

Youth, Rights & Justice

ATTORNEYS AT LAW

To: Senate Committee on Education and Workforce Development

From: Mark McKechnie, Executive Director, Youth, Rights & Justice

Date: May 9, 2013

Re: Support for HB 2192

Chair Hass and Members of the Committee:

My name is Mark McKechnie, and I am the director of Youth Rights & Justice, which has represented more than 50,000 children and youth in the foster care and juvenile justice systems since 1975. For over 15 years, we have also represented more than 2,500 of these most vulnerable students in their schools. We support HB 2192 as a way to get struggling students back on track while maintaining safe and productive learning environments in our schools.

Vast research and an emerging national consensus recognize that school exclusion policies often do more harm than good. Not only do these practices fail to make schools safer, but they also lead to academic failure, disengagement, dropout and criminal justice involvement. You may have heard this referred to by researchers and policy analysts as the “School to Prison Pipeline” as a reflection of the fact many youth involved with the juvenile justice system have experienced high rates of school exclusion.

HB 2192-A is a result of consensus amendments reached among education and student advocates. The bill will remove zero tolerance requirements from state statutes and allow school administrators greater discretion to discipline students and determine when alternative approaches are more productive. Rather than focusing on exclusion as the primary response to student behavior problems, HB 2192-A encourages schools to utilize evidence-based approaches, to focus on keeping students in school as much as possible and to consider the student’s age, developmental level, disability, history and other factors when determining the most appropriate discipline or other response (see page 4 for a list of examples). Nonetheless, schools maintain to the authority to suspend or expel students, particularly when their behavior poses a health or safety threat to students or staff members.

Oregon, like most other states, embraced zero tolerance approaches in the 1990s, which result in automatic suspensions or expulsions, believing they were necessary to keep schools safe. Problems with this approach are many. One studyⁱ found that ***students at schools using zero tolerance discipline practices*** had:

1. higher dropout rates;
2. elevated stress levels that negatively affected their mental and physical health;
3. more referrals to special education; and
4. lower student participation in extracurricular activities.

Conversely, ***schools using Positive Behavioral Interventions and Supports (PBIS) or Restorative Justice (RJ)*** approaches to student behavior had students with:

1. higher grades;
2. higher test scores;
3. and better student attendance rates.

These findings held, even when controlling for differences in socioeconomic status.

In addition, a new report released recently by the American Academy of Pediatrics cites research showing that ***students who experience out-of-school suspension or expulsion can be as much as 10 times more likely to drop out of school.***

If school exclusion worked to correct student behavior and increase achievement, students who are excluded would be less likely to end up in the justice system. The opposite is true. Only 15% of youth admitted to the Oregon Youth Authority in 2011 had never been suspended or expelled from school. Instead, multiple exclusions are common among delinquent youth: 44% of youth admitted to OYA in 2011 had been suspended or expelled four or more times.ⁱⁱ

HB 2192 seeks to improve school policies related to student behavior by giving local districts and administrators more discretion. ***There are already 61% of Oregon schools that have implemented or begun implementing PBIS.*** Additional schools are using Restorative Justice or other approaches. This bill encourages more schools to implement PBIS, Restorative Justice or similar approaches and reserve exclusion for the most appropriate circumstances, when safety concerns are imminent or when other strategies have been tried and failed.

We need to recognize that ***exclusionary discipline comes at a high cost to schools.*** The recent report by the American Academy of Pediatrics highlighted the direct and indirect costs of suspension and expulsion:

- Schools may lose ADM payments for students not in attendance.
- Staff and administrators spend time in meetings and hearings and in preparation for them.
- Schools may need to arrange for alternative or special education for excluded students.

- Teachers likely spend extra time with excluded students once they return to catch up.ⁱⁱⁱ

Particularly in light of its ineffectiveness, the opportunity costs of exclusion are high to schools, staff and students. ***Staff time spent on these discipline procedures often produces little or no educational benefit to the students being disciplined or to their classmates.*** By contrast, implementation of PBIS and other practices pays dividends many times over by focusing staff time on interventions that work to improve students behavior and academic performance.

Each student who fails to graduate will earn less money in their lifetimes, pay less in taxes, and many will be more likely to require additional expenditures in terms of health or social services or criminal justice costs.

Many schools have obviously recognized that exclusion is a high-cost, low-reward strategy. They are already on the path to reform and greater student success. It is important that Oregon's statutes on discipline catch up with the research and catch up with the successful practices in many schools. Schools that find ways to keep students in school safely ultimately benefit in the end, and so do our communities.

We urge your support for HB 2192.

