

Volume 21 | Issue 1

Winter 2018

The Charter School Network: The Disproportionate Discipline of Black Students

Mikailla Carwin
CUNY School of Law

Follow this and additional works at: <https://academicworks.cuny.edu/clr>



Part of the [Law Commons](#)

Recommended Citation

Mikailla Carwin, *The Charter School Network: The Disproportionate Discipline of Black Students*, 21 CUNY L. Rev. (2018).
Available at: <https://academicworks.cuny.edu/clr/vol21/iss1/3>

The Charter School Network: The Disproportionate Discipline of Black Students

Acknowledgements

The author would like to thank her loving parents, family, and close friends who continue to uplift her during her law school career. She would also like to thank her supportive professors, mentors, classmates, and the Pipeline to Justice Program. Mikailla would like to acknowledge the Black youth and their families who are fighting so hard to pursue an education. Their obstacles, tenacity, and strength inspired her to write and complete this article. Finally, she would like to express her gratitude to the 2017-2018 CUNY Law Review Board.

CUNY Law Review Footnote Forum

January 29, 2018

Recommended citation:

Mikailla Carwin, *The Charter School Network: The Disproportionate Discipline of Black Students*, 21 CUNY L. REV. F. 49 (2018).

THE CHARTER SCHOOL NETWORK: THE DISPROPORTIONATE DISCIPLINE OF BLACK STUDENTS

Mikailla Carwin^{d1}

INTRODUCTION

While the charter school movement has gained traction and grown extensively throughout the United States, its disciplinary practices are controversial. The “zero-tolerance” policies used in charter schools, which include exclusionary disciplinary methods such as suspension and

^{d1} Mikailla Carwin is a 2018 J.D. candidate at the City University of New York School of Law. Before attending law school, she graduated from the University at Albany with a B.A. in Political Science and completed the law school’s Pipeline to Justice Program. Mikailla is a New York native and was raised in Williamsburg, Brooklyn. Mikailla completed her clinical placement at the ACLU’s Reproductive Freedom Project in December 2017. She has interned at Advocates for Justice Chartered Attorneys, the Economic Justice Project at Main Street Legal Services, and the General Counsel’s Office at the N.Y.C. Department of Education. Mikailla is a senior staff member of CUNY Law Review, the NEBSA Director of Membership, and Chair of the law school’s Diversity Mentoring Program. She has previously served as BLSA’s Social Action Chair and continues her passion for Black social justice as a member of NBLSA’s Advocacy Committee. Mikailla was a teaching assistant for Professor Sarah Valentine’s Lawyering Seminar and will also be a teaching assistant for the Economic Justice Project during her final semester. She is also a recipient of the 2017 Children’s Rights Summer Fellowship and the CUNY Law Admissions Scholarship. The author would like to thank her loving parents, family, and close friends who continue to uplift her during her law school career. She would also like to thank her supportive professors, mentors, classmates, and the Pipeline to Justice Program. Mikailla would like to acknowledge the Black youth and their families who are fighting so hard to pursue an education. Their obstacles, tenacity, and strength inspired her to write and complete this article. Finally, she would like to express her gratitude to the 2017-2018 CUNY Law Review Board.

expulsion, are restrictive, harsh, and difficult for students to follow. They cause damage to the student's self-esteem, reputation amongst their peers, academic performance, and attitude toward attending school.¹ Studies and statistics show that charter schools disproportionately punish Black students more than any other race.² This article explores: a brief history of the charter school movement and charter school law, general disciplinary practices within charter schools, and how the law allows black students in the charter school network to be disproportionately disciplined. It will conclude with recommendations for how to better protect Black charter school students from over-discipline.

