

## QUICK NEW YORK STATE FACTS....

**134,772 UNIQUE PUBLIC SCHOOL STUDENTS** received an **OUT-OF-SCHOOL SUSPENSION** for one full day or longer during the 2009-10 school in New York State.<sup>1</sup>

- That's **5 PERCENT OF ALL STUDENTS** in pre-K to grade 12.
- That's **749 STUDENTS SUSPENDED EVERY DAY**, on average.

**NUMBER** of New York students affected by **OTHER EXCLUSIONARY PRACTICES** during the school year is **ESSENTIALLY UNKNOWN**.

- That's including **IN-SCHOOL SUSPENSIONS** or **MULTIPLE SUSPENSIONS, EXPULSIONS, SCHOOL-RELATED ARRESTS OR SUMMONSES**, or subsequent family or criminal **COURT APPEARANCES**.

## DISCUSSION POINTS TO FORGE A NEW YORK STATE SCHOOL-JUSTICE ACTION PLAN

**NEW YORK STATE LEADERSHIP SUMMIT ON SCHOOL-JUSTICE PARTNERSHIPS:  
KEEPING KIDS IN SCHOOL AND OUT OF COURT**

April 11-12, 2013

## QUICK FACTS....

**OUT-OF-SCHOOL SUSPENSIONS** are linked to **FALLING BEHIND** in school, **FAILING** a grade, **DROPPING OUT** of school, committing a **CRIME** and becoming **INCARCERATED** as an adult. Multiple suspensions exacerbate the effects.<sup>2</sup>

- **STUDENTS SUSPENDED** 3 or more times by 10<sup>th</sup> grade are **5 times** more likely to **DROP OUT** compared to peers with fewer or no suspensions.<sup>3</sup>

**YOUTH WITH A FIRST ARREST** are almost **2 times** more likely to **DROP OUT** compared to peers with same circumstances but no arrest.<sup>4</sup>

- **YOUTH WITH A COURT APPEARANCE** following their first arrest are nearly **4 times** more likely to **DROP OUT**.<sup>5</sup>

**YOUNG ADULTS (AGES 16-24 YRS) WHO DROP OUT** of school are **3 times** more likely to be **INCARCERATED** compared to peers who do not drop out.<sup>6</sup>

## INTRODUCTION

The discussion points set forth in the *Discussion Points to Forge a New York State School-Justice Action Plan* reflect the poignant findings from research and newly released data; the demonstrated outcomes associated with effective programs, policies and practices; and the legislation and laws that have evolved with the shifting paradigm that addresses the school-justice connection. This includes the emerging research and recommendations that were presented at the *National Leadership Summit on School-Justice Partnerships: Keeping Kids in School and Out of Court*. Based on these emerging policies, practices and laws from across New York and the nation, the following discussion points—organized by three parts: Legislative Reform, Model Protocol and Discipline Codes, and Data Collection and Reporting—provide a starting point for the discussion that is necessary to effect change. Each set of discussion points includes a brief introduction and further details for each point.

Our focus is on alternatives to the reactionary policy and practices of exclusionary discipline that for the most part (but not solely) entangle middle and secondary students. This preventive approach shares the objectives of another proactive and highly effective intervention—early childhood education.<sup>7</sup> While early education is not the focus of this Summit, the importance of early intervention merits mentioning and the far reaching advantages of this investment, that were even highlighted by President Obama in his 2013 State of the Union Address, demonstrate the social and monetary benefits of adopting proactive strategies, “Every dollar we invest in high-quality early education can save more than seven dollars later on—by boosting graduation rates, reducing teen pregnancy, even reducing violent crime.”<sup>8</sup>

This Summit brings together leaders from across the state to focus on state level statutory and policy changes that will encourage the development of safe, respectful and supportive learning environments while holding students accountable for their behavior and reserving the use of punitive measures—including school suspension, summons and arrest—for the most egregious cases; address the over-representation of school suspensions and arrests among Black students and students receiving special education services; and assist in the re-engagement for those youth involved in the justice system. It is time for New York to rally.



