



Misbehavior or Misdemeanor?

A Report on Utah's School to Prison Pipeline



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In October 2014, the S.J. Quinney College of Law Public Policy clinic released “From Fingerpaint to Fingerprints: The School to Prison Pipeline in Utah”. In May 2015, the clinic released “Disparities in Discipline: A Look at School Disciplinary Actions for Utah’s American Indian Students”. This report compliments these publications.

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The contents of the report do not reflect the opinion, expertise, or advice of the University of Utah, the S. J. Quinney College of Law, or any of their employees.

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Executive Summary

The school to prison pipeline is a national trend where children are funneled out of public schools and into the juvenile and criminal justice systems. This trend is exacerbated by zero tolerance policies and criminalizing behavior that should be handled inside schools instead of resorting to law enforcement action. Students who are suspended, expelled, referred to law enforcement, or have a school related arrest are more likely to not finish high school than their peers.

Within this pipeline are major issues that need to be addressed. There are unacceptably high racial disparities. We are suspending too many kids. Despite common belief, Utah is not doing any better than the nation at large. The U.S. Department of Education Civil Rights Data Collection (CRDC) has provided data on key education and civil rights issues in our nation's public schools since 1968. The following report uses this data to explore these areas and how they apply to Utah specifically.

- Recent national data shows that students of color are disproportionately singled out for suspensions, expulsions, referrals to law enforcement as well as school-based arrests.
- Utah is not immune to these trends. Although the total number of disciplinary actions in Utah is decreasing, disproportionality along racial demographics continue to exist, and in some cases, is getting worse.
- In the 2013-2014 school year, almost 9% of black students, 8.5% of American Indian students, and approximately 5% of Pacific Islander and Hispanic students received a suspension. In comparison, only slightly more than 2% of white students were suspended.
- In the 2011–2012 school year, Hispanic students were 1.3 times more likely than white students to be expelled. This increased to 2.3 times more likely in 2013–2014. Asian students were less likely than white students to be expelled in 2011, but they were 3.3 times more likely to be expelled in the 2013-2014.
- During the 2013–2014 school year, 1.5% of American Indian students and almost 1.2% of black students were referred to law enforcement. In comparison, less than one half of one percent (0.4%) of white students received this action
- American Indian students were 6.2 times more likely than white classmates to be arrested at school in the 2011–2012 school year. That disparity increased to 8.8 times more likely in the 2013–2014 school year. Similarly, Pacific Islanders were 1.7 times more likely in 2011–2012 and 3.3 times more likely in 2013–2014.
- American Indian student feel the brunt of school disciplinary actions in every category except in-school suspensions. Overall, 10.3% of all American Indian students received some sort of school disciplinary action in the 2013–2014 school year. In comparison, 5.6% of all other students of color received an action, and 2.6% of the white student population received an action.

I. Introduction

“In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunities of an education. Such an opportunity, where the state has undertaken to provide it, is a right that must be made available on equal terms.”

– Chief Justice Earl Warren, *Brown v. Board of Education* (1954) ¹

It has been consistently shown that lacking a high school diploma is a reliable predictor for being at a greater risk for poverty, poor health, potential criminal behavior, and the need for social services in American society.² Recent research shows that the method of discipline used in schools can increase the likelihood that a child will not complete high school.³ For example, prior suspension from school is more likely to cause a child to drop out of high school when compared to other factors, which includes low socioeconomic status, not living with both biological parents, a high number of high school changes, and becoming sexually active before the age of fifteen.⁴ Today, suspensions, expulsions, and even criminal charges are frequently used as discipline in the public school system.⁵ The United States Court of Appeals for the Tenth Circuit noted, “[t]he criminal punishment of young school children leaves permanent scars and unresolved anger, and its far-reaching impact on the abilities of these children to lead future prosperous and productive lives should be a matter of grave concern for us all.”⁶

Another disturbing outcome of these public school disciplinary actions is that they disproportionately remove American Indians, Hispanics, blacks and students identified as having a disability from the classroom.⁷ Nationally, black students are more than three times as likely to be suspended than white students.⁸ American Indian students represent less than one percent of the student population, yet they account for 2% of all out-of-school suspensions and 3% of all expulsions.⁹ Black and Latino students account for 75% of school-related arrests.¹⁰ Moreover, children identified as having a disability are twice as likely to receive one or more out-of-school suspensions as students without disabilities.¹¹

The 1954 Supreme Court ruling in *Brown v. Board of Education* was meant to eliminate race from being used as a method to exclude children from schools.¹² However, the Court’s objective has been undone by current public school disciplinary policies that tend to disfavor children of color.¹³ While these policies are facially neutral, the result of their implementation has been decidedly discriminatory.¹⁴ Studies have shown that the current trend of harsh discipline feeds minority students into the “school-to-prison pipeline,”¹⁵ thus preventing *Brown’s* promise from being fully realized.

II. What is the “School-to-Prison Pipeline?”

The “school-to-prison pipeline” is a national trend where children are funneled out of public schools and into the juvenile and criminal justice systems.¹⁶ Students are pushed into the

pipeline indirectly, through suspension and expulsions, and directly, when police respond to student's misbehavior.¹⁷ Many of these children have learning disabilities or histories of poverty, abuse, or neglect, and could benefit from additional educational and counseling services.¹⁸ Instead, they are isolated, punished, and pushed out.¹⁹

Experts point to the 1999 Columbine High School shootings as the start of the zero tolerance wave.²⁰ A “zero tolerance” policy operates on the belief that certain behaviors should be immediately punished without considering the circumstances or seeking the student's perspective.²¹ The mounting proof of harms associated with zero tolerance discipline, coupled with a lack of evidence that it actually makes students safer, has caused some schools and districts to abandon the policy.²² However, after the Sandy Hook shooting, where Adam Lanza shot and killed twenty first-graders and six adult staff members at Sandy Hook Elementary School in Newtown, Connecticut, the discussion on zero tolerance policy started again prompting such responses as arming educators or placing more armed guards in schools.²³

Zero tolerance policies criminalize minor infractions of school rules and oftentimes result in referral by school law enforcement to the juvenile or criminal justice system.²⁴ Students of color are especially vulnerable to push-out trends and the discriminatory application of discipline.²⁵ As research has consistently shown, children enter the school-to-prison pipeline after behavioral problems in the school result in suspensions, expulsions, or alternative education program placements.²⁶ Once in the pipeline, behavioral problems are exacerbated and children begin to violate more serious laws.²⁷ These serious violations involve the juvenile justice system, and ultimately, criminal prosecution and incarceration by the adult penal system.²⁸

III. National Trends

There are number of factors that have exacerbated the school-to-prison pipeline at the national level. Under pressure to create safe schools, lawmakers as well as school officials have passed laws and policies “designed to intensify student surveillance, and mandate removal of students from schools for committing certain offenses.”²⁹ Additionally, public funds are being channeled into schools to purchase surveillance equipment as well as to hire police officers to patrol public schools.³⁰ Furthermore, over the last several decades the Supreme Court has weakened student's constitutional rights in schools in the wrongheaded reasoning that this would assist school officials in maintaining a more orderly school environment.³¹ School officials can now present evidence of student wrongdoing that would be considered inadmissible under other circumstances, thereby weakening crucial safeguards that could prevent abuse.³² These evolving policies and procedures that exhibit an overall punitive mentality towards what are generally speaking only minor children, have “pushed more students out of school and into the juvenile justice system.”³³

Underperforming or “problem” students may be pushed out of traditional public schools in order to meet federal and state accountability standards that are meant to improve school performance.³⁴ Pushing out problem students, who are often low-achievers, can have the effect of raising the overall performance score for a school.³⁵ To avoid penalties that can come with a

negative rating, many scholars are concerned that low-performing students are being pushed out of schools to avoid “having low scores count against them, which could result in the loss of jobs for school officials.”³⁶

The confluence of these laws, policies, practices, and conditions have resulted in many students being over-disciplined³⁷ Upon closer examination, recent national data shows that students of color are disproportionately singled out for suspensions, expulsions, referrals to law enforcement as well as school-based arrests.³⁸ For example, African-Americans comprised 16% of the student population during the 2011 - 2012 school year, but they represented 32% of students who received an in-school suspension; 33% of students who received one out-of-school suspension; 42% of students who received more than one out-of-school suspension; and 34% of students who were expelled.³⁹ Additionally, during this same time frame, African-American students represented 27% of the students who were referred to law enforcement by school officials, and they represented 31% of students who were subject to school-based arrest.⁴⁰

Statistically, even the very young seem to be disproportionately singled out for school discipline. African-American children represented only 18% of preschool enrollment, yet these young students represented 48% of the preschool children who received more than one out-of-school suspension.⁴¹

IV. Methodology

Since 1968, the U.S. Department of Education has conducted the Civil Rights Data Collection (CRDC) to collect data on key education and civil rights issues in our nation's public schools.⁴² The purpose of the CRDC is to obtain data from public schools relating to their obligation to provide every student with equal educational opportunities.⁴³ The CRDC collects a variety of information including student enrollment, educational programs, and services.⁴⁴ It disaggregates the data by race/ethnicity, gender, limited English proficiency, and disability.⁴⁵

The numbers on which this report relies are based on an independent analysis of the most comprehensive and recent nation-wide statistics available. These statistics were released to the public in June 2016 for the 2013–2014 school year. This CRDC report collected data from every public school and school district, including juvenile justice facilities, charter schools, alternative schools, and schools serving students with disabilities.⁴⁶

The independent analysis contained herein is not based on a sample size, but rather on the entire student population. Every student and every school disciplinary action is accounted for. The disciplinary actions are in-school suspension, only one out-of-school suspension, more than one out-of-school suspension, expulsion with educational services, expulsion without educational services, expulsions under a zero tolerance policy, referral to law enforcement, and school related arrest.

The independent analysis focuses primarily on drawing comparisons between student demographics based on the percentage of school disciplinary actions given to students within

each demographic. For example, if a student population contains 100 members and two actions were given to that population the result would be a 2% rate of disciplinary action. It is important to note that students can receive more than one action. Out-of-school suspensions are broken down into only one out-of-school suspension and more than one out-of-school suspension. All other actions are not cumulative. For example, if one student receives an in-school suspension on two different occasions, that in-school suspension would be counted in the same manner as if two students each received one in-school suspension. In both cases, there were two in-school suspensions in that student group. Although this may inflate the reported percentage of the total population receiving an action, the raw number of actions in the student population is still accurate, and comparisons can be accurately drawn.⁴⁷

The independent analysis sometimes compares actual actions given to expected values. This analysis is accomplished by comparing ratios in population size to actions given. For example, if there are 1000 students in the total population and 800 of these students are white, the ratio of white students is 80%. If 100 total disciplinary actions are given, it is expected that eighty actions (80% of the total given) would be given to white students.