BRIEF HISTORY OF THE CHARTER SCHOOL MOVEMENT

In 1988, Dr. Ray Budde wrote *Education by Charter: Restructuring School Districts*, which introduced the concept of the charter school movement, and shared his ideas regarding “long-term continuing improvement in American education.”³ He believed that minimal “long-term progress” would be made within public schools “unless the local school district—where teaching and learning actually take place—is organized in a substantially new and different way.”⁴ Further, to remedy the shortcomings of traditional public school, he suggested that all school curriculum should be more rigorous with stronger graduation requirements, that the school day and academic year should be longer, and that every student should receive more homework assignments.⁵ He also wanted teachers to be held “accountable for the results (or lack of results) achieved” by their students and believed “incompetent” teachers should be fired.⁶ His version of public education reform grounded in rigidity and increased

¹ See, e.g., *Stories From Current and Former Success Academy Parents*, N.Y. TIMES (Apr. 17, 2015), <https://perma.cc/BH7W-B3LY>.

² U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-17-165, DISTRICT OF COLUMBIA CHARTER SCHOOLS: MULTI-AGENCY PLAN NEEDED TO CONTINUE PROGRESS ADDRESSING HIGH AND DISPROPORTIONATE DISCIPLINE RATES (2017), <http://www.gao.gov/assets/690/682673.pdf> [<https://perma.cc/T8TX-GS8Q>]; DANIEL J. LOSEN ET AL., THE CTR. FOR CIVIL RIGHTS REMEDIES, THE CIVIL RIGHTS PROJECT, CHARTER SCHOOLS, CIVIL RIGHTS, AND SCHOOL DISCIPLINE: A COMPREHENSIVE REVIEW 8 (2016), <https://perma.cc/5539-JNJP>; NAT'L CHARTER SCH. RESEARCH CTR., CHARTER SCHOOL DISCIPLINE (2017), <https://perma.cc/WM2D-ZLJQ>.

³ RAY BUDDE, EDUCATION BY CHARTER: RESTRUCTURING SCHOOL DISTRICTS (1988), <https://perma.cc/L7GZ-3XE6>.

⁴ *Id.* at 16.

⁵ *Id.* at 13.

⁶ *Id.*

oversight of teachers, students, and public school systems as a whole inspired the inception and framework of charter schools today.⁷

The nation's first charter school opened in 1992.⁸ By the 2016-2017 school year, over 6,900 charter schools were open across the fifty states and the District of Columbia.⁹ About 3.1 million students are now enrolled.¹⁰ Purporting to "carry out the mission of educating disenfranchised students,"¹¹ charter school operators strategically open schools in communities that have predominantly low-income, minority, and low performing students.¹² For example, Black students are enrolled in charter schools at a rate of 27.1% versus 15% in public schools, while Latinx students are enrolled in charter schools at a rate of 30% versus 24.6%.¹³

Today, families increasingly prefer to send their children to charter schools rather than to traditional public schools.¹⁴ Seventy-eight percent of families with school-age children support charter schools opening in their neighborhood, and 73% support increasing charter schools across the nation.¹⁵ Eighty-eight percent of low-income families are in support of charter schools in their neighborhood, and 84% support increasing charter schools across the nation.¹⁶

DISCIPLINE WITHIN CHARTER SCHOOLS

Despite overwhelming public support, several organizations have come out in opposition to the problematic and detrimental disciplinary practices

⁷ See Susan Saulny, *Ray Budde, 82, First to Propose Charter School, Dies*, N.Y. TIMES (June 21, 2005), <https://perma.cc/PTK5-LYRZ>.

⁸ CLAUDIO SANCHEZ, *FROM A SINGLE CHARTER SCHOOL, A MOVEMENT GROWS*, NPR (AUG. 31, 2012, 6:19 PM), <https://perma.cc/J9DE-A6DU>.

⁹ NAT'L ALL. FOR PUB. CHARTER SCHS. ESTIMATED CHARTER PUBLIC SCHOOL ENROLLMENT, 2016-2017 1 (2017), <https://perma.cc/QU4C-58RX>.

¹⁰ *Id.*

¹¹ Julia Burdick-Will et al., *Closing and Opening Schools: The Association Between Neighborhood Characteristics and the Location of New Educational Opportunities in a Large Urban District*, 35 J. URBAN AFFAIRS 59, 61 (2013).

¹² NAT'L ALL. FOR PUB. CHARTER SCHS., *DETAILS FROM THE DASHBOARD: CHARTER SCHOOL RACE/ETHNICITY DEMOGRAPHICS 1* (2014), perma.cc/JJ97-B73E.