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# FORGING A NEW YORK STATE SCHOOL-JUSTICE ACTION PLAN

## DISCUSSION POINTS

### *Legislative Reform*

1. Create a Comprehensive Approach to Promote a Healthy and Safe School Climate
2. Require Improved Data Collection, Reporting and Responsive Intervention
3. Convene Community Stakeholders to Develop a Local Protocol on Use of Arrest and Other Law Enforcement Intervention in Schools
4. Enhance Capacity in School Staff and Safety Personnel to Promote Positive Student Interaction and Behavior
5. Require Collaborative Development and Support of Re-Entry Plans for Students Involved in Out-of-School Suspension or the Justice System

### *Model Protocol and Discipline Code*

1. Reserve the Use of Suspensions (and Other Methods of Exclusion from the Classroom Learning Environment) for Students Who Commit the Most Serious of Violent Offenses or Pose a Real, Immediate and Serious Threat to the Physical Safety of a Member of the School Community
2. Employ and Document the Use of Guidance Intervention Strategies Prior to Any Disciplinary Action
3. Incorporate and Utilize Restorative Justice Practices in the Disciplinary Process
4. Minimize the Use of Disciplinary Practices that Lead to the Criminalization of Students
5. Ensure Broader Stakeholder Inclusion in the Development and Adoption of Discipline Codes

### *Data Collection and Reporting*

1. Collect Discipline Data to Develop, Modify and Evaluate Discipline Approaches at the Student, School and District Levels
2. Promote Transparency by Reporting Discipline and School-related Arrest and Summons Data
3. Identify and Report School-related Arrest Data in Multi-systems
4. Collect and Employ Non-suspension Discipline Data to Develop, Modify and Evaluate Discipline Approaches at the Student, School and District Levels
5. Identify and Adopt Student and School Well-being Metrics

## PART 1: LEGISLATIVE REFORM

Students belong in school. School policies and disciplinary practices that discourage students from remaining in the classroom often lead to students being directly and indirectly “pushed” out of school. New York can change the trajectory of the too many young people who drop out of school or enter our justice system. Across the country, schools and justice systems leaders—in partnership with local communities—are re-thinking their systems to help produce better outcomes and reduce the number of students entering the courts. With nearly 700 individual school districts in New York – coupled with locally administered probation, social services, courts and law enforcement agencies – reform measures need legislative impetus to effect the statewide change that will benefit each and every student in New York.

### FIVE LEGISLATIVE CONSIDERATIONS

#### TO MOVE THE SCHOOL-JUSTICE AGENDA FORWARD IN NEW YORK STATE

## 1. Create a Comprehensive Approach to Promote a Healthy and Safe School Climate

A number of states have used statutory reform to promote a healthy and safe school climate through positive discipline alternatives and minimizing the use of out-of-school suspensions.<sup>9</sup> For example,

- California A.B. 1729 (effective this year) permits suspensions only after alternative disciplinary practices have been tried and are unsuccessful in correcting student misbehavior.<sup>10</sup>
- Indiana reform requires a graduated discipline ladder that includes actions that may be taken in lieu of suspension and expulsion and requires the state to develop a model discipline code for school districts to base revisions on, after incorporating parents, students and district personnel in the development.<sup>11</sup>
- Florida minimized zero tolerance policies by requiring a student's individual circumstances to be taken into account in determining appropriate discipline for student misbehavior.<sup>12</sup>
- Louisiana and Colorado added restorative justice practices to the alternatives in school district discipline codes.<sup>13</sup>
- Indiana requires school districts to use evidence-based practices to improve student behavior and discipline practices.<sup>14</sup>
- Colorado S.B. 46 eliminates zero tolerance by statute, except in the case of firearms.<sup>15</sup>
- Alaska in 2009 created policies that encourage student conflict resolution.<sup>16</sup>

### *For Consideration*

Consider whether State law should establish a model discipline code that incorporates age-appropriate school discipline policy for students and requires school-wide approaches shown to improve the learning environment.

## PART 1: LEGISLATIVE REFORM

- \* Should New York require schools to help children develop the skills to handle emotional distress, peer pressure and conflict in relationships?
- \* Should such skill building be a one-time, single focused effort or be part of every school curricula and all activities from preschool through high school?
- \* Should New York adopt a model discipline code with a graduated ladder of discipline that keeps students in the learning environment except for the most egregious offenses, prohibiting out-of-school suspension for class disruption and insubordination?
- \* Should New York adopt a model discipline code that requires the use of guidance (positive) interventions and reserve the use of suspension only after determining the interventions to be unsuccessful?
- \* Should an individual student assessment of the need for mental health or other supportive services and provision of needed services occur before a student may be suspended?
- \* Should New York adopt a model discipline code that employs restorative justice practices?
- \* Should New York consider the reallocation of funds that could result from keeping students in the learning environment to fund training and services?

