

Black Students in Handcuffs: Addressing Racial Disproportionality in School Discipline for Students with Dis/abilities

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Although there are federal protections for students with dis/abilities under the Individuals with Disabilities Education Act (IDEA) 1975, Black students with and without dis/abilities continue to be suspended and expelled at rates that exceed those of their peers. Still, there is limited research on how Black girls and Black boys are disciplined across suspension types, and based on their identification for special education services. The purpose of this article is to examine the overrepresentation of Black girls and Black boys with and without dis/abilities and to determine, using a quantifiable percentage, how the overrepresentation of Black students for in-school and out-of-school suspension can be eradicated. We use data from the U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection 2011-2012 to examine equity (justice and fairness) in disciplinary referrals using state-by-state and regional data. Using an equity formula, we analyzed national data to determine the magnitude of Black females' and Black males' overrepresentation in in-school and out-of-school suspensions for students with and without dis/abilities. This study indicates that Black females with dis/abilities had the highest rate of overrepresentation in the Midwest in in-school and out-of-school suspension. In comparison, Black males experienced a greater representation in in-school suspension. Regardless of geographic area Black girls and Black boys are continuously being overrepresented in disciplinary punishments. To end overrepresentation of Black girls and Black boys in disciplinary punishments, schools and policy makers must collaborate with communities of color, eliminate teacher racial biases, and discontinue racially punitive school policies.

On April 30, 2014, Kalyb Wiley-Primm, a Black male student at George Melcher Elementary School in Kansas City, Missouri, was handcuffed by a school resource officer (SRO) for not “calming down.” Kalyb, a 7-year-old second grader, was being bullied by another student due to being partially deaf in one ear. At the teacher’s request, the SRO entered the classroom and told Kalyb to stop crying, grabbed his wrist, handcuffed him, and took him to the front office. Based on court records, the officer stated that Kalyb was “out of control in his classroom and refused to follow my directions” (Court Records, 2014). However, court records also indicated that Kalyb “posed no risk, was not and had never been armed, was nonviolent, had not threatened anyone, and had not been in any physical altercation with any student or anyone else” (Court Records, 2014).

This incident illustrates how Black students can be apprehended in school by SROs for perceived disruptions and how the intersection of race, gender, and dis/ability shapes the schooling narratives of Black children who are disproportionately punished in school. The maltreatment of Black children with and without dis/abilities is not new, and this suggests that their schooling experiences are hypercriminalized to reinforce punitive penalties for minor incidences (Blake, Gregory, James, & Hasan, 2016; Losen, 2014). Black and Brown children face more severe schooling consequences than White students, and the misuse of school discipline practices can intensify in low-income schools. Kalyb is one of thousands of Black students with dis/abilities who enter into school as children, but who exit as criminals in handcuffs.

On December 10, 2015, President Barack Obama signed the Every Student Succeeds Act (ESSA) to “advance equity by upholding critical protections for America’s disadvantaged and high-need students” (U.S. Department of Education, 2017) while promoting accountability and increased levels of student achievement. ESSA reauthorized the Elementary and Secondary Education Act (1965), ending mandates under No Child Left Behind. ESSA provides states with flexibility and oversight in determining testing standards and teacher quality, and it requires school districts to report graduation rates while protecting students under the Civil Rights Act of 1964. Under ESSA, “states are required to design accountability measures under Title 1 that addresses five indicators: (a) proficiency in reading and math; (b) graduation rates; (c) English language proficiency; (d) student growth measures or a comparable indicator in elementary and middle school; and (e) one indicator of school quality” (EdTrust, 2016, p. 2). A key component of ESSA is the inclusion of “non-academic” factors defined as “student or educator engagement, student access to and completion of advanced coursework or postsecondary readiness, school climate and safety, or any other indicator under the broad banner of school quality and student success” (Schanzenbach, Bauer, & Mumford, 2016, p. 5). Although ESSA is intended to promote equity-focused standards and transparency and requires states to implement research-based practices to reduce incarceration discipline, disparities still exist, and this remains one of the most significant epidemics in the Pk-12 school system.

During the 2011-2012 school year, there were approximately 3.45 million students suspended out of school and 130,000 expelled in the public school system (U.S. Department of Education, 2016). The UCLA Civil Rights Project 2015 report entitled *Are We Closing the School Discipline Gap?* has suggested that more children are suspended in grades Pk-12 than there are students enrolled in their senior year (Losen, Hodson, Keith, Morrison, & Belway, 2015). Disaggregated by race and gender, Black students constitute the largest demographic population who are being overdisciplined, and they face increased rates of criminalization compared with other students of color and White students. In 2013-2014, 6% of all Pk-12 students received one or more out-of-school suspensions (OSSs), and the percentage was 18% for Black boys, 10% for Black girls, 5% for White boys, and 2% for White girls. Black students are 3.8 times more likely to receive one or more OSSs as White students. Black students across different identity categories, including race, gender, and dis/ability status, remain one of the most marginalized student populations in education.