¹³ *Just the Facts: Charter School Statistics*, NICHE, <https://perma.cc/86U7-FTTV> (last visited Nov. 25, 2017).

¹⁴ NAT'L ALL. FOR PUB. CHARTER SCHS., *supra* note 9, at 3.

¹⁵ *National Survey Shows 78% of Parents Support Charter Schools Opening in Their Neighborhood*, NAT'L ALLIANCE FOR PUB. CHARTER SCHS. (Apr. 28, 2016), <https://perma.cc/D4UL-2Q68>.

¹⁶ *Id.*

within charter schools.¹⁷ Disciplinary techniques at individual charter schools include: forcing a kindergartner to wear weighted vests for up to eight hours per day,¹⁸ displaying the names of underperforming students on public charts in the school's hallway,¹⁹ issuing demerits to students if they are "speaking in faltering English or speaking in [B]lack or Southern dialect,"²⁰ and placing students in solitary timeout in a small padded room.²¹ Some charter schools also practice "reorientation," allowing the student to remain in their classes but forcing them to wear different clothing over their uniform as punishment, and prohibiting them from communicating with classmates who are not in reorientation.²²

Exclusionary discipline is another school policy that uses a zero-tolerance approach and removes or excludes a student from their usual educational setting, most commonly through suspension and expulsion.²³ In addition to physical exclusion from the classroom, some consequences of exclusionary discipline include chronic absenteeism, lower achievement, lower graduation rates, and heightened risk for grade retention and repeat suspensions or expulsions.²⁴ Students who do not have access to education are more likely to "come in contact with the criminal justice system, become victims and perpetrators of violence, or perpetuate a cycle of poverty."²⁵ In March 2016, the Center for Civil Rights Remedies at the University of California-Los Angeles published a report finding that in the

¹⁷ See Motoko Rich, *Suspensions Are Higher for Disabled Students, Federal Data Indicate*, N.Y. TIMES (Aug. 7, 2012), <https://perma.cc/WXS6-NTCJ> (describing the sentiments of the Southern Poverty Law Center).

¹⁸ Mary Frost, *More Lawsuits for Brooklyn Charter Accused of Mistreating Disabled Students?*, BROOKLYN DAILY EAGLE (Nov. 6, 2015, 4:48 PM), <https://perma.cc/S9UT-9UJ3>.

¹⁹ Kate Taylor, *At Success Academy Charter Schools, High Scores and Polarizing Tactics*, N.Y. TIMES (Apr. 6, 2015), <https://perma.cc/A53M-NR6G>.

²⁰ Kristin Rawls, *Punishing Students for Not Making Eye Contact? How Charter Schools' Prejudiced Policies Undermine Equality*, ALTERNET (Jan. 20, 2015, 4:57 PM), perma.cc/5B6K-8PJV.

²¹ John Slattery, *Mother: Washington Heights School's Use of Padded Room Abusive*, CBS NEW YORK (Dec. 11, 2013, 6:33 PM), <https://perma.cc/XC28-4F9D>.

²² Kathleen Megan, *Charter School Group Gears Up to Lower Suspension Rate*, HARTFORD COURANT (July 8, 2013), perma.cc/AHD8-XD9N.

²³ See PATRICK DENICE ET AL., CTR. ON REINVENTING PUB. EDUC., UNDERSTANDING STUDENT DISCIPLINE PRACTICES IN CHARTER SCHOOLS 2 (2015), perma.cc/8BVY-LWBD.

²⁴ See Rhonda Brownstein, *Pushed Out*, TEACHING TOLERANCE (2009), perma.cc/KDK7-JMQE.

²⁵ Candace Moore, *Advocating for Access to Education: Breaking the School to Prison Pipeline*, CBA REC., 29 (Oct. 2015), perma.cc/76CJ-QERT.

