



October 26, 2021

Senator Patty Murray
Chair
Health, Education, Labor, and Pensions
United States Senate
Washington, D.C. 20510

Senator Richard Burr
Ranking Member
Health, Education, Labor, and Pensions
United States Senate
Washington, D.C. 20510

Congressman Bobby Scott
Chair
Committee on Education and Labor
United States House of Representatives
Washington, D.C. 20515

Congresswoman Virginia Foxx
Ranking Member
Committee on Education and Labor
United States House of Representatives
Washington, D.C. 20515

RE: 205 ORGANIZATIONS AND INDIVIDUALS CALL FOR ACTION ON A SUITE OF BILLS TO ADDRESS SYSTEMIC RACISM, POLICIES AND PRACTICES THAT HARM BLACK AND BROWN STUDENTS AND YOUTH IN SCHOOLS

Dear Chairs Scott and Murray and Ranking Members Foxx and Burr,

The Federal School Discipline and Climate (FedSDC) Coalition and the **205** undersigned organizations and individuals send this letter to show our support for and urge swift Congressional action on a critical suite of bills developed to address systemic racism, discriminatory discipline policies, school hardening practices, and resource inequities that are known to criminalize and discriminate against Black, Indigenous and other students of color across all genders with and without disabilities, including and in addition students in the LGBTQ+ community.

FedSDC is a diverse group of organizations and individuals committed to advocating for legislative and federal action to protect the interests and educational rights of Black and Brown students and youth through a racial justice and educational equity lens. We advocate that all children deserve to go to schools that create environments and experiences that help them to succeed. Establishing police-free schools and ending the use of seclusion, harmful and dangerous restraints, and corporal punishment while implementing effective, non-punitive, and culturally-sustaining practices in schools and alternatives to school discipline is a core value for FedSDC.

Students, youth, and children learn best in warm, welcoming, culturally responsive school environments where all the adults are committed to their success. But too many of our children are in schools where they feel unsafe, where they are criminalized, where they are harassed and victimized by law enforcement, or where the school leaders who are supposed to be educating

them mistreat them. Our schools should be places where students and youth can be safe, where they can show up as their full selves, and where their rights are respected and protected. To that end, FedSDC has worked closely with members of Congress to introduce legislation that, if enacted, can create welcoming school environments for all our children.

Specifically, we write to urge you to hold hearings on a suite of bills that will create better, safer schools for all students by centering your focus on those who have been historically marginalized. Together, the bills provide much needed solutions to assuring we end the decades of harmful and discriminatory policies that funnel children into the school-to-prison and -deportation pipeline. They are:

- [*Counseling Not Criminalization in Schools Act of 2021 \(CNC - HR 4011/S.2125\)*](#) to expand the federal investment in trained school personnel who can support the academic, social, emotional, and behavioral needs of students, by diverting funding from the U.S. Department of Justice (DOJ) programs that place law enforcement and other measures that criminalize children in schools and put them into evidence-supported programs designed to hire counselors, nurses, school psychologists, and provide other non-penal and trauma-informed student supports.
- [*Protecting Our Students in Schools Act \(POSSA - HR 3836/S.2029\)*](#) to prohibit schools receiving federal funding from beating, paddling, or using other forms of corporal punishment in schools, and to provide grants to train school teams to support the academic and behavioral needs of students.
- [*Keeping All Students Safe Act \(KASSA - HR 3474/S.1858\)*](#) to prohibit the use of prison-like seclusion rooms, as well as chemical, prone, and supine physical restraint of children and teens; to prevent and reduce the use of physical restraint; and to provide training to school personnel in the use of safe and effective practices to support school-appropriate behavior.

Together, this suite of school climate bills, in addition to others currently under development, are designed to ensure school districts and schools end the use of racist policies such as the harmful and discriminatory presence of police in schools as well as the elimination of corporal punishment, out-of-school suspensions, arrests, court referrals, expulsion, institutionalization, harmful and dangerous restraints, and seclusion. These practices and policies are abusive, exclusionary, and known to support and perpetuate the school-to-prison-and-deportation pipeline. This suite of school climate bills not only ban harmful practices, but also specifically direct resources to states and districts so that school teams can receive the training and other support they need to create safe, inclusive and police-free schools.

Our schools should not mirror a criminal legal system that replicates and reinforces patterns of racial, ableist, and economic oppression. As such, FedSDC has worked with legislators to end the injustices that continue to occur in our nation's schools. However, Congress has yet to act.

We find this inaction intolerable, especially when history, research, and current practices all point to the same outcomes—none of them good.