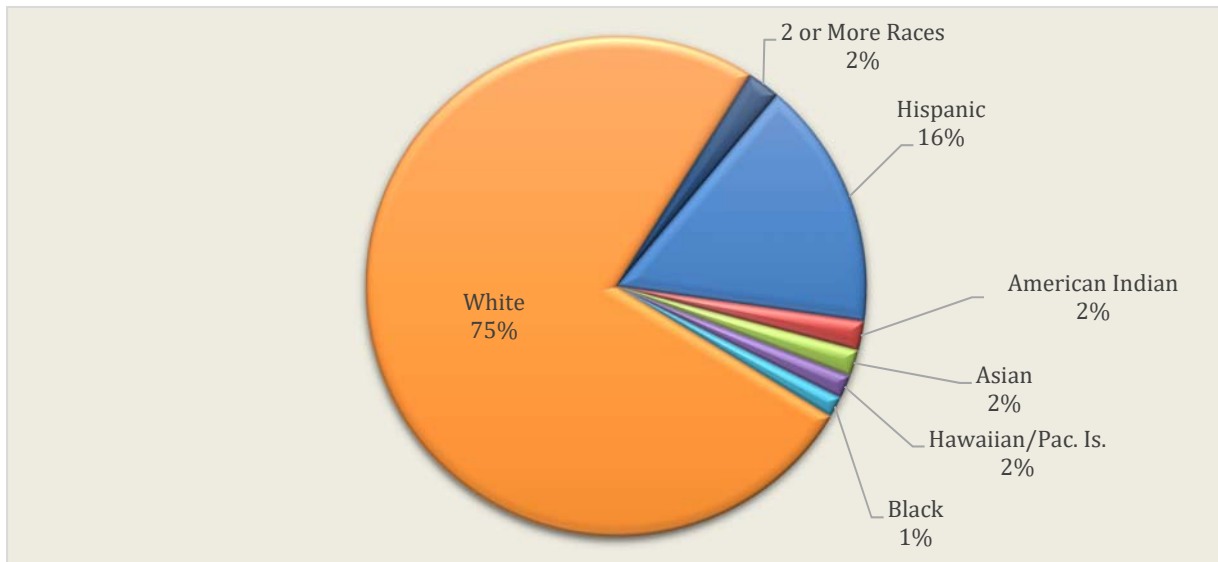
V. What's Happening in Utah

Utah is not immune to these trends. Although the total number of disciplinary actions is decreasing, the number of actions going to students of color is disproportionate compared to population size.⁴⁸ This section examines Utah's student population, graduation rates and disciplinary action by demographic.

A. Student Population

There were over 631,000 students enrolled in Utah's public school system during the 2013–2014 school year, with white students accounting for nearly 76% of the total student population.⁴⁹ Hispanic students accounted for 16% and all other students of color⁵⁰ accounted for nearly 5%.⁵¹ Utah ranks in the top 15% of all states for the lowest percentage of students of color in the public school system.⁵² Student percentages for Utah are illustrated in the chart below.⁵³

Figure 1 Utah's Public School Population 2013-2014



B. Graduation

According to the Utah State Office of Education, graduation rates are increasing in Utah.⁵⁴ In 2015, the graduation rate for all students in the state was 84%, up from 76% in 2011.⁵⁵ However, the graduation rate varies by race. In 2015, white students, who comprise the majority of the student population in Utah, were graduating at a higher rate than students of color, with the exception of Asian students.⁵⁶ Black and American Indian students were graduating at much lower rates, with fewer than seven out of ten students in each demographic completing high school.⁵⁷

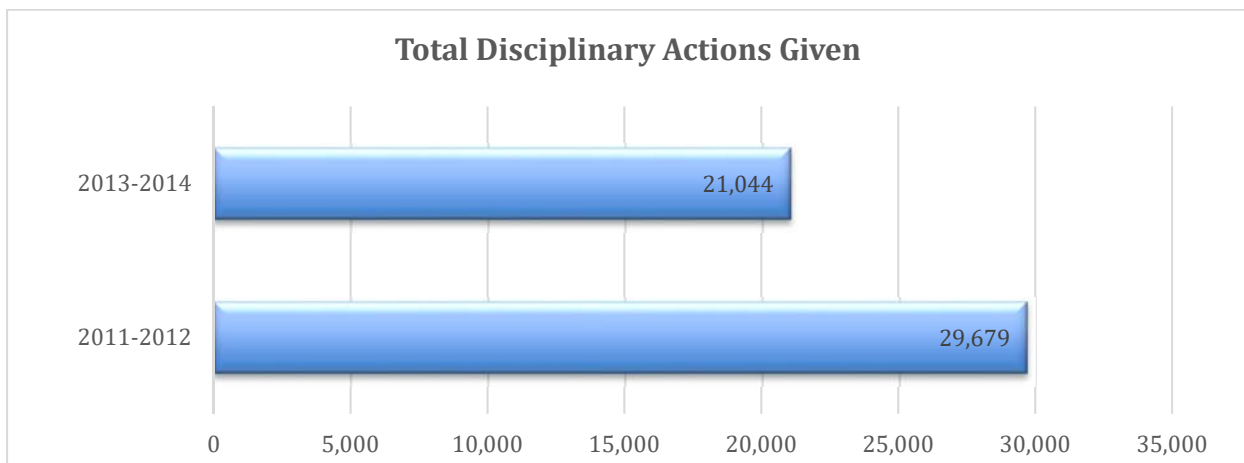
Figure 2 Graduation Rates Per Demographic

	2011	2012	2013	2014	2015
All Students	76%	78%	81%	83%	84%
Asian	72%	78%	79%	85%	88%
Black	61%	61%	68%	66%	68%
American Indian	57%	61%	65%	65%	69%
Hispanic/Latino	57%	63%	68%	72%	74%
Pacific Islander	69%	73%	77%	82%	83%
White	80%	82%	85%	86%	87%

C. Disciplinary Actions for Utah Students

In the 2013–2014 school year, students in Utah’s public schools received 21,044 school disciplinary actions.⁵⁸ This is almost a 30% decrease from the 2011-2-12 CRDC school year. During that year, Utah’s public school students received 29,670 disciplinary actions.⁵⁹ The overall decrease in the total number of school disciplinary actions shows Utah is moving in the right direction of reducing students out of classroom time. Utah saw an increase in public school students while experiencing a decrease in the total number of actions given.

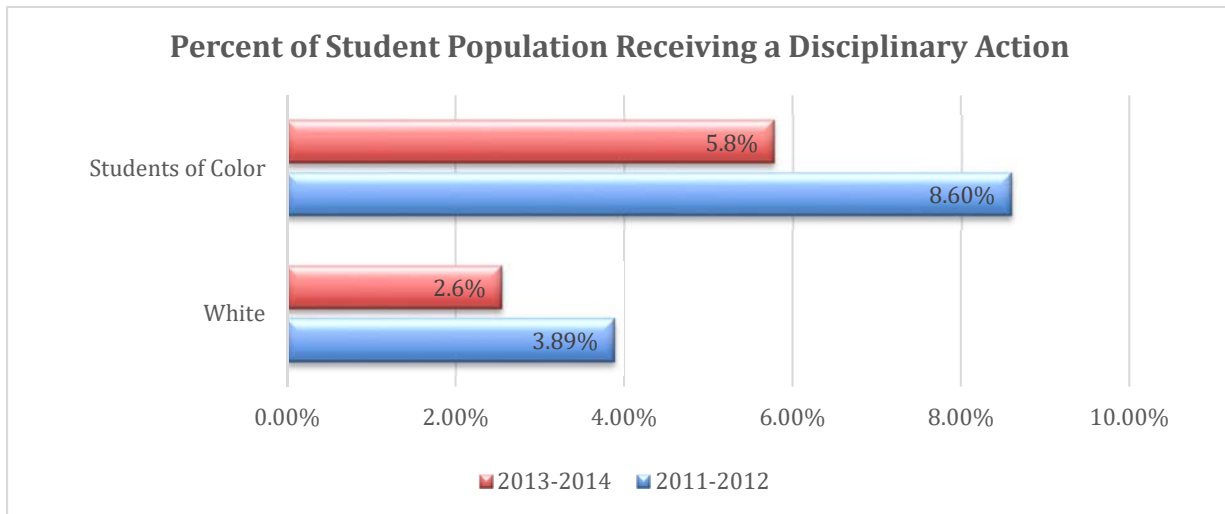
Figure 3 Total Disciplinary Actions Given



In the 2011-2012 school year, nearly 5% of all students received a disciplinary action compared to 3.3% in the 2013-2014 school year.⁶⁰ Another reflection of the gains Utah has made in reducing out of classroom time.

While the total number of school disciplinary actions has decreased, the disproportionality along racial demographics not only continues to exist to Utah, but, in some cases, has gotten worse. In the 2011-2012 school year, 3.9% of all white students received a disciplinary action compared to 8.6% of all students of color.⁶¹ In the 2013-2014 school year, 2.6% of white students were disciplined, compared to 5.8% of all students of color, making them 2.3 times more likely than white classmates to receive some sort of disciplinary action while at school.⁶²

Figure 4 Percent of Student Population Receiving a Disciplinary Action



The CRDC reports on disciplinary actions that are broken down into four general categories: suspensions, expulsions, referrals to law enforcement, and school related arrests.⁶³ The likelihood of receiving an action depends on both the action type and the student demographic. Each type of disciplinary action is explained below.

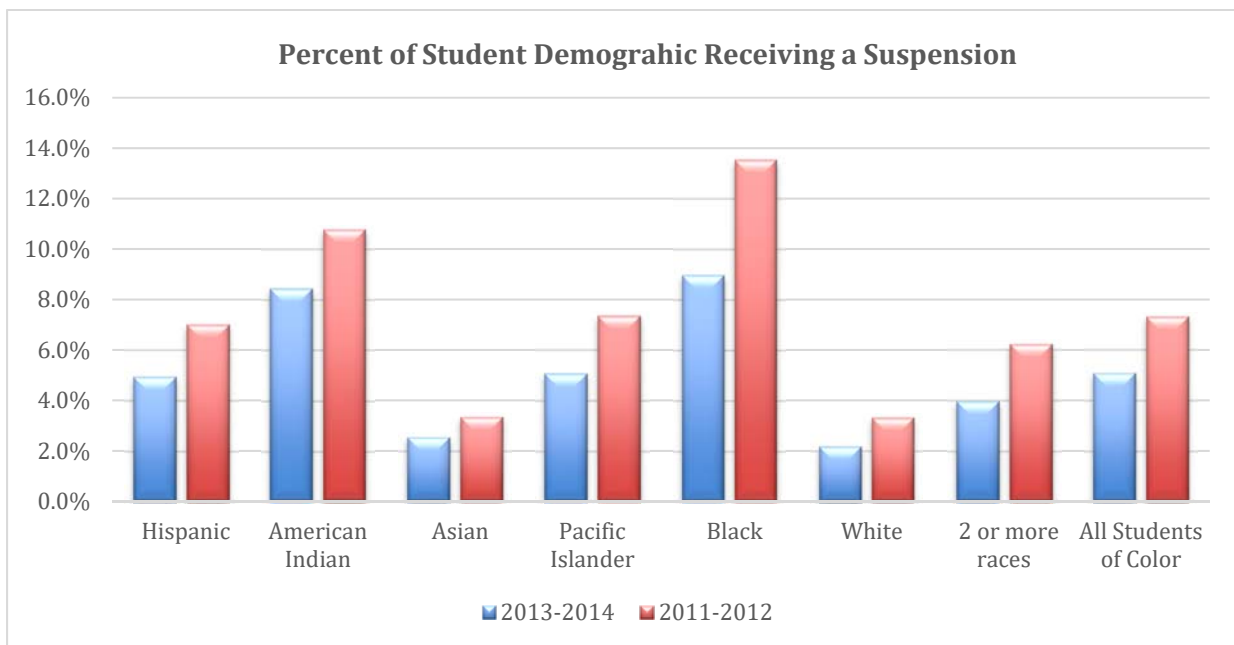
1. Suspensions

Suspensions result in a loss of classroom instruction time which can hurt student performance.⁶⁴ Research shows that high suspension rates are closely correlated with high dropout and delinquency rates, and they result in tremendous economic costs for both the suspended student and society as a whole.⁶⁵ Students who are suspended once in the ninth grade are twice as likely to drop out compared to their peers.⁶⁶ Students who are suspended three or more times by the tenth grade are five times more likely to drop out.⁶⁷

