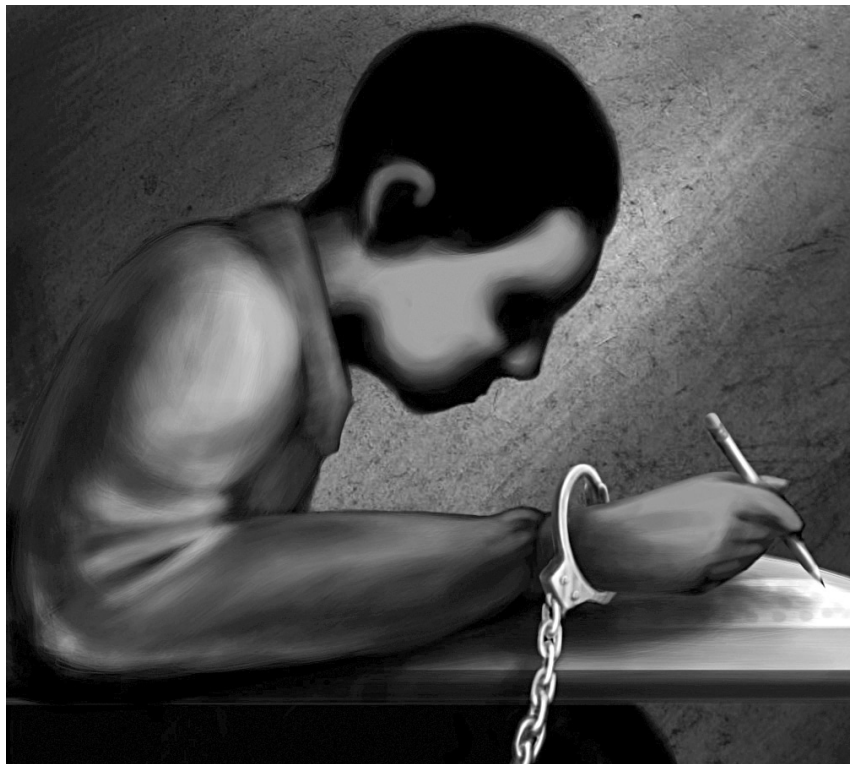# OREGON'S
School-to-Prison
PIPELINE
UPDATE

A well-behaved 8th grader who always had good grades joined other students to play with a miniature souvenir baseball bat belonging to his friend. A teacher saw Elijah and his friends – Elijah was one of only a few black students at his predominantly-white school – and sent the group to the office. The principal determined the foot-long toy was a weapon and suspended Elijah. None of his friends, all of whom were white, were suspended.

This is one example, similar to many in Oregon and across the country, where students of color are disproportionately disciplined as compared to their white counterparts.[1]

In 2010, the ACLU of Oregon published a report on Oregon's School-to-Prison Pipeline.[2] This update is intended to inform the reader, including parents, policymakers, educators and other stakeholders, about disproportionate discipline of students of color, the data that documents this disparity and how to access this data. It also highlights a new coalition of community and statewide organizations – the Oregon Alliance for Education Equity – that is tackling issues of educational inequity.

Overly harsh disciplinary policies push students down the pipeline and into the juvenile justice system. Suspended and expelled children are often left unsupervised and without constructive activities; they also can easily fall behind in their coursework, leading to a greater likelihood of disengagement and dropouts. All of these factors increase the likelihood of court involvement.

National ACLU
"What Is The School-to-Prison Pipeline?"

After publication of our 2010 report, the ACLU of Oregon worked with coalition partners to help ensure that the Oregon Department of Education (ODE) would annually release school disciplinary data, broken out by race and ethnicity. As of spring 2012, ODE has added district-by-district discipline data to the Education Data Explorer section of its website – an important step in addressing disproportionate discipline in Oregon public schools.[3]

1 Advancement Project, *EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK* (Mar. 2005), p. 8.; Russell J. Skiba, *Zero Tolerance, Zero Evidence* (2000), pp. 11-12; Russell J. Skiba, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment* (2000)

2 ACLU of Oregon, *Oregon's School-to-Prison Pipeline* (Please note on the ACLU of Oregon website a correction related to "Removal to Alternative Education Settings" data in this 2010 report) www.aclu-or.org/content/racial-justice