### 2. Require Improved Data Collection, Reporting and Responsive Intervention

Fueled by emerging research and data—including the stunning *Breaking Schools Rules* report;<sup>17</sup> the Federal Department of Education Civil Rights Office newly expanded mandatory reporting on suspensions, expulsions and school arrests; the evidence of the connection of suspensions and expulsions to juvenile and criminal justice involvement for young people as well as the continuing overwhelming evidence of disparate treatment for students of color and those with identified special needs—states have begun taking legislative action to require greater reporting of and transparency in data collection regarding suspensions, expulsions and justice system referrals. For example,

- In 2012, Virginia, Massachusetts and Colorado all revised their data collection and reporting.<sup>18</sup>
- Maryland requires identification of schools that have higher rates of suspension or truancy to adopt school-wide interventions that create a positive school climate.<sup>19</sup>
- Legislation introduced last year in Massachusetts goes farther, requiring school districts and schools to assess their current school climate and create safe and supportive learning environments, using social and emotional learning and positive behavior supports and reducing suspensions and expulsions.<sup>20</sup>

## PART 1: LEGISLATIVE REFORM

→ Massachusetts requires school principals in conjunction with the students' parents to develop individualized education service plans for all students (regardless of special education status) when they are subject to suspensions of more than 10 days.<sup>21</sup>

### *For Consideration*

Consider whether State law should require the expansion of statewide data repositories to create a transparent, integrated data collection system for local and statewide school district, court and law enforcement reporting.

- \* Should New York require that schools, police and courts collect and report school-related incidents, disaggregated by sex, race, ethnicity and disability, in the following categories:
  - \* Positive discipline measures?
  - \* In- and out-of-school suspensions?
  - \* Effectiveness of individual student intervention?
  - \* Provision and effectiveness of out-of-school suspension instruction?
  - \* School arrest?
  - \* Issuance of summonses in school?
  - \* Referrals to family court for PINS and juvenile delinquency and adult criminal court based upon school arrest?
- \* Should the State require data collection by schools, police or courts to be reviewed at the state, school and district level to determine those schools in need of assistance in reducing the use of suspension and school-related summonses and arrest?
- \* Should the State require data collection to monitor and evaluate the effectiveness of out-of-school suspension instruction?
- \* Should the State require schools in need of assistance to submit corrective action plans and provide training and technical assistance?

### **3. Convene Community Stakeholders to Develop a Local Protocol on Use of Arrest and Other Law Enforcement Intervention in Schools**

States and individual communities, across the country are beginning to come together to agree on limiting the use of a criminal justice approach to student misbehavior in schools. For example,

→ Florida SB 1540 provides a roadmap for Florida schools to minimize school arrests by encouraging the use of restorative justice programs that hold students accountable for

## PART 1: LEGISLATIVE REFORM

their misbehavior while giving them the opportunity to understand and move beyond their actions.<sup>22</sup>

- In Connecticut, the State Juvenile Justice Advisory Committee (JJAC) drafted a model memorandum of agreement for communities to use to advance a graduated response to student misbehavior, minimize student arrest and clarify the role of police in schools.<sup>23</sup>

### *For Consideration*

Consider whether State law should require the establishment of county-wide collaboratives that include schools, courts, law enforcement, prosecutors, parents and students to develop and institute a protocol for reducing school arrest and use of summonses in schools.

- \* Should New York develop a model protocol on the use of arrest and summons in school settings?
- \* What types of student misbehavior should not result in an arrest?
  - \* School fights where there were no major injuries incurred?
  - \* Disorderly conduct?
  - \* Obstructing Governmental Operations in school?
- \* Should such a protocol prohibit arrest for a first offense, so long as such behavior did not threaten the safety of the school?
- \* Should certain communities and schools be targeted to pilot such an agreement? On what basis?

## **4. Enhance Capacity in School Staff and Safety Personnel to Promote Positive Student Interaction and Behavior**

States have recognized the need for school personnel to have the tools necessary to deal with students who present challenging behaviors. For example,

- Colorado's comprehensive legislative reform includes enhanced training for school resource officers.<sup>24</sup> Other Colorado legislation encourages school district provision of training in restorative justice practices.<sup>25</sup>
- Ohio expanded the scope of school staff who are mandated to have professional development in positive youth development and violence prevention.<sup>26</sup>
- Louisiana's comprehensive reform effective in 2010 requires school districts to enhance classroom management training as well as provide continuing training in topics such as conflict resolution, mediation, cultural competence restorative practices and adolescent development training in restorative justice practices.<sup>27</sup>

## PART 1: LEGISLATIVE REFORM

### *For Consideration*

Consider whether State law should require pre-service and on-going professional development for all school staff and safety personnel to promote positive student interaction and behavior.