When disaggregated by dis/ability status, students with dis/abilities often face harsher punishments in schools than those without dis/abilities. Black students with dis/abilities are approximately “three times more likely to experience out-of-school suspensions than White students with disabilities and twice as likely to experience in-school suspension” (Cortiella & Horowitz, 2014, p. 24). Data from

the 2011-2012 U. S. Department of Education Office for Special Education Programs indicate that Black students with dis/abilities account for 19% of all students with dis/abilities in schools but are 50% of those incarcerated (Losen, Hewitt, & Toldson, 2014; also see <http://ocrdata.ed.gov/>). Nationally, in the top 10 school districts with the most suspensions, Black girls with dis/abilities had higher rates of out-of-school punishments than all female students (M. W. Morris, 2012). Comparatively, Black males with dis/abilities in high schools have the highest rate of suspension—14 points more than any other subgroup of students with dis/abilities when disaggregated by race and gender (Losen & Martinez, 2013). Although Black students with dis/abilities across gender categories have higher rates of OSSs, few studies have examined exclusionary discipline at the intersections of race, gender, and dis/ability status. In this article, we discuss factors that contribute to the overrepresentation of Black¹ students with and without dis/abilities (disaggregated by gender) by discipline type, and we analyze recent trends using national discipline data. We also examine in-school suspension (ISS) and OSS for Black girls and Black boys with and without dis/abilities. Moreover, the authors discuss implications for Black students with dis/abilities, and we provide recommendations that address the core components of ESSA.

SCHOOL DISCIPLINE AND BLACK CHILDREN

Kalyb Wiley-Primm's case illustrates how exclusionary discipline adversely impacts the schooling experiences of Black children when they are depicted as threatening or requiring intervention from SROs. Exclusionary discipline policies include out-of-school punishments, referrals to the principal's office, and physical penalties (Skiba, Arredondo, & Rausch, 2014). Despite the overrepresentation of Black students receiving disciplinary punishments, racial and gender disparities are not attributed to misconduct or poverty (Losen et al., 2014). Much of the research on factors that impact racial and gender disproportionality in school discipline for Black students indicates that they are punished more severely for trivial offenses and for subjective reasons, and these infractions differ by gender status (Hines-Datiri, 2015; Smith & Harper, 2015). The following sections provide an overview of factors associated with racial and gender disproportionality in discipline for Black girls, Black boys, and Black students who are and are not identified for special education.

ZERO-TOLERANCE POLICIES

In 1994, President Bill Clinton instituted the Gun Free Schools Act, known as *zero-tolerance policy*, to allow schools to suspend students for one year for possession of a weapon on school grounds. Zero tolerance allows schools to remove students for a variety of offenses, including major crimes and minor infractions such as violating codes of conduct (Hines-Datiri & Carter Andrews, 2017; Skiba & Losen, 2016). Zero-tolerance practices include security measures to monitor student behavior, the use of police officers, and pat-downs to search physical property (Skiba, & Losen, 2016). Despite the perceived intent of zero tolerance to safeguard school staff and children from acts of violence, students of color have been targeted for punishment for minor offenses in ways that have fundamentally questioned the original intent of the law. Such policies have disproportionately been used to sanction Black children for noncriminal violations and, in many cases, have resulted in lesser penalties (if any at all) for White students. These policies have been used to render Black girls and Black boys to an inhumane status while increasing disparities for these children.

BLACK GIRLS AND PUNITIVE DISCIPLINE

WHEN SUGAR AND SPICE ISN'T EVERYTHING NICE

Much of the research on Black students and zero tolerance has focused on the experiences of Black boys who are overrepresented in disciplinary punishments. Still, Black girls face distinctly different forms of criminalization than Black boys that render them less than "sugar and spice and everything nice." Slate, Gray, and Jones's (2016) quantitative study on Black girls and exclusionary discipline in Texas indicated that Black female students in Grades 4-11 received increased rates of out-of-school punishments under zero tolerance as compared with White girls or Latinas. Black girls received harsher sanctions and were more likely to be disciplined across three major categories: (a) in-school suspension; (b) out-of-school suspension; and (c) discipline alternative education. ISS included office referrals and/or detention; out-of-school suspension included punishments off school grounds; and discipline alternative education is defined as a placement that removed the student from the classroom to enforce academic penalties for incidents in school. The findings showed that Black female students had a series of "transition points" from elementary to middle and high school for which disciplinary sanctions rose expediently, and the authors indicate that a majority of the girls' punishments were instituted by the school principal.

