



April 12, 2021

Dear Legislators,

We are calling on you, our North Carolina State Legislators, to vote against H247 as it will rollback progress in school discipline policy by allowing public schools to enact exclusionary discipline policies. This policy will increase the total number of long-term suspensions in addition to disproportionately impacting students based on race and disability. In one provision, lawmakers have removed examples of minor conduct that does not amount to serious violations allowing for long-term suspension of 10 days or more. In another provision, lawmakers aim to include law enforcement in the adoption and governance of student codes of conduct.

We are opposed to H247 because it will allow schools to enact discipline policies that discriminate against students based on race and disability.

Long-Term Suspension Provision

One provision of this bill ("LTS Provision") makes minor, subjective school code violations eligible for long-term suspension (more than 10 school days for each infraction).

There is no evidence that exclusionary discipline practices (i.e. suspension or expulsion) improve school safety or student behavior when applied to minor, non-violent misbehavior. See [National Education Policy Center: Discipline Policies, Successful Schools, and Racial Justice](#).

Although this provision is racially neutral on its face, it will have a discriminatory racial impact when implemented. Black students in NC are much more likely to be suspended from school than white students. While Black students made up 25% of children in NC public schools, they received 55% of all short-term and long-term suspensions in 2018-19. White students, who comprised 45% percent of NC public school students, received only 25% of short-term suspensions and 27% of long-term suspensions in the same school year. See [DPI Report to the Legislature 2018-2019](#).

Significantly, Black students are much more likely to be punished for disrespectful language, dress code violations, and other subjective offenses than white students. In 2019-20, Black students in our state were short-term suspended for minor offenses including "defiant behavior" at rates much higher than white students. See [DPI Report to the Legislature 2019-20](#). This disproportionality exists despite the fact that studies show that Black and white students misbehave at similar rates. See Losen, D.J. (2013). Discipline policies, successful schools, racial justice, and the law. Family Court Review 51, 388-403.

The LTS provision of H247 will allow schools to change the punishment for minor infractions from short-term to long-term suspensions, resulting in many more lost days of school for Black students in our state. One 10-day suspension from school means that student misses over 5 percent of the school year. Missing school affects graduation rates. See [Daily School Attendance Matters](#).

Students with disabilities will be negatively affected by this provision, too. Students with disabilities are suspended at much higher rates than non-disabled students. During the 2018-19 school year, for example, students with disabilities received 24% of short-term suspensions and 17% of long-term suspensions, yet comprised less than 13% of the total student population. See [DPI Report to the Legislature 2018-2019](#).

With respect to the intersectionality of race and disability, Black students with disabilities in our state are suspended from school at significantly higher rates than white students with disabilities. In 2018-2019, Black students with disabilities comprised only 31% of all students with IEPs in NC, yet those same students received over 63% of all long-term suspensions and expulsions. White students with disabilities comprised 45% of all students with IEPs in NC, yet received only 20% of all long-term suspensions and expulsions. See [IDEA Section 618 Data Products: Static Tables](#).

Discipline protections for students with disabilities provided by the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) do not insulate students with disabilities from the harms of the LTS provision of H247. This is because the meeting to determine whether the student with an IEP or 504 Plan should be suspended (called a Manifestation Determination Review (MDR) meeting, which involves analysis by school staff and the parent about whether the behavior at issue was related to the student's disability) almost always occurs after the student has already served several days of suspension; sometimes, the student has already served 10 or more days of suspension before the meeting occurs. In addition, the same school administrator that issued the suspension – usually the principal or assistant principal – nearly always participates in and is the final decision-maker at the IEP or 504 discipline protection meeting. As a result, the outcome of the MDR meeting – the suspension will stand – sometimes has been pre-determined by the school administration.

This same LTS provision was flatly rejected by legislators in 2010, when the language that H247 seeks to remove was added to our state's discipline statutes. A broad group of education stakeholders specifically advocated for the inclusion of examples of non-serious violations, such as inappropriate language and dress code violations, to be exempt from LTS. During that same time period, the federal Office for Civil Rights (OCR) required Wake County Public Schools to change its school discipline policies to significantly reduce suspensions and address racial disparities in discipline decisions. The 2010 statutory change, along with the decision from OCR, resulted in significant decreases in long-term suspensions statewide (2,621 in 2010-2011; 405 in 2019-20). The LTS provision in H247 would reverse that progress, and likely attract attention from OCR again.