There are many alternatives to suspension and expulsion, including:

- Restitution
- Problem solving
- Direct instruction of communication and problem-solving skills
- Behavioral contracting
- Lunch or after-school detention
- Saturday school
- Additional academic assignments
- Mediation
- Mini courses or other programs addressing violence or substance use
- In-school suspension
- Changes in assigned classroom or class schedule
- Alternative classroom or school placement
- Tutoring or other supplementary academic instruction
- Referral to social or health services delivered by outside agencies
- Restorative Justice practices
- Positive behavioral interventions and supports
- Parent involvement
- Parent-teacher conferences
- Parent supervision
- Counseling
- Rewards for desired behaviors
- Time out
- Community service
- Pre-referral interventions and referral to special education when appropriate

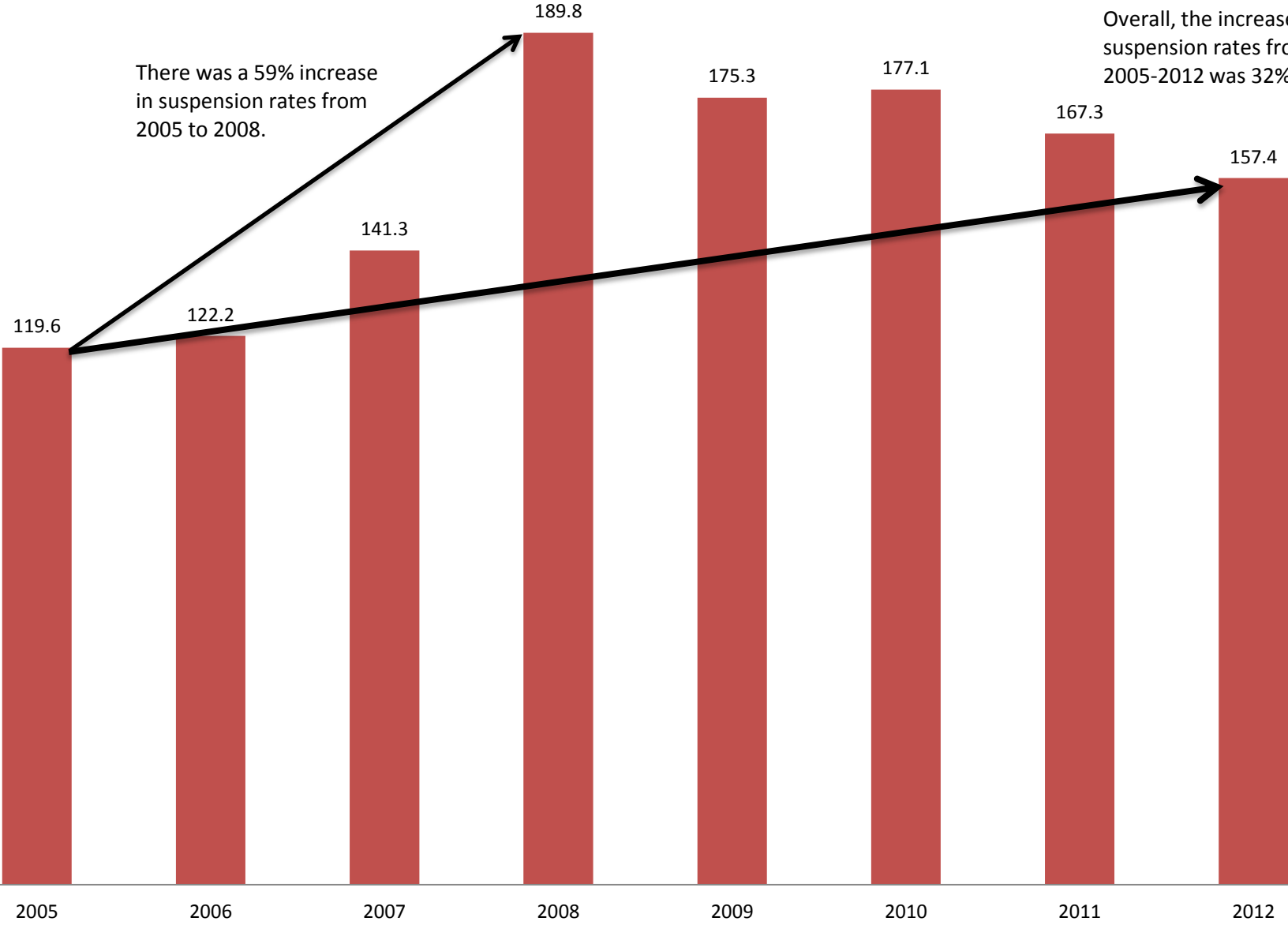
ⁱ Health Impact Assessment of School Discipline Policies (2012):