The African American Policy Forum and Center for Intersectionality and Social Policy Studies (2015) examined the impact of zero tolerance and how academic risk factors influence the disciplinary experiences of girls of color in Boston and New York City. The study revealed that Black students were exposed to a "racialized risk of punishment" when they were subjected to various forms of discipline through the use of zero-tolerance policies and punitive practices. For example, Black girls in New York City were approximately "ten times more likely to be suspended than their White counterparts and in Boston, they were suspended at almost twelve times the rate of White girls" (p. 22). Using focus groups and interviews of girls of color, the study found that schools' enforcement of zero tolerance created unsafe spaces that prohibited them from learning. Many of the girls cited that being overdisciplined caused them to disengage from school and resulted in them leaving altogether. These forms of hypercriminalization, covert and overt acts of anti-Black racism, and false notions of colorblindness are used as tactical measures to sanction Black girls.

BLACK GIRLS IN THE SCHOOL-PRISON NEXUS

While Black girls are being racially spotlighted and dehumanized for behavioral offenses that would normally be addressed by school officials, school discipline policies have been used as a mechanism for populating the prison system and depopulating classrooms. In 2010, Black female students constituted 36% of girls in juvenile justice during the same time that there was a marketed growth of suspensions of Black girls across school districts (M. W. Morris, 2012). Recent analyses of empirical data suggest that the term *school-to-prison pipeline* does not capture the complexity or "web" of criminalization that places Black girls into a marginalized state of

invisibility. Researchers have now used the term *school-prison nexus* to describe it as an “interlocking system that disciplines, punishes, and forces youth out of schools and into the legal system through a network of institutions, policies, practices, and ideologies” (Fernández, Kirshner, & Lewis, 2016, p. 94). Black female students stand at the intersection of punitive discipline and incarceration when they are restricted to school-based forms of captivity and county detention centers.

In *Pushout*, M. W. Morris (2016) investigated the intricate ways that Black girls are disciplined in a school-to-prison confinement and how their carceral realities are shaped by transgenerational trauma and personal narratives of social exclusion in school. When Black girls are imprisoned by law enforcement officers, they become the stereotypical prototype of the “ghettoized” Black girl or the “submerged tenth, a term by W. E. B. DuBois to refer to those in criminal classes” (p. 142). M. W. Morris stated,

Girls dismissed as “delinquents” struggled to be included in discourses on correctional education and its role in returning them to their home communities and rebuilding their lives. Black girls were denied opportunity or granted only a limited form of access to private institutions that were designed to “reform children.” But once Black girls were accepted into these institutions, access to services remained unequal. Black girls tended to stay in juvenile justice facilities longer, and experience fewer positive outcomes, than their White counterparts. (p. 141)

After their adjudication from school, Black girls are swiftly placed into correctional facilities that further degrade and subjugate them to daily vulnerabilities. Although girls in the study believed that educators viewed them as academically inferior, how teachers perceived of the girls’ lives outside of school shaped the treatment they received in the classroom.

Black girls’ hypercriminalization in and outside of school places them in a cyclical state of susceptibility in which they are seen as perpetrators, and their counterstories are silenced. Black female students often have to succumb to two polarizing identities—as “good girls” or in “ghetto fashion” (Cook, 2015)—making schools and prisons conduits for legalized adjudication. The school-to-prison confinement pathway is linked to teachers’ and administrators’ understanding of racism, sexism, and “Black inferiority” (George, 2015). In many cases, educators lack a historical understanding of racism in the United States, normalize Whiteness, and have no racial literacy to address White supremacy in schools.

BLACK BOYS AND EXCLUSIONARY DISCIPLINE

“HOW DOES IT FEEL TO BE A PROBLEM?”

In *How Does It Feel to Be a Problem? Black Male Students, Schools, and Learning in Enhancing the Knowledge Base to Disrupt Deficit Frameworks*, Howard (2013) advanced W. E. B. DuBois’s question of why Black people have been deemed the problem. Howard contended that Black males are depicted as being more “prone to violence, invoking fear in many, and deemed as undesirable in certain circles . . . the view of Black males is diverse and extreme on many levels; loathed in various environments, applauded in others” (p. 55). The Schott Foundation’s (2015) report *Black Lives Matter* indicated that in Florida, approximately 23% of Black males were suspended from school, compared with 9% of White males. The report further showed that Black young men in St. Louis, Missouri, and Polk County, Florida, both had the highest rate of suspension (40%) than any other urban school district in the United States.

A national study of Black students’ disciplinary sanctions in 13 southern states revealed that 47% of Black males were suspended and 47% were expelled from school. Smith and Harper’s (2015) assessment demonstrated that the discipline gap exists across a majority of the South. During the 2011-2012 school year, over 427,000 Black young men in 13 southern states were suspended, with more than 14,000 expelled. Mississippi had the highest percentage of Black boys who were suspended, at 71.5%, while Louisiana and Tennessee had the highest rates of expulsion, at 69.1% and 68.8%, respectively. Given the overrepresentation of Black males in school disciplinary punishments, Smith and Harper recommended that school districts terminate zero tolerance as a strategy for addressing school safety. Black boys who are funneled out of school through pushout measures, who are overdisciplined, and who are (mis)educated in structurally racist learning spaces will find their resting place in juvenile justice institutions or in adult prisons.

