

May 2, 2025

On April 23, 2025, President Trump issued two executive orders that will erode civil rights protections for students if implemented. The orders target the use of a legal tool that has been used to protect marginalized groups from discrimination and threaten the work of school districts that have made progress in creating safer and more welcoming schools for all students. The National Center for Youth Law (NCYL) and the undersigned 40 members of the Education Civil Rights Alliance write to express our deep disagreement with these executive orders. We urge state and local education leaders to continue current programs and practices that ensure all students have access to equal educational opportunities and comply with existing federal and state civil rights laws.¹

Executive Order 14280² threatens federal action, like taking away federal funding, against schools that have adopted discipline reforms addressing racial disparities and working to create more inclusive schools. Executive Order 14281³ targets the use of what is called “disparate impact,” which is a form of legal analysis that has historically protected marginalized groups from discrimination when those groups are disproportionately affected by policies or programs for no justifiable reason other than their race or other protected identities.

School discipline policies can often deny students access to education based on their race, color, national origin, sex, or disability. Prior to the Trump administration, investigations of discipline disparities by the U.S. Department of Education, Office for Civil Rights have often revealed direct evidence of different treatment, where school staff have punished students for the same behaviors differently based on their race. Specifically, Black and Native American students are often punished more harshly or frequently than their white peers, even though they are no more likely to misbehave.⁴ In other cases, the policy of removing a student from school for subjective, minor infractions, such as suspensions for attendance or dress code violations, can have a disparate impact on students of particular identities that cannot be justified because there

¹ The purpose of this letter is to educate and inform the public. This letter is not intended to offer legal advice. Parties seeking to better understand their legal rights and options should seek counsel directly from an attorney or other legal services.

² This executive order is titled, “[Reinstating Commonsense School Discipline Policies.](#)”

³ This executive order is titled, “[Restoring Equality of Opportunity and Meritocracy.](#)”

⁴ See, e.g., *Lost Opportunities: How Disparate School Discipline Continues to Drive Differences in the Opportunity to Learn* (2020), <https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/lost-opportunities-how-disparate-school-discipline-continues-to-drive-differences-in-the-opportunity-to-learn/Lost-Opportunities-REPORT-v17.pdf>; Daniel Losen & Amir Whitaker, *11 Million Days Lost: Race, Safety, and Discipline at U.S. Public Schools* (2018), https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf.

are far more effective and less harmful ways to address the minor misconduct.⁵ These practices can have a disparate impact on students in ways that can lead to lower grades, lost classroom time, pushout from school altogether, and other long-term consequences, especially for students of color and students with disabilities. Through Executive Order 14280, the Trump administration continues to hinder efforts to curb practices that contribute to systemic, discriminatory school discipline. It also ignores established research that shows how lower rates of exclusionary discipline create more productive climates for learning that produce higher achievement and graduation rates, reduced juvenile court involvement, and healthier life outcomes for students.⁶

The context of discipline is just one area where disparate impact may pose barriers to education for students. From the work we do each day, we see firsthand how an awareness of a policy's disparate impact on students of particular racial backgrounds or other intersecting identities is a key tool—and in some cases, may be the only tool—in making sure all students have equal access to education. When school districts are attuned to how their policies and practices have disparate effects on students, they can consider and implement non-discriminatory alternatives that create more inclusive environments. The federal government also plays a crucial role in investigating disparate impact claims that are used to challenge policies that have no justifiable, educational purpose, such as counterproductive discipline policies like corporal punishment and suspensions for truancy, if those policies also harm one racial group more than others. Moving forward, if the federal government abandons this role and schools ignore their duties to address the disparate impact of even neutral school policies or programs on particularly marginalized groups of students, these students will be left with little to no options for relief.

Despite the vague threats in the executive orders, students remain protected from discrimination by federal civil rights laws, particularly under Title VI of the Civil Rights Act of 1964 against race, color, or national origin discrimination⁷; under Title IX of the Education Amendments of 1972 against sex discrimination⁸; and under Section 504 of the Rehabilitation Act of 1973 against disability discrimination.⁹ Under these laws, schools that receive federal funds are required to take action to *address* and *prevent* discriminatory school policies and practices, even if policies do not explicitly mention race, sex, or disability. The same holds true for school discipline policies and practices if they are leading to harsher or more frequent

⁵ See, e.g., Elizabeth Pufall Jones et al., *Discipline and Disconnected: How Students Experience Exclusionary Discipline in Minnesota and the Promise of Non-Exclusionary Alternatives* (2018), <https://gradnation.americaspromise.org/report/disciplined-and-disconnected>; American Psychological Ass'n, *The Pathway from Exclusionary Discipline to the School to Prison Pipeline* (2019), <https://www.apa.org/advocacy/health-disparities/discipline-facts.pdf>.

⁶ See, e.g., U.S. Comm'n on Civil Rights, *Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities* (2019), <https://www.usccr.gov/files/pubs/2019/07-23-Beyond-Suspensions.pdf>; U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-258, K-12 EDUCATION: DISCIPLINE DISPARITIES FOR BLACK STUDENTS, BOYS, AND STUDENTS WITH DISABILITIES (2018), <https://www.gao.gov/assets/gao-18-258.pdf>; Russell W. Rumberger & Daniel J. Losen, *The High Cost of Harsh Discipline and Its Disparate Impact* (2016), https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf

⁷ 42 U.S.C. § 2000d (2024).