2010-2011 school year, charter schools had a higher exclusionary disciplinary rate than non-charter public schools and that, in the aggregate, charter schools suspended 7.8% of their student population.²⁶ Non-charter schools, in contrast, suspended 6.7% of their student population.²⁷

BLACK STUDENTS ATTENDING CHARTER SCHOOLS ARE DISPROPORTIONATELY DISCIPLINED

Charter schools discipline Black students more than they discipline any other race.²⁸ The disproportionate discipline of Black students is so rampant that in 2016, the NAACP ratified a resolution declaring a moratorium on the charter school expansion.²⁹ The civil rights organization called for increased oversight within charter schools, grounding the resolution in their dedication to “eliminating the severe racial inequities that continue to plague the education system.”³⁰ According to the U.S. Department of Education, charter schools that receive federal financial assistance must follow civil rights laws that are applicable to public schools, including the prohibition on discrimination on the basis of race, color, national origin, sex, or disability.³¹ However, charter schools can operate on their own terms and, often, under their own governance structures as well.³²

Many national charter school networks, such as the Achievement First Network and Uncommon Schools, have integrated the “broken windows” theory into their disciplinary system.³³ This theory insists that immediately policing negative or criminal behavior in urban environments will correct and prevent further discrepancies.³⁴ This places “an intricate set of

²⁶ LOSEN ET AL., *supra* note 2, at 8 fig.2.

²⁷ *Id.*

²⁸ See U.S. DEP’T OF EDUC. OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION: DATA SNAPSHOT: SCHOOL DISCIPLINE 1 (2014), <https://perma.cc/YPY6-P2M2>.

²⁹ Press Release, Nat’l Ass’n for the Advancement of Colored People, Statement Regarding the NAACP’s Resolution on a Moratorium on Charter Schools (Oct. 15, 2016), perma.cc/38B5-QFJS.

³⁰ *Id.* (quoting Roslyn M. Brock, Chairman of the National NAACP Board of Directors).

³¹ *Applying Federal Civil Rights Laws to Public Charter Schools*, U.S. DEP’T EDUC., <https://perma.cc/2ZSB-MVEN> (last visited Nov. 8, 2017); see also 20 U.S.C. § 7221i(2)(G) (2017).

³² Laura McKenna, *Why Don’t Suburbanites Want Charter Schools?*, ATLANTIC (Oct. 1, 2015), <https://perma.cc/KT6L-M77X>.

³³ Owen Davis, *Punitive Schooling*, JACOBIN (Oct. 17, 2014), <https://perma.cc/89KG-J5PA>.

³⁴ George L. Kelling & James Q. Wilson, *Broken Windows*, ATLANTIC (Mar.

behavioral expectations on students,” such that “[m]inor infractions—a hand improperly raised, a shirt untucked, eyes averted—invite escalating punitive measures: demerits, lost privileges, detention, suspension.”³⁵ Under this type of disciplinary system, Black students are more likely to be disciplined than their white classmates.³⁶ Black students are typically disciplined for behaviors that their white classmates are not, including “subjective behavioral categories like defiance or disrespect.”³⁷ At the elementary level, the suspension rate for white charter school students was only 2.1%.³⁸ In contrast, the suspension rate for Black charter school students was 8.7%.³⁹ At the secondary level, specifically, the suspension rate for charter schools is “more than [sixteen] more Black students than [w]hite students per every 100 students enrolled.”⁴⁰

High rates of discipline are especially prevalent in charter schools in majority-Black communities.⁴¹ In New York City, Boston, and Washington, D.C., nearly all of the charter schools that employed high levels of exclusionary discipline were located in neighborhoods that have a high population of Black residents.⁴²

Of the top fifty schools with the highest student suspensions in New York City, charter schools occupied forty-six and forty-eight spots in 2013 and 2014, respectively.⁴³ In Boston, twenty of the top fifty schools with the highest suspension or expulsion rates during the 2014-2015 school year were charter schools.⁴⁴ Charter schools in Boston were also “seven of the [ten] schools with the highest percentage of students suspended” in Massachusetts.⁴⁵ In Washington, D.C., forty of the top fifty schools with the highest suspension and expulsion rates during 2011-2012 were charter

1982), <https://perma.cc/5XF9-DUH6>.

³⁵ Davis, *supra* note 33.

³⁶ LOSEN ET AL., *supra* note 2.

³⁷ Rich, *supra* note 17.