FROM PRESCHOOL TO INCARCERATION

The criminal justice system is broken. Black people account for 40% of individuals in incarcerated in federal prisons, although they represent less than a quarter of the population in the United States, and it is estimated that a third of Black males have been incarcerated in their lifetime (Fasching-Varner, Mitchell, Martin, & Bennett-Haron, 2014). An empirical study conducted by researchers at the Yale University Child Study Center (2016) challenged the ideology that discipline is solely linked to Black boys misbehaving at higher rates by analyzing how teachers’ gaze on the bodily movements of young Black males impacted disciplinary punishments. Racial and gender disparities in preschool discipline is reflected by a 47% suspension rate of Black students with one or more suspension; noteworthy is that Black children represent only 29% of preschoolers (Gilliam, Maupin, Reyes, Accavitti, & Shic, 2016). Through vignettes and an eye-tracking study used to examine the frequency and tendency that educators watched or *gazed* at students, it was found that teachers “more closely observe Black students, and especially boys, when challenging behaviors are expected” (p. 11). If Black boys were identified as demonstrating “challenging behaviors,” teachers held a lower standard for these students, and these children were implicitly watched by educators at an alarming rate of 42%. The findings suggest that implicit and explicit racial bias and racial monitoring of Black males’ behaviors, whether conscious or unconscious, were used to police Black students’ bodies.

In middle and high school, in-school factors can have a significant influence on the engagement of Black males in the classroom. Toldson, McGee, and Lemmons’s (2015) secondary data analysis of 8th- and 10th-grade boys’ disciplinary experiences indicated that 59% of Black males stated that they received OSS, compared with 26% of White males. For students with higher rates of punishment, Black boys were more likely to experience academic disengagement, and this had the “strongest direct effects on disciplinary referrals” (p. 111). This study showed that Black males who possessed positive beliefs about school reportedly had fewer “thrill-

seeking behaviors” (p. 112). These students were less likely to use illegal substances or carry a firearm in school; however, these factors had a strong association for criminal behavior in school, necessitating disciplinary punishments for White males. When Black students are seen within a dehumanizing lens, they will be less apt to receive the type of education that promotes not only their liberation but also their humanity.

SPECIAL EDUCATION, DISCIPLINE, AND BLACK STUDENTS

The reauthorization of the Individuals with Disabilities Education Act (IDEA) in 2004 provided additional protections for students with dis/abilities in PK-12 settings. However, given the high number of students of color who are suspended, IDEA mandates may not be enough and represent a “de facto denial of education access” (Sullivan, Van Norman, & Klingbeil, 2014, p. 199). Black children are often referred to special education programs by novice teachers rather than by veteran educators (Losen, Hodson, Ee, & Martinez, 2015). White teachers account for a majority of the teaching population in the U.S. public school system (85%), and their assessment of Black students’ capabilities tend to be based on racial biases that can persist when they enter the classroom (Whitaker & Hines, 2018). IDEA regulations require school districts to track racial/ethnic disproportionality, including reporting “significant disproportionality,” and schools are required to use 15% of federal funding for intervention programs (Losen et al., 2015, p. 3). Nevertheless, both Black children who are misidentified for special education and those who require services are often not provided resources for adequately supporting their academic potential.

When disaggregated by race, Black children are more likely to be labeled with a dis/ability status, with a risk ratio of “2.28 and 2.75 for Black students with Emotional and Behavioral Disabilities (EBD) and Intellectual Disability (ID), and 1.46 in Specific Learning Disability (SLD)” (Harry & Klingner, 2014, p. 2). Harry and Klingner defined a risk ratio as the “within group risk ratio calculated for an ethnic group, and then compared to the rate within other ethnic groups” (p. 2). An extensive body of literature indicates that students of color are overrepresented in special education and underrepresented in gifted classes (Balfanz, Byrnes, & Fox, 2015; Ford, 2013, 2016). Research indicates that students of color are more likely to be identified in high-incidence categories, including (a) being emotionally disturbed; (b) having a learning disability; (c) having an intellectual disability; and (d) having developmental issues (Ford, 2012; Ford, Whiting, Goings, & Robinson, 2017). These high-incidence categories are often ascribed to Black children, but White students are often deemed as not requiring remediation. Thus, Black students’ race, gender, and dis/ability status influence the rates and degree of out-of-school punishments that Black students receive in school.