3 Oregon Department of Education, *Education Data Explorer* www.educationdataexplorer.com

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Oregon's School-to-Prison Pipeline

mirrors a national trend and refers to the disproportionate discipline of students of color that begins with them being more seriously punished than their white peers in school and often leads to entanglement in Oregon's juvenile justice system. There is also a gross disparity in the overrepresentation of people of color in Oregon's adult criminal justice system.[4]

Oregon data shows a continuing trend of criminalizing, rather than educating our state's children. There are many factors that may play a role in the disproportionate impact on students of color, including the effect of zero tolerance policies on one hand and policies that allow administrators too much discretion on the other.[5] In too many cases, behavior issues that used to be handled in the classroom by teachers or in the office by school administrators and counselors are now leading to suspensions and expulsions that disproportionately push students of color out of school and entangle many of them in the juvenile justice system.

These changes, coupled with conscious or unconscious bias against students of color, are serious factors to consider in disparate discipline. The need to cultivate a diverse workforce in Oregon's education system is essential. According to the Oregon State Report Card, while 34.7% of our students are presently youth of color, only 8.4% of teachers are racial minorities.[6] There is a dire need in Oregon's schools for much greater recruitment, training, hiring and

> **In Multnomah County schools, we exclude 23 of every 100 students of color, at a rate twice that of white students.**
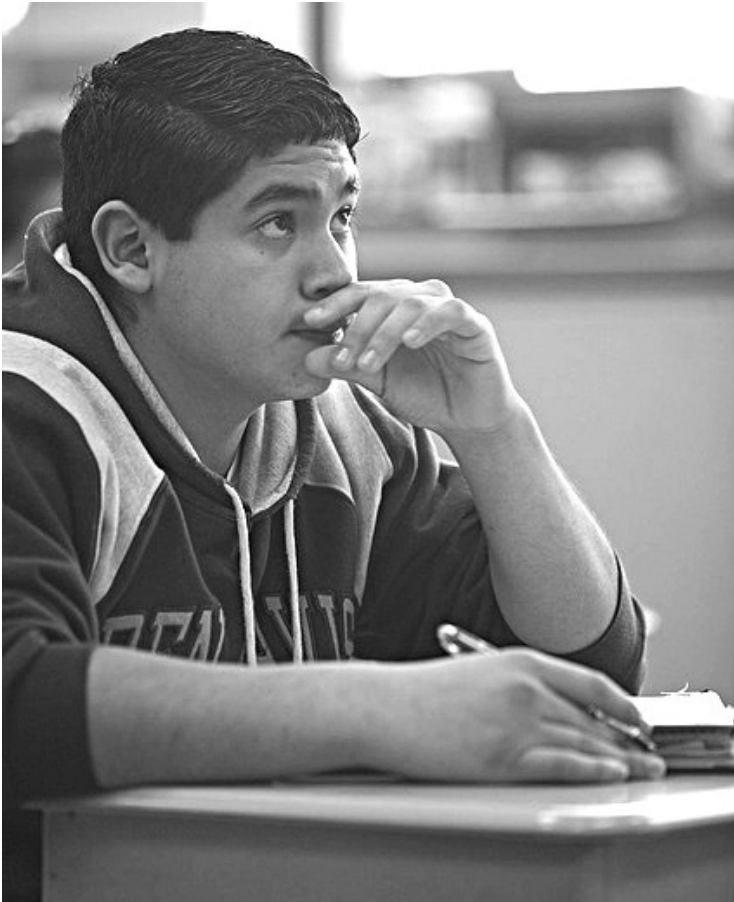>
> Multnomah County Commission on Children, Families & Community, Exclusionary Discipline in Multnomah County Schools: How suspensions and expulsions impact students of color (2012)

4 Oregon Department of Corrections, January 2013
www.oregon.gov/DOC/RESRCH/docs/inmate_profile.pdf;
U.S. Census Bureau: State and County *QuickFacts*. Data derived from Population Estimates, January 2013
http://quickfacts.census.gov/qfd/states/41000.html

5 Multnomah County Commission on Children, Families & Community, E*xclusionary Discipline in Multnomah County Schools: How suspensions and expulsions impact students of color* (2012), pp. 15, 24

6 Oregon Department of Education, *Statewide Report Card; An Annual Report to the Legislature on Oregon Public Schools 2011-2012* (November 30, 2012), p. 7

Students have been found to have had devastating academic results when suspended or expelled. Students who were repeatedly disciplined were more likely to be held back a grade or to drop out than were students not involved in the disciplinary system. In fact, 31 percent of students disciplined once or more repeated their grade at least once. Those disciplined 11 times or more had a 40 percent graduation rate.