- \* Should teachers and administrators be required to have pre-service and ongoing skill development in classroom management?
- \* Should school safety personnel be required to have pre-service and ongoing skill development and in de-escalation techniques?
- \* Should training on child development, especially adolescent and positive youth development, and special education issues be provided to all school staff who interact with students?
- \* Should training on age-appropriate alternative approaches to school discipline be required of all school staff who interact with students?
- \* Should justice system staff receive training on topics such as adolescent development, special education issues and age-appropriate alternative approaches to suspension?

### **5. Require Collaborative Development and Support of Re-Entry Plans for Students Involved in Out-of-School Suspension or the Justice System**

Some states have undertaken state action to assist in the transition of youth re-entering the community from an out-of-home placement, with great emphasis upon re-entry to school. For example,

- Since 2009, Maine requires the home school of a student in out-of-home placement to create a re-entry team.<sup>28</sup>
- Florida requires education coordinators be assigned to youth in out-of-home placement and requires home schools to accept credits earned by the youth while in out-of-home placement.<sup>29</sup>

### *For Consideration*

Consider whether State law should require the home school of a student who has been suspended, placed or confined to collaborate with court, school and agencies working with the youth to ensure timely and supported re-entry.

- \* Should home schools be required to develop a re-enrollment and re-integration plan with the student's suspension, placement or confinement agency, which is designed to support the successful re-enrollment? Who should be part of the school team?
  - \* Who else should be involved?



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- \* The student?
- \* The student's family?
- \* Probation?
- \* Parole?
- \* Service providers?
- \* The court?
- \* When should the planning for re-entry and re-enrollment begin?
- \* When should the home school become involved?
- \* Once the student is re-enrolled, how frequently should the plan be reviewed to determine if it needs adjustment? Who should convene a meeting to review the student's plan? Who else should attend?
- \* Should New York require transfer of credits earned while in an alternative school setting as a result of out-of-school suspension and out-of-home placement?

## PART 2: MODEL PROTOCOL AND DISCIPLINE CODE

New York State’s Dignity For All Students Act (The Dignity Act) seeks to provide the State’s public elementary and secondary school students with a safe and supportive environment free from discrimination, intimidation, taunting, harassment and bullying through a comprehensive State and local approach to creating safe, supportive and engaging learning spaces.<sup>30</sup> This significant new law takes a major step in promoting positive interventions by requiring school boards to develop “measured, balanced, and age-appropriate responses to the discrimination and harassment of students by students and/or employees with remedies and procedures focusing on intervention and education.”<sup>31</sup> Every year in New York, however, tens of thousands of students are pushed out of the safe and supportive environment contemplated by the Dignity Act because of exclusionary discipline policies, which hinder opportunities to learn for countless New York students each day. The vast majority of those suspensions are for minor, non-violent offenses. The discussion points following seek to expand the progressive approach begun by the Dignity Act to student misbehavior.

### FIVE MODEL PROTOCOL AND DISCIPLINE CODE CONSIDERATIONS TO MOVE THE SCHOOL-JUSTICE AGENDA FORWARD IN NEW YORK STATE

#### **1. Reserve the Use of Suspensions (and Other Methods of Exclusion from the Classroom Learning Environment) for Students Who Commit the Most Serious of Violent Offenses or Pose a Real, Immediate and Serious Threat to the Physical Safety of a Member of the School Community**

School discipline policies should support a positive school climate and the social and emotional development of students, while teaching non-violence and respect for all members of the school community. Exclusionary discipline practices fulfill none of these objectives as they punish rather than teach students and typically do not change misbehavior or deter it from occurring again. Students belong in school, and the discipline meted out in our schools should not be a barrier to their attending.

#### *For Consideration*

To promote a positive school climate and minimize exclusionary discipline practices, consider:

- \* How should New York define a disruptive student?
- \* Is out-of-school suspension the appropriate response to disruptive behavior?
- \* What types of conduct should result in a student being excluded from the learning environment?
- \* If an in-school suspension is used, what additional interventions should be employed with the student to facilitate return to the classroom and deter recurrence?

