

**WORDS MATTER: A CRITICAL DISCOURSE ANALYSIS OF MSBA / MASA MODEL  
SCHOOL DISCIPLINE POLICY**

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**Tamara Uselman**

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**Title**

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The Supervisory Committee certifies that this *disquisition* complies with North Dakota State University's regulations and meets the accepted standards for the degree of

**DOCTOR OF EDUCATION**

SUPERVISORY COMMITTEE:

Dr. Nathan Wood

---

Chair

Dr. Teresa Shume

---

Dr. Chris Ray

---

Dr. Robert Mejia

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Approved:

12/03/2020

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Date

Dr. Chris Ray

---

Department Chair

## ABSTRACT

This dissertation in practice was a Critical Discourse Analysis (CDA) of *Model School Policy 506, Student Discipline* (MSBA, 2019), as it relates to the school-to-prison pipeline across the nation as well as in Minnesota. *Model Policy 506*, co-authored by the Minnesota School Board Association and the Minnesota Association of School Administrators, is offered to school districts that subscribe to MSBA's policy services. The homogeneity in school discipline policy across Minnesota provided an opportunity for this study. The purpose of this CDA was two-fold: to assess the discourses instantiated in *Model School Policy 506*, and to determine, through the figured world tool of inquiry, what the seven building tasks are accomplishing in *Model Policy 506* for the reader to assume as social truth regarding student behavior and schooling. Data was collected through an iterative process and examined for themes. The CDA included multiple reviews of *Model Policy 506* through the figured world tool of inquiry (Gee 2014), discerning and charting of the activities of the seven building tasks (Gee, 2014), assessing text complexity of policy discourse through a Lexile review, and capturing word repetition via computerized software as well as noting infrequent use of terms or absence of ideas. Major findings include that *Model Policy 506, Student Discipline*, acted to reinscribe teacher implicit bias, and that policy language was invested and embedded in racial structures. A Call to Action was written to be shared with the executive directors of the Minnesota School Board Association and the Minnesota Association of School administrators as an actionable response to the complex issue of social justice in discipline policy.

## **ACKNOWLEDGMENTS**

A multitude of superb teachers from kindergarten through today profoundly impacted my humanness, yet the NDSU professors of my doctoral program stand out as exceptional. I am deeply grateful to Dr. Nathan Wood for his constructivist teaching and for his wise guidance throughout my social science research project and the development of this dissertation. Dr. Teresa Shume's knowledge of CDA as well as her uplifting mentorship proved both invaluable and inspirational. Finally, Dr. Chris Ray and Dr. Robert Majia pushed my thinking and built my confidence as a social science researcher. Thank you, my amazing team.

## DEDICATION

My parents modeled the *sisu* to move social justice theory to action; my children and grandchildren provided the urgency. Thus, this dissertation is dedicated to family mentors: to my dad, Jack, for his fighting spirit; to my mom, Audrey, for her quiet, undeniably fierce persistence; to my husband Tim, for being my resilient support system, refusing both to proofread and to let me become a doctoral dropout; to my strong and wise grown daughters, Katie, Chelsie, and Brianna, and my resilient and hardworking grown sons, Thomas, Ryan, and Drew who consistently teach me to be a better adult; and to our Littles, six lively reminders that, after all, everybody is somebody's kid, deserving of the most just world we can build: Emrie (Emmie Auds), Roman (Romie-my-boy), Sawyer (Soy-my-boy), Bennett (Bennie Boo), Everette (Evvie), and Briggs (Mr. Briggs).

For them and for all children everywhere, words matter.

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## LIST OF ABBREVIATIONS

BTPH .....	Birth-to-prison-helix
CDA .....	Critical Discourse Analysis
CRT.....	Critical Race Theory
MASA .....	Minnesota Association of School Administrators
MSBA .....	Minnesota School Board Association
Policy, the policy .....	Model Policy 506, Student Discipline
STPP .....	School-to-prison policy

## CHAPTER 1. INTRODUCTION

Students have a right to an education, reserved in the 14<sup>th</sup> Amendment of the US Constitution as matter of a state constitutional concern. The only legalized methods to dismiss a student from school is through suspension, exclusion, and / or expulsion, expressed in school discipline policy. This dissertation used the term dismissal to refer to dismissal, suspension, exclusion, and / or expulsion. Research (Okilwa, Khalifa, & Briscoe, 2017; Losen & Skiba, 2010) credited teacher implicit bias in discipline decisions as the driver behind disparate rates of suspension, exclusion, and expulsion for minoritized student groups. Implicit bias contributed to and was reinforced by institutional racism. Racism, comprised of prejudice and institutional power, both contributed to and was reaffirmed by confirmation bias. School staff in the ecosystem of the school witnessed school dismissal of some student groups while others remained in school. Teacher confirmation bias developed and was reinforced at the worksite and in the real world in multiple ways, one of which was school discipline policy, given that policy acted to re-inscribe patterns of racial / ethnic bias. Because the discourse of discipline policy, when enacted, reinscribed implicit bias, then an important act of social justice is improving policy discourse to interrupt patterns of disparity in school dismissal and the school-to-prison pipeline.

The Minnesota School Board Association (MSBA) and the Minnesota Association of School Administrators (MASA) co-authored *Model Policy 506, Student Discipline*, a 20-page policy. Many Minnesota school districts adopt the MSBA model policy as local school discipline policy. As a result, the homogeneity of *Model Policy 506, Student Discipline* across Minnesota schools offered an opportunity to examine the policy. As a social science researcher with an extensive history in public school education, I found myself fascinated with the

relationship between Model Policy 506 and discipline data, both data from the nation as well as the state of Minnesota. My positionality as a researcher is explained extensively in chapter three.

This dissertation of practice used one of Gee's six tools of inquiry in a Critical Discourse Analysis (CDA) (Gee, 2014). In this CDA, the figured world tool of inquiry was used to illuminate what the seven building tasks of language are accomplishing within the MSBA / MASA *Model Policy 506, Student Discipline*. "Building tasks" is used in present tense because it recognizes that people design and build understanding of discourse in the moment of its use, an act which affects the context in which that discourse is being used, and conversely, that the context affects the discourse people are producing in the moment (Gee, 2011). The hypothesis of this dissertation was that school discipline policy reinscribed teacher implicit bias. The results of this study affirmed that the discourse of *Model Policy 506, Student Discipline*, was premised on a bias-ridden figured world, one harmful to minoritized students. In response, a Call to Action document was drafted as an appeal to the MSBA / MASA to improve school discipline model policy. Finally, this study and the Call to Action were further informed by academic research around school discipline, including the school-to-prison pipeline (STPP).

### **Dissertation of Practice**

The Carnegie Project on the Educational Doctorate (CPED) defined a dissertation in practice (Perry, 2012). Both the dissertation of practice and the more well-known Ph.D. involve scholarly inquiry, yet the dissertation of practice differed substantially from the Ph.D. (Perry, 2012). First, the dissertation of practice requires the application of theory in a reasoned effort to solve a complex problem within one's professional practice, often a problem or issue involving a matter of social justice. Next, the dissertation of practice recognizes that leaders themselves are under construction within their scholarly activities, developing collaboration and communication

skills while building partnerships with diverse communities. Finally, the dissertation of practice, which finds professional knowledge and practices intricately linked, welcomes ongoing application and iteration.

This study, like many dissertations of practice, has three major sections. First, this dissertation of practice identified a well-framed, problem of practice and situated that problem in the literature. Next, this dissertation described an investigation of the problem of practice and reported the findings. Finally, this dissertation responded to the findings, by offering both a solution to the problem of practice as well as call for action by professional colleagues to improve conditions for others.

### **Problem of Practice**

The United States incarcerates more people than any country on earth, a phenomenon said to originate from teacher bias at the classroom level (Okilwa, Khalifa, & Briscoe, 2017; Losen & Skiba, 2010). When teachers dismiss students from the classroom, the school principal, following school discipline policy, sanctions students for misbehavior. When the sanctions include dismissal from school, students are more than twice as likely to have contact with the juvenile justice system (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014). The path from school into the justice system is known as the school-to-prison pipeline (STPP) (Losen & Skiba, 2010). Administrative dismissal of students from school is problematic not only because it is the source of the STPP but also because school dismissal data is disproportionate for some student groups while other student groups remain in school, a fact indicative of institutional racism (Losen & Skiba, 2010). Critical Race Theory, the theoretical construct used in this study, offered that disparate discipline is no accident. Rather, American

institutions and practices, by design, produce the very results they were built to produce for the benefit of the dominant group.

Minoritized students are disciplined more frequently and harshly than are their White middle-class peers. Minoritized student groups dismissed from school at disparate rates include, as follow: males, students of color, particularly Black males, culturally linguistically diverse students, students served through special education programming, students living in impoverished conditions, student with a single parent, students with Post Traumatic Stress Disorder (PTSD) or behavioral health concerns, and / or students who have or had an incarcerated parent or grandparent. This study used the term “minoritized students dismissed from school” in reference to the aforementioned groups.

The school-to-prison-pipeline was not built in isolation by teacher discipline decisions. Multiple factors built the STPP over time and hold it in place today. Fear of the freed slave, economic cycles of recession and unemployment, desire for political power, and incarceration-generating legislation are some of the socio-political forces that impacted development of systemic racism into school practices and implicit bias into the mental models of school employees (Library of Congress, n.d.; Alexander, 2010; Dancy II, 2014; Losen & Skiba, 2010). However, teacher implicit bias helps hold the STPP in place because teacher bias influences who is sent from the classroom to the office for discipline (Losen & Skiba, 2010). Therefore, teacher implicit bias was determined to be a driver of the STPP. However, if teacher bias alone were the single root cause of the STPP, then reducing teacher implicit bias through professional development would have ameliorated the issue of the STPP. In fact, resilient social problems are seldom held in place by only one factor; numerous robust and interacting factors hold resilient social problems in place (Kania, Kramer, & Senge, 2018). The hypothesis of this dissertation of



practice was that one of those factors was the discourse of school discipline policy, which acted to reinscribe teacher implicit bias.

The uniformity of school discipline policy across Minnesota public schools due to *Model School Policy, 506, Student Discipline*, provided an opportunity to explore the ways school discipline policy shaped discourse as it related to school dismissal of minoritized populations. Critical Race Theory (CRT) suggests policy provides a function in American society: to enhance the power of the dominant group by normalizing discriminatory practices (Delgado & Stefancic, 2001). Thus, school discipline policy created a dynamic feedback loop, setting up students from minoritized groups for entry into the STPP, and, simultaneously, creating mental models in the minds of school employees about whom should rightfully be excluded from school, namely minoritized students. No group has been harmed more profoundly than Black males (The Schott Foundation for Public Education, 2015, p. 11-12).

Furthermore, because children with incarcerated parent(s) or grandparent(s) are more likely to be incarcerated, and because school discipline patterns show racial and class bias, the STPP is only part of what appears to be a larger birth-to-prison helix (BTPH) for minoritized populations. The BTPH is a cyclical pattern of generational incarceration and / or poor life outcomes for the same minoritized populations impacted by school discipline and the STPP. The BTPH is upheld by a society acting on its figured world, subtly being informed about who deserved the public good of schooling and who may be dismissed from society into the STPP. In summary, the BTPH suggests certain student groups are born into conditions that increase the likelihood they will travel the STPP, one generation after the next, a pattern that becomes normalized for the dominant group and confirms the dominant group's figured world.