Multnomah County Commission on Children, Families & Community, Exclusionary Discipline in Multnomah County Schools: How suspensions and expulsions impact students of color (2012)

retention of teachers of color, as well as for all Oregon educators to be more culturally aware and competent.

Students of color are disproportionately represented at every stage of Oregon's school-to-prison pipeline. Data shows that children of color are more likely than their white peers to be subjected to harsher punishment and the effects are amplified the further up the justice system they move.

Juvenile Justice

In 1992, the Oregon Supreme Court established a task force on racial/ethnic issues in the judicial system. The task force, chaired by former Chief Justice Edwin J. Peterson, issued a comprehensive report in May 1994 demonstrating that "racial minorities are at a disadvantage in virtually all aspects of the Oregon court system."[7] In Oregon's juvenile justice system, the report concluded that, in comparable cases, children of color were more likely to be:

(1) arrested than their white peers;

(2) charged with delinquent acts;

(3) removed from their family's care and custody;

(4) remanded for trial as adults;

(5) found guilty of delinquent acts; and

(6) incarcerated.

Twenty years later, data from the Oregon Department of Education and Oregon Youth Authority illuminates a parallel disadvantage that students of color face in Oregon's schools and youth justice system today. For example, although African-American youth represent only 3% of the youth population in Oregon (age 10-17), they make up more than 11% of those held in "close custody" in Oregon juvenile detention facilities. On the other hand, their white peers represent 71% of the youth population and only 53% of those held in close custody.[8]

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7 *Report of the Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System* May 1994, p.2

8 Oregon Youth Authority *Quick Facts* November 2012

Education Data Explorer

On the Oregon Department of Education's website, Education Data Explorer now provides annual discipline data, broken out by race, ethnicity and other categories, dating back to the 2007-08 school year. This data is available statewide or by school district. It can be viewed by elementary, middle or high school categories and also by individual types of discipline such as in-school suspensions, out-of-school suspensions and expulsions. For easy instructions on how to navigate discipline data on Education Data Explorer, visit this link on the ACLU of Oregon website.[9]

Disparities in discipline can be noted by looking at the percentage of student population represented by each racial/ethnic category compared to the percentage of students disciplined in the same category. For example, in the 2011-12 school year data, African American students make up 2.5% of the total student population, but represent 6.5% of the total number of students receiving out-of-school suspension in Oregon. White students, on the other hand, make up 65.3% of the total student population, but only 59.8% of students receiving out-of-school suspension. Although not as dramatic, similar disparities also exist for Latino and Native American students.
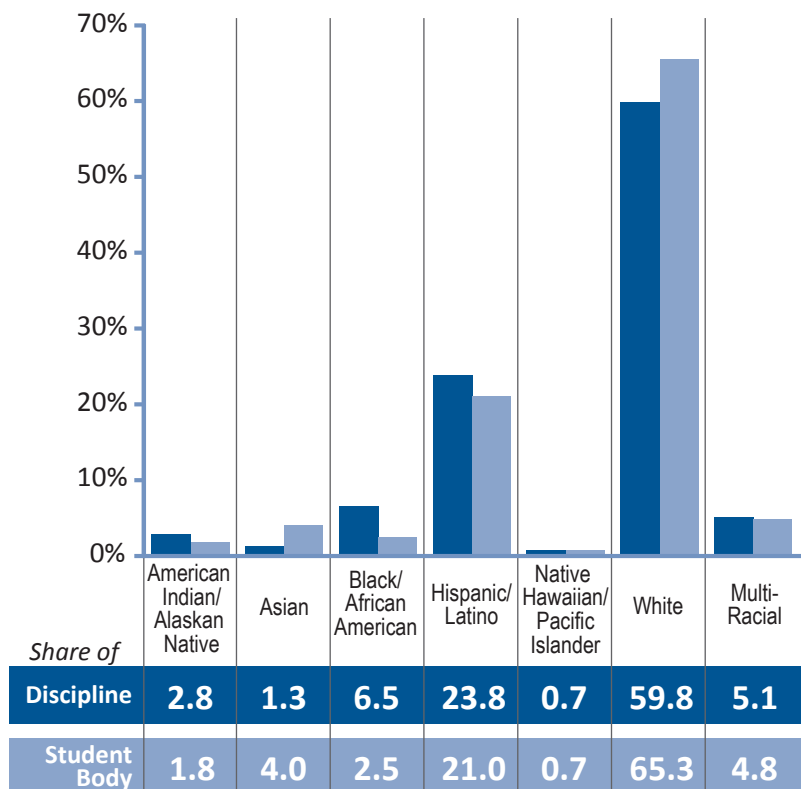
Data Collection and Reporting