The CRDC reports on three types of suspensions: in-school suspensions, only one out-of-school suspension and more than one out-of-school suspension.⁶⁸ An in-school suspension means a child is temporarily removed from his or her regular classroom(s) for at least half a day but remains under the direct supervision, meaning the same physical location, of school personnel.⁶⁹ Out-of-school suspension is defined for students with disabilities [as defined by the Individuals with Disabilities Education Act] as an instance in which a child is temporarily removed from his/her regular school for disciplinary purposes to another setting (e.g., home, behavior center).⁷⁰ This includes removals in which no Individualized Education Plan (“IEP”) services are provided because the removal is ten days or less, as well as removals in which the child continues to receive services according to his/her IEP.⁷¹ For students without disabilities, or for students with disabilities served solely under Section 504 of the Rehabilitation Act of 1973, an out-of-school suspension means the student is excluded from school for disciplinary reasons for one day or longer.⁷² This does not include students who served their suspension in the school.⁷³

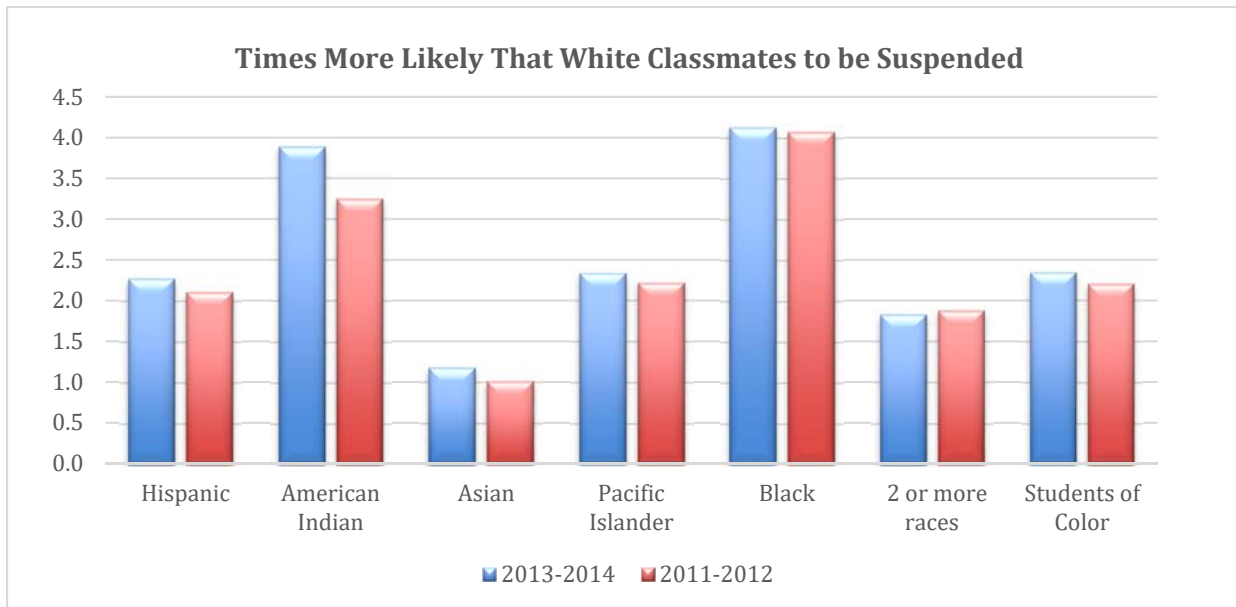
Utah made gains reducing the total number of suspensions given since the 2011-2012 school year. In that year, more than 25,000 suspensions were given to students.⁷⁴ In the 2013-2014 school year, that number is down to slightly over 18,000.⁷⁵ The chart below shows the total percentage of each student demographic suspended during the reported school year. Every student demographic saw a decrease in the total number of suspensions received. In the 2011–2012 school year 4.3% of the total student population received a suspension, compared to 2.9% in the 2013–2014 school year. This reduction means that less Utah students are being removed from the classroom, a step in the right direction.

Figure 5 Percent of Student Demographic Receiving a Suspension



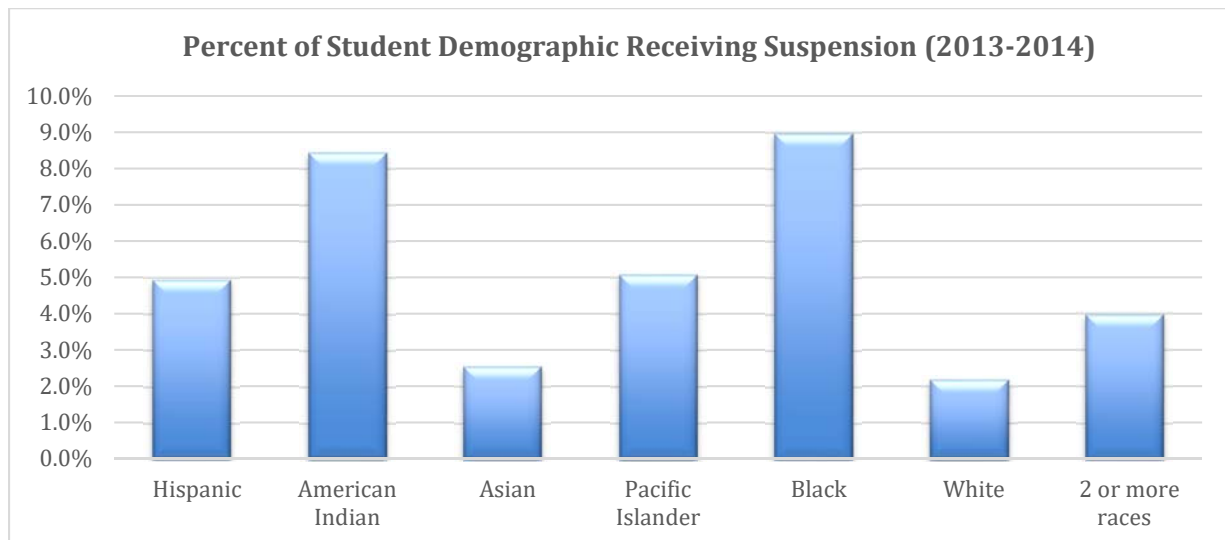
However, as was the case in the 2011–2012 school year, suspensions in the 2013–2014 school year were distributed disproportionately to students of color. As shown below, in the 2011–2012 school year, students of color were 2.2 times more likely than white classmates to receive either an in-school or out-of-school suspension. In the 2013–2014 school year, they were 2.3 times more likely.

Figure 6 Times More Likely than White Classmates to be Suspended



In the 2013-2014 school year, almost 9% of black students, 8.5% of American Indian students, and approximately 5% of Pacific Islander and Hispanic students received a suspension.⁷⁶ In comparison, only slightly more than 2% of white students were suspended.⁷⁷ This equates to black students being 4.1 times more likely to be suspended than their white classmates, American Indian students are 3.9 times more likely, and Pacific Islander and Hispanic students are 2.3 times more likely.

Figure 7 Percent of Student Demographic Receiving a Suspension (2013-2014)



Perhaps more alarming is that across all demographics, students are receiving more out-of-school suspensions than in-school suspensions, with students of color feeling the brunt of these actions. Over 6.5% of all black and American Indian students received an out-of-school suspension compared to 1.4% of their white classmates.⁷⁸

2. *Expulsion*

There is a negative impact when a student is separated from the educational process via expulsion. If the student's parent(s) work there may be no one at home during the day to supervise the student's activity, making it more likely that the student will not pursue a home-based education program, will engage in additional inappropriate behavior, and will associate with other individuals who will further increase the aforementioned risks.⁷⁹ Expulsions are a drastic response to student behavior and they do not address the underlying issues affecting the students such as drug abuse, racial and ethnic tensions, and cultural differences.⁸⁰

There are three types of expulsions reported by CRDC: expulsion with educational services; expulsion without educational services; and expulsions under a zero tolerance policy.⁸¹ A zero tolerance policy is a policy that results in mandatory expulsion of any student who commits one or more specified offenses (for example, offenses involving guns, or other weapons, or violence, or similar factors, or combinations of these factors).⁸² A policy is considered "zero tolerance" even if there are some exceptions to the mandatory aspect of the expulsion, such as allowing the chief administering officer of an LEA (Local Education Agency) to modify the expulsion on a case-by-case basis.⁸³ These expulsions may be with or without educational services.⁸⁴

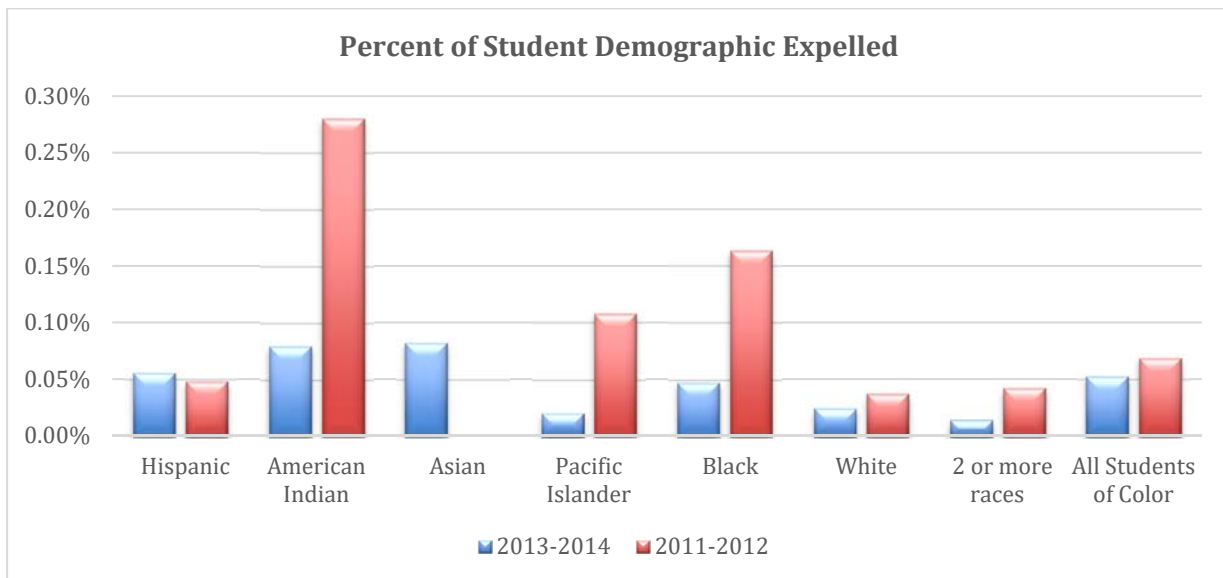
Each state has a different statute addressing the procedure school administrators must follow to expel a child from school. The statutes all have a starting point in the Supreme Court case, *Goss v. Lopez*. This case holds that an explanation is required when suspending a child from school for less than ten days; and something more than minimal notice is required when the removal lasts for more than ten days.⁸⁵