## PART 2: MODEL PROTOCOL AND DISCIPLINE CODE

- \* If an in-school suspension is used, how can New York school districts ensure that the alternative instruction offered during such suspensions is substantive and meaningful?
- \* Should New York prohibit suspension for minor behavior infractions, such as insubordinate behavior, defiance, disobedience, disrespect, disruptive or rowdy behavior, classroom disruption, habitual tardiness or absences, school dress code violations, and/or behavior that happens off of school grounds (and not as part of school-sponsored activity) that does not materially and substantially disrupt the school environment?
- \* Should exclusions from school only be permitted where it has been determined that the exclusion is absolutely necessary to protect the safety of the school community?

### 2. Employ and Document the Use of Guidance Intervention Strategies Prior to Any Disciplinary Action

“One size fits all” discipline policies often require disciplinary responses that do not fit the offense or the circumstances of the student. Adopting a positive approach to discipline for New York’s districts and schools can improve school climate and help individual students to succeed and achieve better outcomes by seeking to understand and address the causes of behavior; resolve conflicts and repair the harm done; restore the relationships in the school community; and reintegrate students into the school community.

#### *For Consideration*

While maintaining discretion for school boards, consider policies that promote a positive approach to discipline practices.

- \* Should a discipline policy establish clear expectations for student behavior and a graduated list of support and intervention strategies for student misbehavior *prior* to imposing a punitive measure against a student?
- \* What factors should be considered before a student is excluded from the learning environment? Should factors such as mental illness, history of being bullied, disciplinary history, family situations, and prior positive interventions with the student be part of an individual student assessment? What other factors?
- \* What review is necessary to determine whether disciplinary interventions are individualized, consistent, fair, age-appropriate and match the severity of the student’s behavior?
- \* Should students only be excluded from the learning environment after non-exclusionary discipline alternatives have been carefully considered, tried and documented?

### **3. Incorporate and Utilize Restorative Justice Practices in the Disciplinary Process**

Research has shown that positive approaches to discipline can improve student engagement, academic performance and teacher satisfaction, while also reducing violence and disciplinary incidents in schools.<sup>32</sup> Across the country, educators and communities are advocating for school-wide models for discipline such as Restorative Practices,<sup>33</sup> which give teachers and students the tools necessary to build a positive school community and to prevent and respond to conflict in ways that address students' social, emotional and academic needs. Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by misconduct by creating a process that promotes healing, reconciliation and the rebuilding of relationships to build mutual responsibility and constructive responses to wrongdoing within our schools. In response to disciplinary infractions or conflict, schools use a continuum of strategies that are restorative, rather than punitive, except for the most serious and dangerous offenses when exclusion from school is absolutely necessary to protect the safety of the school community.

#### ***For Consideration***

- \* Should New York consider mandating the use of restorative justice practices in schools, in lieu of suspension, for most school misconduct?
- \* Are there types of incidents where a restorative justice approach would not be appropriate?
- \* What are the benefits of mandating the use of restorative justice practices in New York Schools? What are the drawbacks?

### **4. Minimize the Use of Disciplinary Practices that Lead to the Criminalization of Students**

Over the last 20 years, there has been a marked increase in the use of police personnel and school safety officers nationally and in New York's schools. The recent events in Newtown have increased the call for police personnel in schools to protect students and school personnel. Research has demonstrated, however, that an increase in the use of law enforcement and school safety personnel has resulted in an increase of referrals of students to the justice system for school-related and often minor incidents. Research shows the presence of police or other law enforcement personnel can increase anxiety and contribute to the criminalization of low-income students, students of color and students with disabilities.<sup>34</sup> Disproportionate rates of arrest and referrals to the juvenile courts and detention system in turn lead to push out and incarceration later in life.<sup>35</sup>

## PART 2: MODEL PROTOCOL AND DISCIPLINE CODE

### *For Consideration*

- \* Considering school safety agents, police and the courts are a costly resource, should New York focus the role of safety personnel on misbehavior that squarely requires a law enforcement response?
- \* Should New York prohibit the involvement of law enforcement personnel in incidents that are considered school discipline matters?
- \* Should New York mandate the training of law enforcement personnel, who come into contact with students in schools, in youth development and on how to respond to the special needs of young persons?
- \* Should law enforcement personnel in schools be required to use techniques to deescalate conflict in the first instance before taking any further action?
- \* Should there be a graduated approach to student misbehavior that requires a series of positive interventions *before* a referral to the justice system can be used for student misbehavior that could be deemed a violation of law?
- \* Should school personnel and school safety personnel operate as a team with a shared commitment to promote a positive school climate?