Since our first school-to-prison pipeline report, the State of Oregon has completed implementation of new federal reporting requirements that govern how each student's race and ethnicity information is identified and collected. These changes have created a whole new set of concerns.

Accurate and reliable data are essential in order to determine that racial disparities in discipline and achievement are not masked and that resources and programs addressing these disparities are not lost as a result.

9 ACLU of Oregon document: *Step-by-Step Access to ODE Discipline Data,* available in both English and Spanish
www.aclu-or.org/content/racial-justice

Accurate and reliable data are essential in order to determine that racial disparities in discipline and achievement are not masked and that resources and programs addressing these disparities are not lost as a result.

Out-of-School Suspensions Statewide, 2011-12

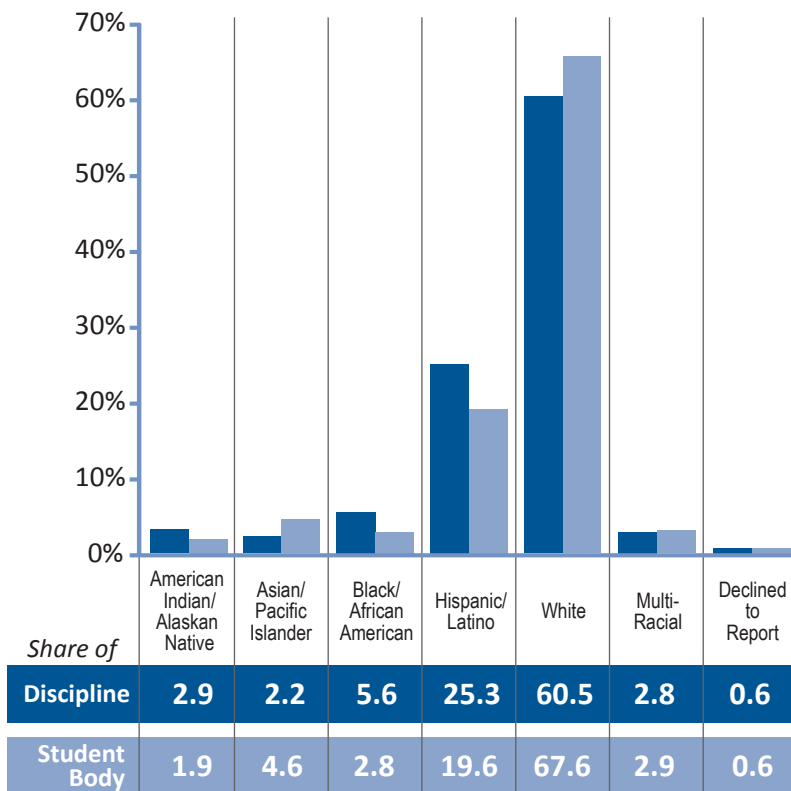| Share of	American Indian/ Alaskan Native	Asian	Black/ African American	Hispanic/ Latino	Native Hawaiian/ Pacific Islander	White	Multi- Racial
Discipline	2.8	1.3	6.5	23.8	0.7	59.8	5.1
Student Body	1.8	4.0	2.5	21.0	0.7	65.3	4.8

There [is] recent evidence of association between suspension/expulsion and failure to graduate on time. There is a negative relationship between the use of school suspension and expulsion and academic achievement, even when controlling for demographics such as socioeconomic status.

