Court of Appeals of Maryland

SEPTEMBER TERM, 2021
NO. 10

IN RE: S.F.

BRIEF OF THE NATIONAL CENTER FOR YOUTH LAW, PUBLIC JUSTICE CENTER, ET AL. AS AMICI CURIAE IN SUPPORT OF PETITIONER

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On January 28, 2021, the Court of Special Appeals affirmed the judgment of the courts below in *In re S.F.*, Case Nos. C-10-JV-18-000271 & C-10-JV-19-000094. *In re S.F.*, 249 Md. App. 50 (2021). On May 11, 2021, this Court issued a writ of certiorari to consider the question presented in this case. *Amici curiae,* the National Center for Youth Law ("NCYL"), the Public Justice Center ("PJC"), et al., respectfully urge the Court to find in favor of Petitioner, S.F. All parties to this Appeal have consented to the filing of this Amicus Curiae brief.

STATEMENT OF THE CASE

In 2019, Petitioner, a twelve-year-old boy, entered *Alford* pleas for two charges in the Circuit Court for Frederick County, Juvenile Division. *Id.* at 53. For both charges, and over the objection of S.F.'s counsel, the court included as a condition of probation that Petitioner not be suspended from school. *Id.* The Court of Special Appeals affirmed the decision of the lower court that the no-suspension condition of probation was not impermissibly vague.

The American justice and education systems have a long history of discrimination and inequitable treatment of Black Americans that continues to the present. As this Court's own Chief Judge, the Honorable Judge Barbera, has explained:

> [W]e, together, as members of the system of justice must re-examine how we administer justice. . . .We must assure that our courts do not suffer bias, conscious or unconscious. We must examine, together, the reasons for disproportionate impact upon people of color, and address those reasons. …
>
> We are working to improve the justice responses to children involved in the courts. But we do still need to better address the problems of

> our young, our children, who have grown up in violence and in poverty, far too many of whom are of color. … As long as they are not afforded the stability and opportunity that all children deserve and require, we risk our collective stability as a state and as a nation.[1]

Research consistently shows that Black students are suspended at higher rates and disciplined for less serious offenses than students of other races. Russell J. Skiba, et al., Ind. Educ. Pol'y Ctr., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 2 (2006); Travis Riddle & Stacey Sinclair, *Racial Disparities in School-based Disciplinary Actions are Associated with County-level Rates of Racial Bias*, 8255 (Jennifer A. Richardson, ed., 2019). Black students are more likely than students of other races to receive harsher discipline, or to be disciplined at all, for ambiguously defined misbehaviors that are susceptible to cultural misperceptions or implicit biases. Skiba et al., *supra*, at 13. Black students are also more likely to receive harsher discipline than students of other races for the same behavioral infractions because teachers or administrators more quickly label a Black student as a "troublemaker." Jason Okonofua & Jennifer L. Eberhardt, *Two Strikes: Race and the Disciplining of Young Students*, 26(5) Psychological Science 617 (2015).

Maryland law requires that terms of probation "must not be vague, indefinite, or uncertain." *Smith v. State*, 306 Md. 1, 7 (1986). The Court of Special Appeals correctly noted that the Frederick County Public School ("FCPS") policies and regulations list the

[1] *See* Mary Ellen Barbera, Chief Judge of Ct. of App. Of Md., Statement on Equal Justice under Law (June 9, 2020), https://mdcourts.gov/sites/default/files/import/coappeals/pdfs/statementonequaljustice060920.pdf.

range of disciplinary procedures for associated behaviors; however, many of the listed behaviors, such as "defiance of authority" or "disruptive behavior," are ambiguous.[2] Both the interpretation afforded to student behavior and the discipline a student receives is ultimately within the control and subject to the discretion of the teachers and administration of the school.[3] While the student may have control over their behavior, the student neither controls school staff's perception of that behavior, nor the disciplinary process or imposition of punishment. Given the racial disparity in instances of suspensions and the ambiguity of underlying justifications for suspensions, the no-suspension condition of S.F.'s probation is vague, largely outside of his control, and violates his right to due process.