The Utah State Code outlines the grounds by which a student may be suspended or expelled.⁸⁶ The grounds for expulsion include disobedience, defiance of authority, disruptive behavior (which includes foul, profane, vulgar, or abusive language), destruction of property, and any other behavior that threatens the welfare, safety, or morals of other students, school administrators or the operation of the school.⁸⁷ A student can also be expelled for possessing alcohol, drugs or drug paraphernalia, pornography, explosives, flammable material, and a weapon or look-a-like weapon.⁸⁸ The statute requires that a student who commits a violation involving explosives, flammable material, a weapon or a look-a-like weapon be expelled from school for one year.⁸⁹ However, the statute does allow for modification of this mandatory expulsion if the modification is deemed to be in the best interests of both the school district and the student.⁹⁰ The duration of expulsion for all other offenses is determined by the school board.⁹¹ The board may expel the student for a fixed amount of time, or, it may expel the student for an indefinite period of time provided that the district superintendent or their designee review

the expulsion at least once a year.⁹² The statute also allows a public school to deny admission to a student based on an any expulsion in the previous twelve months; this determination is not subject to age limitation.⁹³

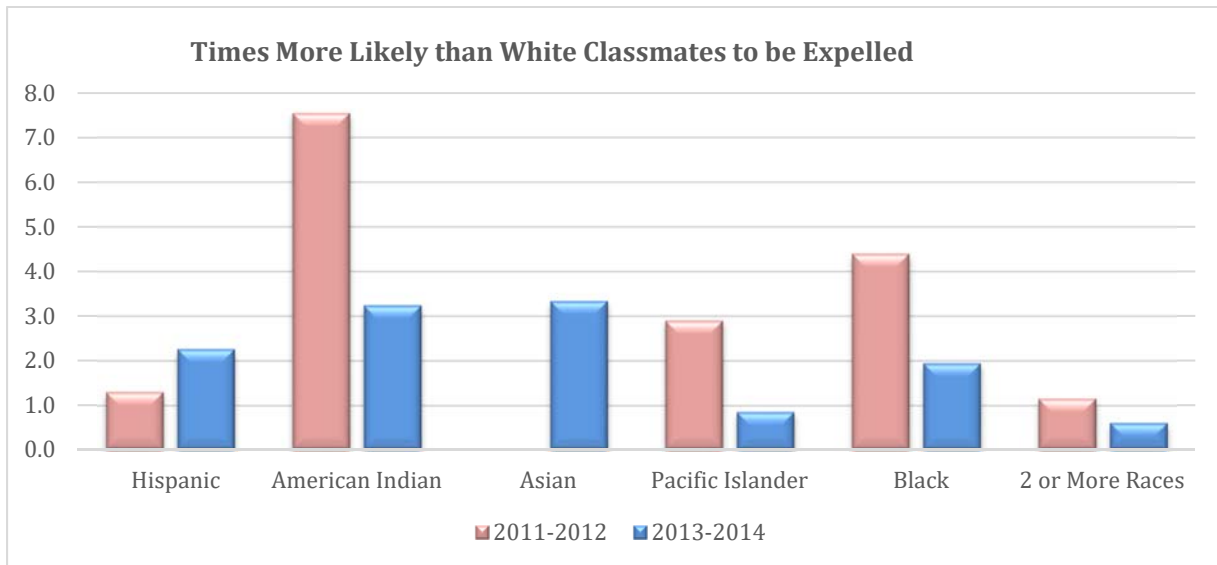
The total number of expulsions in Utah schools declined by 41% from 2011–2012 to 2013–2014, from 265 to 198.⁹⁴ Expulsions for students of color declined by 31%.

Figure 8 Percent of Student Demographic Expelled



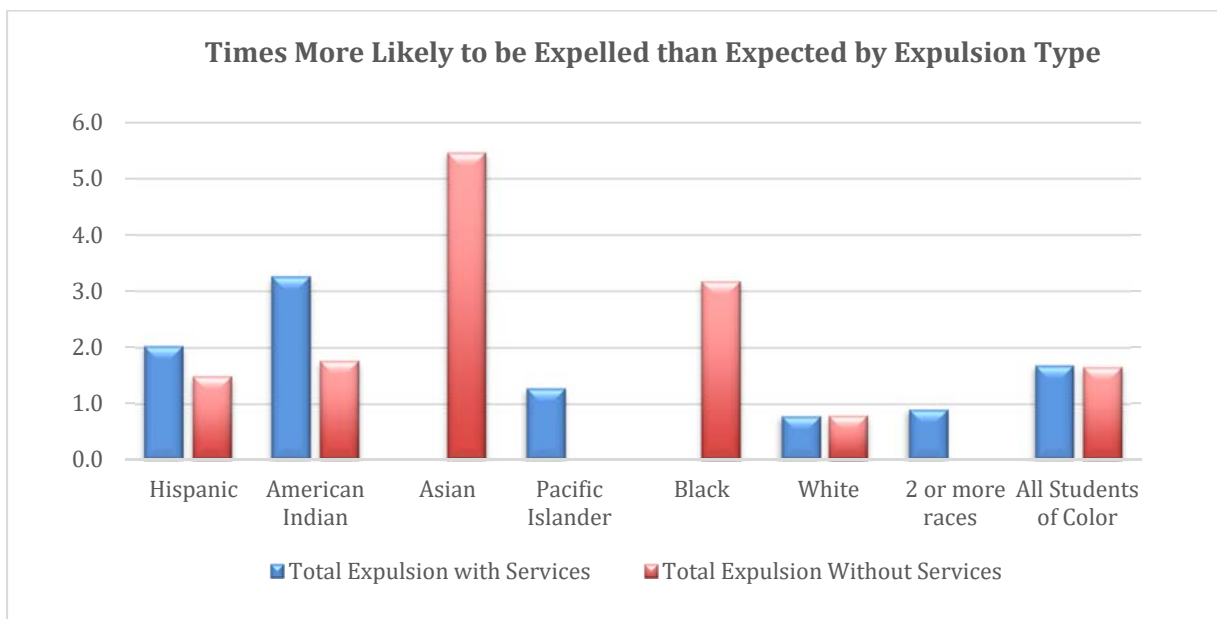
Utah has also reduced the disproportionality in expulsions between white students and American Indians, Pacific Islanders, black students, and students who report as two or more races. However, the disparity between white students and both Hispanic and Asian students increased. In the 2011–2012 reporting period, Hispanic students were 1.3 times more likely than white students to be expelled.⁹⁵ This increased to 2.3 times more likely in 2013–2014.⁹⁶ Asian students were less likely than white students to be expelled in 2011, but they were 3.3 times more likely to be expelled in 2013.⁹⁷ Additionally, students of color, who account for slightly more than 24% of the total student population, received over 40% of all expulsions.⁹⁸ Based on the size of this student population, it is expected that these students would receive forty-eight expulsions. Instead, they received eighty. Asian and American Indian students were especially disproportionately impacted. Asian students are expelled 2.6 times more often than expected; and American Indian students are expelled 2.5 times more than expected.⁹⁹

Figure 9 Times More Likely than White Classmates to be Expelled



Of the 198 students that were expelled in the 2013-2014 school year, 52% of these were with educational services while 48% were not.¹⁰⁰ Just over one-third of these expulsions were required under a “zero tolerance” policy.¹⁰¹ More alarming is the rate at which some student populations are expelled with no educational services. Asian students are expelled without educational services 5.5 times more than often than expected; and black students are expelled without services 3.1 times more often than expected.¹⁰²

Figure 10 Times More Likely to be Expelled than Expected By Expulsion Type (2013-2014)



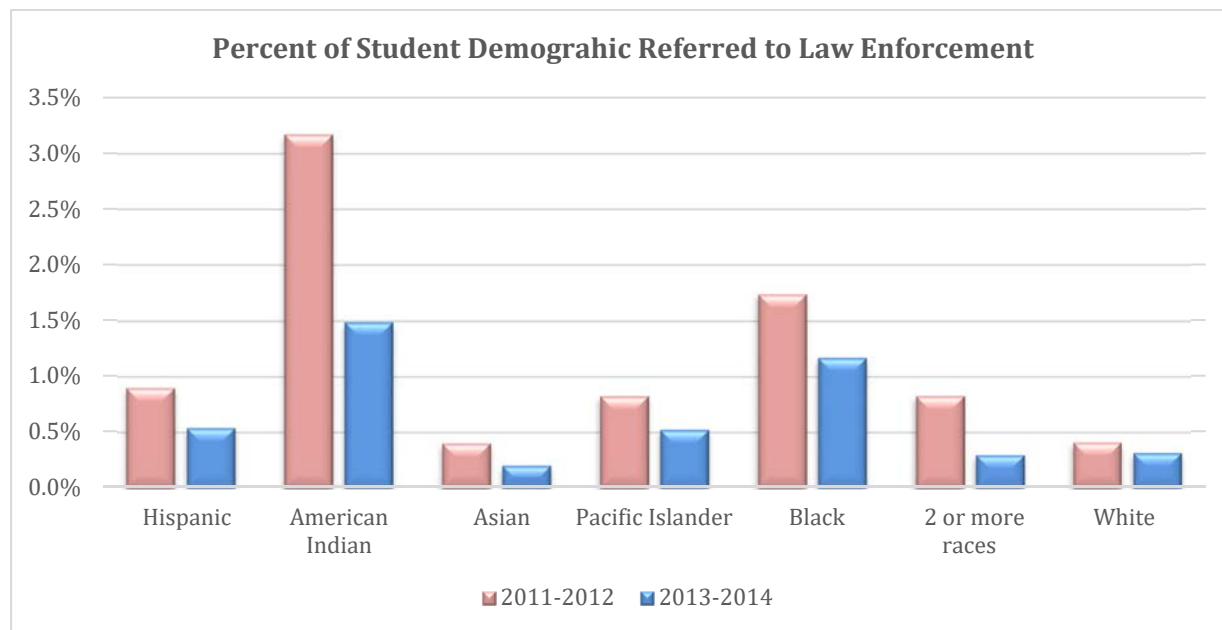
3. Referral to Law Enforcement

One of the most direct ways students enter the juvenile justice system is through school referrals.¹⁰³ Referral to law enforcement is an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken.¹⁰⁴ Schools refer students to law enforcement for a range of infractions.¹⁰⁵ Anecdotal stories indicate that schools sometimes refer cases to the police even though a crime has not been committed.¹⁰⁶ Students referred to law enforcement face a variety of consequences including being detained, missing school to appear in court, fines or other sanctions, and possible suspension or expulsion from school.¹⁰⁷

In the 2013–2014 school year, Utah’s public schools had 2,383 referrals to law enforcement.¹⁰⁸ This is down from 3,315 referrals in the 2011–2012 school year, a year with 34,000 fewer students.¹⁰⁹ The decreased use of this action is a step in the right direction. Fewer Utah students are being directly exposed to the juvenile justice system via law enforcement referrals as a form of discipline. This is significant, as referrals oftentimes result in an offense being entered on the student’s juvenile record, even if punishment for the offense is light.¹¹⁰ Once a student has an offense on their juvenile record, punishment for a subsequent offense is likely to be more harsh.¹¹¹