### **5. Ensure Broader Stakeholder Inclusion in the Development and Adoption of Discipline Codes**

Recognizing the importance of broad participation in the creation and adoption of the discipline policies that will govern their school communities, some states have taken steps to require broader stakeholder inclusion. For example, Alaska<sup>36</sup> and Arkansas<sup>37</sup> mandate the involvement of students, parents, the community, teachers and administrators in developing behavior standards. Alaska further requires schools to periodically review and revise these standards with a multi-stakeholder group. Broad inclusion facilitates parent, student and school personnel buy-in and an understanding of the school's approach to student misbehavior, overall character development and social and emotional learning for students.

### *For Consideration*

- \* Should New York require school districts to devise and implement strategies to effectively engage the parents of students – not just parental organizations – in the creation, review, and adoption of discipline codes for each school district?
- \* Should New York require school districts to devise and implement mechanisms for soliciting broad parental, student, teacher, other school staff and community input in the creation, review and adoption of discipline codes for each school district?

## PART 3: DATA COLLECTION AND REPORTING

Data is a fundamental tool for discussion, policy development, planning and accountability. It is essential to document the status and consequences (both negative and positive) of current practices and policies and to encourage emerging and proven practices and policies that generate safe, respectful and supportive learning environments; hold students accountable for their behavior; reserve the use of punitive measures – including school suspension and mandatory arrest – for the most egregious cases; and address the over-representation of suspensions among Black students and students receiving special education services to help children succeed in school and prevent their involvement in the justice system in the first instance and re-engage those children that do get involved. As such, recommendations to move the school-justice agenda forward consistently include data collection, monitoring and sharing. For example, in the *A Collection of Reports to Inform the National Leadership Summit on School-Justice Partnerships: Keeping Kids in School and Out of Court*, Skiba noted:

Improved data collection on discipline, office referrals, and law enforcement contact, and in particular the disaggregation of such data by race and ethnicity, can be used to evaluate school and district progress in handling both major and minor disciplinary incidents. Disaggregation of those data for those groups who have been disproportionately affected by school discipline is key in bringing equity to our school discipline systems.<sup>38</sup>

### FIVE DATA COLLECTION AND REPORTING CONSIDERATIONS

#### TO MOVE THE SCHOOL-JUSTICE AGENDA FORWARD IN NEW YORK STATE

## 1. Collect Discipline Data to Develop, Modify and Evaluate Discipline Approaches at the Student, School and District Levels

To collect discipline data on all students in New York State consider what is currently being collected and the feasibility of enhancing the existing data collection systems to collect complete and accurate discipline data for all students. Among the data currently being collected, the Civil Rights Data Collection (CRDC) and the New York Education Department's Special Education School District Data Profile are examples of data from two federally mandated data collections that include discipline data.

- **The Civil Rights Data Collection (CRDC)** is federally mandated data related to key education and civil rights issues in our nation's public elementary and secondary schools, including enrollment, access to educational programs or services, discipline and academic proficiency results, which are disaggregated by factors including race, ethnicity, sex and disability.<sup>39</sup> The CRDC data for the 2011-12 school year will include data from all schools and school districts in the country. Discipline measure include: in-school suspension; separate categories for one and more than one out-of-school suspension; corporal punishment; expulsion (with and without services); zero-

## PART 3: DATA COLLECTION AND REPORTING

tolerance expulsion; referral to law enforcement; school-related arrests; data for students with disabilities is disaggregated by race/ethnicity, gender and LEP; and preschool suspensions and expulsions.

- States must collect and report data for **students receiving special education services** and their families including measures on the educational environments, discipline, student assessment, dispute resolution and students exiting programs. These data are collected by disability category, race/ethnicity, gender, and LEP status at the State education agency, local education agency, and school level.<sup>40</sup> **The New York Education Department’s Special Education School District Data Profile** is prepared in accordance with this requirement and includes an annual performance report for the state and each school district in regards to established targets.<sup>41</sup>

### *For Consideration*

- \* Should New York enhance the data collection for the CRDC to ensure complete and accurate data, e.g., New York data was excluded in the national analysis due to data issues, and specific to discipline data, the Office of Civil Rights warns that some districts were unable to report complete and accurate data for school-related arrests and referrals to law enforcement and may have reported zero students in these categories?<sup>42</sup>
- \* Should New York require the release of CRDC data on each school district’s website?
- \* Given the robust system in place to collect discipline data for students receiving special education services, should the system be expanded to collect, monitor and evaluate discipline data for all students?
- \* Could the Violent and Disruptive Incidents Data Collection—the Department of Education’s system for collecting and reporting district/school violent and disruptive incidents—be used to collect arrest and summons data and reported in the Violent and Disruptive Incidents Report (VADIR)?<sup>43</sup>
- \* What steps are needed to ensure data collections are complete and accurate?