Many youth have a similar no-suspension condition on their terms of probation, making this a question of broad-reaching consequence and state-wide import. What is more, in light of the overwhelming empirical evidence of racial disparities in school discipline, the Question Presented to this Court requires consideration of the impact of implicit biases and systemic racism on juvenile probation orders. Considering the clear public interest in eradicating systemic racism from the justice system and keeping youth engaged in school and away from the justice system, the Court should reverse and find in favor of Petitioner.

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[2] Office of the Superintendent, Frederick Cty. Pub. Schs., 400-08, Discipline (2020) [hereinafter FCPS Reg.], https://apps.fcps.org/legal/doc.php?number=400-08 [https://perma.cc/9P9Q-74KC].

[3] *See* Md. Code Regs. 13A.08.01.11 (2021).

INTEREST OF AMICI CURIAE

The Statements of Interest of the Amici Curiae are included in Appendix A to this memorandum.

Amici hereby adopt the arguments of Petitioners in toto.

QUESTION PRESENTED

Amici hereby adopt the Question Presented by Petitioner.

STATEMENT OF FACTS

Amici hereby adopt the Petitioner's Statement of Facts in toto.

ARGUMENT

I. The Purpose of Probation in the Juvenile Justice System is to Restore and Rehabilitate.

Whether a no-suspension condition of juvenile probation is permissible is an important question with major public interest implications. The Maryland Code recognizes that one of the objectives of the juvenile justice system is the "[c]ompetency and character development to assist children in becoming responsible and productive members of society." Md. Code Ann., Cts. & Jud. Proc. § 3-8A-02. It is generally recognized that restorative practices and rehabilitation are favored over punishment where possible; probation is a mechanism designed for that purpose. *See Turner v. State*, 61 Md. App. 1, 9 (1984), rev'd, 307 Md. 618 (1986) (quoting *Scott v. State*, 238 Md. 265, 275 (1965)) ("[Probation] permits the court … to suspend what would be the normal penalty … in favor of conditions which, if performed, tend to promote the rehabilitation of the [juvenile] as well as the welfare of society."); *see also In re Charles K.*, 135 Md. App. 84, 94-95 (2000)

(holding that the Juvenile Division of the District Court only has jurisdiction over juveniles in need of guidance, treatment, or rehabilitation).

The purpose of juvenile probation terms is to give youths the opportunity to demonstrate growing responsibility for their actions and to increase maturation toward becoming a productive member of society. The intent is that, at the completion of a successful probation term, a youth is restored and rehabilitated so that they may avoid further justice involvement. For this purpose to be achieved, however, the terms of the probation must be "clear, definite and capable of being properly comprehended and understood." *Watson v. State*, 17 Md. App. 263, 274 (1973). The no-suspension condition of S.F's probation is premised on ambiguous rules such that compliance is not fully within his control, so it will not encourage his rehabilitation. Instead, because he is a Black student, it is disproportionately likely to set up S.F. for failure.

II. No-Suspension Conditions of Probation Do Not Serve the Restorative Purpose of Juvenile Probation When Students May Be Unfairly Suspended For Subjective Misbehavior.

A. Bias In School Discipline For Subjective Categories of Misbehavior Disproportionately Impacts Black Students.

Neither the restorative purpose of probation in the juvenile justice system nor the requirement that terms of probation be clear are accomplished where the youth has little control over whether he can meet those terms. Here, S.F. does not fully control the no-suspension condition of his probation because the subjective nature of school suspensions denies him agency in complying with that condition. Further, as a Black student, he is likely to experience discipline for behavior that would not result in discipline for his White

peers. S.F. is thereby put into an impossible position: he has no reliable way to discern what behavior, including behaviors which may very well be typical of any adolescent, will result in his suspension. Thus, the issue of permissibility of the no-suspension condition intersects with questions of racial equity in education and the justice system.