- While Black children are only 15 percent of all children in school nationwide, they make up 33 percent of the children arrested,¹ despite research showing that Black children do not misbehave more than their white counterparts.²
- Students with disabilities are more than twice as likely to be arrested as those without disabilities.³
- LGBTQ students have also reported facing hostile interactions with and, in some instances, verbal assaults by the school resource officers that have been appointed to protect them.⁴
- Students who face arrests are less likely to graduate, succeed academically, and have stable employment.⁵ All these factors then increase one's likelihood of encountering either the juvenile or criminal legal system.⁶
- Black male students are nearly twice as likely to be subjected to corporal punishment as white male students, and Black girls are three times more likely as white girls.⁷
- Students with disabilities account for nearly 15% of all those subjected to corporal punishment in schools.⁸
- Of the 101,990 students restrained at school or placed in seclusion, 78 percent were students with disabilities.⁹
- Although Black students comprise 15 percent of the student population, they represent 22 percent of students subjected to prison-like seclusion rooms and 34 percent of students subjected to mechanical restraint (e.g., handcuffs, zip ties, straitjackets, etc.).¹⁰

These are just a handful of the troubling but consistently documented facts that clearly demonstrate the harms of schools having more police in the building than staff specifically trained to support the academic, social, emotional, and behavioral needs of children. Community collaboration and evidence-based practices have been shown to do more to maintain school

¹ Education Week. (2017). *Which Students Are Arrested the Most?* <https://www.edweek.org/which-students-are-arrested-most-in-school-u-s-data-by-school#/overview>.

² Advancement Project, et al. (Mar. 2018 re-release). *Police In Schools Are Not The Answer To The Newtown Shooting*. <http://dignityinschools.org/wp-content/uploads/2018/03/Police-In-Schools-2018-FINAL.pdf>.

³ Civil Rights Data Collection (2021). 2017-18 State and National Estimations. <https://ocrdata.ed.gov/estimations/2017-2018>

⁴ <https://www.lambdalegal.org/protected-and-served>

⁵ Jason Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 Wash. L. Rev. 919, 926 (2016), <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1782&context=facultypub>.

⁶ Ibid.

⁷ Brookings Institute, (2016) *Schools, Black Children and Corporal Punishment*. <https://www.brookings.edu/blog/brown-center-chalkboard/2016/01/14/schools-black-children-and-corporal-punishment/>.

⁸ American Civil Liberties Union, *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*. <https://www.aclu.org/impairing-education-corporal-punishment-students-disabilities-us-public-schools-html>.

⁹ U.S. Department of Education, (2018) Civil Rights Data Collection. <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>.

¹⁰ Ibid.

safety, promote inclusion, support school-appropriate behavior, and support the well-being of children and youth in schools. Given the clear need for federal action, Congress must act now.

The roots of education in America were built upon and supported white supremacist ideologies designed to exert power and control over Black and Indigenous people. Beginning in the late 17th Century, laws were created to maintain a racial hierarchy, ensure enslaved people were not educated, and promoted assimilation into white culture by erasing Black and Indigenous culture. Throughout that history, policing and state-imposed violence have been, and remain, important tools for maintaining control over and disciplining Black and Brown children in schools.

In the 1990s, the War on Drugs, with its policies of “three strikes” and mandatory sentencing ushered in a new era in the criminalization and segregation of Black and Brown citizens.¹¹ At the same time, zero tolerance and rapidly expanding school policing trapped and funneled Black and Brown youth in the school-to-prison pipeline. It would take nearly 20 years before lawmakers who supported the 1994 crime bill, and zero tolerance policies began to examine its detrimental impact to Black and Brown communities. And although President Biden has repudiated that law as a “mistake,”¹² many members of Congress on both sides of the aisle have failed to follow suit and address Congress’ role in creating and exacerbating systemic inequities now plaguing Black and Brown students and youth in schools and communities.

Indeed, members of Congress continue to introduce, support, and pass legislation and appropriations that promotes and funds discriminatory policies that physically harm and destroy the lives of countless students, youth, and children—especially those of color. For example, bills that promote threat assessments,¹³ further entrench law enforcement in schools, or subject Black and Brown students and youth to increased surveillance would continue to funnel students into the criminal legal system or expose them to violent interactions with law enforcement. Such bills also harm students with disabilities, since threat assessments have resulted in the removal of students with disabilities from school for prolonged periods of time, when those behaviors could and should be addressed through IDEA or Section 504 of the Rehabilitation Act. Such “school hardening” bills create a coercive and controlling atmosphere that is far from the safe, welcoming spaces all children need to learn and thrive.

Several of these bills have been introduced and passed in committees with no jurisdiction over education law and policy, including the Senate Homeland Security and Governmental Affairs Committee. In fact, S.111 was voice-voted out of that committee with no hearing and only two [Republican] cosponsors, and H.R. 1229 has been referred to the Subcommittee on Crime, Terrorism, and Homeland Security. As chairs and ranking members of the House Education and Labor and the Senate Health, Education, Labor and Pensions (HELP) Committees, we ask you to

¹¹ Michelle Alexander. (2020) *The New Jim Crow (10th Anniversary Edition)*. New York: The New Press.

¹² <https://thehill.com/homenews/campaign/521326-biden-says-1994-crime-bill-was-a-mistake-during-abc-town-hall>

¹³ See, e.g., Luke and Alex School Safety Act (S. 111/H.R. 750) and the Behavioral Interventions Guidelines Act (S. 1383/H.R. 2877), EAGLES Act (S. 391/H.R. 1229)

assert jurisdictional authority to place holds and otherwise defeat efforts to circumvent your committees' oversight of threat assessment and other school hardening measures that continue to perpetuate racial disproportionality and systemic racism in schools through the criminalization of students, youth, and children in our nation's schools.