## **Proposed Study**

This dissertation of practice proposed to conduct a Critical Discourse Analysis of MSBA/MASA's *Model Policy 506, Student Discipline*. One of the six tools of inquiry, the Figured world tool of inquiry, was applied to determine answers to two research questions, as follow:

- 1) What will the figured world tool of inquiry illuminate about the work that the seven building tasks are accomplishing in *Model Policy 506, School Discipline?*; and
- 2) What discourses are instantiated in *Model Policy 506, School Discipline?*

Answers to these questions brought to light the figured world in school discipline policy and created an opportunity to interrupt patterns of disparate discipline, given that the figured world in policy reinscribed bias and biased practices.

## **Significance of the Study**

Understanding what the seven building tasks are accomplishing in *Model Policy 506, Student Discipline* has multiple benefactors. Since this CDA discovered, through the figured world tool of inquiry, that the building tasks busy in *Model Policy 506, Student Discipline*, act to reinforce teacher implicit bias and teacher discipline decisions, improvements to policy are offered. Improving model school policy may, over time, guide community thought leaders, parents, school boards, school administrators, and school climate and culture teams to interrupt the pattern of disparate discipline in an effort to create a more just educational environment which, in turn, would allow opportunity for more just life outcomes.

Academic research of school discipline and the STPP, applied inquiry, and authentic action research of CDA informed this study. School administrators seeking to act upon issues of

social injustice may find the processes in this study to have utility for professional and scholarly action within their own work.

## **Conclusion**

This dissertation of practice included academic research around school discipline and the school-to-prison-pipeline, applied inquiry, and authentic action research using Critical Discourse Analysis. The work of Gee (2011; 2014), van Dijk (1995; 2001), and other discourse analysts informed this study.

Three major sections sit in this dissertation of practice, as follow: Section 1 includes this chapter, Chapter 1, as well as Chapter 2, which places the problem of practice in the context of the literature. Next, Section 2 holds Chapters 3 and 4. Chapter 3 explains the details of the proposed CDA of *Model Policy 506, Student Discipline*. Chapter 4 reviews the research results. Finally, Section 3 of this dissertation of practice holds Chapters 5 and 6. Chapter 5 provides policy discussion whereas Chapter 6 offers a Call to Action appeal to the executive directors of both the MSBA / MASA to further improve *Model Policy 506, Student Discipline*.

## **CHAPTER 2. SITUATING THE PROBLEM OF PRACTICE WITHIN THE LITERATURE**

The United States of America has more people incarcerated, per capita, than any nation on earth (Morsy & Rothstein, 2016). Research (Okilwa, Khalifa, & Briscoe, 2017; Losen & Skiba, 2010) helped explain why ethnic minorities are overrepresented in the prison populations, and, further, drew a red thread from the prison populations to youth populations in juvenile detention to school students administratively dismissed from school due to teachers' decisions about disciplinary infractions. Researchers (Skiba, Nardo, & Peterson, 2002) believed that teacher implicit bias influenced who was removed from the classroom, sent to the office, dismissed from school for periods of time, and, once out of school, were more than twice as likely to enter the juvenile justice system, and from there, the adult prison system (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014). This linkage between the schools and the justice system is known as the school-to-prison pipeline (STPP).

### **School Discipline Data and Policy**

School discipline policy shaped school discipline practices. Furthermore, policy defined a framework for teacher and administrator disciplinary responses because staff were required to act within the policy's framework (MSBA, 2019). Whereas school discipline policy defined disciplinary responses, the school setting itself reinforced what was "right" or "proper" regarding which student groups were worthy of the public good of schooling and which were worthy of dismissal. That is, when teachers and school staff participated in and witnessed overrepresentation of students from one group in discipline, including dismissal, rather than students from another group, implicit bias is reinscribed, confirmation bias is reaffirmed, and structurally racist practices are normalized.

## **School Discipline Data**

School discipline data showed overrepresentation of certain student demographic groups and not others. National discipline data showed school discipline was disparate by minoritized student groups, as follow: by race / ethnicity, gender, socio-economic status, special education status, mental / behavioral health needs, by whether a student had a single parent or two parents, and by whether a student's parent or grandparent was or is incarcerated (Alexander, 2010; Skiba, et. al, 2002; American Academy of Pediatrics Committee on School Health, 2003; Losen & Skiba, 2010; The Schott Foundation for Public Education, 2015; National Center for Education Statistics, 2015).

Minnesota statistics illustrated a similar pattern of disparity in school dismissal. Whereas roughly 50% of Minnesota students were male and 50% were female, data on school dismissal during the 2018-2019 school year showed males accounted for nearly 2/3 of all school dismissals (suspensions, expulsions, and / or exclusions) (MDE, 2020). Of the 49,437 students who experienced dismissal, 34,890 were male and 14,547 were female (MDE, 2020). In addition, Minnesota school dismissal was disparate by race / ethnicity. Black students who made up just over 11 percent of Minnesota's school population in 2018 experienced over 38% of school dismissals (MDE, 2020). White students, on the other hand, made up about 66% of the population but only 36% of the disciplinary actions (MDE, 2020). In fact, White students outnumbered Black students in Minnesota school's student bodies by a six-to-one ratio, yet more than 19,000 Black students experienced disciplinary actions compared with 17,615 White students (MDE, 2020). The pattern was similarly disparate for Minnesota's American Indian students, too, who made up 1.5% of the student body and more than 5% of the disciplinary actions. Multi-race students fared slightly better. They made up 5% of the K-12 fall enrollment

and just over 8% of the disciplinary actions. Hispanic student data was closer to parity, however. Hispanic students made up 9.5% of the enrollment and just over 10% of the discipline actions (MDE, 2020).

In addition to overrepresentation of males and students of color, discipline data on Minnesota's students served in special education showed significant disparity. Whereas 14.6% of Minnesota students were served in special education, over 42% of school dismissals in 2018-2019 were for students served in special education (MDE, 2020). In fact, of the 49,437 total school dismissals reported for the 2018-2019 school year, students served in special education accounted for 20,890 whereas general education students accounted for 28,547 (MDE, 2020). Yet general education students outnumbered students in special education by more than eight-to-one in 2018-2019 (MDE, 2020).

The intersection of special education and race/ ethnicity in Minnesota student discipline data was particularly telling and comparable to National data. Black students enrolled in special education suffered the greatest school dismissal, experiencing 7,701 school dismissals compared with their White peers who accounted for 7,959 dismissals, despite that the student body was more than 63% White and 11 to 12% Black (MDE, 2020).

The patterns of disparity were undeniable and because teachers were the first decision makers in the disciplinary process, laying the blame for the STPP at the feet of teachers appeared to make sense. Yet, teachers are not lone actors in the school setting. Schools are complex social environments, influenced by the larger community and governed by school board policy.

### **Discipline Policy**

School board policy draws power from state and federal laws, as required, or when financially incentivized. Private interest groups lobby federal legislators to influence federal law

and policy to help the interest group make money. For example, privatized prison corporations like Core-Civic and GEO Group spent millions annually to lobby for laws that helped maintain a strong customer base, in this case, prisoners (Gruberg, 2015). Whether building a stream of inmates was by intention or by accident, the outcome cannot be denied. Incarceration in the US has soared over the last 40 years.

Federal code has influence on state code, which has influence on school policy. States and even local school districts, incentivized financially to do so, adopt federal rules, such as the zero-tolerance policy. The zero-tolerance policy opened the chute to the STPP for some student groups and not others. For example, the federal *Gun-Free Schools Act of 1994* required local school boards to adopt zero-tolerance policies within school discipline policies or forgo federal Title funds (Padres & Jovenes Unidos and Advancement Project, 2004). The mission of Federal Title funds is to help support impoverished children to meet high academic standards. Ironically, the zero-tolerance policy, required to be in place before school districts could access Federal Title dollars, helped exit from school the very student groups that Title aid intended to help.

**Minnesota School Discipline Policy.** In Minnesota, MN Statute 121A.61 requires school boards to adopt a districtwide school discipline policy (MSBA, 2019). While local school boards are the only body that can adopt local school board policy, school boards do not always author the policy they adopt. Rather, attorneys within the Minnesota School Board Association (MSBA) and the Minnesota Association of School Administrators (MASA) develop model policy for subscribing districts. In the prelude to the policy services section of the MSBA website, MSBA states, “Most school districts do not have the time and personnel to develop a comprehensive policy manual. In addition, school districts would require substantial legal assistance to develop policies on their own” (MSBA, 2019).

Model policy often includes the generic phrase, “the school district” or allows the district to insert its name by using “[insert local school district]”. Local school boards, after two public readings, adopt the model policy as their own, perhaps without fully understanding implications of policy application. Local school boards are advised that MSBA / MASA model policy saves them the expense of legal review necessary due to the complexity of discipline policy and state and federal law. As case in point, MSBA/ MASA’s *Model Policy 506, School Discipline*, a 20-page policy template was created by the Minnesota School Board Association in conjunction with the Minnesota Association of School Administrators (MSBA, 2019). *Model Policy 506*, originally written in 1995, was updated in 2019. The policy references 18 Minnesota Statutes, two US codes, and one Federal regulation. In addition, the policy cross-references 14 MSBA / MASA policies. The 2019 version of *Model Policy 506, School Discipline* sits in Appendix A. Teachers are required to enforce the school board’s discipline policy and act within its framework as a condition of employment; students are required to know and follow the school discipline policy in full (MSBA, 2019).

### **Critical Discourse Analysis**

Discipline policy is a powerful tool in the school environment. This study employed a Critical Discourse Analysis (CDA) to discover if the discourse within *Model Policy 506 School Discipline* acted to reaffirm teacher implicit bias, and, thus, the dismissal of certain student demographic groups and not others out of school and into the STPP. One of the six tools of inquiry, the figured world tool of inquiry, was apprenticed address two questions, as follow:

- 1) What will the figured world tool of inquiry illuminate about the work that the seven building tasks are accomplishing in *Model Policy 506, School Discipline?*; and
- 2) What discourses are instantiated in *Model Policy 506, School Discipline?*



Answers to these questions brought to light a bi-directional relationship between teacher bias and school discipline policy.

### **Theoretical Framework: Critical Race Theory**

Through the lens of Critical Race Theory (CRT), this literature review drew on research from contemporary literature, significant online federal and state databases, education journals, and required state reporting systems to explain the development of and disparity within the STPP. Information was pulled from the fields of education, criminal justice, and US history. Furthermore, this literature review explained one tool of CDA, the figured world tool of inquiry.

#### **Critical Race Theory**

Critical Race Theory (CRT) supplied a lens from which to study the STPP and *Model Policy 506*. While traditional civil rights theorists believe that equality underpins United States laws, social order, and the education system, Critical Race Theorists disagreed, stating structural racism exists in all areas of society, including law, social order, and education (Delgado & Stefancic, 2001). Furthermore, CRT said the White elite use the term “race” for their own economic benefit, self-interest, and group-interest to magnify cultural differences and minimize similarities between ethnic groups (Delgado & Stefancic, 2001; Ledesma and Calderón, 2015). Therefore, a Critical Race Theorist would find the pervasive disparity in incarceration rates, juvenile justice rates, and school dismissal data purposeful results of a system designed to do exactly what it was built do to: to insure the White elite maintain economic power and shape mental models in the minds of the White working class to do the same (Dancy II, 2014).