Nationally, Black students are overrepresented in suspensions for all types of behaviors, and are more likely to be disciplined for "less serious and more subjective reasons." Skiba et al., *supra*, at 13; Linda M. Raffaele Mendez & Howard M. Knoff, *Who Gets Suspended from School and Why: A Demographic Analysis of Schools and Disciplinary infractions in a Large School District*, 26 Education and Treatment of Children 30, 32 (2003). Where White students tend to be disciplined for "more objectively observable" offenses, like smoking or vandalism, Black students tend to be disciplined for behaviors that are "subjective in nature," like disrespect, defiance, or noncompliance. Anne Gregory et al., *The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?*, 62 (Educational Researcher, 2010); Riddle & Sinclair, *supra*, at 8255. These behaviors are not only subjective, they are frequently typical "exploratory" behaviors by which adolescents assess boundaries as they develop, but which do not require exclusion from school or justice system involvement.[4] The subjectivity of the offenses for which Black students are disproportionately disciplined demonstrates that these students do not have full control over whether they are suspended.

[4] Mahsa Jafarian & Vidhya Ananthakrishnan, *Just Kids: When Misbehaving is a Crime*, Vera Institute of Justice (2017), https://www.vera.org/when-misbehaving-is-a-crime.

State and local data reinforce the national trend of race-based disproportionality in suspensions, especially for subjective offenses. In Maryland, Black children comprise about a third of the student population, but they receive 60% of out-of-school suspensions overall, and 60% of suspensions for "disruption" and "disrespect" specifically.[5] By contrast, for the offense of possession of "dangerous substances"—more objectively observable in nature—Black students receive only 33% of suspensions, consistent with their representation in the student population generally. *Id.* Similarly, within FCPS, Black students receive 30% of suspensions overall and 32% of suspensions for disruption and disrespect, despite being only 13% of the student population. *Id.* at 12. Again, the discipline gap disappears when looking at the objective offense of possession of dangerous substances—Black FCPS students receive 13% of suspensions in this category, consistent with the percentage of Black students in the district's population. *Id.*

Much of the disparity in what constitutes discipline-worthy offenses between Black and White students stems from teachers' cultural misperceptions, which themselves are manifestations of implicit or explicit biases, of their Black students. In one study, researchers found that, solely based on viewing how a student walked, teachers made assumptions about a student's academic ability and behavior. *See generally* LaVonne I. Neal et al., *The Effects of African American Movement Styles on Teachers' Perceptions*

[5] *See* Maryland State Dep't of Educ., Maryland Public School Suspensions By School and Major Offense Category, Out-of-School Suspensions and Expulsions 2018-19, *1, http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20182019Student/2019SuspensionsbySchoolOUT.pdf. Note that this data is for the last full year of in-person academic data available, before the COVID-19 global pandemic and the institution of virtual learning.

and Reactions, 37 J. of Special Educ. 49 (2003). Teachers viewed students who used "African-American culture-related movement styles"[6] as lower achievers and more aggressive. *Id.* at 52-53; *see also* Skiba et al., *supra* at 17 ("Teachers who are prone to accepting stereotypes of adolescent African-American males as threatening or dangerous may overreact to relatively minor threats to authority…"). Perceptions of aggression, wholly disconnected from the student's behavior, can lead to teachers being fearful of their students and more likely to discipline them. *Id.*

Misbehaviors such as "defiance" or "disruptive behavior," for which Black students are disproportionately disciplined, are impossible to define clearly or consistently, which is required for a condition of probation. *Watson*, 17 Md. App. at 274. Instead, they are violations of "unspoken and unwritten rules of linguistic conduct that cannot be neatly delineated in school discipline policy" to which "African-American … students may not have as much access as their Anglo-American classmates." Frances Vavrus & KimMarie Cole, *"I Didn't Do Nothin'": The Discursive Construction of School Suspension*, 34 Urban Review 87, 91 (2002). Research demonstrates that "suspensions are often preceded by a complex series of nonviolent events when one disruptive act among many is singled out for action by the teacher." *Id.* at 87. Vavrus and Cole found that Black students were more likely to use "discursive strategies to get the teacher's attention and to ask him questions that were different from the strategies expected or preferred" by the teacher. *Id.* at 108.

[6] This study involved teachers assigning values to their perception of a student's achievement capability, need for special education, and level of aggression based on whether they walked in a "standard" European style walk or in a "stroll" style walk made popular by African-American males. Neal et al., *supra* at 50.

The teacher was thus more likely to interpret "a particular utterance as hostile or disruptive" to the point that it "precipitated the removal of the student from the classroom." *Id.* at 109. In these circumstances, the teacher's capabilities and feelings—not the student's behavior—ultimately precipitates the removal.