FedSDC urges you to prioritize the well-being of children and youth and publicly recognize the abuse and trauma inflicted upon them by punitive and criminalizing practices in K-12 schools every day. We are united in our call to upend policies and practices rooted in white supremacy and discrimination that continue to place students of color, students with disabilities, and students who identify as LGBTQ+ in harm's way. To support this important work, we welcome the opportunity to work with you in advancing FedSDC's suite of bills and with developing a series of briefings that can educate members on the harms of school hardening policies, and how the suite of bills – CNC, KASSA, and POSSA – creates safer, better schools for all students.¹⁴

We look forward to working with both committees to ensure all students and youth are afforded every opportunity to attend safe, inclusive, culturally-sustaining, and healthy schools. If you have any questions about the issues raised in this letter, please contact Christopher Scott, Open Society Policy Center at Christopher.Scott@opensocietyfoundations.org, Breon Wells, The Daniel Initiative at Breon.Wells@thedanielinitiative.com, or Laura Kaloi, Council of Parent Attorneys and Advocates & Center for Learner Equity at lkaloi@stridepolicy.com.

Sincerely,

ORGANIZATIONS

Alliance for Educational Justice
Center for Disability Rights
Center for Popular Democracy
Communities for Just Schools Fund
Council of Parent Attorneys and Advocates
Dignity in Schools Campaign
Open Society Policy Center
The Daniel Initiative

A Little Piece Of Light
Advocates for Children of New York
Advocating 4 Kids, Inc
AIDS Alabama

¹⁴ See Infra Part I: <https://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf>; <https://edlabor.house.gov/hearings/classrooms-in-crisis-examining-the-inappropriate-use-of-seclusion-and-restraint-practices>; <https://www.govinfo.gov/content/pkg/CHRG-112shrg86166/pdf/CHRG-112shrg86166.pdf>

Association for Special Children & Families
Autistic Self Advocacy Network
Baltimore Police-Free Schools Coalition
Bazelon Center for Mental Health Law
Benedictine University Faculty
Black Swan Academy
Blacks in Law Enforcement of America
Campus Pride
Center for Learner Equity
Chicago United for Equity
Children Now
Children's Defense Fund
Civitas Child Law Center, Loyola University Chicago School of Law
Coalition of Texans with Disabilities
Community Asset Development Redefining Education (CADRE)
Community Organizing and Family Issues
Counselors Over Cops
Disability Rights Advocates
Disability Rights Center of the Virgin Islands
Drug Policy Alliance
Education Justice Alliance
Education Law Center-PA
Equality California
Faith in New Jersey
Faith in Texas
Families and Friends of Louisiana's Incarcerated Children
Family Based Services Association of NJ
Family Voices NJ
Federation for Children with Special Needs
Forum for Youth Investment
Girls Inc.
GLSEN
Gwinnett SToPP
I Vote For Me
IDRA (Intercultural Development Research Association)
Juvenile Justice Coalition
Legal Aid Justice Center
Make the Road New Jersey

MEASURE

Mommieactivist and Sons

MomsRising

Montgomery County Federation of Families for Children's Mental Health, Inc.

National Association of Counsel for Children

National Black Justice Coalition

National Center for Learning Disabilities

National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)

National Center for Youth Law

National Council of Churches USA

National Crittenton

National Disability Rights Network (NDRN)

National Juvenile Justice Network

National Parents Union

New Jersey Parents Caucus

Nollie Jenkins Family Center

Oregon CURE

Oregon Family Support Network

Parent to Parent of Georgia, Inc

Partners for Dignity & Rights

Poverty & Race Research Action Council

POWER PAC IL

Public Advocacy for Kids (PAK)

RACCE

Rebuilding Independence My Style

Sisters of St. Dominic of Blauvelt, New York

SPAN Parent Advocacy Network (SPAN)

SparkAction

State Wide Education Organized Committee

Tenants and Workers United - Inquilinos y Trabajadores Unidos

Texans Care for Children

The Advocacy Institute

The Black Police Experience

The Education Trust in Texas

The Gathering for Justice

The Parents' Place of MD

Maryland Communities United

Uplift MN LLC
Urban Youth Collaborative
URGE: Unite for Reproductive & Gender Equity
Vermont Family Network
Women's Leadership Project
Youth Justice Education Clinic, Loyola Law School
Youth Over Guns

INDIVIDUALS

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Sen. Mitch McConnell – Minority Leader of the United States Senate
Rep. Nancy Pelosi – Speaker of the House
Rep. Kevin McCarthy – House Minority Leader
Dr. Miguel Cardona – United States Secretary of Education
Merrick Garland – United States Attorney General
United States Senate HELP Committee
House of Representatives Ed and Labor Committee
White House Domestic Policy Council