

Youth, Rights & Justice

ATTORNEYS AT LAW

To: House Committee on Education

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

Date: April 27, 2015

Re: **Support for SB 553-A and SB 556**

Chair Doherty 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 the last 14 years, we have also represented more than 2,800 of these most vulnerable students in their schools. Youth, Rights & Justice supports SB 553-A and SB 556.

Elementary school is a time when students learn the core skills that form the foundation for all future learning. These include reading, writing, math and social skills. Students who miss school due to exclusionary discipline in the early grades may have deficits in these skills that are hard to ever regain. Students who fail to gain reading proficiency by the 4th grade are far more likely to drop out of school. 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.

Young students are particularly vulnerable. They need to be in structured, supervised settings where they are protected from harm and receive guidance from skilled and caring adults. Further, parents of excluded students may lose wages or their jobs if they need to stay home and supervise their young children who are out of school.

SB 553-A will sharply curb suspension and expulsion for the youngest students – those in the 5th grade and lower. SB 553-A includes reasonable exceptions for truly violent and dangerous behavior but prevents schools from excluding students for minor and subjective infractions. Subjective discipline is particularly harmful to students of color, students with disabilities and low-income students. *In 2013-14, 71% of the nearly 8,000 K-5 students suspended were excluded for “disruptive behaviors.”*

The chart below shows that Oregon is close to the national average in terms of suspensions of elementary students, but could still improve relative to other states.ⁱ

National avg.	2.4%	Pennsylvania	2.0%	Massachusetts & Minnesota	1.4%
Oregon	2.3%	Illinois	1.8%	New Jersey & Idaho	1.2%
Texas	2.1%	Nevada	1.6%	Utah	1.0%

Nine Oregon school districts reported *no suspensions of elementary students* in 2010-11; however, there were 25 districts that exceeded the statewide average, with elementary suspension rates from 2.35% to 8.08%.ⁱⁱ It is noteworthy that the high suspension districts had an average elementary enrollment of 4,729 students, while districts with no suspensions had an average enrollment of 889 students in K-5.

The numbers are far more troubling when we look at the suspension rates by racial and ethnic group and disability. The attached charts show that the disparities are most acute for African-American and Native American students in grades K-5.

There are signs that suspension and disparity rates are improving in Oregon. Now is the time to capitalize on this trend and ensure that all students statewide will benefit.

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 and criminal justice systems have experienced high rates of school exclusion (including most of the youth in OYA custody, see attachment).

Suspensions can negatively affect all students in a school. A November 2014 study by Perry and Morris found that “high levels of out of-school suspension in a school over time are associated with declining academic achievement among non-suspended students,” even after adjusting for the levels of problem behaviors at the various schools.ⁱⁱⁱ Thus, the argument that suspension is necessary to remove disruptive students so that other students can learn does not turn out to be true in many instances.

One study^{iv} 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.

The majority of Oregon schools that have already implemented or begun implementing Positive Behavioral Interventions and Supports (PBIS). Schools using PBIS 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.

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.^v

Expelling students for truancy, in particular, makes no sense, as it only reinforces and rewards the student's behavior. **SB 556** would prohibit schools from expelling students for truancy.

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.

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.

SB 553-A and SB 556 still leave schools with many effective options in terms of teaching students better ways to behave. There are many alternatives to suspension and expulsion, including:

- Restitution/making amends
- Problem solving
- Direct instruction of communication and problem-solving skills
- In-school suspension
- Lunch or after-school detention
- Behavioral assessment and individualized planning
- Additional academic assignments
- Mediation

- 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 (PBIS)
- Parent involvement
- Parent-teacher conferences
- Parent supervision
- Counseling
- Rewards for desired behaviors
- Time out
- Pre-referral interventions and referral to special education, when appropriate

Youth, Rights & Justice urges your support of SB 553-A and 556!

ⁱ Center for Civil Rights Remedies at the University of California Los Angeles (2015) Are we closing the school discipline gap?

ⁱⁱ Center for Civil Rights Remedies at the University of California Los Angeles (2015) Are we closing the school discipline gap?

ⁱⁱⁱ Perry, B.L. and Morris, E.W. (2014) Suspending progress: Collateral Consequences of Exclusionary Punishment in Public Schools. *American Sociological Review*, 79 (6), 1067-1087.