Additionally, the disproportionality of Black student suspensions is variable based on the racial composition of a school. Black students are more likely to be disciplined in schools with a higher proportion of Black students, consistent with the "racial threat" hypothesis. Michael Rocque & Raymond Paternoster, *Understanding the Antecedents of the "School-to-Jail" Link: The Relationship Between Race and School Discipline*, 101 J. of Crim. Law & Criminology 633, 655 (2019). "As the black student population increases, teachers may perceive black student misconduct different, as perhaps more menacing or more of a threat to their control, and respond to such conduct by African-Americans more punitively." *Id.*

Moreover, schools with higher proportions of Black students are more likely to have on-site police officers.[7] The concentration of on-site police in heavily Black schools exacerbates race-based disparities in suspension because school police presence itself results in increased student suspension rates.[8]

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[7] *See* Kristen Harper & Deborah Temkin, Compared to White Majority White Schools Majority Black Schools Are More Likely to Have Security Staff, Child Trends (2018), https://www.childtrends.org/compared-to-majority-white-schools-majority-black-schools-are-more-likely-to-have-security-staff.

[8] *See* Jeremy D. Finn & Timothy J. Servoss, Misbehaviors, Suspensions, and Security Measures in High School: Racial/Ethnic and Gender Differences, J. Applied Research on Children: Informing Policy for Children at Risk (2014),

Maryland's most populous public school systems all have significant populations of Black students. For example, 55.32% of the student population in Prince George's County is Black,[9] 39.4% of the student population in Baltimore County is Black,[10] and 21.4% of the student population in Montgomery County is Black.[11] The significant populations of Black students underscores the statewide import of the issues presented in this case, especially because children of color are nearly two times as likely to be referred to the juvenile system than their white peers.[12] In short, a no-suspension clause risks trapping S.F., and other Black students in Maryland, in a vicious cycle: suspension for a subjective offense due to the impacts of implicit bias, racial threat, and race-based disparities in the allocation of school police, which leads to a violation of probation and possible arrest and incarceration, which further separates them from school.

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https://digitalcommons.library.tmc.edu/cgi/viewcontent.cgi?article=1211&context=childrenatrisk.

[9] *About PGCPS: Facts and Figures* (last visited Apr. 13, 2021), https://www.pgcps.org/facts-and-figures/.

[10] *Overview of Baltimore County Public Schools*, U.S. News and World Report, (last visited Apr. 13, 2021) https://www.usnews.com/education/k12/maryland/districts/baltimore-county-public-schools-108287#:~:text=Students%20at%20Baltimore%20County%20Public,Hawaiian%20or%20other%20Pacific%20Islander.

[11] *Summary: County Schools* (last visited Apr. 13, 2021) https://www.montgomeryschoolsmd.org/departments/regulatoryaccountability/glance/currentyear/schools/county.pdf.

[12] *Data Resource Guide, Fiscal Year 2020*, Maryland State Dept. of Juvenile Services, at 244 (last visited Aug. 23, 2021) https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

B. Because Black students are more likely to be disciplined harshly for subjective misbehavior, they have less control over the consequences than other students.

The research demonstrating that Black students are disciplined and suspended disproportionately for subjective behaviors demonstrates the difficulty for a student like S.F. to determine whether his actions will subject him to suspension and puts that decision—and his ability to comply with the conditions of his probation—farther from his control. The Court of Special Appeals determined that a no-suspension condition was a sufficiently defined term of probation. *In re S.F.*, at 60. It cited to the FCPS regulations and procedures as a source for students to understand behaviors and their disciplinary consequences. FCPS Reg. Such reasoning assumes that a student can predict, based on his behavior, whether a teacher will view him as complying with the FCPS regulations.