⁸ 20 U.S.C. § 1681 (2024).

⁹ 29 U.S.C. § 794 (2024).

discipline of students of particular races, sexes, or abilities. Schools that adopt programs that reduce discriminatory discipline, therefore, are acting in compliance with civil rights laws.

Executive Orders 14280 and 14281 do not change these obligations for schools under federal law. Instead, the orders seek to discourage schools from adopting policies and programs that have been upheld as legal and that have been shown to reduce disparities and improve education outcomes for all students. Time and again, federal courts have reinforced that Title VI of the Civil Rights Act of 1964 allows federal agencies to prohibit actions or programs that have a disparate impact on racial groups, in an effort to eliminate race-based discrimination.¹⁰ As Executive Order 14281 points out, the U.S. Department of Justice has issued federal regulations that interpret Title VI to prohibit actions that have the purpose or “effect” (or impact) of discrimination against someone based on their race, color, or national origin.¹¹ Other agencies have issued similar regulations that prohibit actions with the “effect” of race-based discrimination, including if they occur within educational programs. The executive orders cannot legally override existing federal civil rights regulations, which remain in force unless properly amended through the required legal process. The Administrative Procedure Act is a federal law that requires federal agencies to undergo a process for withdrawing regulations or issuing new regulations that incorporates public review and feedback,¹² among other requirements. The executive orders that the president issued cannot unlawfully override this process.

The [Education Civil Rights Alliance](#) (ECRA), convened by NCYL, is dedicated to protecting the civil rights of historically and presently marginalized students by providing resources to families, educators, and advocates on creating safe, inclusive, and equitable schools. The ECRA was formed in 2017 to protect against the erosion of students’ civil rights, with a focus on urgent issues relating to state and local education. Central to the ECRA’s mission is raising public awareness of inequities in the opportunity to learn, their root causes, and effective remedies to the unjust challenges students face. Our members work with families and schools to foster supportive learning environments and reform discriminatory school policies and practices.

We, ECRA members, are deeply concerned about the use of Executive Orders 14280 and 14281 as attempts to confuse and threaten school districts and states to abandon protections that ensure all students have equal educational opportunities. Now is the time for state and local education leaders to remain firm in their values of creating safe, equitable, and inclusive schools for all students. We call on state leaders to encourage districts and schools to continue to engage in activities that are legally compliant with Title VI, Title IX, and Section 504 and enforce students’ protections against discrimination. We urge state and district leaders to publish guidance clarifying how schools can and should continue to engage in activities that reduce disparities and foster diversity, equity, inclusion, and accessibility—many of which may be required to comply with current civil rights laws.

¹⁰ See, e.g., *Alexander v. Sandoval*, 532 U.S. 275, 281-82 (2001); *Sambrano v. United Airlines, Inc.*, No. 21-11159, 2022 WL 486610, at *4 (5th Cir. Feb. 17, 2022); *Payan v. L.A. Comty. Coll. Dist.*, 11 F.4th 729, 736 (9th Cir. 2021); *U.S. v. Cnty. of Maricopa*, 151 F. Supp. 3d 998, 1018 (D. Ariz. 2015).

¹¹ See 28 C.F.R. § 42.104 (2024).

¹² See 5 U.S.C. § 553 (2024).

When schools ensure that all students feel seen, heard, and valued, they create learning environments that are truly safe and allow all students to thrive. We urge leaders in education across the country to continue creating these environments and fighting for equal educational opportunities for all. For additional recommendations and support from our members, please send inquiries to ECRAinfo@youthlaw.org.

Sincerely,

National Center for Youth Law
ACLU of Wisconsin Foundation, Inc.
Advocates for Children of New York
Advocating 4 Kids Inc
Alliance for Children's Rights
Alliance to Reclaim Our Schools
Asian Americans Advancing Justice | AAJC
Brown's Promise
Chicago Lawyers' Committee for Civil Rights
Council of Parent Attorneys and Advocates
Disability Rights Arizona
Disability Rights Washington
EdTrust
Education Law Center-PA
Empowering Pacific Islander Communities (EPIC)
FedSDC
Honesty for Ohio Education
IDRA
Juvenile Law Center
Kareem Neal
Lives in the Balance
Massachusetts Advocates for Children
Michigan Disability Rights Coalition
Michigan Education Justice Coalition
NAACP Legal Defense and Educational Fund, Inc.
National Center for Learning Disabilities
National Women's Law Center
Princess Jefferson
Public Advocacy for Kids (PAK)
Public Advocates
Public Counsel
Public Justice
State Wide Education Organizing Committee
Student Advocacy Center
Student Advocacy Center of Michigan
The Advocacy Institute
The Scott Center for Innovation

Tom Rademacher, Educator
University Alliance for Racial Justice
Youth Justice Education Clinic at Loyola Law School
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