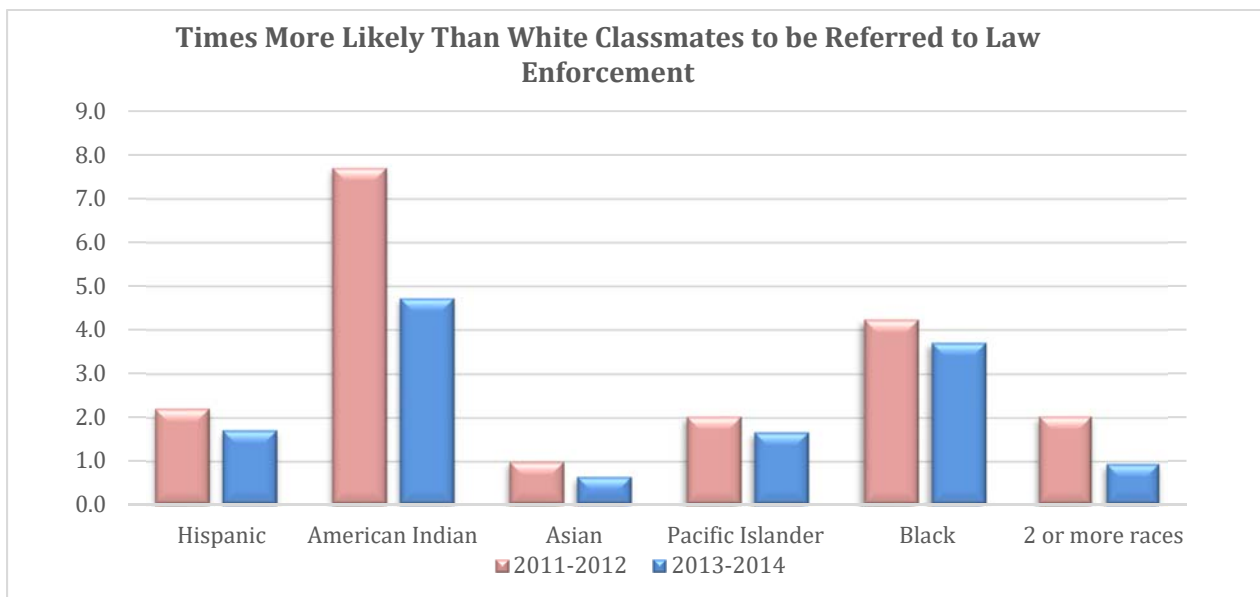
During the 2013–2014 school year, 1.5% of American Indian students and almost 1.2% of black students were referred to law enforcement.¹¹² In comparison, less than one half of one percent (0.4%) of white students received this action.

Figure 11 Percent of Student Demographic Referred to Law Enforcement



In the 2013–2014 school year, Utah also saw a reduction in the disproportionality of referrals to law enforcement between student populations. However, despite this reduction, disparities still exist at unacceptable levels. In the 2011–2012 school year, the disproportionality of referrals received by American Indians and black students was stark. In that school year, American Indian students were 7.7 times more likely than white students to be referred to law enforcement; and black students were 4.2 times more likely. In the 2013–2014 school year, American Indians were still 4.7 times more likely to be referred to law enforcement; and black students were still 3.7 times more likely.¹¹³

Figure 12 Times More Likely than White Classmates to be Referred to Law Enforcement



4. School Related Arrest

A school-related arrest is an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.¹¹⁴

Students arrested at school may find that a juvenile record will haunt them when they apply to college, apply for financial aid or a government grant, try to enlist in the military, or attempt to find a job.¹¹⁵ These ramifications can be devastating, as can the psychological effects resulting from school-based arrest such as public humiliation, diminished self-worth, distrust of the police, distrust of the school, and further alienation.¹¹⁶ Empirical evidence demonstrates that incarcerating juveniles limits their future educational, housing, employment, and military opportunities.¹¹⁷ Not surprisingly, research shows that students who are arrested in school and appear in court are more likely to drop out of school.¹¹⁸

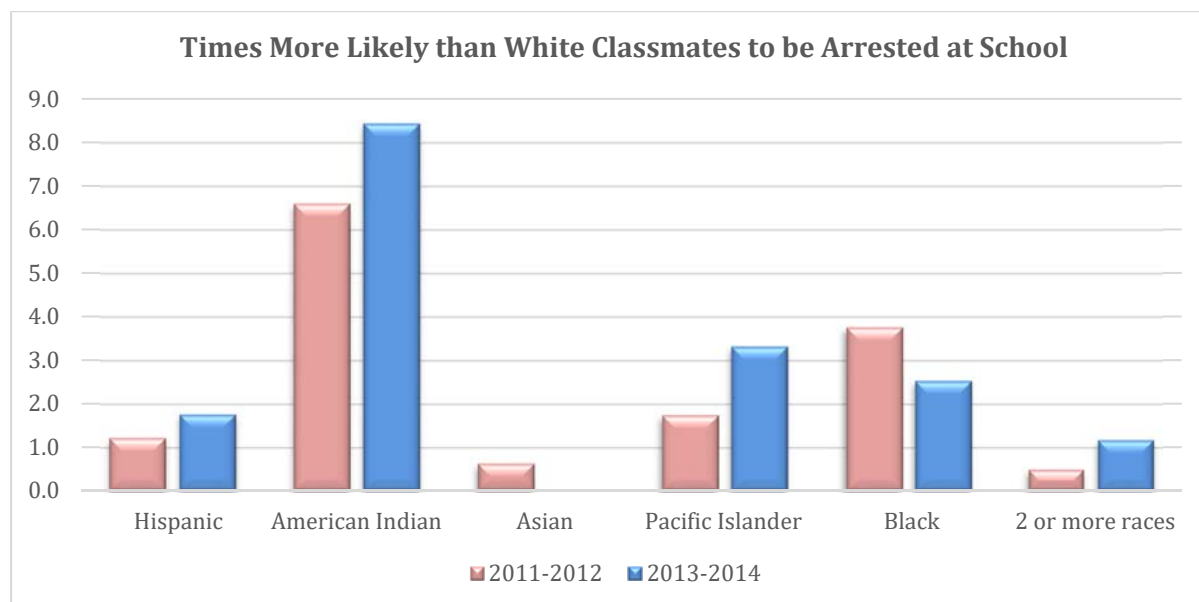
Since the 2011–2012 school year, school related arrests in Utah’s public schools have dropped by half, decreasing from 591 school related arrests to 299 in 2013–2014 school.¹¹⁹ All student demographics realized a decrease in this action.

Figure 13 Reduction of School Related Arrests (from 2011-2012 to 2013-2014)

Student Racial Demographic	% Reduction
Hispanic	58.8%
American Indian	63.6%
Asian	100%
Hawaiian / Pacific Islander	53.8%
Black	77.8%
White	68.8%
2 or More Races	40%

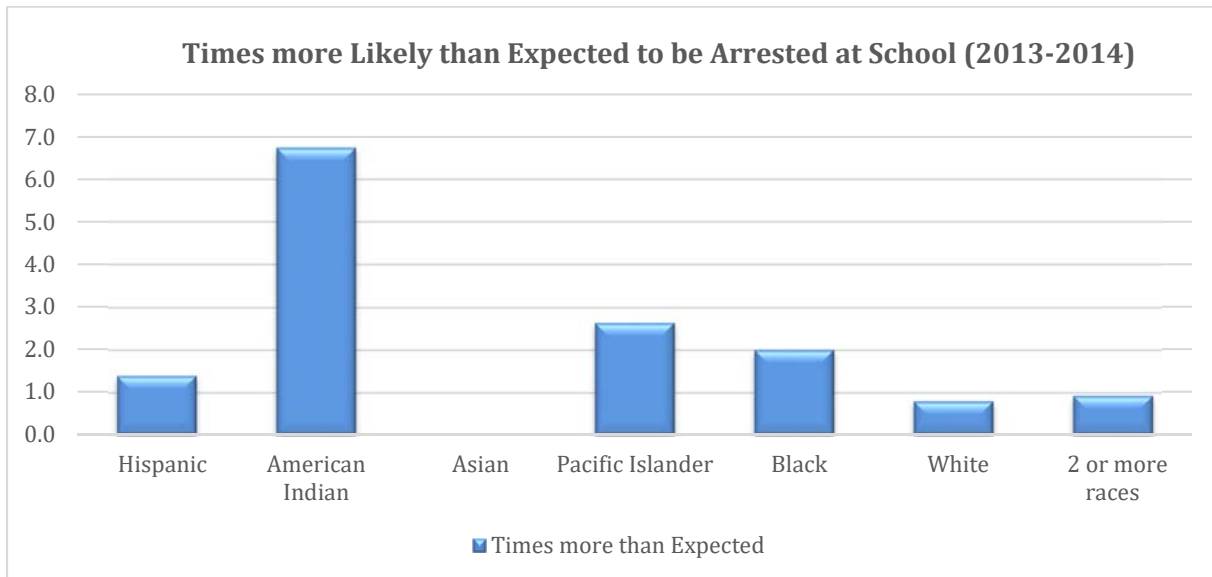
Despite the decrease in the total number of arrests at school, unacceptable disparities still exist for students of color. When compared to the rate at which white classmates receive this action, the disproportionality between student populations increased for American Indians, Pacific Islanders and students of two or more races. American Indians were 6.2 times more likely than white classmates to be arrested at school in the 2011–2012 school year.¹²⁰ That disparity increased to 8.8 times more likely in the 2013–2014 school year.¹²¹ Similarly, Pacific Islanders were 1.7 times more likely in 2011–2012 and 3.3 times more likely in 2013–2014; students who report as two or more races were less likely than white students in 2011–2012, but in 2013–2014 they were 1.2 times more likely.

Figure 14 Times More Likely than White Classmates to be Arrested at School



When comparing expected values with actual values, American Indians feel the brunt of this action. Based on population size, it was expected that this student group would receive four school related arrests. Instead, this student group received twenty-four, which is 6.7 times more than expected. Pacific Islanders were expected to receive five actions. Instead they received twelve, which is more than double the expected value.