METHODS

AN EXPLORATION OF REGIONAL TRENDS FOR BLACK STUDENT SUSPENSIONS: OVERREPRESENTATION PERCENTAGES AND EQUITY GOALS

In 1987, Chinn and Hughes proposed that the overrepresentation of Black students should not exceed a 10% discrepancy between their representation in the nation (or state and district) and their representation in special education in the nation (or state and district). This idea had been applied to employment practices (e.g., *Griggs v. Duke Power* Supreme Court case, 1971e)² but not to educational court cases. Chinn and Hughes’s goal was ahead of its time; it was, and is, grounded in the notion of equity that is so popular today, some three decades later. That is, for some schools and scholars (e.g., Ford, 2013; Ford & King, 2014), the contemporary focus is not necessarily that of equality (e.g., *Brown v. Board of Education*, 1954) but rather equity. Equality does not take into consideration different contexts and needs associated with income, gender, race, and dis/ability; conversely, equity does so. Equity (justice and fairness) is a recognition that students come to school with different resources, supports, and needs based on sociodemographic variables and social issues; accordingly, educators ought to make changes to advocate for and be responsive to such student differences. In the following, we go beyond equity as a philosophy and idea to its quantification.

We are aware of two court cases in education (District U-46 in Elgin, IL; Tucson, AZ) in which equity has been quantified.³ One State Department of Education (Missouri) has adopted the formula for gifted education.⁴ In these instances, plus the Equal Employment Opportunity Commission federal guidelines, a disparate impact or equity formula was applied. To illustrate, when it comes to *overrepresentation*, 120% is used to calculate the *maximum* representation allowable in order to rule out racial discrimination being in operation. To assess the magnitude of overrepresentation of Black males and females in suspension categories, the equity formula was employed in gifted education (Ford, 2013). The equity formula was constructed using the following equation: *Equity percent for Black male or female student population (e.g., in a state, region, district, building) is calculated as Black male or female student percent times 1.2 (or 120%)*. The equity percent specifies the *maximum* representation that each state (district, region, building, etc.) should have within discipline categories. Using this formula, each region’s overrepresentation within ISS and OSS categories was assessed by subtracting the equity percent for Black males or females from the Black male or female percent represented within the specified discipline category.

Although Chinn and Hughes (1987) called for a 10% allowance, this equity formula is based on a 20% allowance, which is less stringent. Black students represented 19% of schools nationally per the Office of Civil Rights and thus should not constitute more than 22.8% of students disciplined when this equity allowance is applied ($19\% \times 120\% = 22.8\%$). Black students frequently exceed 22.8% of students suspended, often doubling this percentage. Undeniably, our nation has failed in statistically significant ways to achieve equity in special education for Black students, which indicates that racial discrimination is operating. The following figures provide more evidence of inequitable overrepresentation among Black males and females with dis/abilities who are suspended. This is not the case for White males and females, which is diametrically the opposite: They are underrepresented in special education.

All districts in the nation must report their discipline data to the U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection. To examine national trends, the authors relied on this data set (see <http://ocrdata.ed.gov/>) for 2011-2012, which had the most recent data available at the time of this publication. The Office of Civil Rights Data Collection data sets pertaining to overall student population data, ISS data, and OSS data were employed in the analysis of suspension by gender and dis/ability.

FINDINGS

In our analysis of national data for the 2011-2012 school year, we used the U.S. Census Bureau's regional categories—Northeast, Midwest, South, and West— to examine in-school and out-of-school disciplinary punishments for Black students by gender and dis/ability status. For this study, dis/ability status is defined as a student receiving the classifications stated under IDEA. The Southern region has the most states, with 17. The Northeast region has the lowest number of states with nine, followed by the Midwest and West regions, as depicted in Figure 1.

Figure 1. Regions of the United States

Northeast	Midwest	South	West
Connecticut	Indiana	Delaware	Arizona
Maine	Illinois	District of Columbia	Colorado
Massachusetts	Michigan	Florida	Idaho
New Hampshire	Ohio	Georgia	New Mexico
Rhode Island	Wisconsin	Maryland	Montana
Vermont	Iowa	North Carolina	Utah
New Jersey	Kansas	South Carolina	Nevada
New York	Minnesota	Virginia	Wyoming
Pennsylvania	Nebraska	West Virginia	Alaska
	North Dakota	Alabama	California
	South Dakota	Kentucky	Hawaii
		Mississippi	Oregon
		Tennessee	Washington
		Arkansas	
		Louisiana	
		Oklahoma	
		Texas	

Note: The regions of the United States are based on Census Bureau data categorization. These regions can also be broken down into divisions. Census Bureau regions are based on commonly shared geography and perceived culture of states.