## **2. Promote Transparency by Reporting Discipline and School-related Arrest and Summons Data**

To report discipline data for all students in New York State consider expanding the existing reporting requirements under the Student Safety Act in New York City for all school districts in New York State.

- **The Student Safety Act** mandates public quarterly reporting by the NYPD on arrests and summonses (tickets) issued by officers in the New York Police Department (NYPD) School Safety Division.<sup>44</sup> These data are broken down by penal code, patrol borough, gender, race and age. The law also requires biannual reporting by the New

## PART 3: DATA COLLECTION AND REPORTING

York City Department of Education on suspensions—reported by school, discipline code infraction, age, race, gender, grade, special education status and English language proficiency.

### *For Consideration*

- \* Should New York require all school districts to report suspension data?
- \* Should New York require all school districts to report arrest and summons data?
- \* How should school districts with small enrollments handle data reporting?
- \* How can the suspension, arrest and summons data by race help address the over-representation of youth of color affected by exclusionary discipline practices and court involvement?

### **3. Identify and Report School-related Arrest Data in Multi-systems**

Beyond collecting and reporting school-related arrest data, there is currently no mechanism in place for systems beyond the arresting officers to identify and record school-related arrests that result in court petitions or cases or require preventive services, e.g., Office of Court Administration's Universal Case Management System (UCMS); Division of Criminal Justice Services' Uniform Crime/Incident-Based Reporting systems or the Office of Probation and Correctional Alternatives (OPCA) data system.

### *For Consideration*

Consider identifying an existing reporting mechanism that could incorporate the identification of school-based arrests and be provided across systems to allow for data collection and public reporting by subsequent systems that are serving youth following an arrest.

- \* Could the police report be modified to indicate that the arrest is school-related?
- \* Could a copy of the police report be required to be submitted to subsequent systems?
- \* Should subsequent systems be identifying and reporting school-related incidents to determine the impact on the case loads and influence the course of action taken with respect to the students' misbehaviors?

### **4. Collect and Employ Non-suspension Discipline Data to Develop, Modify and Evaluate Discipline Approaches at the Student, School and District Levels**

Validated approaches to student misbehavior—such as progressive or positive discipline—require the collection and utilization of data pertaining to all student infractions and



## PART 3: DATA COLLECTION AND REPORTING

disciplinary actions in order to ensure effectiveness and the least restrictive applications of disciplinary actions. The collection of the full hierarchy of disciplinary data at the student, school and district levels will respectively allow for the monitoring of an individual student's response to discipline interventions and identification of necessary adjustments; general and targeted intervention approaches consistent with the issues confronting a given school; and the development of effective discipline policies.

The question is which approach to data collection will provide the more useful information at all three levels to reduce school discipline problems and the exclusion of students from the educational system and involvement with the courts. One example of an effective and well-documented approach to assisting students to close academic achievement gaps is the Response to intervention (RTI).<sup>46</sup> The focus of RTI is to provide the student with progressive interventions that are closely monitored. Based upon data collected, ineffective interventions are discontinued and effective interventions are either maintained or terminated as appropriate. While RTI provides a general structure for data collection and utilization, the model allows for significant flexibility to allow for variations in difficulties, approach and culture of each school district.

### *For Consideration*

- \* Should New York require data collection that captures all three levels—student, school and district levels?
- \* How would New York identify which approach to implement?
- \* What would schools and school districts need to implement this type of data collection?

## **5. Identify and Adopt School Well-being Metrics to Monitor and Evaluate Student and School Well-being and Discipline Approaches**

The Council of State of Governments (CSG) Justice Center is engaging in a national consensus-building project that includes a robust data component as it focuses on how changes in school disciplinary policies and practices can support student engagement and learning, while reducing juvenile justice contact and poor academic outcomes.

### *For Consideration*

To begin this conversation in New York consider what set of indicators all school districts and the State could use to monitor and report on the well-being of students and to inform decisions on interventions.