Figure 15 Times More Likely Than Expected to be Arrested at School (2013-2014)

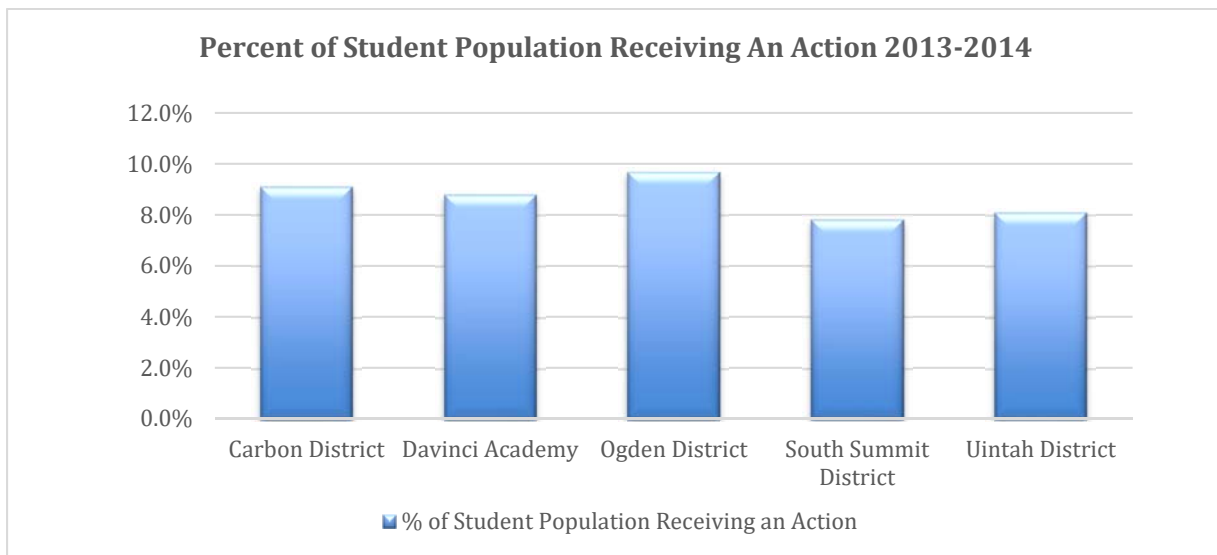


VI. District Performance

A. All Disciplinary Actions

Some school districts in Utah are excluding students from school through suspension, expulsion, referrals to law enforcement, and school related arrests at much higher rates than others. In analyzing school disciplinary actions by district, only districts or charter schools with a total student population greater than 1000 students were included. This produced a universe of forty-eight districts or large charter schools.¹²² Ogden District has the highest percentage of student being disciplined, followed by Carbon, Davinci Academy, Uintah and South Summit.

Figure 16 Percent of Student Population Receiving an Action (District Performance)



Many districts show significant disparities in disciplinary actions between the numbers a student demographic is expected to receive compared to the number the student demographic actually received. For example, if there are 1,000 students in the total population and 200 of these students are Hispanic, the ratio is 20%. It is expected that Hispanic students would receive 20% of the total disciplinary actions given. If 100 total disciplinary actions are given, it is expected that twenty actions (20% of the total given) would go to this student demographic.

B. High Disparity Districts for Hispanic Students

Hispanic students comprised 16.2% of the total student population in Utah’s public schools during the 2013–2014 school year.¹²³ These students are represented in every district throughout the state, and they comprise various percentages of the total student population in each district.¹²⁴

Almost one third of all Hispanic students in Utah are located in four districts: Granite (22,189), Salt Lake (10,740), Ogden (7,895) and Alpine (7,350); the highest percentage being in Ogden and Salt Lake.¹²⁵ In the Ogden district, Hispanic students are no more or less likely than expected to receive a school disciplinary action. In the Salt Lake district, Hispanic students were slightly more likely than expected (1.1 times) to receive an action.

Some districts are performing worse than others for this student group. Emery district had 170 Hispanic students which comprised 7.1% of the total student population in 2013-2014.¹²⁶ Based on population size and total number of disciplinary actions given, Hispanic students were 4.9 times more likely to receive an action than expected in this district, and 8.5 times more likely than white classmates. In the Juab district, Hispanic students are 4.8 times more likely to receive an action than expected, and 5.4 times more likely than white

classmates.¹²⁷ In twelve additional Utah schools, Hispanic students were more than twice as likely to receive an action compared to what was expected.

Figure 17 High Disparity Districts for Hispanic Students

District	Times More Than Expected
Alpine	2.6
Cache	2.5
Canyons	2.0
Davinci Academy	2.1
Emery	4.9
Jordan	2.4
Juab	4.8
Kane	2.5
Nebo	2.0
Park City	2.2
South Sanpete	2.6
South Summit	2.1
Wasatch	2.4
Weber	2.1

C. High Disparity Districts for Black Students

Black students comprised 1.3% of the total student population in Utah’s public schools during the 2013–2014 school year. The majority of this student population attend school in one of three districts: Granite, Salt Lake and Davis. Black students comprise 4.1% of the total student population in the Granite district, 4% of the total student population in the Salt Lake district and 1.3% in the Davis District.

Some districts are performing worse than others for this student group. In the Weber district, black students are 7.5 times more likely to receive an action than white classmates. In the Canyon district, black students are 6.2 times more likely than white students to receive an action; and in the Davis district, black students are 5.9 times more likely than white students. The other districts, mentioned above, with large black student populations fare slightly better; black students are 3.3 times more likely in the Salt Lake district and 3 times more likely in the Granite to receive an action than their white classmates.

Figure 18 District Performance for Black Students

District	Total Number of Black Students	% of Total Student Population	Times More Than White Classmates
Alpine	539	0.07%	5
Cache	112	0.07%	4.4
Canyons	384	1.10%	6.2
Davis	909	1.30%	5.9
Granite	2,183	3.10%	2.9
Jordan	563	1.10%	4.9
Murray	164	2.50%	3.7
Nebo	197	0.06%	5.9
Ogden	254	1.70%	3.1
Provo	139	0.09%	3.9
Salt Lake	1,027	4.00%	3.3
Weber	271	0.09%	7.5

VII. American Indian Students in Utah

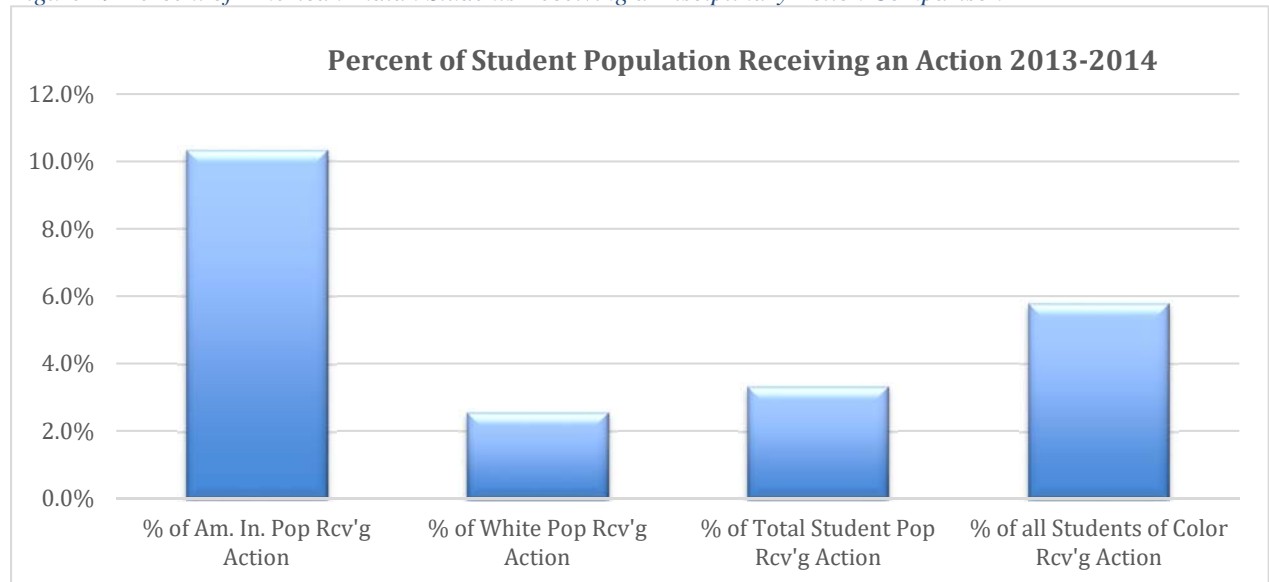
American Indian students comprise the smallest student demographic in the state. In the 2013–2014 school year, there were 7,523 American Indian students enrolled in Utah’s public schools, accounting for 1.2% of the total student population. This student demographic feels the brunt of school disciplinary actions in every category except in-school suspensions. This results in alarming numbers of this student group being excluded from school, exposed to law enforcement and entering the juvenile justice system.

American Indian students are not represented in all public school districts in Utah. Some districts have no students who reported being part of this demographic. Over 50% of the total American Indian student population resides in four districts: San Juan, Granite, Uintah and

Washington. The percent of the total student population varies in each of these four districts. In the San Juan district, the American Indian student population is both the largest in the state, and the largest percentage of the total student population, accounting for 51%. Granite, in contrast, has the second highest total number of American Indians in a district with 1,075, however, this demographic accounts for just 1.5% of the total student population. Uintah and Washington districts each have over 500 American Indian students¹²⁸ that account for 7% and 1.8%, respectively.

Overall, 10.3% of all American Indian students received some sort of school disciplinary action in the 2013–2014 school year.¹²⁹ In comparison, 5.6% of all other students of color received an action, and 2.6% of the white student population received an action.¹³⁰

Figure 19 Percent of American Indian Students Receiving a Disciplinary Action Comparison

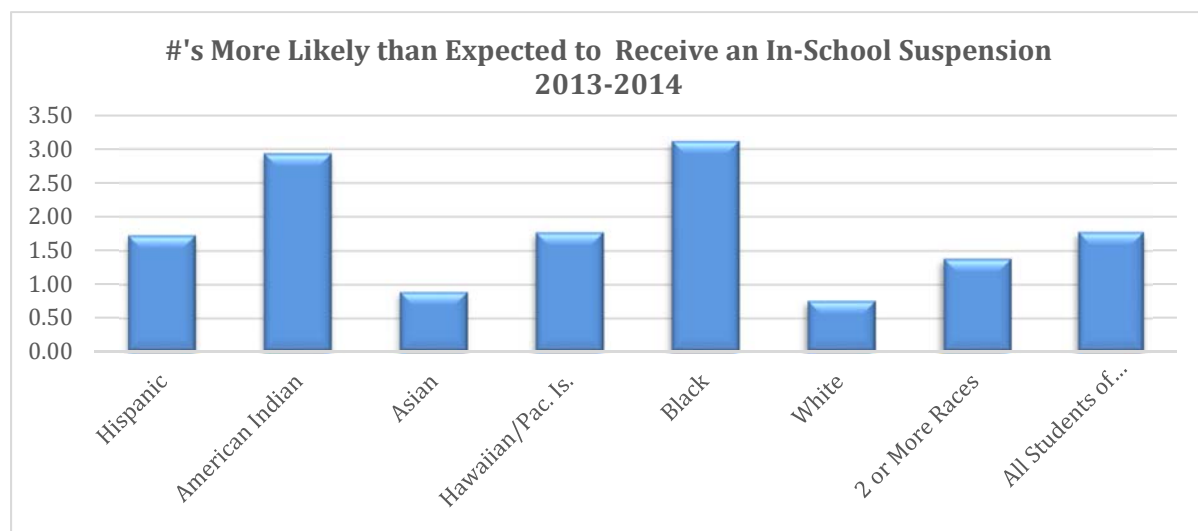


A. Suspensions

1. In-school

In examining the type of actions this student group receives, these students receive the harsher forms of school disciplinary action. Based on population size, this group is almost three times more likely to receive an in-school suspension than expected, and almost four times more likely than white classmates.

Figure 20 Times More Likely than Expected to Receive an In-School Suspension



In all other categories, American Indians are both more likely than expected to receive the action, more likely than white classmates to receive the action and have the highest percentage of the student demographic to receive out-of-school suspensions, referrals to law enforcement and be arrested at school.

