

The Ending Punitive, Unfair, School-Based Harm that is Overt and Unresponsive to Trauma (PUSHOUT) Act

Reps. Ayanna Pressley (MA-07), Ilhan Omar (MN-05), Bonnie Watson Coleman (NJ-12)

BACKGROUND

Across the country, the education of Black and brown students is often disrupted as a result of discriminatory and punitive discipline policies that criminalize and push them out of school. In particular, Black girls are suspended, expelled, referred to law enforcement, and arrested on school campuses at disproportionately higher rates than white girls due to unfair dress code and hair policies and a lack of understanding of the historical, social, and economic inequities such as poverty, trauma, hunger, and violence that often impact student behavior. Overall, Black girls, girls of color, LGBTQI+ students, and students with disabilities are disproportionately subjected to exclusionary school discipline policies such as suspension and expulsion, which can have long-term effects on the safety, wellbeing, and academic success of all students.

Even in virtual classrooms during the COVID-19 public health crisis, discriminatory and punitive discipline policies have only exacerbated education inequities. Black, brown, and LGBTQI+ students, as well as students with disabilities, report being subject to new and unregulated forms of exclusionary discipline while coping with the unprecedented stresses of learning in a pandemic, such as being locked out of online classrooms and school email accounts and sent home to attend class virtually while the rest of the school meets in-person. Throughout the nation, students, particularly Black girls, struggling with the upheaval of COVID-19 have had their reactions criminalized. For example, during her school closure and at the height of the pandemic, a 15-year-old Black girl living with ADHD in Michigan was incarcerated in a juvenile detention facility for months, with a judge citing her failure to complete her online coursework as a violation of her parole.¹ This incident is not isolated, and the need to ensure a safe and nurturing school environment for all students remains clear.

The PUSHOUT Epidemic

- Nationally, students lose over 11 million days of instruction as a result of out-of-school suspension.²
- Black students lose nearly five times the amount of instruction as white students due to out-of-school suspension.³
- 24 percent of Black students with disabilities and 15 percent of Indigenous students with disabilities were suspended out of school at least once in the 2017-2018 school year.⁴

¹ *A Teenager Didn't Do Her Online Schoolwork. So a Judge Sent Her to Juvenile Detention*, ProPublica (July 2020), <https://www.propublica.org/article/a-teenager-didnt-do-her-online-schoolwork-so-a-judge-sent-her-to-juvenile-detention>.

² *11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools (Part 1)*, American Civil Liberties Union (Aug. 2018), <https://www.aclu.org/report/11-million-days-lost-race-discipline-and-safety-us-public-schools-part-1>.

³ *Id.*

⁴ *Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies*, The Center for Civil Rights Remedies (March 2021), <https://schooldisciplinedata.org/ccrr/docs/final-Report-03-22-21-v5-corrected.pdf>.

- Discipline disparities begin as early as preschool, with Black preschool students making up less than 20 percent of the total student population but over 40 percent of students who are suspended and nearly 40 percent of those expelled.⁵
- LGBTQI+ students experience disproportionate rates of exclusionary discipline, with Black and brown girls who identify as lesbian experiencing the steepest disparity.⁶
- Corporal punishment (e.g., spanking and paddling) is still permitted in 19 states across the country and is disproportionately administered on Black students and students with disabilities. Black girls account for 47 percent of girls subjected to corporal punishment in U.S. schools, though they only make up 15 percent of girls enrolled.⁷
- Increased policing in schools has been shown to increase surveillance and criminalization of students – especially students of color.⁸

The Ending PUSHOUT Act

The Ending PUSHOUT Act will work to disrupt the school-to-confinement pathway by investing in safe and nurturing school environments for all students, especially girls of color. Specifically, the bill does this by:

- 1. Establishing new federal grants to support states and schools that commit to ban unfair and discriminatory school discipline practices and improve school climates by:**
 - a. Revamping and co-constructing school discipline policies (including appearance and grooming policies) in partnership with students, families, and community members.
 - b. Providing professional development to educators on implicit bias, restorative practices, trauma-informed approaches, and other culturally and linguistically relevant strategies.
 - c. Investing in counselors, social workers and mental health professionals, and implementing trauma-informed interventions and behavioral counseling that keep students safe and in the classroom.

Grantees would be required to:

- a. Ban most suspensions and expulsions for our youngest learners in preschool through 5th grade.
- b. Ban suspensions and expulsions in all grades for minor infractions such as violations of grooming and appearance policies, and tardiness and chronic absenteeism.
- c. Ban corporal punishment, seclusion, and restraint of students.
- d. Prohibit funds from being used to support school-based police and any partnerships with the Department of Homeland Security or Immigration and Customs Enforcement that contribute to the school-to-deportation pipeline and criminalize normal childlike behavior.

⁵ A Holistic Approach to Ending Exclusionary Discipline for Young Learners, Children's Equity Project (2022), <https://childandfamilysuccess.asu.edu/sites/default/files/2022-09/exclusionary-discipline-093022-1.pdf>.

⁶ Educational Exclusion: Drop Out, Push Out, and the School-to-Prison Pipeline among LGBTQ Youth, Gay, Lesbian, and Straight Education Network (2016), <https://www.glsen.org/research/educational-exclusion-drop-out-push-out-school-prison-pipeline>.

⁷ Corporal Punishment in U.S. Public Schools: Prevalence, Disparities in Use, and Status in State and Federal Policy, Social Policy Report (2016), <https://ncbi.nlm.nih.gov/pmc/articles/PMC5766273/>.

⁸ Be Her Resource: A Toolkit About School Resource Officers and Girls of Color, National Black Women's Justice Institute (May 2018), https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/17_SRO-final-Acc.pdf.

- 2. Protecting the Civil Rights Data Collection and strengthening the Department of Education's (ED) Office for Civil Rights (OCR) by:**
 - a. Requiring ED to collect civil rights data *annually* to ensure all students have equal access to a high-quality education and a safe and nurturing school environment.
 - b. Requiring additional reporting on the school pushout crisis to spot harmful trends in real time and help hold schools accountable for discriminating against students.
 - c. Making data about pushout and other harmful discipline practices publicly available while protecting student privacy.
 - d. Investing \$500 million annually for OCR to build additional capacity for monitoring and enforcement of civil rights laws.

- 3. Establishing a federal interagency taskforce to end school pushout and examine its disproportionate impact on girls of color.**