³⁸ LOSEN ET AL., *supra* note 2, at 19 fig.4.

³⁹ *Id.*

⁴⁰ *Id.* at 43.

⁴¹ George Joseph, *Where Charter-School Suspensions are Concentrated*, ATLANTIC (Sept. 16, 2016), <https://perma.cc/5KEV-GXA4>; *see also* LOSEN ET AL., *supra* note 2, at 12-13.

⁴² Joseph, *supra* note 41.

⁴³ *Id.*; *see also Downloads*, N.Y. STATE DEP’T EDUC., <https://perma.cc/A6T8-G794> (last visited Dec. 17, 2017) (noting raw data from the 2013-2014 Report Card Database).

⁴⁴ Joseph, *supra* note 41; *see also 2015-16 Student Discipline Data Report*, MASS. DEP’T ELEMENTARY & SECONDARY EDUC., <https://perma.cc/5CQC-RLJL> (last visited Nov. 29, 2017).

⁴⁵ Joseph, *supra* note 41.

schools.⁴⁶

Although the excessive use of discipline against Black students in charter schools may be most obvious in those three cities, this issue is not limited to any particular state or charter operator.⁴⁷ The now-closed Crossroads Charter School in Charlotte, North Carolina, suspended almost 75% of their Black students during a certain school year.⁴⁸ Additionally, the top three charter schools that had the highest rates of suspending Black students during 2011-2012 were: Horizon Science Academy Cleveland Middle School in Cleveland, Ohio at 78%; Crossroads Charter High School in Charlotte, North Carolina at 74%; and KIPP Reach College Preparatory in Oklahoma City, Oklahoma at 71%.⁴⁹ During the 2011-2012 academic year, 80% of the student population at Horizon Science Academy Cleveland Middle School were Black,⁵⁰ about 95% of the student population at Crossroads Charter High School were Black,⁵¹ and nearly 81% of the student population at KIPP Reach College Preparatory were Black.⁵² This excessive discipline of Black students can only be described as predatory and reprehensible.

A BRIEF PRIMER OF CHARTER SCHOOL LAW AND HOW CHARTER SCHOOLS OPERATE

In 1991, the first state law regarding charter schools was passed in Minnesota, allowing for the creation of the City Academy, the first publicly funded, privately run “outcome-based” school, later known as a charter school.⁵³ The U.S. Congress then explicitly defined charter schools as public schools that are “in accordance with a specific State statute authorizing the granting of charters to schools, [are] exempt from significant State or local rules that inhibit the flexible operation and management of public schools.”⁵⁴ Under federal statute, charter schools

⁴⁶ *Id.*

⁴⁷ See generally LOSEN ET AL., *supra* note 2, at 6.

⁴⁸ See Joseph, *supra* note 41, at 10 tbl.1.

⁴⁹ LOSEN ET AL., *supra* note 2, at 10.

⁵⁰ *Fact Sheet*, HORIZON SCIENCE ACAD., <https://perma.cc/C45J-4KDF> (last visited Nov. 29, 2017).

⁵¹ *Crossroads Charter High in Charlotte, North Carolina*, STARTCLASS, <https://perma.cc/TSQ6-ZZDJ> (last visited Dec. 6, 2017).

⁵² *About Us*, KIPP REACH OKLAHOMA CITY, <https://perma.cc/7K58-WGVR> (last visited Nov. 29, 2017).

⁵³ H.F. 700, 77th Leg., Reg. Sess. (Minn. 1991), <https://perma.cc/9GWX-75NM>; Sanchez, *supra* note 8.

⁵⁴ 20 U.S.C. § 7221i(2)(A) (2017).

must adhere to federal law, including anti-discrimination laws under Title VI and Title IX of the Civil Rights Act and the Individuals with Disabilities Education Act (“IDEA”), but are otherwise only required to operate “in accordance with State law.”⁵⁵ Individual states are then tasked with determining which state and district laws or regulations a charter school is exempt from. In the school discipline context, while every student has the legal right to notice and an opportunity to be heard, the federal government has been silent on what that opportunity should look like and again tasks individual states to shape that process.⁵⁶ The National Association of Charter School Authorizers (“NACSA”) recommends that every state “endorse and apply professional standards for charter authorizing” and that authorizers “ensure quality oversight that maintains high educational and operational standards, preserves school-level autonomy, and safeguards student and public interests.”⁵⁷ While these are recommended and not required, charter schools get away with providing the bare minimum process to its students, with little accountability at the state or federal level.