Multnomah County Commission on Children, Families & Community, *Exclusionary Discipline in Multnomah County Schools: How suspensions and expulsions impact students of color* (2012)

2009-10 All Discipline Statewide

Share of	American Indian/ Alaskan Native	Asian/ Pacific Islander	Black/ African American	Hispanic/ Latino	White	Multi-Racial	Declined to Report
Discipline	2.9	2.2	5.6	25.3	60.5	2.8	0.6
Student Body	1.9	4.6	2.8	19.6	67.6	2.9	0.6

2011-12 All Discipline Statewide

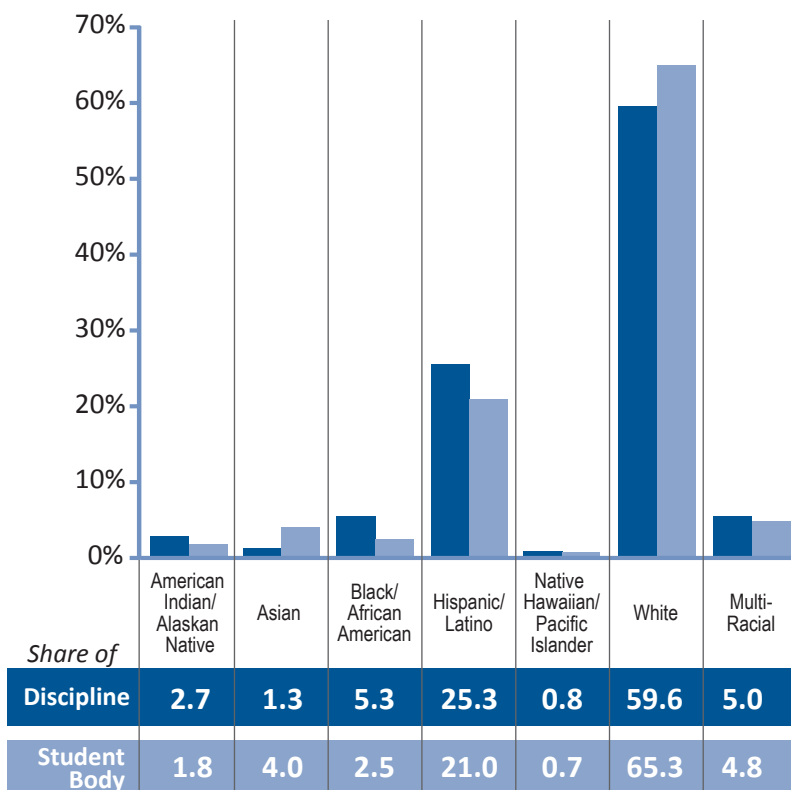| Share of	American Indian/ Alaskan Native	Asian	Black/ African American	Hispanic/ Latino	Native Hawaiian/ Pacific Islander	White	Multi-Racial
Discipline	2.7	1.3	5.3	25.3	0.8	59.6	5.0
Student Body	1.8	4.0	2.5	21.0	0.7	65.3	4.8

Inconsistent and/or faulty methods of collecting, recording and reporting data can easily lead to a loss of targeted programs that: improve behavior and achievement; identify disproportionate placement of students in special programs (such as Special Ed, TAG, AP, etc.); identify disproportionate graduation rates; and allocate federal money which is directly tied to student ethnicity (e.g., Title VII funding for Indian, Native Hawaiian and Alaska Native education). Inaccurate data can also lead to African American, American Indian and other students of color "disappearing" from the data.

Changes in Racial and Ethnic Categories

In 2007, the U.S. Department of Education made changes in how race and ethnicity data is collected and reported. These changes were fully implemented in Oregon for the 2010-11 school year. As an example, you will see on the Oregon Department of Education's website that prior to the 2010-11 school year, there were seven race and ethnicity categories in student data: American Indian/Alaska Native, Asian/Pacific Islander, Black/African American, Hispanic/Latino, White, Multi-Racial and Declined to Report.

Starting in the 2010-11 school year, ODE continues to list seven categories, but the categories are different in significant ways. The category of Asian/ Pacific Islander in the older method of collection is now broken into two separate categories: (1) Asian and (2) Native Hawaiian/Pacific Islander. Also, there is no longer a category "Declined to Report", as race and ethnicity information is now required in order for a student to be enrolled at a public school. The definition of American Indian has also been expanded to include Native peoples not just with ancestry from the United States, but from North, Central and South America as well. These changes are helpful in some ways[10] but also pose a number of problems that should be kept in mind when considering the data.

10 For example, separating the categories of Asian students and Native Hawaiian/Pacific Islander students gives a more accurate data picture for discipline of more recent immigrant student populations (e.g., Native Hawaiian/Pacific Islanders).

