

# State Action to Narrow the School-to-Prison Pipeline (Part One)

## A Review of State Plans for Allocating the Elementary and Secondary School Emergency Relief (ESSER) Fund

### A Massive Allocation of Federal Covid Relief Dollars Gives States the Chance to End Over-Policing and Zero Tolerance in Public Schools... But Only a Handful of States Are Taking Advantage (So Far)

Updated analysis by The Sentencing Project finds that many states are squandering an historic opportunity to close the school-to-prison pipeline. The analysis reviewed state plans submitted to the U.S. Department of Education for use of \$122 billion in federal support to help students return to school safely and successfully in 2021-22 and to bolster student success in subsequent years. The funding was included in the \$1.9 trillion American Rescue Plan Act (ARPA), enacted in March 2021.

As The Sentencing Project highlighted in its August 2021 publication, [Back-to-School Action Guide: Re-Engaging Students and Closing the School-to-Prison Pipeline](#), these funds – when combined with important lessons learned in recent years – provide educators, advocates, and community leaders with an unprecedented opportunity to end the counterproductive criminalization of adolescent misbehavior and to keep students in school and on track for future success.

The funding comes at a particularly crucial time for the nation's schoolchildren. In a December 2021 advisory, the U.S Surgeon General warned that adolescents' mental health, which was already showing worrisome trends before the COVID-19 pandemic, has only grown worse as "the pandemic era's unfathomable number of deaths, pervasive sense of fear, economic instability, and forced physical distancing from loved ones, friends, and communities have exacerbated the unprecedented stresses young people already faced."<sup>1</sup> The Surgeon

General characterized the mental health challenges facing adolescents as "devastating," and the advisory identified schools as key partners in tending to children's social and emotional wellness.

Analyses of [state ESSER plans](#) and some [local school district plans](#) find that school systems nationwide are using the ESSER funds to undertake many promising activities aimed at re-engaging students, supporting their academic progress and behavioral health, and improving school climate. These include new or expanded efforts in Social and Emotional Learning, tutoring, attendance promotion, summer school, afterschool programming, hiring of additional psychologists and guidance counselors, and more. However, The Sentencing Project's new analysis finds that states are not using the funds to reduce over-reliance on police in public schools, and only some are using the funds to eliminate discredited zero tolerance discipline regimes. Similarly, our analysis finds that few states are using funds to adopt alternative discipline strategies with proven capacity to improve school safety, close longstanding racial inequities, and increase student success.

For this analysis, The Sentencing Project examined state plans submitted by every state and the District of Columbia for use of federal dollars allocated to the Elementary and Secondary School Emergency Relief (ESSER) fund in the American Rescue Plan Act. The legislation authorized states to use these funds for activities to "help safely reopen and sustain the safe operation of schools" "respond to students'

academic, social, emotional, and mental health needs” and “address the impact of the COVID-19 pandemic on groups of students disproportionately impacted by the pandemic.”

These activities were further clarified in a [Fact Sheet](#) issued this spring by the U.S. Department of Education, which advised states that the ARPA ESSER funds should “address learning loss through the implementation of evidence-based interventions and ensure that those interventions respond to students’ social, emotional, and academic needs.” The Fact Sheet encouraged states to counteract the disproportionate impact of COVID-19 on underrepresented student subgroups who have suffered most during the pandemic, including children of color, children from low-income families, children with disabilities, children in foster care, English-language learners, migrant students, and students experiencing homelessness. The [funding application](#) issued to the states also specifically mentioned incarcerated youth and those involved in the justice system.

The Sentencing Project’s new analysis reveals several key findings.

### **1. States are paying virtually no attention to the counterproductive over-policing of schools in their plans to use the ESSER funding.**

- Not a single state has proposed to use the ESSER funds to end or curtail the criminalization of routine adolescent behavior at school despite the fact that tens of thousands of students are arrested at school every year, often for low-level misbehavior, and these arrests are disproportionately targeted to youth of color and to those with disabilities.<sup>2</sup> Research finds that suffering an arrest during adolescence sharply decreases the likelihood of completing high school and increases the likelihood of future arrests and justice system involvement.<sup>3</sup>
- Only 10 state plans make any mention of school resource officers or other police officers stationed on school campuses, despite research showing that the presence of law enforcement in schools is associated with more arrests for low-level

misbehavior, greater disparities in arrests, more exclusionary discipline, higher absenteeism, substantially worse racial and ethnic disparities, and an overall decline in schoolwide academic achievement.<sup>4</sup> Indeed, a comprehensive new study released in October 2021 found that stationing police in schools increases suspensions so dramatically, especially for black and hispanic students, that the presence of SROs “could put at risk other efforts to improve equity in K-12 education.”<sup>5</sup> Not a single state identified reducing police presence inside schools as a goal for their spending of federal dollars.