Generally, charter schools are governed by a charter, a legislative contract dictating what students must achieve and how the school must be organized.⁵⁸ An authorizer or authorized public chartering agency is a “state educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.”⁵⁹ Authorizers of charter schools are responsible for approving applications for charters, negotiating contracts, overseeing schools, and deciding whether to close schools.⁶⁰ According to NACSA, authorizers are usually higher education institutions and not-for-profit organizations.⁶¹ Authorizers also include: independent chartering boards that are statewide bodies set up for the sole purpose of awarding

⁵⁵ 20 U.S.C. § 7221i(2)(G), (K) (2017).

⁵⁶ See e.g., ADVOCATES FOR JUSTICE & EDUC., INC., KNOW YOUR RIGHTS (2014), <https://perma.cc/T5WV-SET2>, for a breakdown of Washington D.C.’s appeals process. See also ADVOCATES FOR CHILDREN OF N.Y., AFC’S GUIDE TO CHARTER SCHOOL DISCIPLINE (2013), <https://perma.cc/6ASP-9T72>, for a breakdown of New York’s appeals process.

⁵⁷ NAT’L ASSOC. OF CHARTER SCH. AUTHORIZERS, PRINCIPLES & STANDARDS FOR QUALITY CHARTER SCHOOL AUTHORIZING (2015), <https://perma.cc/FN3B-79UX>.

⁵⁸ See Jennifer Thomsen, *50-State Comparison: Charter School Policies*, EDUC. COMMISSION STATES (Jan. 25, 2016), <https://perma.cc/LRN7-YYK7>.

⁵⁹ 20 U.S.C. §7221i(1) (2017).

⁶⁰ YILAN SHEN, NAT’L CONFERENCE OF STATE LEGISLATORS, AUTHORIZING CHARTER SCHOOLS 1 (2011), <https://perma.cc/H7KN-8BZ2>.

⁶¹ *Types of Authorizers*, NAT’L ASS’N CHARTER SCH. AUTHORIZERS, <https://perma.cc/X8PA-QT2J> (last visited Nov. 8, 2017).

charters and overseeing charter schools; education agencies that are local or countywide school districts with a school board to make their final decisions; non-educational government entities that are mayors and municipalities; and state education agencies usually governed by the state's department of education.⁶² Each state determines which entities may become authorizers.⁶³

Like public schools, charter schools receive public funding based on the number of students that attend.⁶⁴ However, unlike public schools, charter schools can also accept private donations,⁶⁵ and, in some states, can receive loans from both state and private loan providers.⁶⁶

RECOMMENDATIONS

The law can be used to increase transparency and to hold charter schools accountable for the disproportionate disciplining of Black students. Within the parameters of the Family Educational Rights and Privacy Act ("FERPA"), the U.S. Department of Education should create federal regulations that require all charter schools to publicly report every student's disciplinary sanction, as well as the rationale behind issuing it to that student.⁶⁷ The reports should include, among other metrics, a breakdown of the use of each disciplinary sanction by students' race, age, and class year, and they should be free, easily accessible, and published at the end of each semester. The reports should be discussed during biannual, open meetings hosted by the charter school, and "subject to robust public input to ensure equity and transparency."⁶⁸ Charter schools must also inform every student of their due process rights when they are suspended or expelled.⁶⁹

Additionally, authorizers should monitor both "student mobility" and

⁶² *Id.*

⁶³ SHEN, *supra* note 60.

⁶⁴ *Just the FAQs—Charter Schools*, CTR. FOR EDUC. REFORM, <https://perma.cc/W3FS-6UUR> (last visited Nov. 8, 2017).

⁶⁵ *See, e.g.,* Michael Alison Chandler, *Some D.C. Charter Schools Get Millions in Donations; Others Almost Nothing*, WASH. POST (Aug. 26, 2015), <https://perma.cc/ZZ8F-ZSNR>.