> **School discipline, including suspension and expulsion, increases the likelihood that a student will not graduate from high school. Suspension is a moderate to strong predictor of an individual's failure to graduate [from] high school. Harvard's Civil Rights Project has found that more than 30% of sophomores who drop out have been suspended.**
>
> Multnomah County Commission on Children, Families & Community, Exclusionary Discipline in Multnomah County Schools: How suspensions and expulsions impact students of color (2012)

11 Eugene School District 4J website, *School District Updating Student Race and Ethnicity Data; Frequently Asked Questions*
www.4j.lane.edu/communications/recordsupdate#nonresponse

12 California Department of Education, *letter to County and District Superintendents and Charter School Administrators* February 5, 2008
www.cde.ca.gov/ds/sp/cl/raceethnicity08a2.asp

Notable Problems with the Data

There are significant differences between the ways race/ethnicity data is now collected by the U.S. Department of Education (USDOE) and the U.S. Census Bureau – two sources of essential demographic information utilized in addressing educational inequities, including the School-to-Prison Pipeline.

1. The data collection method used by the Census Bureau is to have individuals self-identify their race/ethnicity. The USDOE, on the other hand, now requires states to ask parents/families to self identify and, if they don't, then school staff must identify a student's race/ethnicity based on *observation*. At least one school district in Oregon (Eugene School District 4J) has thoughtfully developed a specific process to help ensure that parents/families – and *not an observer* – identify the race and ethnicity of a student.[11] This is a model, we believe, that the Oregon Department of Education should require of each school district in the state. Indeed, in our neighbor-state to the south, the California Department of Education strongly encourages self-identification and has resisted *observer identification* guidance from the USDOE on a statewide basis.[12]

2. The federal government now requires that every student's family must answer two questions in order to determine ethnicity and race. First, they must answer if the student is Latino or Hispanic, yes or no. Second, they must choose one or more races (American Indian/Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White). There is no longer a Latino or Hispanic choice in the race category; it is considered an ethnicity. It is important to note, however, that a student who self-identifies as Hispanic will be reported as Hispanic or Latino, regardless of what race(s) they choose. That is, using the language and definitions of the USDOE, "ethnicity" always trumps "race".

3. Both the first and second question must be answered for each student, whether or not a student self-identifies as Hispanic or Latino in the first question. Unless both questions are answered, the student will be identified by *observation*. If a student marks more than one race, even if they self-identify or the world sees/treats them as African American, for example, they will be placed in the Multi-Racial category.

4. It is important to understand that, in the past, parents could self-identify their children as Multi-Racial. Historically, those students have been more successful in school. Under the new guidelines, there is no longer a Multi-Racial option for
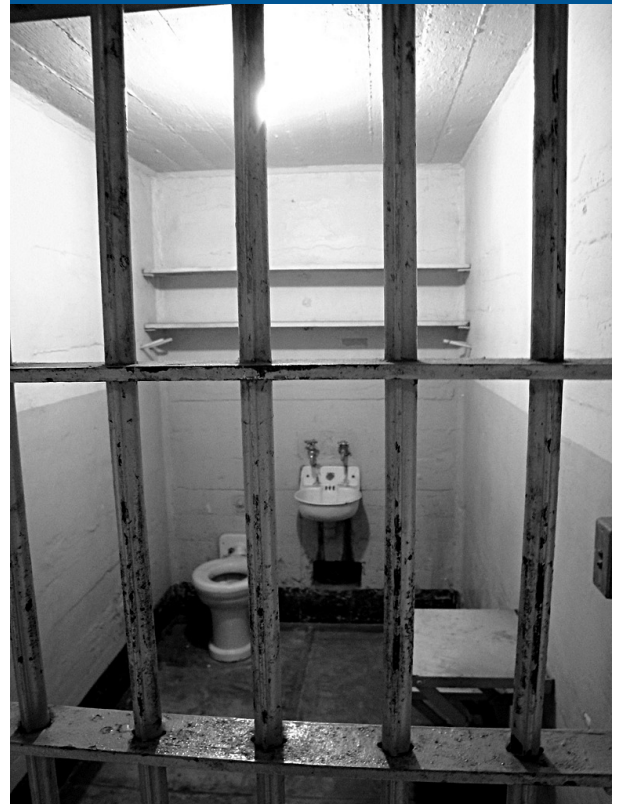
self-identification, but students are automatically placed in that category when more than one race is indicated or possibly when they are identified as such by observation. As a result, the numbers of students now identified as Multi-Racial is much greater. Before this change, in 2009-10, Multi-Racial students were 2.9% of the total, but in 2011-12 that increased to 4.8%, a difference of more than 10,000 students statewide.