Law Enforcement Provision

Further, we oppose the provision in H247 that requires schools to include local law enforcement agencies in adopting policies to govern the conduct of students. Over-reliance of local law enforcement in the governance of student conduct also has disparate racial implications. For example, in Wake County Public Schools, nearly 25% of students are Black but they make up 73% of students referred to juvenile or adult court by school police. The culture of criminalizing minor behaviors has led to numerous incidents of police brutality that frequently targets Black students with disabilities. See Riggs, A. (2020). #CounselorsNotCops Infographics Reveal Policing Disparities in Wake County Public Schools, Southern Coalition for Social Justice. For this reason, it is best for student codes of conduct to be adopted and governed by teachers, school-based administrators, counselors, parents, and local grassroots educational advocacy groups.

Any provision incorporating law enforcement in the governance of student conduct must explicitly limit the role of law enforcement personnel who come in schools. Such provisions must identify incidents in which the school shall not call the police, and if called the police will not respond - incidents such as disorderly conduct, defiance, profanity, dress code violations, etc.

In conclusion, H247 must be defeated. Its provisions, though facially neutral, will disproportionately negatively impact students of color and students with disabilities, resulting in unnecessary, harmful long-term suspensions and over-involvement of law enforcement in school policymaking. School administrators have many effective tools available to them to address unwanted behaviors at school that do not involve long-term suspension and law enforcement, including functional behavior assessments, behavior intervention plans, counseling services, and restorative justice practices. These tools are available for use students regardless of race or disability and often can be implemented with existing school staff or reimbursed by Medicaid.

Sincerely,

Disability Rights North Carolina
Education Justice Alliance
Council for Children's Rights
ACLU of North Carolina
Duke Children's Law Clinic
North Carolina Association of Educators
Wake NCAE
Every Child NC
NC Justice Center
Save Our Schools NC
ISLA NC
FIRST

Exceptional Children's Assistance Center (ECAC)
Action4Equity
Southern Coalition for Social Justice
Autism Society of North Carolina
NCSPAN
Hoke County Teen Court
Pastors for NC Children
Educación Sin Barreras NC
Emancipate NC
Fayetteville Police Accountability Community Taskforce
Black Voters Matter Fund
Critical Race Lawyering Civil Rights Clinic/ Erika K. Wilson
Comité de Acción Popular
Village of Wisdom
uCANcomplain, Inc.
Advance Carolina
Democracy Green, Sanja Whittington
The Christine Avery Learning Center
Comunidad Colectiva
El Pueblo, Inc
Fortaleza
National Association of Social Workers North Carolina
Mujerxs Organizando Oportunidades Notables
Onslow Commission for Persons with Disabilities
North Carolina Council of Churches
NC BLOC
Carolina Migrant Network
ASOCIACIÓN DOMINICANA
Nash County Public Schools
Butterflies and Pearls
Ruth Stroud
Ashley Young
Vickie Dieter
Sarah Montgomery
Jennifer Andrew
Rebecca Hewitt-Newson
Becca Lamb
Brent Greene
Matt Ellinwood

Vichi Jagannathan
Seth Saeugling
Janet Faucette
Monique Raeford
Kathleen Flaherty
Thomas Flaherty
Amber Heeley
Hope Williams
Becky Brantley
Peggy Nicholson
Serena Sebring, PhD
Katie Starr
Marie Curran
Susan Book
Sandy Eyles
Holly Connor
Peter Rawitsch
Nephdarlie Saint-Cyr
Chermaleta Brown
Barbara Fedders
Vicki Aderman
Missy Griffin
Paul D Naylor, Ph.D.
Asia Clarke, MS, CCC-SLP
Helena Vanhorn
Carolyn Allen
Donald George
Hannah Prashansa
Olivia Ginn
Phyllis Farlow
Emily Malpass
Elizabeth Miller-Derstine
Jeff Alguire
Christy Gaines
Marisa Kathard
David Miller-Derstine
Hannah Barg

PROUDLY SUPPORTED BY