2. Out of school

Based on population size, American Indian students are almost two times more likely to receive an out-of-school suspension than expected and 2.5 times more likely than white students.¹³¹ It is expected that American Indian students would receive seventy of these actions. They received 139.¹³² In the 2013–2014 school year, 6.6% of American Indian students received this action. In comparison, 6.5% of black students received this action; 3.5% of all students of color received this action; and 1.4% of all white students received this action.¹³³

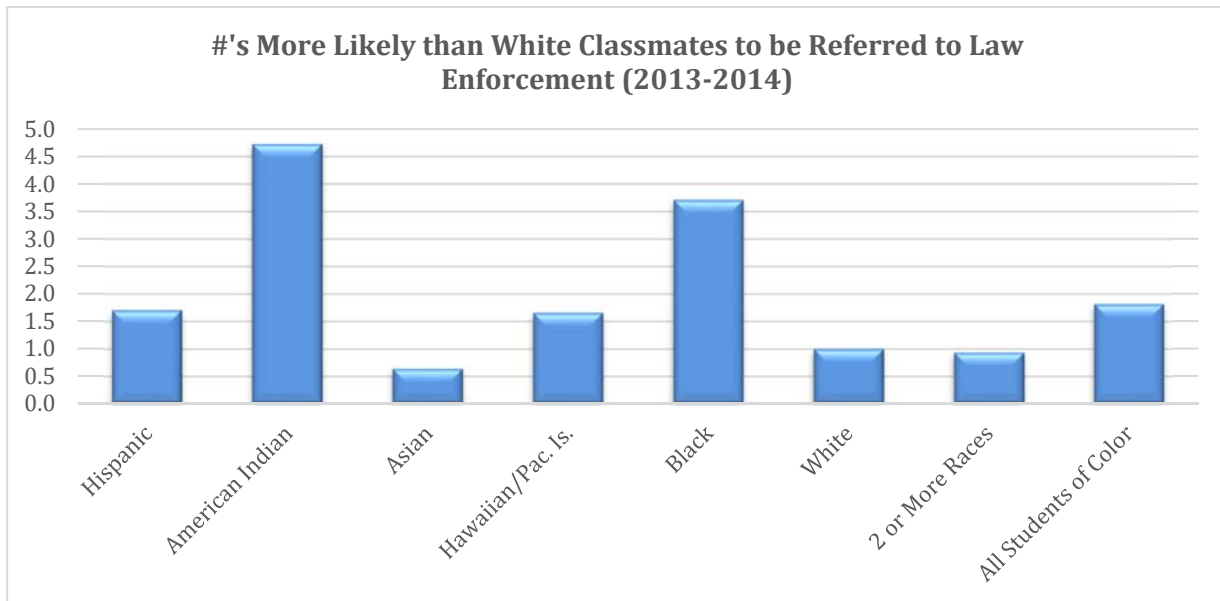
Figure 21 % of Student Demographic Receiving Out of School Suspension

<u>Demographic</u>	<u>% of Demographic to Receive Action</u>
2 or More Races	2.62%
American Indian	6.59%
Asian	1.84%
Black	6.55%
Hawaiian/Pac. Is.	3.63%
Hispanic	3.36%
White	1.44%
All Students of Color	3.54%

B. Referrals to Law Enforcement

Perhaps most alarming is the rate at which American Indian students are referred to law enforcement and arrested at school. As was the case in the 2011–2012 school year,¹³⁴ American Indian students are more likely than any other student demographic to receive these actions. American Indian students are four times more likely to receive these actions than expected, and 4.7 times more likely than white classmates.¹³⁵ All things being equal, this student group was expected to receive twenty referrals to law enforcement. They received 112.¹³⁶

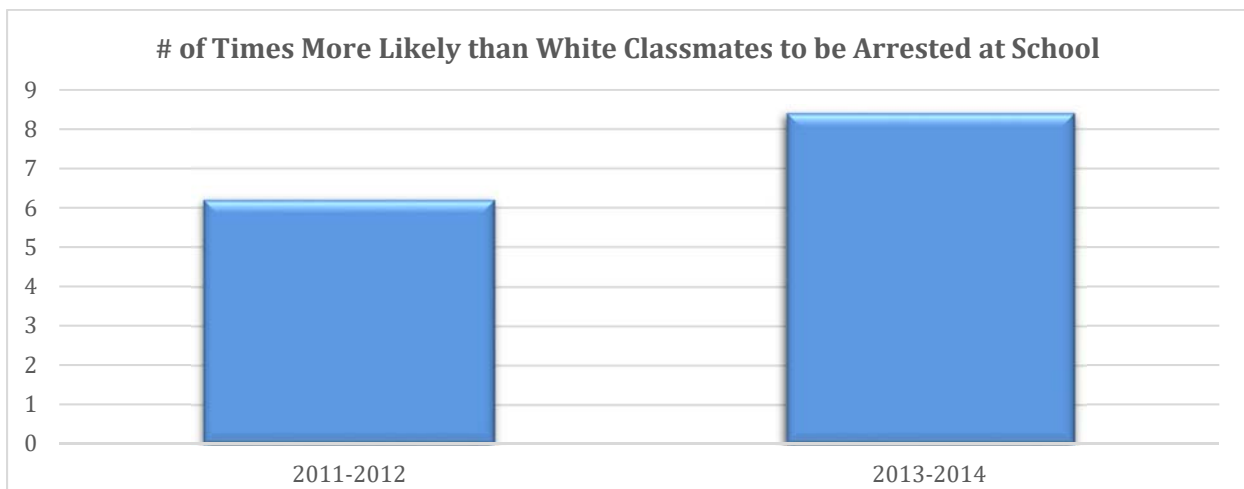
Figure 22 Times More Likely than White Classmates to be Referred to Law Enforcement (2013-2014)



C. School Related Arrest

American Indian students are arrested at school in startling numbers. They are 6.7 times more likely than expected to receive this action. In the 2013–2014 school year, American Indians were expected to receive four school related arrests. They received twenty-four.¹³⁷ Although the total number of school related arrests for this student demographic decreased, the disproportionality compared to white classmates increased.¹³⁸ In the 2011–2012 school year, American Indian students more than six times more likely than white students to be arrested at school.¹³⁹ In the 2013-2014 school year, this increased to 8.4 times more likely.

Figure 23 Times more Likely than White Classmates to be Arrested at School



D. District Performance

Some districts are performing worse than others for this student group. In the San Juan district,¹⁴⁰ American Indian students are 11.6 times more likely than their white classmates to receive a disciplinary action.¹⁴¹ As indicated, American Indians make up 51% of the total student population in this district, yet they received 92.3% of all disciplinary actions.¹⁴² In the Alpine district, there are 354 American Indian students comprising 0.5% of the total student population. In this district, this student demographic is 5.9 times more likely to receive an action than expected, and 7.6 times more likely than white classmates. In the Weber district, where there are 176 American Indian students comprising 0.6% of the total student population, this demographic is 5.7 times more likely to receive an action than expected, and 7.5 times more likely than white classmates.

Figure 24 American Indian Student Population by District

District	Total Number of American Indian Students	% of Total Student Population	Times More Likely than Expected	Times more Likely than White Classmates
Alpine	354	0.5%	5.4	7.6
Granite	1,075	1.5%	2.2	2.2
San Juan	1,657	51.1%	1.8	11.6
Uintah	544	7.0%	1.8	1.8
Weber	176	0.6%	5.7	7.5

VIII. Conclusion

Practices such as zero tolerance policies and law enforcement presence have been implemented into our nation's schools over the last decade to reduce violence. However, this has only created an environment that focuses on the criminalization of our youth. These policies and practices have created a school-to-prison link. This disturbing trend focuses on funneling students out of public school and into the criminal justice system.

These policies have been known to disproportionately affect students of color who are especially vulnerable to discriminatory applications of discipline. Utah is not excluded from the school-to-prison phenomenon even though there have been improvements with disciplinary practices and addressing racial disparities. The state can and should be doing more to protect our students, especially, our most vulnerable populations.

Utah should focus on educating our children, not incarcerating them. There are numerous alternatives, such as adequate counseling services and support for students with learning disabilities, that can be used in the public school system. It has taken years for the pipeline to form and it will take hard work to dismantle it. In the end, it is worth it for the success of our future generations.

Appendix A - Race and ethnicity – Seven categories as defined by the CRDC

In October 2007, the U.S. Department of Education adopted new guidance for disaggregating counts by race and ethnicity. Education units must adopt the new methodology by SY 2010-11, and are encouraged to adopt the new methodology as early as possible following the publication of the October 2007 guidance. For the SY 2009-10 CRDC, this option is available to LEAs that meet all of the requirements of the Department’s 2007 Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S. Department of Education. The following is a simplified overview of the new method, but is not the official regulation. For full official information, see the October 2007 guidance at:
<http://www.ed.gov/legislation/FedRegister/other/2007-4/101907c.html>

The new method has a procedure for collecting racial and ethnic data and a procedure for reporting racial and ethnic data.

To collect the data, the agency must ask a two part question:

- (1) Are you Hispanic/Latino (Yes/No)
- (2) Select one or more races from the following five racial groups:
 - (a) American Indian or Alaska Native
 - (b) Asian
 - (c) Black or African American
 - (d) Native Hawaiian or Other Pacific Islander
 - (e) White

Once the data is collected, the education unit tabulates as follows:
There are seven reporting categories.

- 1) Hispanic/Latino of any race

And for individuals who are non-Hispanic/Latino:

- 2) American Indian or Alaska Native
- 3) Asian
- 4) Black or African American
- 5) Native Hawaiian or Other Pacific Islander
- 6) White
- 7) Two or more races

- If a student answered the first question “Yes” then that student is tabulated as Hispanic, even if the student checked one or more categories in response to the second question.
- If a student answered the first question “No” and checked a single category for the second question, then that student is tabulated as the checked category from the second question.
- If a student answered the first question “No” and checked more than one category for the

second question, then that student is tabulated as “two or more races.”

Note that the new method does not employ a practice of allowing the student to check a box labeled “two or more races.” Collections that employ such a method do not meet the Department’s October 2007 Guidance.

See above for race/ethnicity categories under the traditional five-category method.

- If a student answered the first question “No” and checked a single category for the second question, then that student is tabulated as the checked category from the second question.
- If a student answered the first question “No” and checked more than one category for the second question, then that student is tabulated as “two or more races.”

Note that the seven category method does not employ a practice of allowing the student to check a box labeled “two or more races.”

Appendix B – School Disciplinary Action Definition

Expulsion under zero tolerance policies	Removal of a student from the school setting for an extended length of time because of zero tolerance policies. A zero tolerance policy is a policy that results in mandatory expulsion of any student who commits one or more specified offenses (for example, offenses involving guns, or other weapons, or violence, or similar factors, or combinations of these factors). A policy is considered “zero tolerance” even if there are some exceptions to the mandatory aspect of the expulsion, such as allowing the chief administering officer of an LEA to modify the expulsion on a case-by-case basis.
Expulsion with educational services	An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the continuation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy. Expulsion with educational services also includes removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days.
Expulsion without educational services	An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes, with the cessation of educational services, for the remainder of the school year or longer in accordance with local educational agency policy. Expulsion without services also includes removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days.
In-school suspension	Instances in which a child is temporarily removed from his or her regular classroom(s) for at least half a day but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.
Out of school suspension	<p>For students with disabilities (IDEA):</p> <p>Out-of-school suspension is an instance in which a child is temporarily removed from his/her regular school for disciplinary purposes to another setting (e.g., home, behavior center). This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP.</p> <p>For students without disabilities and students with disabilities served solely under Section 504:</p> <p>Out-of-school suspension means excluding a student from school for disciplinary reasons for one school day or longer. This does not include students who served their suspension in the school.</p>
School-related arrest	A school-related arrest is an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.