- In their plans, only 9 states made any mention of truancy, the legal term for unauthorized absence from school, and only Illinois and the District of Columbia mentioned concrete strategies to improve responses to truancy. This inattention to truancy comes despite evidence that current truancy practices in many states – where young people are frequently taken to court, adjudicated, and sometimes punished for attendance problems, rather than receiving counseling, support, and family outreach – slow young people’s academic progress and harm their long-term success. A recent publication from the Council of State Government (CSG) Justice Center found that unlike virtually every other offense category for youth, truancy filings nationwide have increased in recent years and totaled more than 60,000 in 2018– even before the pandemic – despite overwhelming evidence that “arrest, court involvement, and/or system supervision for youth who are truant or commit other low-level offenses actually decreases their likelihood of attending school and completing high school.”<sup>6</sup>
- 2. While some state plans indicate a commitment to addressing the continuing overreliance on exclusionary discipline practices like suspensions and expulsions in response to student misbehavior, most do not.**

Because the federal government’s application template encouraged states to reduce reliance on exclusionary discipline in public schools in order to address learning loss and reduce inequity, most state

plans did mention suspensions or discipline at least once in their plans. While some states described ambitious commitments to reduce exclusionary discipline, in other state plans the focus on school discipline was only cursory.

- Plans from 11 states and the District of Columbia included a commitment from the state education agency to undertake significant new multi-pronged efforts to reduce exclusionary discipline. (To learn about these strategies, see The Sentencing Project's *Encouraging Examples from State ESSER Plans* Fact Sheet.)
- Another five states did not commit to significant new multipronged state action on school discipline, but did indicate in their ESSER plans that they will be requiring local education agencies to detail their plans for reducing exclusionary discipline. In addition to these five states, two of the states that committed to significant state action (see bullet above) also will require local school districts to detail their plans for school discipline, as will the District of Columbia.
- In 14 other states, ESSER plans did not include commitments to fund or undertake noteworthy new initiatives on school discipline, or require local school systems to document their discipline strategies, but did express clear support for the goal of reducing exclusionary discipline. In some of these, the state education agency also pledged to provide training on school discipline for local school personnel.
- Another 15 states made one or a few brief mentions of school discipline, but did not portray reducing exclusionary discipline as a state policy goal.
- Six states made no mention at all of suspensions or school discipline (other than instances where states pasted sections of the federal application guidance that included these terms).
- As part of their discussion of school discipline, 13 states mentioned restorative justice, a promising alternative to exclusionary discipline practices. Of these 13, four plans suggested a

significant commitment by states to promote and support the expanded use of restorative justice approaches to address student behavior issues in lieu of arrests or suspensions. (All four are among the 11 states plus the District of Columbia committing to undertake significant new multi-pronged efforts to reduce exclusionary discipline.)

### 3. Few states indicated that they are taking significant action to improve educational services for youth who are incarcerated or otherwise involved in the justice system.

- Despite explicit references to them in the federal funding application guidance, 5 states made no mention of incarcerated and justice-involved youth in their plans.
- The majority of other states mentioned only that they had consulted with stakeholders representing justice-involved youth as required in the federal guidance.
- Fifteen states and the District of Columbia included substantive discussion of the educational needs facing youth in the juvenile justice system in their plans.
- Only five states and the District of Columbia included concrete action steps or clear strategies in their ESSER plans to better address the educational needs of justice-involved youth. (To learn about these strategies, see The Sentencing Project's *Encouraging Examples from State ESSER Plans* Fact Sheet.)

As The Sentencing Project documented in our [Back-to-School Action Guide](#) report, the immense funding available from the American Rescue Plan Act provides an unprecedented opportunity for schools and communities to invest in promising alternative strategies to promote safety and address misbehavior.

Taken as a whole, the results described here offer a mixed picture of states' response to this opportunity. It is troubling that no state thus far has proposed to use ARPA ESSER funding explicitly to remove

police from schools or reduce arrests, despite strong evidence that police presence undermines a school's learning environment for its students.

On school discipline, The Sentencing Project is encouraged to see that several states are taking advantage of the funding to promote more constructive approaches, many of them described in the accompanying [State Action to Narrow the School-to-Prison Pipeline \(Part Two\) Encouraging Examples from State ESSER Plans Fact Sheet](#). At the same time, it is disappointing that – so far – quite a few states are paying little or no attention to the powerful evidence showing that the continuing heavy reliance on suspensions and expulsions is both counterproductive and discriminatory. U.S. school children miss more than 11 million school days each year due to exclusionary discipline. Children of color, especially black children, are suspended at several times the rate of white children.<sup>7</sup> Studies consistently find that being suspended substantially increases the odds a child will drop out of school and later enter the justice system,<sup>8</sup> and that schools relying heavily on suspensions have worse academic achievement<sup>9</sup> and are no more safe than comparable schools that make less use of punitive and exclusionary discipline strategies.<sup>10</sup>

Though they do include many promising and positive strategies for re-engaging students and supporting their success, the plans submitted by the large majority of states do not describe the kinds of ambitious efforts to reduce arrests or promote alternatives to exclusionary discipline that will be required to close the school-to-prison pipeline. Fortunately, the \$122 million in funding authorized for schools in the American Rescue Plan can be expended over three years. There remains considerable time to redirect the spending plans and seize this historic opportunity.