**Five tenets of Critical Race Theory (CRT).** CRT reported five tenets, as follow:

1. “Race” is a term invented to define pseudo differences between groups of people, largely for economic reasons;

2. Racism is so tightly normalized into the patterns of everyday life that the dominant group may not be cognizant of implicit bias, micro-aggressions, or institutional discrimination;
3. White elite are not motivated to improve the current system because they benefit economically from racism, whereas working class White people benefit psychologically from racism by having a group below them on the economic food chain;
4. Labels such as “Black welfare queen” or “Black drug dealer” deny human beings their richer identities, turning individuals into stereotypes, from which implicit bias is enacted; and
5. The lived experience of culturally / linguistically diverse (CLD) people yields a competency, a “truth”, about race, that those in the dominant group cannot know, unless informed, lacking a comparable lived experience. (Delgado & Stefancic, 2001).

Ledesma and Calderón (2015) stated CRT defines racism is more than a singular event by an individual but rather the dominant groups’ powerful and pervasive ideology that shapes society’s institutions, belief systems, and daily actions. CRT theorists believe long-term systemic equality for all people will happen only when injustices, hardwired into daily life, are identified and deconstructed (Delgado & Stefancic, 2001; Ledesma and Calderón, 2015). Researchers (Delgado & Stefancic, 2001; Dancy II, 2014) found school systems rife with injustice, places where some student groups benefited while other student groups suffered and were underserved as a matter of practice, not a rare event. Data from each of the three sections of the STPP (school dismissal, juvenile detention, and adult imprisonment) showed

overrepresentation of minoritized populations. A Critical Race Theorist would find those data sets proof of intent from a system that did what it was it was designed to do.

### **Construct**

Teacher disciplinary decisions drive disparate outcomes for minoritized students (Losen & Skiba, 2010). However, the stereotypes undergirding implicit bias, held at the teachers' subconscious level, do not originate from nothing. Rather, history, current economic drivers, political agendas, legislation, and school policy informed the figured world held by society. Figure 1 illustrates the interaction of these aforementioned factors to reaffirm implicit bias, which accounts for overrepresentation of some student groups and not others in school discipline data.

### **School Exclusion**

Little argument exists that schools must be orderly and safe. While dismissal of students through suspension, expulsion, or exclusion temporarily reduced disruptions to the school day, questions remained around the efficacy and long-term effectiveness of suspension and expulsion.

### **Short- and Long-Term Impacts of Suspension and Expulsion**

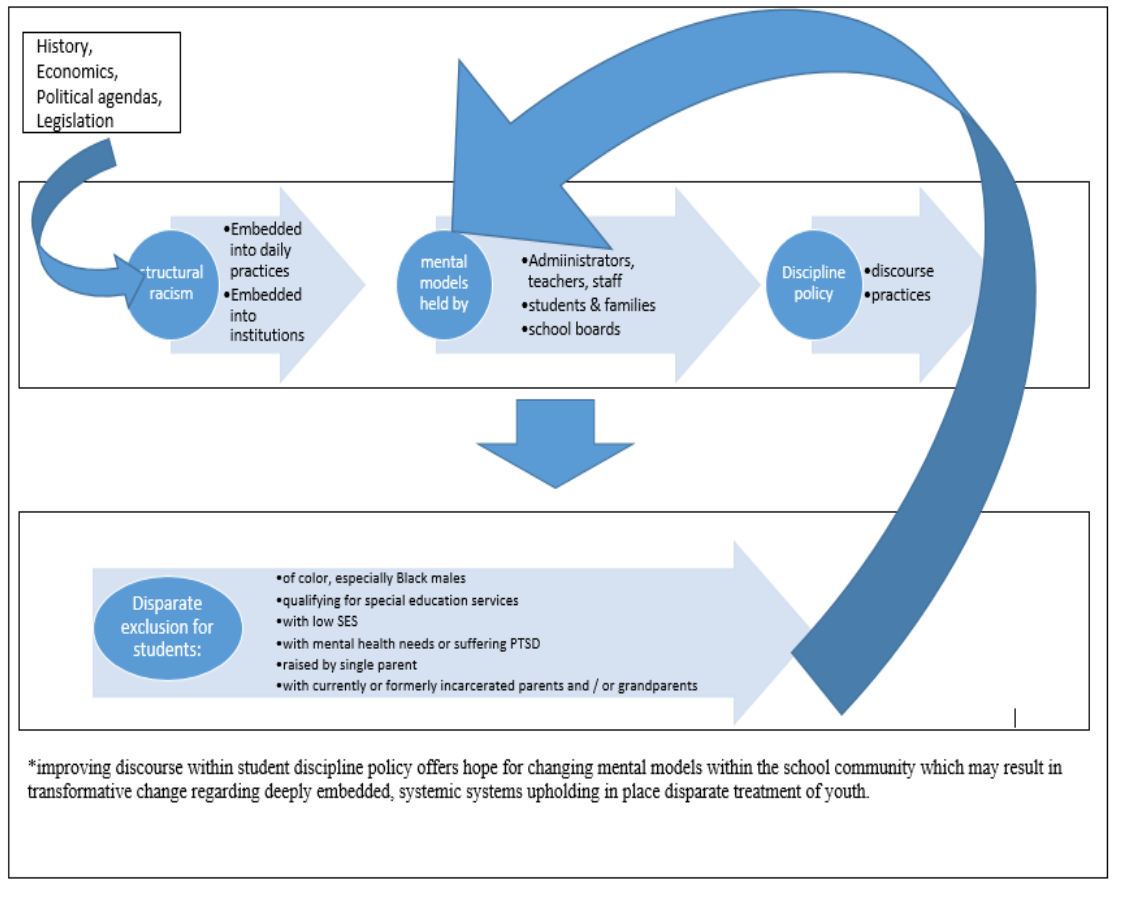
Removing misbehaving students provides instant, short-term calm to a school building. However, no evidence exists, even after two decades of study, that schools are made safer, the lives of excluded student are improved through heavy use of suspension or expulsion, or that the school as a whole benefited from exclusion versus other options, such as restorative justice (Wolf & Kupchick, 2016, p. 12-18). Therefore, while suspension, expulsion, or exclusion may ameliorate issues in the short-term, disciplinary-based school dismissal offered no benefit for any category of students in the longer term.

**Negative outcomes of school dismissal.** School dismissal comes at a cost to the student, the student body, society, and taxpayers. Disciplinary-based school dismissal correlated to several negative outcomes for students, society, and taxpayers (Wolf & Kupchick, 2016, p. 5; Gregory et al., 2010, p. 59-60). Negative outcomes included the loss of opportunity to learn replacement behaviors, loss of academic instruction, increased likelihood of not graduating on time, or ever, adult under-employment, and increased likelihood of contact with the penal system. Each is reviewed in the sections that follow.

***Lost opportunity to learn lagging skills.*** First, dismissing students from school through suspension, expulsion, or exclusion removed them from the social setting of school where replacement behaviors may be taught. Yolanda et al. (2014) explained suspended or expelled students have fewer opportunities to learn social and emotional skills needed for school and life success, as compared with their more advantaged peers (p. 379). In short, students unable to self-manage need social skills training, yet school dismissal removed students from the place which should hold the greatest opportunity to learn those missing skills. Furthermore, Wolf and Kupchick (2016) explained that the school experience socializes students into their current and future roles; thus, being excluded from school prepares students to accept social and occupational roles on the margin into their adult futures. Dancy II (2014) was more direct when he declared that through disciplinary-based school exclusion "...schools are fulfilling their mission which is to ensure black boys go to prison" (490).

**Figure 1**

*Building a nation's figured world to support school dismissal and mass incarceration*



**Academic failure.** Children absent from school do not receive academic instruction. Nearly 50% of students disciplined under zero-tolerance policies were dismissed from school for five or more days, 31% were expelled, and 20% were transferred to an alternative school (American Academy of Pediatrics Committee on School Health, 2003, p. 1206). Given that students of color are disparately dismissed, disciplinary-based school dismissal may be a contributor to the racial achievement gap. Research (Wolf & Kupchick, 2016) on student achievement suggested recovering from lost instruction due to school exclusion might be impossible (p. 16). Rausch and Skiba (2005) cited a negative relationship between use of out-of-

school exclusion and achievement, ( $\beta=-.414$ ) even when socio-demographic variables were held constant (p. 20). In fact, an inverse relationship was discovered between the school's dismissal rate and the school's achievement rate; the higher the school's rates of suspension and expulsion, the lower the percentage of students scoring well on accountability assessments (Rausch & Skiba, 2005, p. 170). Furthermore, after poverty, school dismissal was the next strongest predictor of poor achievement (Rausch & Skiba, 2005, p. 20).

Academic loss, however, was not limited only to students who were suspended or expelled. Wolf and Kupchick (2016) reported that "...relatively high frequencies of suspension over time reduced the reading and math test scores of students not directly involved in exclusionary school punishment, showing that suspension rates relate to academic difficulties across entire student bodies" (p. 12). On the other hand, when rates of dismissal dropped, both state assessment scores and graduation rates increased in large urban school districts such as Denver, Chicago, and Los Angeles (Rumberger & Losen, 2016, p. 4).

***Dropping out of school.*** Experiencing suspension from school reduced the student's allegiance to the school not only at the time of dismissal but also up to a full year later. Furthermore, suspension correlated positively with dropping out of high school (Gregory et al., 2010; The Schott Foundation for Public Education, 2015, p. 30). Gregory et al. (2010) found suspension a moderate to strong predictor of dropping out or not graduating on time (p. 60). A freshman suspended was twice as likely to drop out of school; a sophomore, three times as likely (Rumberger & Losen, 2016, p. 6; The Schott Foundation for Public Education, 2012, p. 32).

Other harms associated with suspension included the need to repeat a grade, and thus, not graduate on time (Yolanda et al., 2014, p. 379). Alexander (2010) reported 70% of incarcerated people were school dropouts. Black males, dismissed from school at rates higher than any other

student group, had a graduation rate of 59% compared with that of their White peers at 80% (The Schott Foundation for Public Education, 2015, p. 11-12).

*Costs of dropping out of school.* Not graduating high school created a lifetime of costs, both to the individual student, his or her family, and to society, and, further, not graduating high school was associated with lower lifetime earnings and significant costs to society (The Schott Foundation for Public Education, 2012). Roughly 33% of America's Black male youth are unemployed, and 65% of Black male dropouts are jobless (Alexander, 2010). Average annual incomes of high school dropouts compared with high school graduates over a 40-year career are, as follow: high school dropouts earned, on average, \$24,000 annually, whereas high school graduates earned, on average, \$32,600 annually, a difference of 33% each year, across the individual's entire working life (Carnevale, Rose, Cheah, n.d., p. 5). Summarized differently, the opportunity cost of not having a high school diploma averaged \$8,600 per year, each year, for life. Thus, the financial impact of dropping out of high school affected not only the student who dropped out but also his or her future children, making them more likely to be raised in poverty. In addition, society bore a cost when young people did not complete high school.