¹ *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

² Russell W. Rumberger, *Poverty and High School Dropouts*, *Am. Psychol. Ass'n* (May 2013), <http://www.apa.org/pi/ses/resources/indicator/2013/05/poverty-dropouts.aspx>.

³ Suhyun Suh, Jingyo Suh & Irene Houston, *Predictors of Categorical At-Risk High School Dropouts*, 85 *J. of Counseling & Dev.* 196, 196–203 (Spring 2007).

⁴ *Id.*

⁵ See Kaitlyn Jones, *#ZeroTolerance #KeepingupwiththeTimes: How Federal Zero Tolerance Policies Failed to Promote Educational Success, Deter Juvenile Legal Consequences, and Confront New Social Media Concerns in Public Schools*, 42 *J. of L. & Educ.* 739, 739–50 (2013).

⁶ *Hawker v. Sandy City Corp.*, 774 F.3d 1243, 1244 (10th Cir. 2014) (Lucero, J., concurring); see also *N.C. v. Commonwealth*, 396 S.W.3d 852, 863 (Ky. 2013) (reasoning that the “shift away from traditional in-school discipline towards greater reliance on juvenile justice interventions, not just in drug cases, but also in common school misbehavior that ends up in the juvenile justice system . . . comes at a significant cost to state agencies and takes the student out of the normal education process. . .”).

⁷ See Daniel J. Losen & Jonathan Gillespie, *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School*, *Ctr. for C.R. Remedies at the C.R. Project* (Aug. 7, 2012), <https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-crrr-research>; see also S.J. Quinney College of Law Public Policy Clinic, *From Fingerprint to Fingerprints*, <http://www.law.utah.edu/projects/public-policy-practicum>.

⁸ See *Civil Rights Data Collection Data Snapshot: School Discipline*, *U.S. Dep't of Educ. Off. for C.R.* 3 (Mar. 21, 2014), <http://blogs.edweek.org/edweek/rulesforengagement/CRDC%20School%20Discipline%20Snapshot.pdf> [hereinafter *Data Snapshot*].

⁹ See *id.* at 1.

¹⁰ *Id.* at 6.

¹¹ See *id.* at 3.

¹² See *Brown at* 483, 493 (1954).

¹³ See *Data Snapshot*, *supra* note 8, at 1 (government data collection of discipline disparities among minority groups).

¹⁴ See *id.*

¹⁵ See Jerusha Conner & Kelly Welch, *The Other School Bathroom Issue*, *U.S. News & World Rep.* (May 26, 2016), <http://www.usnews.com/opinion/articles/2016-05-26/minority-and-low-income-students-face-their-own-school-bathroom-obstacle>.

¹⁶ *School-to-Prison Pipeline*, *ACLU*, <https://www.aclu.org/issues/racial-justice/race-and-inequality-education/school-prison-pipeline> (last visited Apr. 12, 2017).

¹⁷ Udi Ofer, *Criminalizing the Classroom: The Rise of Aggressive Policing and Zero Tolerance Discipline in New York City Public Schools*, 56 *N.Y.U. L. Rev.* 1373, 1401 (2012).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 1376–79.

²¹ *Id.* at 1377.

²² See *id.* at 1401–04.

²³ See Alex S. Vitale, *A Short History of Cops Terrorizing Students*, *National* (Oct. 28, 2015), <https://www.thenation.com/article/a-short-history-of-cops-terrorizing-students/>.

²⁴ Ofer, *supra* note 17 at 1378–79.

²⁵ See Thalia González, *Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 *J.L. & Educ.* 281, 293–94 (2012).

²⁶ *Id.* at 282–83.

²⁷ See *id.*

²⁸ See *id.*

²⁹ Jason P. Nance, *Dismantling the School-to-Prison Pipeline*, 48 *Ariz. St. L.J.* 313, 328 (2016).

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 329.

³³ *Id.*

³⁴ *Id.* at 329–30.

³⁵ *Id.* at 330.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 331

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 332

⁴² *Civil Rights Data Collection (CRDC)*, U.S. Dep’t of Educ. Off. for C.R., <http://www2.ed.gov/about/offices/list/ocr/data.html> (last visited Oct. 6, 2016). The CRDC is a mandatory data collection, authorized under the statutes and regulations implementing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Department of Education Organization Act (20 U.S.C. § 3413). The regulations implementing these provisions can be found at 34 CFR 100.6(b); 34 CFR 106.71; and 34 CFR 104.61.

⁴³ *2013–2014 Civil Rights Data Collection, A First Look*, U.S. Dep’t of Educ. Off. for C.R. (Oct. 28, 2016), <http://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.

⁴⁴ *CRDC*, *supra* note 42.

⁴⁵ *Id.*

⁴⁶ *Civil Rights Data Collection: Frequently Asked Questions*, U.S. Dep’t of Educ. Off. for C.R., <http://ocrdata.ed.gov/downloads/FAQ.pdf> (last updated Oct. 27, 2016).

⁴⁷ In both scenarios, assuming a student population of 100, the total population receiving an action would be 2%, even though one student received two actions.

⁴⁸ In October 2014, the S.J. Quinney College of Law released “From Fingerpaint to Fingerprints: The School to Prison Pipeline in Utah”. This report used U.S. Department of Education data to examine school disciplinary rates in Utah. The findings indicated that Utah students are being disciplined in extraordinarily high numbers starting in elementary school.

⁴⁹ *CRDC*, *supra* note 42.

⁵⁰ Students of color are defined as all non-white students (Hispanic, American Indian, Asian, black, Hawaiian/Pacific Islander, and students who report as two or more races).

⁵¹ *CRDC*, *supra* note 42.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Utah 2015 Graduation Rates*, Utah St. Off. of Educ. (Dec. 11, 2015), <http://www.schools.utah.gov/data/Superintendents-Annual-Report/2015/GraduationReport.aspx>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *CRDC*, *supra* note 42.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *CRDC*, *supra* note 42.

⁶⁴ See Daniel Losen et al., *Are We Closing the School Discipline Gap?*, Ctr. for C.R. Remedies at the C.R. Project 4 (Jan. 2014), http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf.

⁶⁵ *Id.*

⁶⁶ Robert Balfanz, Vaughan Byrnes, and Joanna Fox, *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade* (Dec. 2012), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state->

[reports/sent-home-and-put-off-track-the-antecedents-disproportionalities-and-consequences-of-being-suspended-in-the-ninth-grade/balfanz-sent-home-crr-conf-2013.pdf](#).

⁶⁷ M.E. Goertz, J.M. Pollack & D.A. Rock, 1986. *Who Drops Out of High School and Why?: Findings From a National Study*, 87 Teachers C. Rec. 3, 357-73 (1986).

⁶⁸ *CRDC*, *supra* note 42.

⁶⁹ *Master List of 2015–2016 CRDC Definitions*, U.S. Dep’t of Educ. Off. for C.R. 12 (2016), <https://crdc.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=20523>.

⁷⁰ *Id.* at 16.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ The prior CRDC report was released to the public in the spring of 2014 for the 2011–2012 school year.

⁷⁵ *CRDC*, *supra* note 42.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See Advancement Project, *Opportunities Suspended: The Devastating Consequences of Zero-Tolerance and School Discipline* (Jun. 2000), http://b3cdn.net/advancement/8d91c72205a1b9d955_ujm6bhguv.pdf.

⁸⁰ *See id.*

⁸¹ *CRDC*, *supra* note 42.

⁸² *Master List*, *supra* note 69, at 9.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ 419 U.S. 565, 581–84 (1975).

⁸⁶ *See* Utah Code Ann. §§ 53A-11-904 to 905.

⁸⁷ *Id.*

⁸⁸ *Id.* at § 53A-11-904.

⁸⁹ *Id.*

⁹⁰ *Id.* at § 53A-11-905.

⁹¹ *Id.*

⁹² Utah Code Ann. § 53A-11-905.

⁹³ *Id.*

⁹⁴ *CRDC*, *supra* note 42.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *See* Advancement Project, *supra* note 79, at 2.

¹⁰⁴ *Master List*, *supra* note 69, at 18.

¹⁰⁵ *See id.* at 1.

¹⁰⁶ *See* Jessica Miller, *Police Arrest 14-year-old Utah Student Who Had Toy Gun*, *Salt Lake Trib.* (Nov. 11, 2014, 9:00 PM), <http://www.sltrib.com/info/staff/1811967-156/police-gun-area-hoyal-teen-brockbank>.

¹⁰⁷ Advancement Project, *supra* note 79.

¹⁰⁸ *CRDC*, *supra* note 42.

¹⁰⁹ *Id.*

¹¹⁰ *See* Libby Nelson & Dara Lind, *The School to Prison Pipeline Explained*, *Just. Pol’y Inst.* (Feb. 24, 2015), <http://www.justicepolicy.org/news/8775>.

¹¹¹ *See id.*

¹¹² *CRDC*, *supra* note 42.

¹¹³ *Id.*

¹¹⁴ *Master List*, *supra* note 69, at 20.

¹¹⁵ See Advancement Project, *supra* note 79.

¹¹⁶ *See id.*

¹¹⁷ Sara Rimer, *Unruly Students Facing Arrest, Not Detention*, N.Y. Times (Jan. 4, 2004), <http://www.nytimes.com/2004/01/04/us/unruly-students-facing-arrest-not-detention.html>.

¹¹⁸ Gary Sweeten, *Who Will Graduate? Disruptions of High School Education by Arrest and Court Involvement*, 23 Just. Q. 462, 462 (2006).

¹¹⁹ *CRDC*, *supra* note 42.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² As of October 2014 (school year 2014–2015), there are 100 charter LEAs and 110 charter schools serving 61,435 students. Utah State Office of Education, *Utah’s Public Charter Schools Report* 19 (Jan. 2015), <http://www.schools.utah.gov/charterschools/Annual-Reports/2015JanuaryCharter.aspx>.

¹²³ *CRDC*, *supra* note 42.

¹²⁴ *Id.*

¹²⁵ Ogden (49.9%) and Salt Lake (41.8%).

¹²⁶ *CRDC*, *supra* note 42.

¹²⁷ *Id.*

¹²⁸ 544 and 511, respectively.

¹²⁹ *CRDC*, *supra* note 42.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Vanessa Walsh, *Disparities in Discipline: A Look at School Disciplinary Actions for Utah’s American Indian Students* 15–16 (2015), <https://ssrn.com/abstract=2609177> also available at <https://app.box.com/s/7cijulegy85dk2557i1figi7fs36777o>.

¹³⁵ *CRDC*, *supra* note 42.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Walsh, *supra* note 133, at 19.

¹⁴⁰ This district is under new leadership. Dr. Edward Lyman accepted the position of Superintendent on July 1, 2016.

¹⁴¹ *CRDC*, *supra* note 42.

¹⁴² *Id.*