



## **RESOLUTION**

January 14, 2019

**VOTED:** That the Board of Regents adopts the following resolution:

**WHEREAS**, on December 18, 2018, the federal Commission on School Safety issued its final report, in which it recommended the rescission of various federal guidance documents and associated materials regarding racial discrimination in the administration of student disciplinary policies; and

**WHEREAS**, in a December 21, 2018 “Dear Colleague Letter” (“December 21, 2018 Letter”), the United States Department of Justice (“USDOJ”) and United States Department of Education (“USDOE”) withdrew “the statements of policy and guidance” contained in the following documents: “Dear Colleague Letter on Nondiscriminatory Administration of School Discipline” dated January 8, 2014 (“January 8, 2014 Letter”); and “Overview of the Supportive School Discipline Initiative” dated January 8, 2014; and several related documents (collectively referred to as “the federal guidance documents”); and

**WHEREAS**, in the December 21, 2018 Letter, USDOJ and USDOE explained that “[t]he Departments have concluded that the Guidance and associated documents advance policy preferences and positions not required or contemplated by Title IV or Title VI”; and

**WHEREAS**, Title IV of the Civil Rights Act of 1964 (“Title IV”) prohibits discrimination in public elementary and secondary schools based on race, color, religion, sex or national origin; and Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits discrimination based on race, color, or national origin by recipients of federal financial assistance; and

**WHEREAS**, in the January 8, 2014 Letter, USDOJ and USDOE explained that the purpose of the federal guidance documents was to “help public elementary and secondary schools administer student discipline in a manner that does not discriminate on the basis of race” and to summarize “schools’ obligations to avoid and redress racial discrimination in the administration of student discipline; and”

**WHEREAS**, the January 8, 2014 Letter also provided “recommendations to assist schools in developing and implementing student discipline policies and practices equitably and in a manner consistent with their Federal civil rights obligations,” which included the following:

Develop and implement a comprehensive, school- and/or district-wide approach to classroom management and student behavior grounded in evidence-based educational practices that seeks to create a safe, inclusive, and positive educational environment.

Assist students in developing social and emotional competencies (e.g., self-management, resilience, self-awareness, responsible decision-making) that help them redirect their energy, avoid conflict, and refocus on learning.

Refer students with complex social, emotional, or behavioral needs for psychological testing and services, health services, or other educational services, where needed.

Involve students and student advocates in maintaining a safe, inclusive, and positive educational environment through programs such as peer mediation and restorative justice, as appropriate.

**WHEREAS**, in addition to studies indicating that racial disparities in student discipline rates persist in New York State and nationally,<sup>i</sup> research has also shown that students with disabilities and lesbian, gay, bisexual, transgender and questioning (“LGBTQ”) students are also at higher risk for suspension and expulsion<sup>ii</sup> and that suspension can be the first step in a series of events leading to lower student academic achievement, higher truancy rates, higher dropout rates, and higher rates of contact with the juvenile and adult justice systems<sup>iii iv v vi</sup>; and

**WHEREAS**, research has also demonstrated that the use of exclusionary discipline (removing students from their learning environment) adversely impacts school climate overall, does not make students feel safer, and can have a negative effect on other students’ academic performance and achievement<sup>vii viii</sup>; and

**WHEREAS**, research has found that the quality of the school climate is one of the most critical predictive factors in any school’s capacity to promote student achievement<sup>ix</sup>; and

**WHEREAS**, research shows that exclusionary school discipline is not an effective way to manage student behavior and the American Psychological Association has concluded that zero-tolerance policies fail to make schools safer<sup>x</sup>; and

**WHEREAS**, the Board of Regents is committed to ensuring that all students have the opportunity to learn and access programs and services in schools that foster a culture and climate and are safe havens for learning; where every student feels welcome and free from bias, harassment, discrimination, and bullying; and