However, the FCPS regulations allow for disciplinary consequences including suspension for subjective behaviors for which Black students are disproportionately suspended due to teacher and administrator misperceptions. For example, the FCPS Handbook lists "Disruptive Behavior," defined as "[a]ctions which interfere with the effective operations of the school" and "Continued Willful Disobedience," defined as "[r]epeated refusal or failure to follow school rules and regulations," as misbehaviors punishable by "Support, Removal, Administrative and Exclusionary Responses." *Id.* at 11.[13] Indeed, 33% of annual suspensions in FCPS are for disruption and disrespect—

[13] Less severe forms of discipline in response to these behaviors may also be imposed, including "support" and "administrative responses." FCPS Reg. The range of recommended responses to behaviors adds an additional layer of uncertainty to how S.F.'s teachers will react to his behavior.

precisely the types of subjective offenses that are vulnerable to the influence of bias. MSDE Data at *12.

The Court of Special Appeals observed that "the possibility that a suspension could be imposed too quickly or arbitrarily would represent … an opportunity for the probation officer to decide whether to pursue a violation and the trial court to decide whether to find one …." *In re S.F.*, at 59-60. Probation officers and trial courts likely do not, however, represent a strong procedural safeguard for suspensions based on subjective behaviors. Instead, when a suspension is not based on objective behaviors, the probation officer or judge is more likely to defer to the judgment of the suspending teacher or administrator. *See e.g. Doe v. Superintendent of Schools of Stoughton*, 437 Mass. 1, 767 N.E.2d 1054 (2002) ("Because school officials are in the best position to determine when a student's actions threaten the safety and welfare of other students, courts must grant school officials substantial deference in their disciplinary choices."); *Sabol v. Walter Payton College Preparatory High School*, 804 F. Supp. 2d 747, (N.D. Ill. 2011) ("[C]onstitutional protections afforded students in disciplinary proceedings" are diminished "because courts are extremely hesitant to second-guess the disciplinary decisions made by those entrusted with educating the nation's children.").

Because S.F. is subject to, and more likely to receive, suspension for undefinable behaviors at the discretion of those who may misunderstand or have biases against him, including a no-suspension condition in his probation is impermissibly vague and in violation of his right to due process.

III. Teachers and administrators escalate discipline of Black students more severely than other students once the student is perceived as a troublemaker.

Teacher and administrator perceptions have a further impact on S.F.'s ability to comply with the no-suspension condition of his probation because, due to the combination of his race and his juvenile court involvement, they are more likely to consider him a "troublemaker." Teachers are more likely to view the behavior of Black students as "indicative of a long-term problem and deserving of suspension," as opposed to White students. Riddle & Sinclair, *supra*, at 8255. In their "Two Strikes" study, researchers found that "[a]fter the second infraction," regardless of the seriousness of infractions or their similarity to each other, "teachers thought the Black student's misbehavior should be met with more severe discipline … than the White student's misbehavior." Okonofua & Eberhardt, *supra* at 619-20. Teachers are "more likely to view multiple infractions as connected to a pattern when the student is Black as opposed to White" and it only takes "two strikes" for "racial disparities in discipline to emerge." *Id.* at 620.

Black students like S.F. who have interacted with the juvenile justice system have to operate in the reality that this research illuminates. Not only are they more likely to be suspended than a White student based on misperceptions of their behavior, but they are also more likely to be suspended for any of those misperceived behaviors because they already carry the stigma of being perceived as a "troublemaker." Their actions are more likely to be viewed as patterned misbehavior deserving of harsher punishments, solely because of their skin color. Conditioning probation upon avoiding suspension when the cause of suspension for Black students is so likely to be disconnected from their behavior

results in the vagueness of that term and a violation of the students' rights of due process. Therefore, the Court should reverse the Court of Special Appeals' decision in light of the factors that increase the likelihood of suspension which are affected more by the student's race than by their actions and ultimately determine that no-suspension conditions in probation agreements are not permissible.

CONCLUSION

For the reasons stated above, this Court should find in favor of Petitioner.

September 1, 2021

Respectfully submitted,

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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH MD. RULE 8-112

1. This Motion contains 3,822 words, excluding the parts exempted from the word count by Md. Rule 8-503.

2. This Motion complies with the font, spacing, and type size requirements stated in Md. Rule 8-112.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of September, 2021, a copy of the foregoing Brief in Support of Petitioner was sent via MDEC to:

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APPENDIX A

INTERESTS OF AMICI CURIAE

The **National Center for Youth Law** ("NCYL") is a private, non-profit law firm that uses the law to help children achieve their potential by transforming the public agencies that serve them. Two of NCYL's priorities are to ensure that youth have access to appropriate education services to improve their educational outcomes and to reduce the number of youth subjected to harmful and unnecessary incarceration. For 50 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities they need to become self-sufficient adults. NCYL provides representation to youth in cases that have broad impact, and has represented many students in litigation and class administrative complaints to ensure access to adequate, appropriate and non-discriminatory education, including in school discipline.