*Contact with the justice system.* Attendance at school was found to provide a protective factor for youth, keeping them engaged in pro-social activities, both academic and behavioral (Council on School Health, 2013). Youth not in school were more likely to engage in high-risk behaviors, as follow: fighting, holding a weapon, smoking, drinking alcohol, using illegal drugs, engaging in sexual intercourse, experiencing suicidal ideation, and coming in contact with legal authorities (American Academy of Pediatrics Committee on School Health, 2003, p. 1207; Skiba, Reynolds, Graham and Sheras, 2008, p. 60; Forsyth et al., 2013, p. 21).

High-risk behaviors were found to accelerate a host of negative outcomes, including contact with the justice system (Monahan et al., 2014, p. 1110-1122). Students who drop out of school or were pushed out were three times as likely to be jailed or imprisoned as those who stayed in school (The Schott Foundation for Public Education, 2012, p. 32). In fact, once suspension or expulsion were administered, regardless of the youth's race, ethnicity, or gender, the likelihood of arrest during that same month increased by 2.1 times (Monahan et al., 2014, p. 1119).

***Risks into adulthood.*** Research (Wolf & Kupchick, 2016) correlated disciplinary-based school dismissal with a relentless cycle of failure from school throughout adulthood. Upon reaching adulthood, students who experienced suspension from school were 22% more likely to be victimized, 31% more likely to be involved in criminal activity, and 72% more likely to be incarcerated, even when controlling for academic performance (Wolf & Kupchick, 2016, p. 8).

### **Benefits of High School Graduation to Self and Society**

Research (Skiba et al., 2008, p. 856) found it was less expensive to ensure students graduate high school than to pay related costs of under-educated dropouts, costs such as welfare, decreased tax revenues, or costs related to incarceration. For example, a 6-year Texas study of dropouts projected \$750 million to \$1.35-billion-dollars in savings over the students' lifetimes, had those students graduated high school (Rumberger & Losen, 2016, p. 7). Reducing suspension rates by 1% in this Texas study equated to 4,000 fewer dropouts annually, "yielding a fiscal benefit of \$691 million and a social benefit of \$2.2 billion" (Rumberger & Losen, 2016, p. 7). Thus, graduating high school not only positively affected lifetime incomes of graduates but also increased payroll taxes for society and lowered the likelihood of costs associated with welfare or imprisonment, costs borne by taxpayers.



The impact of finishing high school, even post-incarceration, proved significant, improving lifetime earnings, tax contributions, and reduced social costs. Natsuaki, Ge, and Wenk (2008) reported that graduating high school while serving time in juvenile detention or adult prisons lowered the re-offense / recidivism rate for juveniles and adults alike (p. 432-444). Of incarcerated Black American males, 75% did not have a high school diploma (Morsi & Rothstein, 2016). While research (Anthamatten, 2015) reported 68% of state prisoners lacked a diploma, only 6% of the prison population were enrolled in some type of education. However, when educated, the recidivism rate fell by 43%, post-prison employment increased by 13%, and every \$1 spent on education of incarcerated persons yielded society a \$4 savings upon a prisoner's release (p. 2-4). It is counter-intuitive that the *Violent Crime Control and Enforcement Act of 1994* took away inmates access to the Pell Grant, formerly allowed in the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) to fund college coursework.

In summary, both the individual student and society as a whole, except for for-profit corrections corporations and incarceration related service providers, benefited when students graduated high school.

### **Implicit Bias Influenced Discipline Decisions**

Research found teacher bias in discipline decisions as the origin of the STPP (Losen & Skiba, 2010). Bias is a function of the human brain's organizational structure. The human brain built shortcuts to provide for fast decision-making, allowing humans to survive as a species (Sanchez, 2017). These shortcuts, called stereotypes, are stored in the primitive brain, the amygdala (Carpenter, 2008). Stereotypes are formed from a very young age and reinscribed through emotionally laden media, such as news reports during 9/11 or through prison documentaries. Stereotypes are then unconsciously called upon when a rapid decision is needed;

thus, implicit bias influences decisions (Sanchez, 2017). During times of stress, such when responding to perceived discipline issues, teacher brains may tap the amygdala, a storehouse of stereotypes, without conscious thought, to determine whom to refer to the office for discipline.

### **Implicit Bias**

Implicit bias was defined as, “learned beliefs, attitudes, and stereotypes about a particular race that result in harmful or preferential treatment of members of that race” (Benson, & Fiarman, 2019). Implicit bias is unconscious, and therefore, racism that results from implicit bias may be completely unintentional. “After all, we cannot fully choose our attitudes, because our conscious minds are not always in the driver's seat; thus, wanting to be no prejudiced [sic] is not the same as being no prejudiced [sic]” (Carpenter, 2008, p. 39).

**Teacher bias.** Researchers (Gregory et al., 2010; Carpenter, 2008; Wallace et al., 2008; Bauer et al., 2015) found overrepresentation of Black, Latino, and American Indian students in disciplinary-based school dismissal data due to decisions made in the classroom level, decisions impacted by educator implicit bias. In fact, Skiba et al. (2002) found no alternative to bias which would account for gender, race, and socioeconomic disproportionality in disciplinary-based school exclusion (p. 338).

**Confirmation bias.** Decisions informed by implicit bias fed development of confirmation bias, as follow: a stressed brain relies on stereotypes to inform quick decisions; quick decisions reinforce implicit bias, and implicit bias results office referral for some student groups and not others, which then creates the self-fulfilling prophecy of confirmation bias, the “see, I was right about those kids” bias. Sanchez (2017) explained the brain tends to notice events that support existing beliefs while it unintentionally misses events that challenge existing beliefs (p. 149). Therefore, the educator’s mental model influenced what he or she took notice of

in the classroom: a student believed to be a model pupil is noticed less often when violating norms than a student believed to be problematic (Sanchez, 2017, p. 149). In short, the educator's existing beliefs helped the educator consistently notice behaviors of some students more than other students, and confirmation bias developed, affecting that educator's ability to monitor student behaviors from an equitable lens (Sanchez, 2017, p. 149).

**Implicit bias and mental models.** Overrepresentation of some student groups and not others in school discipline reinforced in the minds of schoolteachers and administrators a working mental model rife with implicit bias. When school staff witnessed more suspension of students of one demographic group than another demographic group, say, Black students more than White students, then the bias that generated the discipline decision regarding Black students was steadily reinforced as “right” (Sanchez, 2017, p. 142). For example, if the school environment showed more students of color in special education, more Asians in gifted education, and more Native American students drop out, educators' brains would silently store such information in the amygdala to be pulled up during times of stressful decision-making (Sanchez, 2017). In this way, racism goes underground to live in our “collective unconscious” (Benson & Fiarman, 2019). Thus, educators' use of implicit bias confirmed what they saw about the behavior of minoritized students, the result of which was comfort with the racial / ethnic disparity in school dismissal patterns (Alexander, 2010; Green et al., 2015; Carpenter, 2008; Rumberger & Losen, 2016, p. 5). Figure 1 shows the flow of overrepresentation of some groups of students in school dismissal.

In summary, educator implicit bias impacted which student groups were sent to the office for discipline referrals. While an educator may not necessarily be aware of his / her / their brain's implicit bias regarding who receives office referrals, Dancy II (2014) stated the

suspensions and expulsion rates for Black students illustrated a systemic design to maintain a racial order and a racial hierarchy (p. 489). Dancy II (2014) placed the responsibility for disparate treatment of students of color on the adults in the education system, citing a need for professional development and support for educators in learning how to teach students culturally unlike themselves (p. 488).

### **Overrepresentation of Student Groups in National Discipline Data**

More than 50 million of America's 54 million students attend public schools (Kena et al., 2015). Yet, annually more than three million students are dismissed from the education setting through suspension (Wolf & Kupchick, 2016, p. 4). In addition, more than 100,000 students are expelled annually (Whitford & Levine-Donnerstein, 2014, p. 78). Substantial learning time is lost due to dismissal. In 2011-12, students lost approximately 18 million days of instruction due to suspension alone (Wolf & Kupchick, 2016, p. 6). The loss of instructional time is concerning in and of itself, yet even more so, given disparity in school discipline, the relationships between under-education and under-employment, and the generational pattern of the relationship between poverty and school exclusion (Losen & Skiba, 2010; Carnevale, Rose, Cheah, n.d., p. 5).

White middle class student groups experienced lower rates of school dismissal per capita than did students groups of all other race / ethnicities, leaving researchers to suspect educator bias affected suspension and expulsion decisions (Padres & Jovenes Unidos & Advancement Project, 2004, p. 5; Council on School Health, 2003; Yolanda et al., 2014; Gregory, Skiba & Noguera, 2010). Students from a lower socio-economic category or receiving special education services or youth of color, particularly Black male students enrolled in special education were more likely to be sent from the classroom to the principal's office and to be suspended or expelled from school and / or referred to law enforcement (Yolanda et al., 2014, p. 379; Dancy

II, 2014). Data collected from across the nation's public schools shows disparity for student groups, as follow:

- students of color, particularly students who are Black;
- students who are male, particularly Black males;
- culturally linguistically diverse students;
- students living in poverty;
- students with dis/abilities enrolled in special education;
- students who experienced trauma or express behavioral health needs;
- students with a single parent rather than two parents; and / or
- students whose parent or grandparent is or has been incarcerated.

**Disparate discipline of Black students.** Of all student groups across the nation, Black students are the most at risk for suspension and / or expulsion (Yolanda et al., 2014). While suspension and expulsion increased somewhat for all students over the last 35 years, researchers (Losen and Skiba, 2010) found K-12 suspension rates of Black students doubled (p. 2). In the 1970s, Black students were twice as likely to be suspended as White students, and by 2010, thrice as likely (Forsyth et al., 2013; Green et al., 2015; Office of Civil Rights, 2014). In fact, Black students were referred to the principal's office more frequently than were other students and suspended disproportionately, with the higher rate of office referral being the driver for lack of parity in school dismissal by race / ethnicity (Skiba et al., 2002, p. 334). Whereas office referrals for White students involved objective reasons such as smoking, vandalism, leaving the classroom or school without permission, and obscene language, office referrals for Black students involved subjective reasons, including loitering, disrespect, threat, and excessive noise

(Gregory et al., 2010, p. 62). Additional discipline data regarding Black students further illustrated the impact of teacher implicit bias in discipline decisions, as follow:

- from 1991 to 2005, suspensions and expulsions of Black students increased in a pattern unlike that of all other races / ethnicities (Gregory et al., 2010, p. 59);
- in 2003, Black students represented 17% of the public school population and 32% of the expelled population (Rausch & Skiba, 2005, p. 3);
- from 1968 to 2013, Black students made up 35% of students suspended once, 44% of students suspended more than once, and 36% of students expelled (Dancy II, 2014);
- One in seven Black students was suspended compared with one in 20 White students (Wolf and Kupchick, 2016, p. 5);
- in 2014, one in five Black male students (20%) and more than one in 10 Black female students (more than 10%) received an out of-school suspension or expulsion compared with 4.6% of White students (Office of Civil Rights, 2014, p. 3); and
- Black female students were suspended at disparate rates, compared not only with female students of any other race / ethnicity but also with most male students of any race / ethnicity (Gregory, Skiba, & Noguera, 2010; Losen & Skiba, 2010; Office of Civil Rights, 2014, p. 1).

Critical Race Theory states these rates are not accidental but purposeful, and, further, these disparate statistics serve as reminders that structural racism thrives in American schools.