Figure 2 indicates that Black males experienced a greater representation within ISS categories compared with their representation within the total student population for every region of the country. However, Black females tended to experience a decrease in representation within ISS categories compared with their representation within the total student population. Using the equity percentages based on the 120% formula, the analysis indicated very little overrepresentation of Black females within ISS categories. For both Black male and Black female students, representation of Black students with dis/abilities in ISS is much lower than the representation of Black students in ISS with and without dis/abilities. For OSS, both Black male and female students experienced a larger representation in this discipline category compared with their representation in the overall student population. However, Black males still experienced greater rates of overrepresentation in OSS compared with Black females. Black females did experience a greater overrepresentation in OSS compared with ISS.

Figure 2. Overrepresentation of Black Females Within the Total Student Population in Discipline Categories by Disability Status, 2011-2012

	Black Females					
	With and Without Disabilities			With Disabilities		
	Total	ISS	% Over	Total	ISS	% Over
Unites States	7.77%	11.64%	3.87%	6.26%	7.53%	1.27%
Northeast	4.73%	6.17%	1.44%	3.84%	4.23%	0.39%
Midwest	5.07%	7.24%	2.17%	4.33%	5.11%	0.78%
South	14.62%	16.52%	1.90%	11.07%	10.57%	-0.50%
West	1.73%	2.02%	0.29%	1.57%	1.84%	0.27%

	Black Females					
	With and Without Disabilities			With Disabilities		
	Total	OSS	% Over	Total	OSS	% Over
Unites States	7.77%	13.38%	5.61%	6.26%	7.96%	1.70%
Northeast	4.73%	7.71%	2.98%	3.84%	5.01%	1.17%
Midwest	5.07%	11.37%	6.30%	4.33%	8.38%	4.05%
South	14.62%	18.52%	3.90%	11.07%	11.45%	0.38%
West	1.73%	2.25%	0.52%	1.57%	1.92%	0.35%

Note: ISS: in-school suspension; OSS: out-of-school suspension.

For the second part of the study, Black female and male students were assessed separately and within their corresponding gender only. Figure 3 displays levels of representation within varying categories for Black males within the male student population. When assessing Black males within the male student population, large levels of overrepresentation are presented, with OSS overrepresentation producing much larger numbers than ISS across dis/ability status. Still, Black males with dis/abilities had lower levels of overrepresentation within ISS and OSS. Based on this analysis, states in the Midwest led in overrepresentation in three categories: (1) ISS for Black females with dis/abilities; (2) OSS for Black females with and without dis/abilities; and (3) OSS for Black females with dis/abilities. States in the South followed behind the Midwest in overrepresentation within these three categories and produced the largest level of representation in the category for ISS for Black females with and without dis/abilities.

Figure 3. Overrepresentation of Black Males Within the Total Student Population in Discipline Categories by Disability Status, 2011-2012

	Black Males					
	With and Without Disabilities			With Disabilities		
	Total	ISS	% Over	Total	ISS	% Over
Unites States	8.12%	19.22%	11.10%	12.79%	21.31%	8.52%
Northeast	4.99%	11.21%	6.22%	7.59%	11.64%	4.05%
Midwest	5.34%	12.56%	7.22%	8.66%	14.25%	5.59%
South	15.13%	27.12%	11.99%	22.73%	31.56%	8.83%
West	1.87%	4.47%	2.60%	3.20%	5.76%	2.56%

	Black Males					
	With and Without Disabilities			With Disabilities		
	Total	OSS	% Over	Total	OSS	% Over
Unites States	8.12%	24.46%	16.34%	12.79%	25.05%	12.26%
Northeast	4.99%	14.64%	9.65%	7.59%	14.90%	7.31%
Midwest	5.34%	20.31%	14.97%	8.66%	22.10%	13.44%
South	15.13%	33.30%	18.17%	22.73%	36.39%	13.66%
West	1.87%	5.31%	3.44%	3.20%	6.87%	3.67%

Note: ISS: in-school suspension; OSS: out-of-school suspension.

In Figure 4, the levels of representation for Black female students within the overall female student population are displayed. When assessing Black female students within the overall female student population, high levels of overrepresentation are still present. Based on this analysis, Black females experienced higher levels of overrepresentation in OSS compared with ISS. However, the categories of Black females with dis/abilities had lower levels of overrepresentation compared with those in the category of Black females with and without dis/abilities. Similar results are found in Figure 5, which examines Black males with and without dis/abilities in ISS and OSS. The Midwest led overrepresentation of Black male students in the same three categories as Black females: (1) ISS for Black male students with dis/abilities; (2) OSS for Black male students with and without dis/abilities; and (3) OSS for Black male students with dis/abilities. The South followed the Midwest in many of these categories and produced the highest level of overrepresentation within the category of ISS for Black males with and without disabilities.