⁶⁶ *See, e.g.,* *What We Do Investing in Education Starts Here*, CHARTER SCHOOL CAPITAL, <https://perma.cc/E9C8-JQL5> (last visited Nov. 8, 2017) (discussing Charter School Capital's financing program that provides capital funds to charter schools for the purpose of filling in the gap left by state budget shortfalls).

⁶⁷ *See* ANNENBURG INST. FOR SCH. REFORM, PUBLIC ACCOUNTABILITY FOR CHARTER SCHOOLS 9 (2014), <https://perma.cc/L4U4-NM5Q>.

⁶⁸ *Id.* at 4.

⁶⁹ *Id.* at 9.

charter school retention throughout the school year, broken down by semester.⁷⁰ Authorizers should closely and biannually monitor disciplinary policies to ensure that they do not impact any racial group. If a disciplinary policy is found to disparately impact any racial group or is otherwise found to be inappropriate, then it should be permanently banned.⁷¹ If a charter school or authorizer violates any of the federal regulations, they should be fined or receive a sanction. If the charter school violates the federal regulations three times, their charter should be de-authorized and at the close of the academic year, the school should be shut down.

Policy can also be an effective tool to protect Black charter school students from disproportionate disciplining. Academia at large perpetuates institutional racism and implicit biases, which then negatively influences how Black students are disciplined at school.⁷² Considering that and the over-discipline of Black students in charter schools, specifically, it is even more imperative that charter school networks take race-conscious approaches to dismantle both institutional racism and implicit bias to close and prevent disciplinary gaps in their schools.

First, every charter school should host mandatory implicit bias and anti-racism workshops for authorizers, school administration, and teachers. The workshops should extensively address the three dimensions of race consciousness: how “racism impacts schools;” “acknowledg[ing] and draw[ing] on the racial and cultural backgrounds of their students;” and “understand[ing] the value of culturally relevant pedagogies.”⁷³ Therefore, the workshops would bring awareness to teachers’ biases, encourage empathy, and teach mindfulness techniques.⁷⁴ Second, charter school teachers and administrators should be prohibited from issuing instantaneous sanctions. Instead, they should take adequate time—no less than 24 hours from the time of the incident—to determine an appropriate course of action, if necessary. When making such an assessment, they should meet with a third party, such as the school guidance counselor. Finally, schools must consistently and frequently assess which students are receiving disciplinary sanctions and how each form of disciplinary sanction, broken down by race, has affected individual students academically, socially, and mentally. If there is a trend amongst any particular group, the charter authorizer, school

⁷⁰ See *id.* at 8, for a definition and discussion of “student mobility.”

⁷¹ *Id.* at 9.

⁷² CHERYL STAATS ET AL., KIRWAN INST., STATE OF THE SCIENCE: IMPLICIT BIAS REVIEW 34-36 (2016), <https://perma.cc/TVY3-M9F9>.

⁷³ Kerri Ullucci, *What Works in Race-Conscious Teacher Education?*, TCHR. EDUC. Q., 137, 138 (2010), <https://perma.cc/3SU8-9PWC>.

⁷⁴ See Jill Suttie, *Four Ways Teachers Can Reduce Implicit Bias*, GREATER GOOD MAG. (Oct. 28, 2016), <https://perma.cc/Y3SZ-Q9BK>.

administrators, and teachers should publicly address the disparity and take action to end the use of that disciplinary practice immediately.

CONCLUSION

Many charter schools adopt rigid disciplinary systems that sanction students using exclusionary means and assimilation tactics. Charter schools throughout the nation are gravely mistreating and targeting Black youth through these disciplinary sanctions, impeding their ability to learn, grow, socialize, and develop positive self-esteem. This increases their risk of failing out of school, future incarceration, economic stagnancy, and engaging in violent activity. Unless the U.S. Department of Education creates federal regulations that increase accountability, oversight, and transparency standards for every charter school and charter school network to eliminate their “broken windows” approach, Black charter school students across the nation will continue to be disproportionately disciplined and suffer from the consequences.