***Discipline disparity greatest for Black male students.*** The student population is roughly 50% male and 50% female, yet 75% of students suspended repeatedly or expelled from school are male (Office of Civil Rights, 2014, p. 5). Still, race / ethnicity was more predictive for suspension than was gender; being a male put a student at risk for disciplinary-based school

dismissal, and, moreover, the combination of being Black and male presented the greatest risk of dismissal. Okilwa, Kalifa, and Briscoe (2017) cited multiple studies of the dehumanization of African American male students as young as kindergarten, due to preconceived notions about the worthiness of students. In the classroom, Black males as young as 10 were perceived as responsible adults in ways White males of the same age were not, and Black males were more likely to be treated in a dehumanized manner (Bauer et al., 2015, p. 1). Carpenter (2008), explained why, "...American cultural stereotypes linking young black men with crime, violence and danger are so robust that our brains may automatically give preferential attention to blacks as a category, just as they do for threatening animals such as snakes." Discipline data supported Carpenter's (2008) tragic statement. Black males were more likely than any other student group to be suspended or expelled; thus, Black males were more exposed to the juvenile justice system as a result of having lost the protective factor of school.

In summary, school discipline data showed unmatched rates of administrative dismissal from school for Black students. Black males were 16 times more likely to be suspended from school than were White female students and twice as likely to be suspended as Black female students (Gregory, Skiba, & Noguera, 2010, p. 60; Office of Civil Rights, 2014, p. 1). Furthermore, while Black male students were overrepresented in expulsion, suspension, and special education, they were underrepresented in gifted education and Advanced Placement courses (Dancy II, 2014, p. 476-493). Therefore, Black males, as compared with students from all other racial / ethnic groups and genders, were most likely to suffer from teacher implicit bias, even, "...after accounting for student behavior and confounding variables like poverty, dis/ability, previous academic achievement, school composition, district dynamics, and neighborhood context" (Yolanda et al., 2014, p. 380).

**Disparate discipline of American Indian / Alaskan Native students.** Few large-scale studies exist on suspension or expulsion of American Indian / Alaskan Native students. However, the existing data suggested teacher bias negatively influenced discipline of Native American / Alaskan Native students (Office of Civil Rights, 2014). Native American / Alaskan Native students were more likely to be suspended and / or expelled than were White students. The United States Department of Education (2014) reported that American Indian and Native-Alaskan students comprised less than 1% of the nation's student population, 2% of the nation's out-of-school suspensions, and 3% of the nation's expulsions (p. 1). Furthermore, American Indian/ Alaskan Native female students experienced suspension more frequently than did White male or female students (Office of Civil Rights, 2014, p. 1).

**Disparate discipline of students in poverty.** A student in poverty was more likely to be administratively dismissed from school than a student from a family of means. The American Academy of Pediatrics Council on School Health (2013) found that children growing up in homes near or below the federal poverty level had a higher rate of expulsion than middle class or wealthier children (p. 1207).

In 2014, about 15.3 million or 21% of all children in the United States lived in poverty, and of that group, 10.7 million were school age (National Center for Education Statistics, 2015, p. 1). Of impoverished children, a greater percentage were children of color than were White. Furthermore, of all racial / ethnic groups, Black children had the highest percent of total population of children in poverty. Black children were nearly four times as likely as White children to be raised in poverty; ten percent of White children live in poverty, 38% of Black children live in poverty (National Center for Education Statistics, 2015, p. 1). Table 1 shows the percentage of children in poverty by race / ethnicity.



It is logical that schools in economically distressed neighborhoods have concentrations of children living in poverty in the student body. Administrators of schools with high concentrations of children in poverty were less likely to use restorative justice practices and more likely to rely on school dismissal which pushed more poor children out of school (Wolf & Kupchick, 2016, p. 5). Still, socio-economic status was less predictive than was skin color when it came to suspension or expulsion (Stevenson, 2014). Thus, while attending a school with concentrations of low-income students or living in a low-income family increased the likelihood for occurrences of punitive discipline, the relationship between poverty and school exclusion was not causal (Wallace, 2008). Rausch and Skiba (2014) found poverty did not explain even some of the variance in school exclusion by race (p. 18). Gregory et al. (2010) agreed that after statistically controlling for socio-economic status, race / ethnicity was the most significant predictor of the type of discipline a student experienced (p. 61). In summary, while race / ethnicity affected the likelihood of poverty, it was race / ethnicity, not poverty, which accounted for the disparity in exclusionary discipline.

**Table 1**

*US Children in Poverty by Race / Ethnicity*

Race / ethnicity of children	Percentage of population living in poverty
Children who are White	10%
Children who are two or more races	22%
Children who are Pacific Islander	27%
Children who are Hispanic	32%
Children who are American Indian/Alaska Native	35%
Children who are Black	38%

National Center for Education Statistics, 2015, p. 1.

**Disparate discipline of students of color served in special education.** Students served in special education were more likely to experience suspension or expulsion than were general

education students. Statistics from the Office of Civil Rights Civil Rights data collection (2014) showed 13% of students with dis/abilities received suspensions compared with 6% of students not recognized to have dis/abilities (p. 1). However, as in the case of the relationship between poverty and race/ethnicity, a relationship existed between students served in special education services and students of color.

***Black Students and special education.*** Special education served more Black students per capita than students of all other races / ethnicities (Gregory et al., 2010). Dancy II (2014) found gross overrepresentation of students of color in special education, given that Black students comprised 17% of the school population, yet made up 27% of students classified as emotionally disturbed and 18% of students identified with a specific learning disability (p. 482). Nationally, Black students comprised 33% of students classified as cognitively delayed, making Black students twice as likely to be enrolled in special education as their peers who were White.

Data from the Office of Civil Rights (2014) showed disparate representation in school dismissal for both male and female students of color enrolled in special education, as follow: more than 25% of male students of color enrolled in special education and approximately 20% of female students of color enrolled in special education received suspensions from school (p. 1). Thus, Black students were more likely to receive special education services than were White students, and students served in special education were more likely to be suspended or expelled than students not served in special education.

**Disparate discipline of students of color with PTSD and / or behavioral health needs.** It is logical that students suffering post-traumatic stress disorder (PTSD) or other behavioral health problems have difficulty controlling the behavior for which they are suspended or expelled. The American Academy of Pediatrics Committee on School Health (2014) reported

students who acted rebelliously or violently, used drugs, or committed crimes often were depressed, mentally ill, or victims of abuse or trauma, and thus, their behaviors may have been triggered by a violent home environment or a deeply disturbing past experience (p. 1207). While administrative dismissal from school removed the student from school it did not remove the PTSD from the student, nor did school dismissal place suffering students in an environment likely to offer treatment.

***Parental incarceration and student mental health.*** Morsi & Rothstein (2016) stated a relationship exists between parental incarceration and student mental health issues. Notably, students with an incarcerated father were 43% more likely to suffer depression, 51% more likely to have anxiety, and 72% more likely to suffer from PTSD, all conditions capable of driving expressions of behavior which lead to school exclusion (Morsi & Rothstein, 2016). Dismissal processes were not required to include a review of any trauma or PTSD behind the disruptive behavior and dismissal exacerbated the behavioral health issues the student faced (Council on School Health, 2013, p. 1207; Wolf & Kupchick 2016, p. 8). Furthermore, removing the protective factor of school from the lives of students suffering PTSD or other behavioral health issues increased the likelihood of the student entering the juvenile justice system (Council on School Health, 2013).

***American Indian / Alaskan Native students and trauma.*** School exclusion data showed disparate representation of American Indian / Alaskan Native students. Statistically, American Indian children suffered more serious mental and physical health problems than did children in all other US ethnic groups (Olson and Wahab, 2006, p. 21). Indications that American Indian / Alaskan Native youth experienced trauma or mental health illnesses are, as follow:

- One in five to one in nine Native youth attempted suicide, and 37.1 per every 100,000 committed suicide, a rate more than double the national average (Olson & Wahab, S., 2006, p. 20);
- suicide was the second leading cause of death for Native youth age 15 to 24 (Executive Office of the President, 2014, p. 5);
- violence accounted for 75% of all deaths for American Indian youth aged 12 to 20;
- Native children were victimized at 11.6 per 1,000; and
- while the child mortality rate decreased for US children overall, child mortality increased by 15% for American Indian children (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014, p. 1111).

In short, American Indian / Alaskan Native youth excluded from school for behavior infractions may have been victims of trauma, abuse, or mental health illness, all factors inhibiting self-regulation. Dismissal from school left Native American / Alaskan Native children at higher risk for entry into the justice system while ignoring the need for the social-emotional supports.

**Disparate discipline of students of a single parent.** Children of a single parent were two to four times more likely to be suspended or expelled from school than were children who lived in a two-parent home, even when controlling for other social and demographic factors (Losen and Skiba, 2010). Some student demographic groups were more likely to have two-parent homes than others. In 2013, 87% of Asian males, 77% of White males, and 65% of Hispanic males lived in a two-parent home whereas only 38% of Black males lived with two parents (National Center for Education Statistics, 2016, p. 10). Thus, Black males were more likely to be raised by a single parent and Black males were in a higher risk category for

experiencing disciplinary-based school exclusion than were their peers of any other race / ethnicity.

**Disparate discipline of students with an incarcerated parent.** Students with an incarcerated parent were more likely to experience dismissal from school than were students whose parent(s) remained free. Additionally, children of incarcerated parents were often more likely to qualify for special education services, drop out of school, and be incarcerated themselves (Morsi & Rothstein, 2016). Black children were six times more likely to have a parent behind bars than were White children (Denice, 2016; Morsi & Rothstein, 2016). Thus, Black students were more likely to have an incarcerated parent and experience not only the STPP but also a racially based birth-to-prison helix (BTPH) where incarceration was generational and often, intergenerational.

### **Overrepresentation of Student Groups in Minnesota Discipline Data**

Minnesota school discipline data showed a pattern of disparity like that of national discipline data. Whereas the Minnesota student body was approximately 50% female and 50% male, school dismissals of males outnumbered that of females by nearly three-to-one (MDE, 2020). That is, of the 49,437 school dismissals reported for the 2018-2019 school year, males accounted for 34,890 and females 14,547 (MDE, 2020). In addition, Black students made up just over 11 percent of Minnesota's school population in the 2018 fall enrollment, yet 38% of suspensions, expulsions, or exclusions happened to Black students (MDE, 2020). White students, on the other hand, made up about 66% of the population but only 36% of the dismissals (MDE, 2020). In fact, White students outnumbered Black students in Minnesota school's student bodies by a six-to-one ratio, yet more than 19,000 Black students experienced dismissal compared with 17,615 White students (MDE, 2020). The pattern was similarly disparate for

Minnesota's American Indian students who made up 1.5% of the student body and more than 5% of the dismissals from school. Multi-racial students fared only slightly better, making up 5% of the K-12 fall enrollment and just over 8% of the dismissals from school. Hispanic student data was closer to parity, however. Hispanic students made up 9.5% of the enrollment and just over 10% of the school dismissals (MDE, 2020).