5. Because of the increase in the number of students considered Multi-Racial, there has been a corresponding decrease in the percentage of students who had previously been counted as one specific race or ethnicity (e.g., African American, American Indian, etc.). The number of students who have "disappeared" into the Multi-Racial category is masking the disproportionate challenges faced by many students of color. Some have described this effect as "whitewashing" of the data.

6. Identifying eligible students for Title VII Indian Education services has become extremely challenging. Many Title VII programs across the state have lost funding due to new expectations that all students enrolled in Title VII will be identified as American Indian/Alaska Native, when in fact many of these eligible students have become re-identified as multi-racial or Latino.[13]

7. Analyzing the School-to-Prison Pipeline is complicated by the fact that K-12 schools, the Oregon Youth Authority and the Oregon Department of Corrections each use different methods for collecting and reporting race/ethnicity data.[14] Nevertheless, the disparities in the racial and ethnic composition of inmates in both the juvenile and adult correction systems are apparent and unquestionable.

All of these changing numbers indeed impact the ability to accurately monitor and evaluate discipline and achievement across student racial and ethnic groups and can directly affect funding for programs that address inequities.

We believe federal rules for the collection, recording and reporting of race and ethnicity data need to be modified. Even without that action, though, the State Department of Education could do more to lessen the negative impacts listed above if school district officials were better informed about these consequences and had standard protocols in place for identifying students (such as the six-step process developed by Eugene School District 4J). Such protocols would help prevent students of color from disappearing in the data and also minimize the negative impact on financing for targeted programs and on individuals whose identity is no longer represented.

All of these changing numbers indeed impact the ability to accurately monitor and evaluate discipline and achievement across student racial and ethnic groups and can directly affect funding for programs that address inequities.

13 If a Latino student identifies as Native American under the new guidelines, "this may result in referrals of non-eligible indigenous tribal members from tribal nations not recognized by the U.S. under guidelines of the Title VII Indian Education program... districts will need to confirm students' tribal affiliation." See Education Enterprise Steering Committee New *Federal Race and Ethnicity Reporting; Assistance Manual* February 2010, p. 11

14 For example, Oregon Youth Authority and Department of Corrections use U.S. Census Bureau demographic data while the Oregon Department of Education uses the U.S. Department of Education categories.

How To Get Involved

Oregon Alliance for Education Equity

A significant outgrowth of the ACLU of Oregon's discipline data effort has been the formation of the Oregon Alliance for Education Equity (OAEE), a coalition of private, non-profit community and advocacy organizations that represent communities of color, English Language Learners (ELLs), education advocates, families/parents, allies and other stakeholders in education equity. OAEE, of which the ACLU of Oregon is a member, is a coalition whose vision is to eliminate racial and ethnic disparities in K-12 education and to ensure that all students are prepared to be successful adults and global citizens.

OAEE is working on a broad spectrum of education issues, including: disproportionate discipline; the achievement gap; identifying and aiding Oregon's lowest performing schools and districts; the need to provide support to principals and teachers working with historically underserved children; the need to cultivate a diverse educational workforce; and helping ensure that students have support both in and out of school through effective parent/community/school partnerships.

For more information or to get involved, contact Oregon Alliance for Education Equity or one of its member organizations. For contact info, visit the OAEE website (www.oaee.net).

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Additional Resources

- This report is available in both English and Spanish and can also be found on our website
  www.aclu-or.org/content/racial-justice

- ACLU of Oregon document: "Step-by-Step Access to ODE Discipline Data"
  www.aclu-or.org/content/racial-justice

- American Civil Liberties Union of Oregon
  www.aclu-or.org

- National ACLU "School-to-Prison Pipeline"
  www.aclu.org/racial-justice/school-prison-pipeline

- mi ACLU (ACLU Spanish language website)
  www.miaclu.org

- Oregon Alliance for Education Equity
  www.oaee.net

- Salem/Keizer Coalition for Equality
  www.skcequality.org (bilingual website)

- SchooltoPrison.org;
  Challenging the School to Prison Pipeline
  www.schooltoprison.org

- Dignity in Schools, "School Pushout"
  www.dignityinschools.org

- Advancement Project, "Ending the Schoolhouse to Jailhouse Track"
  www.advancementproject.org/our-work/schoolhouse-to-jailhouse