The **Public Justice Center** ("PJC") is a private, non-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. PJC's Education Stability Project seeks to combat the overuse of exclusionary school discipline practices, like suspension, expulsion, and school policing, through individual representation, impact litigation, and policy advocacy. Representing Maryland students, PJC has filed numerous administrative appeals before the Maryland State Board of Education, as well as local school boards, challenging disciplinary and behavior-related exclusions from school. Additionally, PJC has appeared before the Court of Appeals and Court of Special Appeals in cases involving the rights of children. The resolution of the present appeal will determine, in part, whether Maryland students who have had contact with the justice system

will face incarceration or other consequences if they are subject to a disciplinary exclusion from school, even for a minor or subjective offense. PJC represents such students as part of its practice, and thus has a significant stake in the outcome of this case.

The **American Civil Liberties Union** ("ACLU") is a nationwide, nonprofit, nonpartisan organization with nearly 2 million members dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. In support of these principles, the ACLU has appeared both as direct counsel and as amicus curiae in numerous cases concerning the rights of young people. *E.g.*, *In re Gault*, 387 U.S. 1 (1967); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985); *J.D.B. v. North Carolina*, 564 U.S. 261 (2011); *Mahanoy Area Sch. Dist. v. B. L. by & through Levy*, 141 S. Ct. 2038 (2021).

The **Children's Law Center, Inc.** ("CLC") is a non-profit legal service center committed to protecting and enhancing the rights of children and youth in Ohio and Kentucky and improving the systems that serve them, ensuring youth successfully transition into adulthood. CLC provides individual legal advocacy to children and youth, as well as training and education, impact litigation, and juvenile defender support services. Throughout its 32 year history, CLC has been involved in both systemic litigation and policy reform to address issues related to the overlap of school discipline and juvenile justice involvement. The issues involved in and implications of this case are of particular concern to CLC, given the work CLC is engaged in to end practices that result in the unnecessary incarceration of youth.

Juvenile Law Center advocates for rights, dignity, equity and opportunity for youth in the child welfare and justice systems through litigation, appellate advocacy and submission of amicus briefs, policy reform, public education, training, consulting, and strategic communications. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values.

Chicago Lawyers' Committee for Civil Rights is a public interest law organization founded in 1969 that works to secure racial equity and economic opportunity for all. The Chicago Lawyers' Committee for Civil Rights provides legal representation through partnerships with the private bar and collaborates with grassroots organizations and other advocacy groups to implement community-based solutions that advance civil rights, including in areas of education equity, equitable community development and housing, voting rights and police accountability. Through litigation, policy advocacy and coalition work, Chicago Lawyers' Committee for Civil Rights works to ensure that systems operate with fairness and justice to produce equitable outcomes. Chicago Lawyers' Committee for Civil Rights advocates on behalf of children and parents through its education equity practice, working to reform systems that disproportionately harm children of color and put them on a path of contact with carceral systems.

The **Children's Rights Clinic** ("CRC") was founded in 2008 with the mission of teaching law students practical lawyering skills while providing high quality legal

representation to low-income families in Los Angeles County in the areas of special education and school discipline. Through its direct representation and policy advocacy, CRC seeks to ensure that children are not subjected to unnecessarily harsh exclusionary school discipline practices, like suspension and expulsion, and to combat the punitive consequences that result from school policing. CRC has represented numerous students in the greater Los Angeles area in disciplinary hearings before local school boards and filed countless administrative appeals before the Los Angeles County Board of Education, challenging disciplinary and behavior-related exclusions from school.

The **Education Law Center-PA** ("ELC") is a non-profit, legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through individual representation, impact litigation, community engagement, and policy advocacy, ELC works to eliminate systemic inequities that lead to disparate educational outcomes based on the intersection of race, gender, gender identity/expression, sexual orientation, nationality, and disability status. During its more than forty-five-year history, ELC has handled numerous individual matters and impact cases on behalf of students of color who face subjective and racially biased school policies and practices that disproportionately exclude Black and Brown students and place youth on a trajectory to the criminal justice system.