Figure 4. Black Female Student Percentages With the Female Student Population by Discipline Category, 2011-2012

	Female, Total	Equity	Female, ISS	Female with Disability, Total	Equity	Female with Disability, ISS
United States	16.0%	19.2%	35.4%	18.8%	23.0%	32.2%
Northeast	9.7%	11.7%	19.2%	11.5%	13.7%	17.1%
Midwest	10.4%	12.5%	23.3%	12.8%	15.7%	22.6%
South	29.9%	35.9%	47.7%	33.4%	40.8%	45.2%
West	3.6%	4.3%	7.0%	4.8%	5.7%	9.0%

	Female, Total	Equity	Female, OSS	Female with Disability, Total	Equity	Female with Disability, OSS
United States	16.0%	19.2%	44.3%	18.8%	23.0%	38.0%
Northeast	9.7%	11.7%	24.9%	11.5%	13.7%	21.7%
Midwest	10.5%	12.5%	37.5%	12.8%	15.7%	39.1%
South	29.9%	35.9%	57.3%	33.4%	40.8%	52.0%
West	3.6%	4.3%	8.3%	4.8%	5.7%	10.0%

Note: ISS: in-school suspension; OSS: out-of-school suspension.

Figure 5. Black Male Student Percentages Within the Male Student Population by Discipline Category, 2011-12

	Male, Total	Equity	Male, ISS	Male with Disability, Total	Equity	Male with Disability, ISS
United States	15.8%	19.0%	28.7%	19.2%	23.0%	27.8%
Northeast	9.7%	11.6%	16.5%	11.4%	13.7%	15.4%
Midwest	10.4%	12.4%	18.2%	13.1%	15.7%	18.4%
South	29.6%	35.5%	41.5%	34.0%	40.8%	41.2%
West	3.6%	4.4%	6.3%	4.8%	5.7%	7.3%

	Male, Total	Equity	Male, OSS	Male with Disability, Total	Equity	Male with Disability, OSS
United States	15.8%	19.0%	35.0%	19.2%	23.0%	31.7%
Northeast	9.7%	11.6%	21.2%	11.4%	13.7%	19.4%
Midwest	10.4%	12.4%	29.1%	13.1%	15.7%	28.1%
South	29.6%	35.5%	49.3%	34.0%	40.8%	46.7%
West	3.6%	4.4%	7.3%	4.8%	5.7%	8.5%

Note: ISS: in-school suspension; OSS: out-of-school suspension.

DISCUSSION AND IMPLICATIONS

The regional national findings on ISS and OSS for Black girls and Black boys with and without dis/abilities are unsurprising yet still troubling; the data reveal that overrepresentation is prevalent and significant. School discipline policies and practices, when used to sanction Black bodies, is not only more severe but also raises critical questions for educators, administrators, and districts for how to equitably implement ESSA given the increasingly detrimental effects of punishments on Black children. ESSA was instituted as an “equity-minded” law that supports the academic matriculation of students from economically disadvantaged communities; however, our findings suggest that having “equity-minded” goals alone, and those that have traditionally been used, may not ameliorate racially discriminatory practices that are used to disenfranchise Black students. Therefore, ESSA accountability systems should include the equitable public collection and reporting of discipline data across race, gender, and dis/ability status to educational stakeholders, including to historically disadvantaged communities. Given that states have oversight in determining how data are collected, students of color who are disproportionality disciplined may be (re)categorized as “absent,” “dropout,” “transfer,” or another category that does not actually reflect the root causes of these disparate discipline rates. We believe that using an equity formula similar to what we examined in this study will not only support further transparency in data collection but also allow states to develop targeted equity-based initiatives that will support the academic needs of Black students.

In addition to accountability standards for how schools and states will collect discipline data, it is critical for states to develop school improvement plans that include culturally transformative justice practices and that address implicit and explicit bias and anti-Black racism along with decolonizing terms, including *classroom management*. Furthermore, these plans must include parents and/or guardians in the disciplinary process. Relatedly, we ask: How are Black families being supported to understand discipline and special education so they can advocate for their children at home and school? Howard (2016) stated that restorative justice can serve as a vehicle for addressing implicit racial bias and White patriarchal expectations that lead to subjective punishments for Black males. Similarly, Winn’s (2015) work with incarcerated 14- to 17-year-old Black girls, and their engagement with literacy and theatre, revealed the ways that “culturally sustaining and liberatory pedagogical strategies” can lead to “teaching freedom in confined spaces” (p. 65). However, restorative justice practices may not truly be effective if inequitable and unjust systems remain the same. Transformative justice is rooted in addressing the “socio-political injustices toward women, people of culture . . . people with dis/abilities and other marginalized groups” (Nocella & Anthony, 2011, p. 6). Culturally transformative justice practices and policies can be used as a tool to address the victimization that Black girls and Black boys experience during the disciplinary process, to reduce school pushout and dropout rates, and to address school-to-prison confinement for Black children.