<http://www.humanimpact.org/component/jdownloads/finish/7/167/0>

ⁱⁱ Oregon Youth Authority (2012): History of Expulsions and Suspensions, OYA Risk Needs Assessment, January 1 – December 31, 2011, All Youth

ⁱⁱⁱ Council on School Health (2013) Out-of-school suspension and expulsion, Pediatrics:
<http://pediatrics.aappublications.org/content/early/2013/02/20/peds.2012-3932>

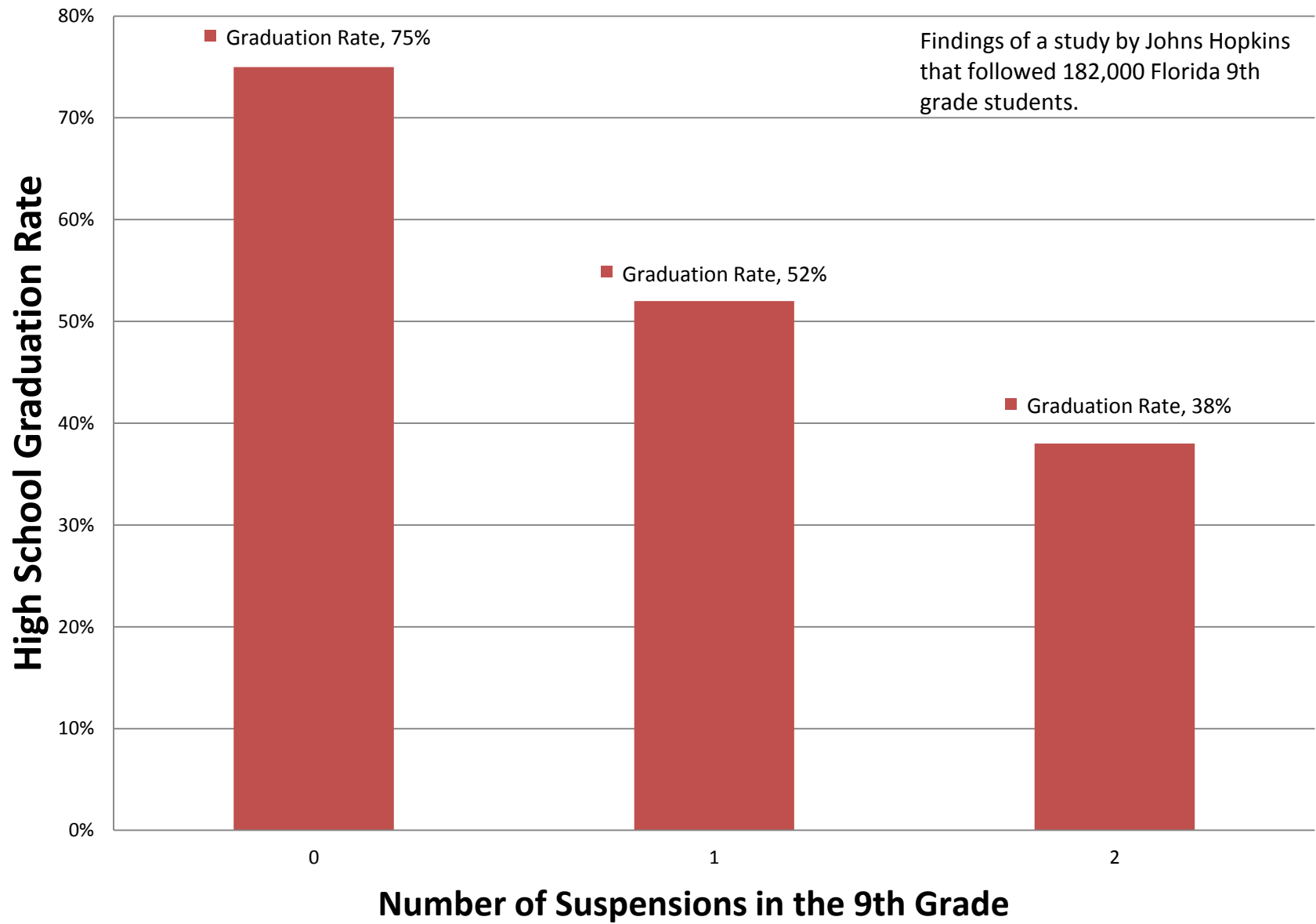
Suspensions per 1,000 enrolled in Oregon K-12



There was a 59% increase in suspension rates from 2005 to 2008.

Overall, the increase in suspension rates from 2005-2012 was 32%.

Suspensions in 9th Grade vs. Graduation Rate



Disproportionate Rates of Suspension for Oregon Students with Disabilities, 2011-12