Discipline data on Minnesota's students served in special education was profoundly disparate. Whereas 14.6% of Minnesota students were served in special education, 42% of school dismissals in 2018-2019 were of students in special education (MDE, 2020). In fact, though students in general education outnumbered students in special education by more than eight-to-one, general education students accounted for 28,547 of the total 49,437 school dismissals in 2018-2019, whereas students served in special education accounted for 20,890 (MDE, 2020). The intersection of special education with race/ ethnicity in Minnesota student dismissal from school was telling and followed the national trend of being particularly punishing to Black students. Of the 20,890 school dismissals of students served in special education, 7,701 of those dismissals happened to Black students whereas 7,959 happened to White students, though more than 63% of the student body was white (MDE, 2020).

**Summary of overrepresentation in school dismissal.** In summary, some student groups and not others were disparately represented in school discipline data at both the national and state levels. What race / ethnicity had the highest risk for dismissal from school? Black students. What gender had the highest risk for dismissal from school? Males. What socio-economic category was most likely to be dismissed from school? Children living in poverty. Who was most likely to be impoverished? Black students. Who was more likely to be dismissed from school, students served in special education or students in general education? Students

served in special education. What group of students was most likely to be enrolled in special education? Black males. There was a relationship between behavioral health needs and school exclusion. What group of students was most likely to suffer PTSD? Children of color, particularly Black children and Native American / Alaskan Native children. Dismissal from school was more likely if a child had one, not two, parents. What student group was most likely to be raised by a single parent? Black children. There was a relationship between having an incarcerated elder and being removed from school. What student group had the highest rate of parental incarceration? Black students. In short, America's children of color, particularly America's Black males, had the highest risk of administrative dismissal from school, and, thus, were at the highest risk for entry into the justice system. America's children of color, particularly America's Black males, were most likely to have the greatest opportunity for poor life outcomes, increasing the odds that their future children would suffer similar negative life outcomes, creating for Black males and their families, a Birth-to-Prison Helix (BTPH).

### **The School-to-Prison Pipeline**

The school-to-prison pipeline (STPP) is an American phenomenon where minoritized students administratively dismissed from school enter the justice system and are denied full citizenship as a result of incarceration (Okilwa, Khalifa, & Briscoe, 2017; Losen & Skiba, 2010; Rausch & Skiba, 2005). Demographic groups overrepresented in school dismissal were like those in overrepresented juvenile detention as well as in prison. Youth excluded from society in the juvenile justice system were, as follow: males, youth of color, particularly Black and American Indian / Native Alaskan youth, youth in poverty, served in special education, youth of a single parent, who have or had an incarcerated parent, and / or youth with behavioral health concerns or youth who experienced trauma. Implicit bias allowed the STPP to sit, hidden in

plain sight for the dominant group, in the school environment. When the lack of parity in dismissal patterns was normalized, students were streamed into one of two pipelines without question. The first pipeline was reserved for student groups deemed deserving of the public good of schooling. Student groups in this pipeline remained in school to be socialized for college and career success. In the other pipeline, however, streamed student demographic groups deemed worthy school dismissal, extracted from the student body, and progressing into the second pipeline. This second pipeline of student groups received conditioning for marginalized roles, including increased exposure to the juvenile justice system. Figure 2 illustrates the STPP.

### **The Pipeline from School Exclusion to the Juvenile Justice System**

Suspension, exclusion, and expulsion are processes used to legally dismiss students from school. This section of the literature review describes the disparity in juvenile detention and explains how school exclusion leads to detention of American minority youth. School acts as a protective barrier for youth, keeping them engaged in academic tasks under the guidance of a teacher. When excluded from school, youth are at an increased risk of contact with the juvenile justice system.

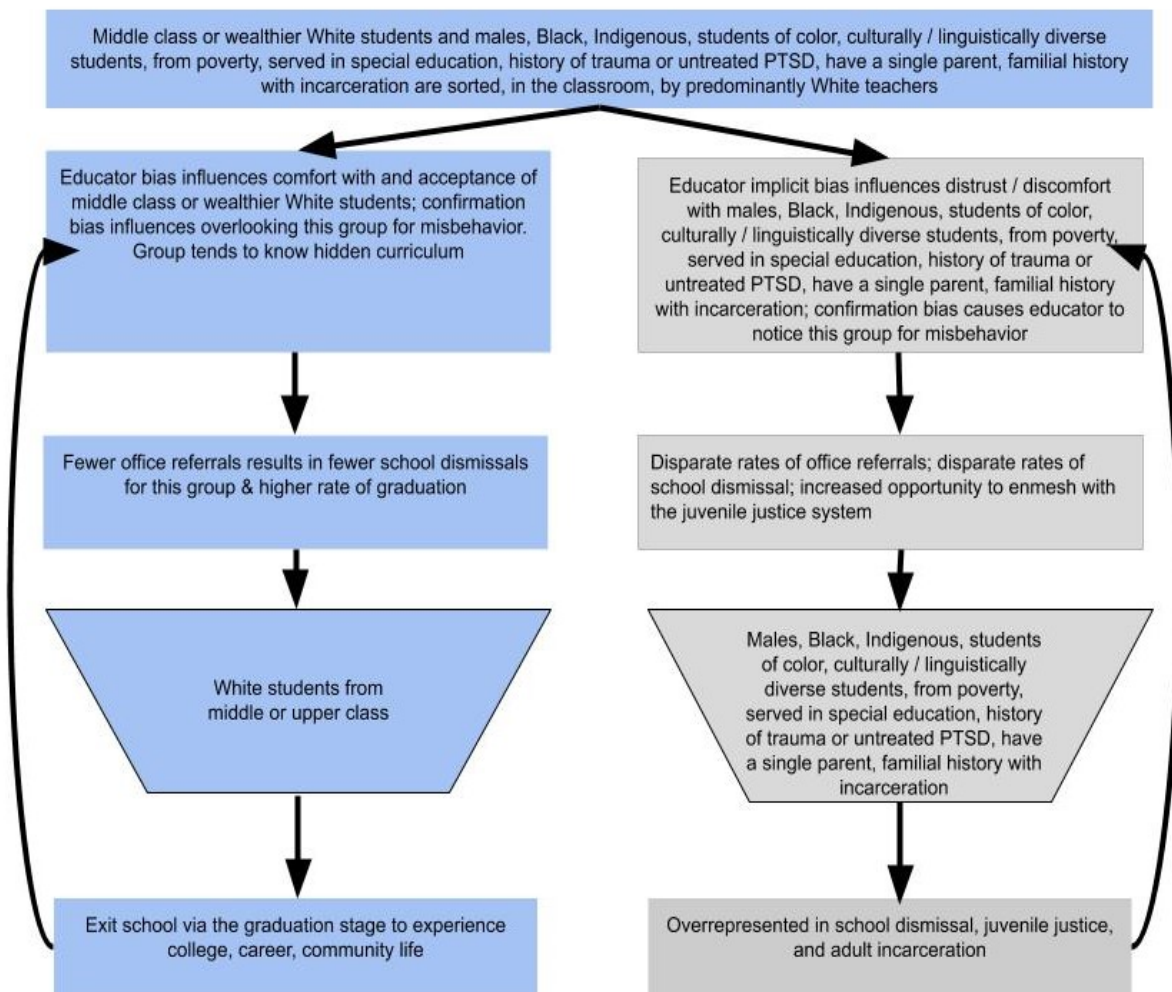
**Youth and crime.** Though America's juvenile crime is at a 20-year low, America still leads the world in youth imprisonment (Puzzanchera, 2020; Mimms & Stamm, 2014). Two million American youth are detained annually, more than in any other country in the world by a five-to-one ratio. The US has 591 secure juvenile detention centers to hold detained youth (Holman & Ziedenberg, n.d., page 2). Researchers (Bell, Ridolfi, Finley, and Lacey, 2009) estimated that up to 90,000 youth experienced seclusion in juvenile detention centers nightly, a majority of whom were youth of color (p. 4). Furthermore, in 2014, more than 60,000 American youth 18 years old or younger lived out their school years in detention, 75% for non-violent



offenses, at an average cost of \$88,000 per youth (Holman and Ziedenberg (n.d.); Mimms & Stamm, 2014).

**Figure 2**

*School-to-prison-pipeline*



**Disparity in the juvenile justice system.** School exclusion, disparate for youth of color, particularly for Black males, lead to similar disparity in juvenile detention (Dancy II, 2014; DuVernay & Averick, 2016; National Center for Education Statistics, 2015). Whereas youth of color made up only 1/3 of the US youth, youth of color made up 2/3 of all youth in detention (Bell et al., 2009, p. 3). While youth of color were found no more likely to engage in criminal

behaviors than their White peers, Black youth were six times more likely to be detained than White youth (Alexander, 2010; Bell et al., 2009). Furthermore, though youth of color posed no imminent threat that would require secure detention, politicized slogans such as “tough on crime” and “dedicated to public safety” created a mental model supportive of early use of detention (Bell et al., 2009, p. 8).

***Black youth and juvenile detention.*** Juvenile detention data and national incarceration data were particularly disparate for Black males, much like school exclusion data (National Center for Education Statistics, 2015, figure 6). The overrepresentation of Black males in the juvenile justice system and the adult prison system should come as no surprise, given that Black males are most disparately dismissed from the social good of school.

National student enrollment data illustrated overrepresentation, as follows: the school population was 16% Black and 51% White; in a system with parity, law enforcement referrals would reflect the overall population demographic (Office of Civil Rights, 2014). However, 27% of students referred to law enforcement were Black youth and 41% were White (Office of Civil Rights, 2014, p. 6). Furthermore, of students subjected to a school-related arrest, 31% were Black students and 39% were White (Office of Civil Rights, 2014, p. 6). Table 2 compares rates of placement in detention for male juveniles by race / ethnicity.

Once in the justice system, data showed Black male youth advanced through the justice system in higher proportionality than any other subgroup. “Nationwide, African-Americans represent 26% of juvenile arrests, 44% of youth detained, 46% of youth judicially waived to criminal court, and 58% of youth admitted to state prisons” (NAACP, 2017, para. 10).

In summary, being a Black male youth put a student at risk for juvenile detention, stemming from teacher implicit bias in discipline decisions, decisions which removed Black

males from school and put them at risk for contact with the justice system (Dancy II, 2014; DuVernay & Averick, 2016).

*American Indian / Alaskan Native and juvenile detention.* While American Indian / Alaskan Native youth experienced disparate rates of detention similar to their Black peers, the experience of American Indian / Alaskan Native youth in the justice system was unique among all races / ethnicities in terms of the number of penal systems, the rates of federal detention, and the reasons for detainment (Ayra & Rolnick, n. d.). The data is bleak.

The arrest rate for American Indian /Alaskan Native youth was three times the national average for all youth (Bureau of Justice, 2004). American Indian / Alaskan Native youth were overrepresented at each key decision point of the juvenile justice system from “...referrals, detention pending adjudication, formally processed, adjudicated, waived to adult court, and sent to residential placement. . . .” (Ayra, N. & Rolnick, A., n.d., p. 7). Furthermore, American Indian / Alaskan Native youth fell under three distinct justice systems at the same time, as follows: the federal, state, and tribal systems. Unlike any other subgroup of youth, an American Indian / Alaskan Native youth could be transferred to adult prison from any of the three systems.

**Table 2**

*Rates of Placement*

Race / ethnicity	Placement in detention per 100,000 population	Likelihood of detention for Black juvenile as compared to other racial / ethnic groups
Black juvenile males	733 / 100,000	
American Indian/Alaska Native juvenile males	486 / 100,000	1.5 times
Hispanic juvenile males	312 / 100,000	2 times
White juvenile males	153 / 100,000	5 times
Asian juvenile males	50 / 100,000	14 times

(National Center for Education Statistics, 2015, figure 6).