- \* What metrics are most relevant to monitor and analyze the school-justice connection?
- \* What metrics are most relevant to monitor and analyze positive school environments, e.g., school engagement, safety, interventions and parent involvement?

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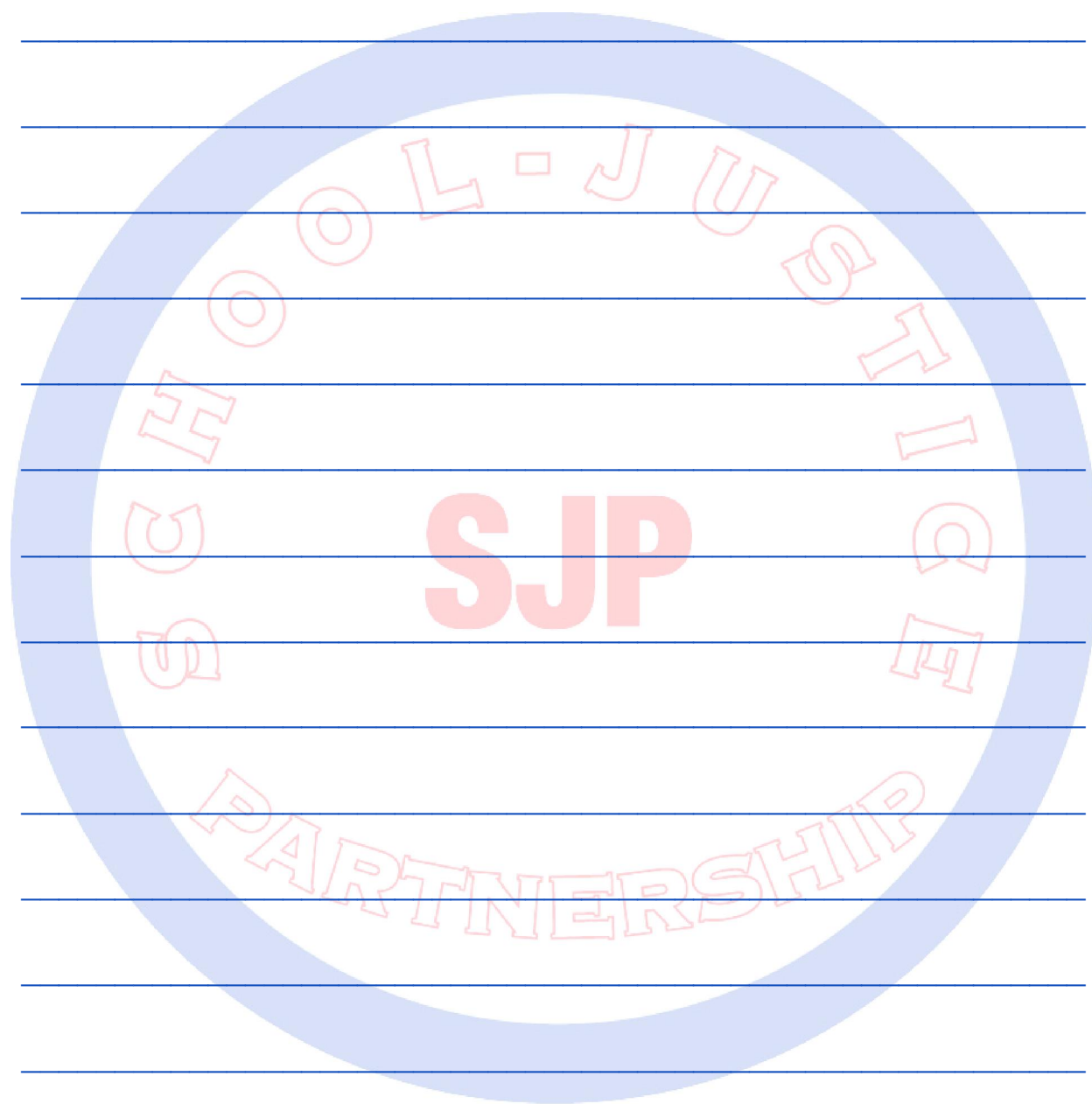
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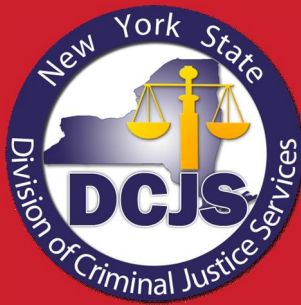
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