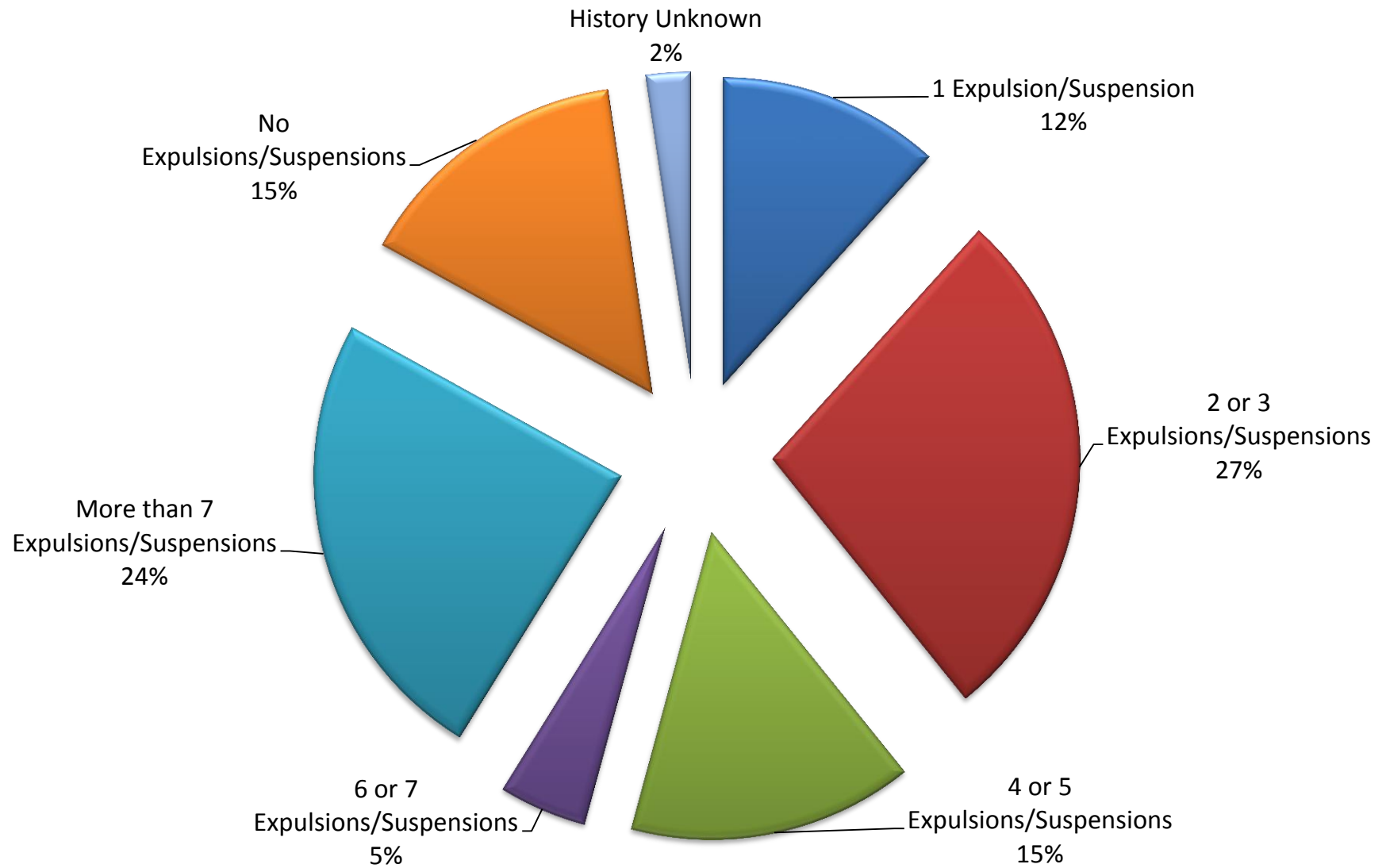
^{iv} Health Impact Assessment of School Discipline Policies (2012):

