f8051.pdf

³ 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

⁴ 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/>

As federal policymakers, we are aware that the Department of Education possesses the full authority to provide state and school officials with the tools and resources necessary to eliminate these discriminatory practices and mitigate harm imposed on students. However, under your failed leadership, the Department has revoked the 2014 Obama administration guidance that promoted evidence-based discipline practices to reduce these racial disparities and equip school districts with the tools necessary to foster safe and nurturing learning environments.

In light of the ongoing concerns around discriminatory school discipline practices taking place across the Commonwealth and the nation, we request that you provide answers to the following questions in writing by October 1, 2020:

1. The most recent school discipline data collected by the Department of Education’s Civil Rights Data Collection (CRDC) is from the 2015 school year. Furthermore, this outdated data does not highlight factors such as a students’ age, the number of reported disciplinary instances within a single school year, and the reasoning behind the disciplinary action. For policymakers, the annual collection and transparent publication of data is key to advancing meaningful reform and ensuring that the rights of all students – specifically students of color, students with disabilities, LGBTQIA students, and other marginalized students – are protected.
 - a. What is your Department’s process for collecting and monitoring racial disparities in school discipline data within the Civil Rights Data Collection?
 - b. In response to questions for the record from a congressional hearing on fiscal year 2020 budget priorities, you promised in writing to the House Committee on Appropriations to “publish an annual report summarizing civil rights enforcement and compliance activities for 2017 and 2018, and in a manner more timely than the first report of the previous administration, which covered four years (2009-2012).” How has your Department met this explicit commitment to regularly publish this data? When will your Department publish the latest CRDC data collected for the 2017-2018 school year?
 - c. For the 2019-2020 CRDC, your Department proposed halting critical data collection related to school discipline in preschool and kindergarten settings. Does your Department still plan on moving forward with these plans? If so, what is the justification for abandoning data collection on the impact of punitive school discipline practices on our youngest learners?
2. You have maintained on the record that no child should be treated or disciplined differently based on their background, and yet, racial discrimination continues to persist in school discipline practices. What concrete actions or steps is your Department currently taking to address the impact of discriminatory school discipline policies on the academic achievement of Black female students and other students of color?
3. Please list discrete examples demonstrating how your Department has ensured that state and local education agencies are held accountable for creating safe, nurturing, and trauma-informed school environments for students of color – specifically Black girls.

4. In December of 2019, President Donald Trump signed H.R. 1865 into law (P.L. 116-94). The final Joint Explanatory Statement that accompanied that law included report language from House Report 116-62 that stated: “The Committee directs the Department, within 30 days of enactment of this Act, to remove references to the report entitled: ‘Prior problem behavior accounts for the racial gap in school suspensions’ from all materials on the Department’s website, guidance, or reports. Furthermore, the Committee directs the Department to reconsider the rescission of the 2014 ‘Rethink School Discipline’ guidance.” This language clearly directed your Department to strip this racist research from any and all Department materials.

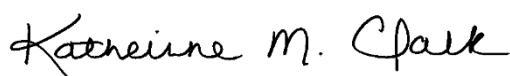
In response, your Department included in its fiscal year 2021 budget this statement: “The Department stands by the Final Report of the Federal Commission on School Safety.” This response was an evasive and cowardly refusal to conform to the law and abide by the will of the American people. To add fuel to flame, on September 4, 2020, the Trump administration instituted a government-wide directive to halt all anti-racism and anti-bias training, claiming such training is “anti-American.” Taking into account your Administration and Department’s growing list of regressive policies, when will you comply with this report language and remove references to this racist research as required by federal law?

5. Students, educators, researchers, and advocates have called for the end of overly punitive and discriminatory discipline practices that criminalize black and brown students and disrupt their educational experience. 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 and instead invest in nurturing and trauma-informed learning ecosystems where all students can thrive. How is your Department working to support states and districts seeking to abandon discriminatory discipline policies and invest in nurturing school environments?

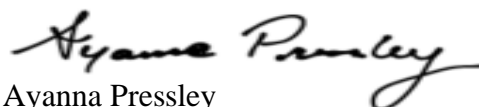
Under your watch, the Department of Education has worked tirelessly to undermine civil rights protections and encouraged harmful disciplinary practices that deprive students of color – especially Black girls – of their equal opportunity to a quality education. We strongly urge you to redress the disparate impact school discipline practices have on students of color and advance desperately needed reforms to allow all students to the chance to thrive and reach their fullest potential.

We appreciate your attention to this matter and look forward to your timely response.

Sincerely,



Katherine Clark
MEMBER OF CONGRESS



Ayanna Pressley
MEMBER OF CONGRESS



Elizabeth Warren
UNITED STATES SENATOR



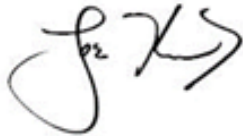
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