**WHEREAS**, New York State’s federally-approved Every Student Succeeds Act (“ESSA”) plan is focused on providing our schools with the tools they need to give *all* students an education that meets the principles associated with educating the “whole child” and at its core, is intended to foster equity as well as positive and healthy school climates in New York State’s educational system; and

**WHEREAS**, New York State requires age-appropriate mental health instruction for students, focused on enhancing students’ understanding, attitudes, and behaviors toward well-being and human dignity, helping students identify risk and protective factors, as learning and resiliency can result in positive decision-making and life-long success; and

**WHEREAS**, with the support of the Legislature and the Governor at the request of the Board of Regents, the New York State Education Department has established a Safe and Supportive Schools program and Technical Assistance Center for schools determined to be in need of support to create positive school climates where every child feels safe and supportive and is treated with dignity and respect through the implementation of positive school climate frameworks, including Social, Emotional Learning, Restorative Practices and Trauma-Sensitive Schools;

**NOW THEREFORE**, be it hereby resolved that the Board of Regents reaffirms its commitment to continuing its efforts to ensure that all students have equitable access to learning opportunities in safe and supportive school environments free from discrimination, harassment and bias, including reducing dependence on exclusionary school discipline and increasing equity in education for all students.

---

<sup>i</sup> The New York Equity Coalition. (2018) *Stolen Time: New York State’s Suspension Crisis*. <https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/sites/5/2018/12/09090556/Stolen-Time.pdf>; Skiba, Arredondo & Rausch.

<sup>ii</sup> GLSEN. (2016). *Educational exclusion: Drop out, push out, and school-to-prison pipeline among LGBTQ youth*. New York: GLSEN <https://www.glsen.org/article/drop-out-push-out-school-prison-pipeline>

<sup>iii</sup> Skiba, Arredondo & Rausch. (2014). *New and Developing Research on Disparities in Discipline*. [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Disparity\\_NewResearch\\_Full\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Disparity_NewResearch_Full_031214.pdf).

<sup>iv</sup> Fabelo, T., M. D. Thompson, M. Plotkin, D. Carmichael, M.P. Marchbanks and E.A. Booth. (2011). *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*. New York: Council of State Governments Justice Center. <http://knowledgecenter.csg.org/kc/content/breaking-schools-rules-statewide-study>.

<sup>v</sup> Hirschfield, P. J. (2008). Preparing for prison? The criminalization of school discipline in the USA. *Theoretical Criminology*, 12(1), 79–101; Arum, R., & Beattie, I. (1999). High school experiences and the risk of adult incarceration. *Criminology*, 37(3),515–540.

<sup>vi</sup> Rosenbaum, J. (2018). *Educational and Criminal Justice Outcomes 12 Years After School Suspension*. Youth & Society. <https://doi.org/10.1177/0044118X17752208>

<sup>vii</sup> Hirschfield, P. J. (2008). Preparing for prison? The criminalization of school discipline in the USA. *Theoretical Criminology*, 12(1), 79–101; Arum, R., & Beattie, I. (1999). High school experiences and the risk of adult incarceration. *Criminology*, 37(3),515–540.

---

<sup>viii</sup> *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies*. Cambridge, MA: Civil Rights Project, Harvard University; (2000).

[www.eric.ed.gov/ERICWebPortal/contentdelivery/servlet/ERICServlet?accno=ED454314](http://www.eric.ed.gov/ERICWebPortal/contentdelivery/servlet/ERICServlet?accno=ED454314).

<sup>ix</sup> Shindler, J., Jones, A., Williams, A.D., Taylor, C., Cardenia, H. (2016). *The school climate-student achievement connection: If we want achievement gains, we need to begin by improving the climate*. *Journal of School Administration Research and Development* 1(1), 9-16.

<sup>x</sup> American Psychological Association Zero Tolerance Task Force. (2008). *Are zero tolerance policies effective in schools? An evidentiary review and recommendations*. *American Psychologist*, 63(9), 852–862.

**Motion by:**  
**Seconded by:**  
**Action:**