## Endnotes

1. Office of the Surgeon General (OSG). (2021). *Protecting Mental Health: The U.S. Surgeon General's Advisory*. US Department of Health and Human Services. <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>
2. Whitaker, A., Torres-Guillén, S., Morton, M., Jordan, H., Coyle, S., Mann, A., & Sun, W. (2019). *Cops and No Counselors: How the Lack of School Mental Health Staff Is Harming Students*. p. 6. American Civil Liberties Union. [https://www.aclu.org/sites/default/files/field\\_document/030419-acluschooldisciplinereport.pdf](https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf)
3. Huizinga, D. & Henry, K. (2008). *The Effect of Arrest and Justice System Sanctions on Subsequent Behavior: Findings from Longitudinal and Other Studies. The Long View of Crime: A Synthesis of Longitudinal Research*; and French-Marcelin, M., Hinger, S., Cohn, K., Miller, J., Hernandez, V., Robinson, J., Parker, D., Kief, N., Kayiza, C., Jordan, H., Leung, V., Nelson, L., Simpson, M., Humphrey, K., Papachristou, N., Marks, D., & Perez-Leon, G. (2017). *Bullies in Blue: The origins and consequences of school policing*. p. 10. American Civil Liberties Union. [https://www.aclu.org/sites/default/files/field\\_document/aclu-bullies\\_in\\_blue\\_4\\_11\\_17\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu-bullies_in_blue_4_11_17_final.pdf)
4. Weisburst, E.K. (2018). *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-term Education Outcomes (A Sub-project of "Building Pathways to College Access and Beyond)*. The University of Texas at Austin. <https://files.eric.ed.gov/fulltext/ED612423.pdf>; Owens, E.G (2017). Testing the School-to-Prison Pipeline. *Journal of Policy Analysis and Management*, 36 (1), 11–37. <https://escholarship.org/uc/item/0b8976wk>; Sorensen, L.C., Montserrat, A.A., Engberg, J. & Bushway, S.D. (2021). *The Thin Blue Line in Schools: New Evidence on School-Based Policing Across the U.S.* (EdWorkingPaper: 21-476). Retrieved from Annenberg Institute at Brown University: <https://doi.org/10.26300/heqx-rc69>
5. Sorensen et al (2021).
6. Council of State Governments (2020) *Rethinking Juvenile Justice and Schools: How students can suffer when cutting class is a crime* [Infographic]. <https://csgjusticecenter.org/publications/truancy/>
7. Losen, D.J. & Whitaker, A. (2018). *11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools (Part 1)*. Center for Civil Rights of UCLA's Civil Rights Project and the American Civil Liberties Union of Southern California. [https://www.aclu.org/sites/default/files/field\\_document/final\\_11-million-days\\_ucla\\_aclu.pdf](https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf)
8. Rosenbaum, J. (2020). Educational and criminal justice outcomes 12 years after school suspension. *Youth & Society*, 52 (4).
9. Perry, B.L. & Morris, E.W. (2014). Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools. *American Sociological Review*, 79(6), 1067–1087. [http://www.fixschooldiscipline.org/wp-content/uploads/2020/09/11\\_SuspendingProgress\\_CollateralConsequences\\_of\\_ExclusionaryPunishment\\_in\\_PublicSchools2014.pdf](http://www.fixschooldiscipline.org/wp-content/uploads/2020/09/11_SuspendingProgress_CollateralConsequences_of_ExclusionaryPunishment_in_PublicSchools2014.pdf); Bacher-Hicks, A., Billings, S.B. & Deming, D.J. (2019). *The School to Prison Pipeline: Long-run Impacts of School Suspensions on Adult Crime*. National Bureau of Economic Research, p. 18. [https://www.nber.org/system/files/working\\_papers/w26257/w26257.pdf](https://www.nber.org/system/files/working_papers/w26257/w26257.pdf)
10. Reynolds, C.R., Skiba, R.J., Graham, S., Sheras, P., Conoley, J.C., & Garcia-Vazquez, E. (2008). *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*. American Psychological Association Zero Tolerance Task Force. <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>; Skiba, R.J. (2014). The Failure of Zero Tolerance. *Reclaiming Children and Youth*, 22(4), 27-33. [https://reclaimingjournal.com/sites/default/files/journal-article-pdfs/22\\_4\\_Skiba.pdf](https://reclaimingjournal.com/sites/default/files/journal-article-pdfs/22_4_Skiba.pdf)