Of youth held in federal prison, 79% were American Indian / Alaskan Native (The Bureau of Justice statistics, 2004). Logic would ask why, since American Indian / Alaskan Native youth seldom commit violent crimes but rather were detained for running away, drug abuse, violations of liquor laws, or theft (Puzzanchera, 2020; Ayra, N. & Rolnick, A., n.d., p. 8).

***Youth in poverty and juvenile detention.*** A cyclical relationship between poverty and detention exists. Recall that 38% of Black youth lived in poverty. Recall that Black males were the student group most likely to be removed from school, and thus, most at risk for contact with the juvenile justice system. Of youth who experience juvenile detention, 66% never return to school to graduate, increasing their likelihood of living in and raising their own children in poverty (Mimms & Stamm, 2014). Because Black students were most likely to be dismissed from school and enter the justice system, they were also most likely to suffer generational poverty.

***Gender and juvenile detention.*** Data from placement in juvenile residential correctional facilities showed disparities by gender (National Center for Education Statistics, 2015). In 2011, the juvenile detention rate for males was approximately six times higher at 280 per 100,000 persons than it was for females, at 46 per 100,000 persons. When taken together, being Black and being male put these youth in the highest risk category for detention, higher than that for youth males or youth females of any other racial/ethnic group. Thus, while being male put a young person at risk for school dismissal and for juvenile detention, being a Black male put a young person at the highest risk factor for both school dismissal and juvenile detention.

***Youth in special education services and juvenile detention.*** American youth served in special education were nearly twice as likely to experience detention in the juvenile justice system as compared with youth served in general education. Students recognized to have

disabilities represented 12% of the student body and 25% of all youth referred to law enforcement or subjected to school related arrests (Office of Civil Rights, 2014, p. 6-7). Being served in special education services put a student at risk for juvenile detention. Black male students were overrepresented in special education, within school suspension and expulsion, and in juvenile detention.

***Youth with an incarcerated parent and juvenile detention.*** Having an incarcerated parent, particularly an incarcerated mother, put a student at risk for juvenile detention. Youth of color were more likely to have a parent incarcerated than were White youth; youth of color were more likely to be excluded from school due to teacher bias, and, thus, more likely to end up in juvenile detention than were White youth (Morsy & Rothstein, 2016). Furthermore, adolescent males with incarcerated mothers were 25% more likely to enter the justice system than youth without an incarcerated mother and 55% more likely to drop out of school due to their own stay in the justice system (Morsy & Rothstein, 2016). Thus, there is a relationship between having an incarcerated parent and becoming incarcerated oneself. In short, the demographic pattern of school exclusion reflected the demographic pattern of juvenile detention.

**Summary of overrepresentation in juvenile detention.** In summary, a negative impact of school exclusion was increased exposure to enmeshment in the justice system. Juvenile detention showed overrepresentation of the same demographic groups excluded from school. What race / ethnicity had the highest risk for juvenile detention? Black students. What gender had the highest risk for juvenile detention? Black males. What socio-economic category was most likely to be detained in the juvenile justice system? Impoverished youth. What group of youth was most likely to be impoverished? Black youth. Students served in special education were more likely to be in juvenile detention than were students in general education. What

group of students was most likely to be enrolled in special education? Black males. A relationship between behavioral health needs and juvenile detention was found. What group of youth was most likely to suffer PTSD? Children of color, particularly Native American / Alaskan Native youth. Juvenile detention was more likely if a child had one, not two, parents. What group of youth was most likely to be raised by a single parent? Black youth. A relationship was found between having an incarcerated elder and being detained in juvenile detention oneself. What youth group had the highest rate of parental incarceration? Black youth. In short, Black males were suspended, excluded, or expelled from school at rates higher than any other student group, Black males had the highest risk of any student group of entry into the juvenile detention system, and, to this day, Black males are overrepresented in the adult penal system.

### **The Pipeline from Juvenile Justice to the Adult Prison System**

The origin of the school-to-prison pipeline was found in the classroom teacher's bias which negatively influenced the discipline for some student groups and not for others (Losen & Skiba, 2010). Once the protective factor of daily school activities supervised by adults was lost, youth left on their own were more than twice as likely to make contact with the justice system, beginning with the juvenile system and often reaching the adult prison system (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014). The path from juvenile detention to the adult prison is the final segment of the STPP, though the negative lifetime outcomes associated with entry into the STPP created a birth-to-prison helix for some demographic groups of Americans and not others. The following section of the literature review presents the scope of American mass incarceration as well as reviews the overrepresentation of Black Americans in the penal system.

**Scope of the mass incarceration phenomenon.** Currently, the US has the highest per capita rate of incarceration on earth, despite that the US crime rate is similar to nations such as Finland or Germany, who incarcerate far fewer people (Alexander, 2010; DuVernay & Averick, 2016; Hetey & Eberhardt, 2014; Wagner & Rabuy, 2016). Furthermore, the US does not just lead the world in incarceration, it leads by a wide margin. While the United States has only 5% of the world's people, it has nearly 25% of the world's prisoners (DuVernay & Averick, 2016; Hetey & Eberhardt, 2014; Wagner & Rabuy, 2016).

America's growth in mass incarceration is a relatively recent phenomenon of the last half century (Alexander, 2010; DuVernay & Averick, 2016; Hetey & Eberhardt, 2014; Stevenson, 2014; Wagner & Rabuy, 2016). The number of incarcerated Americans has quadrupled since 1970, increasing by 500% in the last 40 years from 300,000 to 2.4 million (Morsy & Rothstein, 2016; The Sentencing Project, 2014). The last 20 years showed an increase of 1600% (Shapiro, 2011, p. 5).

As the world's leader in incarceration, the US imprisons 700 people per every 100,000 residents, more than the Russian Federation by 250 per 100,000, and double the rates of Iran and South Africa (Morsy & Rothstein, 2016). The US prison population has grown so exponentially that one in every 31 US adult citizens is incarcerated, on probation, or parole, a total of more than seven million people (Stevenson, 2014).

***Disparity in prison demographics.*** Students dismissed from school share demographic characteristics of youth in juvenile detention who share demographic characteristics of adults in prison. It follows that since rates suspension and expulsion show disparity, so do rates of incarceration. Adult prison demographics showed overrepresentation of groups, as follow: people of color, particularly Black males, people with special education needs, people with low

socio-economic status, individuals raised by single parents, individuals who have or had an incarcerated parent or grandparent, people who have experienced significant trauma, and / or people who lack behavioral health treatment (Alexander, 2010; Skiba, et. al, 2002; Linster, 2010). Of all the demographic groups represented in the prison population, Black males were most overrepresented.

*Incarceration and Black People.* Not only does the US lead the world in incarceration, the US leads in imprisonment of racial and ethnic minorities (Alexander, 2010). Whereas White Americans were imprisoned at a rate of 400 per every 100,000, Black Americans were imprisoned at rates over 5 times higher, at 2,200 per every 100,000, and Hispanic Americans at rates of 1,000 for every 100,000 (Morsy & Rothstein, 2016).

The overrepresentation of incarcerated Black American men, is, as follow:

- “One in every fifteen people born in the United States in 2001 is expected to go to jail or prison; one in every three black male babies born in this century is expected to be incarcerated” (Alexander, 2010; Stevenson, 2014, p. 15);
- Citizens who are Black comprised 12% of the US population and nearly 40% of US prison residents (Hetey & Eberhardt, 2014, p. 1949);
- 41% of all imprisoned adults age 18 to 24 were Black males, which is more than twice the rate for Hispanic males (1,165 per 100,000), nearly 7 times the rate for White males (446 per 100,000), and more than 26 times the rate for Black females, at 118 per 100,000 (National Center for Education Statistics, 2015);
- Incarceration rates for drug charges in some states for Black men were 20 to 50 times higher than rates for White men for the same drug charges (Alexander, 2010).



Turkot (2013) recognized the disparity of prison rates for Black people yet reminded that 60% of American prisoners are not Black; 33% are White and 20% are Hispanic, and, further, one in every six Hispanic male babies is destined to spend time in prison (p. 15).

**Summary of overrepresentation in adult incarceration.** During the last century, the United States prison population boomed, making the US the world leader in incarceration with the highest per capita rate of imprisonment on earth (DuVernay & Averick, 2016; Hetey & Eberhardt, 2014; Wagner & Rabuy, 2016). Furthermore, the US is the world leader in incarceration of minoritized people (Alexander, 2010). Demographic data on incarceration mirrored that of juvenile detention and school exclusion data, signaling that school discipline, driven by teacher implicit bias, opened the chute to the STPP. Thus, teacher bias propelled some student groups into the STPP and not others.

So catastrophic is incarceration that it appeared to affect family members two generations beyond the original prisoner (Stevenson, 2014). The negative outcomes associated with no diploma and felony status created stressful life conditions for children and even grandchildren of the incarcerated (Stevenson, 2014; Skiba et. al., 2002). Thus, America created a birth-to-prison helix (BTPH) for some population groups and not others. Critical Race Theory would say the STPP and BTPH are outcomes built by design, due to acceptance of inequality hardwired into school system policy and operations.

That there is no public outcry over the disparate representation of ethnic / racial minorities in the prison system indicates the dominant group in America carries a mental model that has not only accepted but also normalized such disparity.

## **Building a Nation's Figured World about Mass Incarceration**

Implicit bias, held at the subconscious level, supports racist practices. Teacher implicit bias drove disparate discipline in the form of school exclusion. School dismissal increased the chances that students would encounter the juvenile justice system. Juvenile detention was a driver for contact with the adult penal system. This route was called the school-to-prison-pipeline (STPP). Students from some demographic groups traveled the STPP at higher ratios than did White middle-class students. Overrepresented groups included, as follow:

- all people of color;
- males, particularly Black males;
- people with special education needs;
- people with low socio-economic status;
- people raised by single parents;
- people who had or have an incarcerated parent or grandparent; and / or
- people who experienced significant trauma or who lack behavioral health treatment.

This section of the literature review examines how the STPP developed over time due to a myriad of influences. A brief summary of American history, case law on school integration, political strategies and legislation, especially the zero-tolerance policy, and the growth of private prison services are discussed in the section that follows.

### **American History from Freed Slave to Incarcerated Freeman**

Enslavement of people, an ugly chapter in American history, was thought to end during the Civil War. President Lincoln freed the slaves in the American South to cripple the South's economy by stripping away its labor force (Hannah-Jones, 2019). Lincoln's original intention, once the Civil War was over, was to ship Black people from the United States to another

country, but Black freedmen resisted that deportation of Black people, born in America, with ancestors who died and were buried in America, and who claimed America as their home (Hannah-Jones, 2019). Lincoln proceeded to issue the *Emancipation Proclamation* in September of 1862 which, as we know, ended enslavement in Southern states.