School districts and state agencies should collaborate with communities of color to develop disciplinary processes that unchain Black children’s bodies and minds from confined spaces. This includes a multipronged approach that incorporates what we call *culturally transformative justice* practices that are foregrounded in culturally sustainable pedagogies and transformative justice. We suggest that culturally transformative justice practices seek to embrace and include the cultural and racial backgrounds of students of color in school, while centering the experiences of the oppressed and the marginalized. We propose that states and school districts consider how culturally transformative justice practices, combined with parent/guardian and community engagement, can end racial disparities in disciplinary punishments. Furthermore, through Title XI, states can submit grant funding for developing innovative programs that will improve school success—this may help to address funding shortcomings that many school districts face when developing new and sustainable initiatives.

Last, as schools are implementing ESSA measures, it is also imperative for districts to develop programs that address the overrepresentation of Black children in ISS while developing practices that disrupt the placement of Black students in special education. ISS has been used as a holding cell for Black students who are disciplined for subjective infractions or for minor issues of perceived insubordination. Consequently, ISS is an understudied phenomenon that adversely affects Black students’ experiences in school (R. C. Morris & Howard, 2003; Shollenberger, 2015). States and school districts should consider the processes that govern ISS and how it detracts from learning while also contributing to a grave loss of instructional time. Other questions to consider include: What do students learn when they are placed into ISS and isolated classrooms? What supports and sanctions are educators given to

stop unnecessary, unjust, biased, and subjective disciplinary referrals of Black girls and boys of all ages? How are educators being held accountable, that is, required to take responsibility for their biases and actions? These same questions apply to injustices in special education and with misreferrals and misplacements that can also be quantified using the Equal Employment Opportunity Commission disparate impact or equity formula (see Ford, 2013).

Next, we offer recommendations for how educators and schools can disrupt the overrepresentation of Black students with and without dis/abilities in inequitable disciplinary punishments. The suggestions focus on how educators can and must build Pk-12 schools as sites of transformative justice and emancipatory education.

- Discontinue racially punitive discipline policies and practices that legalize hyperpolicing and informal surveillance measures of Black students' bodies, and institute equitable policies, processes, and outcomes that account for the permanence of racism and White privilege in schools.
- Eliminate teacher/educator racial biases that are rooted in societal stereotypes of Black children by addressing preparation gaps in teacher education programs. This requires colleges and schools of education to revise their degree programs so that colorblindness and White privilege do not remain at the core, and preservice educators are able to challenge and change ideals of meritocracy, interrogate the maintenance of Whiteness in schools and its normalities, and be proponents of and advocates for social, racial, and human justice.
- Address gaps in in-service teacher preparation and in the type of continuing education credits that educators receive. Teacher professional development must encourage teachers to problematize why and how they use deficit-oriented pedagogies as a first and last resort in the classroom when educating Black children. This includes using critical race frameworks to study teacher professional development.
- Recruit and retain more teachers, administrators, and school staff of color who are committed to racial, gender, and dis/ability justice as well as ending punitive punishments, closing achievement and opportunity gaps, and contesting the misappropriation of resources and privileges that are provided to White students at the expense of Black girls and Black boys.
- Disaggregate data by race and gender for students with and without dis/abilities to understand the magnitude of discipline for each and for the purposes of tailoring prevention and intervention.

We realize that not all school districts across these four geographic regions may have inequitable representation in disciplinary punishments. There should be more research on state-by-state discipline disparities for Black students with and without dis/abilities in Pk-12 schools.

CONCLUSION

Black students with and without dis/abilities who are disproportionately targeted for in-school and out-of-school punishments are more susceptible to experiencing different forms of racially subjective monitoring, implied criminalization, and hypersurveillance from school personnel. Despite the implementation of ESSA, Black students who are disproportionality educated in at-risk schools may not be supported academically if states are given limited oversight to enforce federal laws. Our analyses show that Black students with and without dis/abilities are being neglected in school, and the overuse of disciplinary punishments indicates that they are seen as inhumane and deserving of criminalization. Therefore, it is critical for educators to acknowledge how their formal and informal disciplinary practices and policies lead to the carcerality of Black girls and Black boys in school. Furthermore, for schools to have equitable disciplinary processes and outcomes, it is important that we not only focus on effectively teaching Black students but also examine schools as contexts of *and* for producing systematic oppression. Without assessing factors that contribute to classroom spaces that reinforce the educational maltreatment of Black students, educators will continue to contribute to premature and dismal outcomes while widening the racial discipline gap.

Notes

1. We use the term *Black* to refer to students who racially identify as Black and/or African American and not Hispanic, as defined by the United States Census Bureau.
2. See Equal Employment Opportunity Commission (EEOC) at <https://www.dol.gov/oasam/programs/crc/address.htm>
3. See Ford (2013) and <https://www.leagle.com/decision/inadvfco140901000266>.
4. See <https://dese.mo.gov/sites/default/files/qs-Gifted-Underrepresented-Gifted-Students-2016.pdf>

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