The **Equal Justice Society** ("EJS") is a national civil rights organization whose mission is to transform the nation's consciousness on race through law, social science, and the arts. Through litigation and advocacy, EJS combats race and other forms of discrimination in education, the criminal justice system and other societal institutions. A

significant part of EJS's legal advocacy work involves court challenges to the racially disproportionate rates of school discipline against Black students. As an organization dedicated to fostering understanding of implicit bias and its effects on Black students, EJS has an interest in ensuring that youth are not further entrenched in the juvenile justice system due to racially discriminatory school practices.

Founded in 1967, the **Legal Aid Justice Center** ("LAJC") is a non-profit, non-partisan organization devoted to partnering with communities and clients to achieve justice in Virginia by dismantling systems that create and perpetuate poverty. Using litigation, policy advocacy, and organizing, LAJC's Youth Justice Program works to ensure that all youth have access to high-quality, non-discriminatory public education, to reduce the use of exclusionary school discipline, and to end youth incarceration. LAJC provides free legal representation to youth in school discipline cases, represents incarcerated youth in sentence review and release hearings, and advances state-level policies to reduce school suspensions and expulsions.

The **Legal Aid Society** ("Legal Aid") is the nation's oldest and largest private not-for-profit organization, providing free legal services to low-income individuals and families for over 140 years. The Legal Aid Society consists of three practices, which together represent clients throughout New York City in over 300,000 matters annually, including thousands of children each year. The Criminal Defense Practice (CDP), New York City's primary provider of indigent defense, represents individuals as young as 13 charged in adult court. The Civil Practice provides comprehensive legal assistance to clients with a range of problems including those involving education law, family law,

disability-related assistance, health law, and community development legal assistance. The Juvenile Rights Practice (JRP), provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Our Criminal, Civil and Juvenile practices engage in educational advocacy for our clients, in the areas of special education, school discipline, school placement and programming. In addition to representing these children each year in administrative, trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

The **Louisiana Center for Children's Rights** ("LCCR") is a nonprofit law office that provides holistic legal defense to address children's needs both inside and outside the courtroom. As the juvenile public defender in New Orleans, LCCR represents 90% of the children involved in juvenile court in New Orleans and also provides support to children charged with delinquency and status-based offenses in East Baton Rouge. Nearly all of LCCR's clients are Black and at least half have disabilities that entitle them to special education, related services, and classroom and school-based accommodations. In order to ensure that children can remain in their communities where they belong, LCCR's lawyers, social workers, and youth advocates provide extensive educational support to their clients, including through direct advocacy in special education and discipline proceedings. LCCR also engages in litigation and policy advocacy across the state of Louisiana to create more equitable, supportive, and fair schools for all children. LCCR's attorneys regularly represent children who are excluded from school for minor or vague offenses or for

behavior that is a manifestation of their disabilities, and many of LCCR's clients are subject to no-suspension conditions of probation.

The **Southern Poverty Law Center** is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. As part of that mission, it uses litigation, education, and advocacy to work to end the era of mass incarceration and root out racial discrimination in the criminal justice system by reforming policies that lead to the incarceration of children and teens for minor crimes and school-related offenses

The **Washington Lawyers' Committee for Civil Rights and Urban Affairs** works to create legal, economic and social equity through litigation, client and public education and public policy advocacy. The Committee recognizes the central role that current and historic race discrimination plays in sustaining inequity and recognize the critical importance of identifying, exposing, combatting and dismantling the systems that sustain racial oppression. The Committee's priorities include creating an equal opportunity for education, particularly for children of color, disabled children, and English language learners and reducing the impact of an unfair criminal system. Nowhere is systemic racism more pronounced nor more harmful than in our criminal system, including the juvenile legal system and the school-to-prison pipeline that feeds it. Based on our work to reform these systems, it is the Committee's view that no-suspension conditions for juvenile probation serves no rehabilitative purpose and will only further entrench unfair racial disparities impacting young people in Maryland.