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

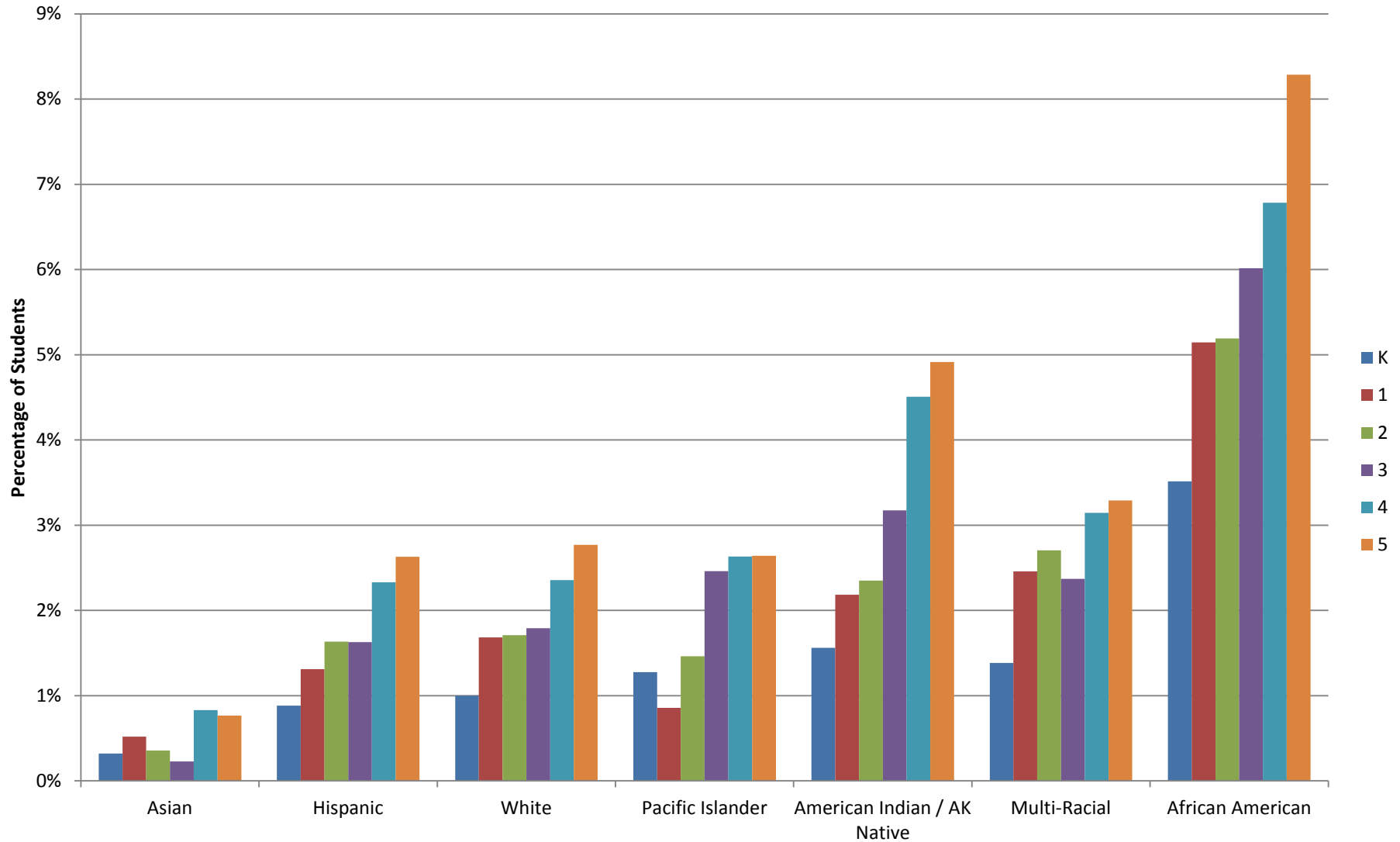
^v Council on School Health (2013) Out-of-school suspension and expulsion, Pediatrics:

<http://pediatrics.aappublications.org/content/early/2013/02/20/peds.2012-3932>

History of Expulsions and Suspensions Since the 1st Grade, All Youth Admitted to OYA, 2011



Percentage of Oregon K-5 Students Suspended or Expelled by Race/Ethnicity, 2012-13 (ODE)



Percentage of Oregon K-5 Students Suspended or Expelled by Race/Ethnicity, 2013-14 (ODE)