Ironically, the 13th Amendment to the Constitution, which passed in December 1865 by only seven votes, freed enslaved Southerners, yet provided the very language for incarceration of minorities, often of the same ethnic minorities that were formerly enslaved (Library of Congress, n.d.). The 13th Amendment reads, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction” (U. S. Const. amend. XII). Beginning in 1865, newly freed African Americans citizens, without work in a post-war economy with high unemployment, were incarcerated for vagrancy or loitering and sent to prison to provide labor for the post-Civil War South (DuVernay & Averick, 2016). Thus, the argument exists that America’s chapter of enslavement is ongoing, albeit through the subtler tool of incarceration, given the overrepresentation of Black Americans in prisons (Library of Congress, n.d.; Alexander, 2010). Both the disparate imprisonment of people of color and the practice of prison labor continues today (Gruberg, 2015).

**Black citizens stereotyped as criminals.** DuVernay and Averick (2016) stated the script regarding enslaved Black people, particularly Black men, as trustworthy and childlike, changed to dim-witted sexual predator, once freed. Media, including the 1915 blockbuster film *Birth of a Nation*, shaped the new figured world that Black men were evil (DuVernay & Averick, 2016). The negative mental model of Black males persisted from the Civil War to the present with help from the bi-directional relationship identified by Kania, Kramer, and Senge (2018) and Gee

(2014). The mental model, called upon during decision-making, is riddled with implicit bias, and decisions made due to bias teach people how the world should operate when it is working as “normal” or “right”. In short, the imprisonment of people of color at disparate rates created a self-fulfilling prophecy of confirmation bias. News coverage as well as media reports from prisons showed Black Americans incarcerated more frequently than other racial / ethnic groups, thus creating and supporting the stereotype of Black people, particularly Black males, as criminals. Hetey and Eberhardt (2014) found, “...exposing people to extreme racial disparities in the prison population heightened their fear of crime and increased acceptance of the very policies that lead to those disparities. Thus, institutionalized disparities can be self-perpetuating” (p. 1953).

**From freedom to segregation of Black Americans.** While the 13<sup>th</sup> Amendment freed enslaved people, it deeply challenged the figured world of the dominant Southern Whites. From 1880 to 1960, Southern legislators passed “Jim Crow laws” to curtail contact between White people and Black people. Social areas such as water fountains, trains, and schools were segregated by race / ethnicity (Library of Congress, n.d.). While Jim Crow Laws were stricken over-time, the exclusion of minorities from society, particularly the exclusion of Black males, persists, as shown in demographic data on imprisoned adults, detained juveniles, and students dismissed from school (Carpenter, 2008; Dancy II, 2014; DuVernay & Averick, 2016; Losen & Skiba, 2010; Rausch & Skiba, 2005; Stevenson, 2014). In fact, Alexander (2010) stated the current penal system today is the “primary vehicle of racialized social control in the United States”, a living, thriving root of Jim Crow and the period of enslavement.

**Integration of American public schools.** While the school integration case of *Brown vs. Board of Topeka, Kansas* suggests school integration occurred through a single court

decision, case law shows integration came slowly. The glacial pace of integration illustrated the resiliency of the public's figured world regarding slavery and segregation, and, in addition, illustrate how deeply a challenge to the dominant group's figured world is resisted. Thus, *Brown* alone did not integrate public schools; integration took 100 years, and data on school dismissal showed segregation is still occurring.

***100 years of efforts to integrate the public school.*** Prior to World War I, 90% of Black Americans lived in the rural South which had few schools for Black students, and those schools lacked funding for supplies, materials, and teacher salaries, and yielding a very poor education for students of color (Edwards, 2000). For example, in Mississippi, while 57% of school-aged children were Black, Mississippi allocated only 13% of state education aid to Black students (Blitzer, 2017, p. 41). Case law slowly chiseled away at inequality.

*Case law related to integration of the public school.* In 1896, in *Plessy v. Ferguson*, the Supreme Court determined rail cars must be separate and equal for Black people, a case which brought hope for school equality (Edwards, 2000). Then, in 1899, integration advocates were thwarted in *Cumming v. Richmond County Board of Education* when the Supreme Court permitted the Augusta, Georgia school board to contain costs by closing its high school for Black students while keeping open its high school for White students (Edwards, 2000).

For 50 years after *Cummings*, courts heard segregation cases. Notable college education cases created case law for K-12 educational challenges, as follow:

- 1908 *Berea College v. Kentucky*: a private college was prohibited from integrating classes;
- 1927 *Gong Lum v. Rice*: a Chinese-American student was not allowed to attend White children's school;

- 1938 *Gaines v. Canada*: found there must be equality in law school programs between programs for Black students and those for White students;
- 1948 *Sipuel v. Board of Regents of the University of Oklahoma*: A Black student was allowed to attend a White law school since the law program for Black students was “unconstitutionally inferior; and
- 1950 *Sweatt v. Painter*: a Texas law school was ordered to educate a Black student because the Black law school was inferior (Edwards, 2000).

*Brown v. Board of Education, 1954.* The 1954 Supreme Court concluded in *Brown v. Board of Education* that “. . . in the field of public education the doctrine of ‘separate but equal’ has no place; separate educational facilities are inherently unequal” (Alexander, 2010; Edwards, 2000). The Supreme Court’s decision challenged the figured world of segregationists so deeply that violent civil unrest followed, including the hanging of Emmet Till, a 14-year-old African American boy accused of whistling at a White woman (Library of Congress, n.d.). In response to Till’s murder, many African Americans and Civil Rights supporters participated non-violent acts of civil disobedience such as the *Montgomery Bus Boycott*, sit-ins at lunch counters, and the 1961 *Freedom Rides*, where Black Americans refused to follow segregation rules (Alexander, 2010; Library of Congress, n.d.).

*The Southern Manifesto of 1956.* Southern Democrats fiercely objected to the decision in *Brown*. Nineteen Southern senators and 77 congressional representatives from the Democrat party signed the *Southern Manifesto*, which declared judicial overreach in the Supreme Court’s decision in *Brown* (Congressional Record Service, 1956). The *Southern Manifesto* stated the *Brown* decision deprived parents of the right to make education decisions for their children and

the *Manifesto* encouraged states to resist forced integration “by any lawful means” (Congressional Record Service, 1956). Means both lawful and unlawful followed.

In 1957, National Guard troops were dispatched to Central High School in Little Rock, Arkansas to enforce the law which permitted Black students to attend high school with their White peers (Edwards, 2000). Eventually, schools integrated voluntarily when financially incentivized in the *Elementary and Secondary Education Act*.

### **Political Strategies and Legislation**

Politicians began to leverage America’s civic unrest to attract voters by promising legislation that would keep America safe. Once elected, increases in adult incarceration, juvenile detention, and disciplinary-based school dismissal followed, with data from all three systems showing overrepresentation of some groups of Americans and not others. The following section of the literature review discusses the eras of Presidents Johnson, Nixon, Reagan, and Clinton, focusing on their political agendas, legislation, and the impact of that legislation on mass incarceration. The discussion shows how each President’s platform shaped and was shaped by America’s figured world.

From the 1960s to today, politicians took advantage of and perhaps even contributed to White America’s stereotypes of people of color and fears about Black males. Presidential candidates promoted public safety in campaigns and then delivered on legislation that helped drive a massive increase in prison populations over the four decades that followed (Alexander, 2010; DuVernay & Averick, 2016; The Sentencing Project, 2014; Stevenson, 2014). Specific events from contemporary history clarify how the dominant group’s mental model regarding Black males fueled legislation which increased incarceration of Black males, which, in turn, served to reinforce mental models of Black males as dangerous.

**LBJ's War on Poverty.** Vice President Lyndon Johnson, who became president upon Kennedy's death, signed The Civil Rights Act of 1964, which prohibited discrimination in "the workplace, public accommodations, public facilities, and agencies receiving public funds" (Alexander, 2010; Library of Congress, n.d.). The *Civil Rights Act* challenged the figured world of segregationists much like *Brown* had 10 years earlier, only the workplace, not the school, was the focus of forced integration. The Johnson Administration chipped away at the segregationists figured world by framing civil rights as economic equality for all, a "War on Poverty". Demonstrations and unrest continued. Politicians in both the Republican and Democrat parties took advantage of a polarized American populace to expand their political bases.

**Nixon's Southern Strategy.** Republican presidential candidate Richard Nixon and his team developed the *Southern Strategy* with a platform of "drugs as public enemy #1" to attract voters from the demographic groups, as follow: Southerners with separatist preferences, those who had low socio-economic status, half the Catholic blue-collar voters, and the traditional Republican base (Alexander, 2010; Dancy II, 2014; DuVernay & Averick, 2016; Stevenson, 2014; The Schott Foundation for Public Education, 2015). Alexander (2010) reports Ehrlichman, special counsel to President Nixon, professed the strategy was designed to attract ". . . the racists" (p. 44).

Media assisted the spread of Nixon's "Drugs as public enemy #1" message, and thus, media helped define the figured world held by many Americans where hippies as marijuana users and poor people of color as heroin users (DuVernay & Averick, 2016).

Television news reinforced stereotypes of Black men as drug criminals. Alexander (2010), DuVernay and Averick (2016), and Turkot (2013) pointed out many Black communities were first supportive of "get tough" crime legislation, fearing drugs and murder in their own



neighborhoods. However, Alexander (2010) reports, "...Black communities imploded, familial relationships and patterns of support unraveled, and the result was shame and self-hate". Later, Democrats adopted a similar "get tough on crime" platform. Incarceration increased dramatically for Black men. In addition, society's figured world shifted from addiction as a public health issue to a criminal issue. There it remains today.

**Reagan's War on Drugs.** President Reagan further capitalized on American's new figured world regarding recreational drugs as "public enemy #1" (Alexander, 2010; DuVernay & Averick, 2016). Prior to the Regan era, less than 2% of Americans reported illegal drugs as a major concern, yet by 1989, that percentage increased to 68 (Alexander, 2010). Alexander (2010) states the *War on Drugs* preceded the entry of crack cocaine into poor neighborhoods, and that, much like the Southern Strategy, the *War on Drugs*, was designed to grow support for the Republican political base, a strategy later replicated by Democrat hopeful Bill Clinton.

Reagan's *War on Drugs* helped to re-elect him and seed the growth for mass incarceration. In 1980, 41,000 people were in prison for drug offenses compared to a half-million by 2014 (Stevenson, 2014, p. 15). A comparison of alcohol and illegal drugs helps show the impact of a society's figured world. During this same time span (1980 to 2014), America had 100,000 alcohol-related deaths and 22,000 drunk driving deaths, yet the number of all "drug-related deaths due to AIDs, drug overdose, or the violence associated with the illegal drug trade, was estimated at 21,000" (Alexander, 2010). Still, Americans maintained a social truth that alcohol was not a drug and that street drugs were more dangerous than alcohol.

Alexander (2010) explained the US was not then and is not now awash in violent crime, but that, "Convictions for drug offenses is the single most important cause of the explosion in incarceration rates in the United States." The increase in incarceration for drug felonies during

the Reagan administration was due in part the *Just Say No* initiative as well as a three-fold federal increase in spending for drug enforcement efforts, funded by reducing allocations for white collar crime and transferring funds to street crime (Alexander, 2010; DuVernay & Averick, 2016; Stevenson, 2014).

The impact of the *War on Drugs* cannot be understated. Alexander (2010) reports because of the *War on Drugs*:

- Incarceration increased by 1,100% from 1980;
- between 1985 and 2000, drug convictions accounted for 66% of the increase in federal inmate population and more than 50% in the state inmate population;
- drug arrests have tripled since 1980, with 31 million people arrested since the *War on Drugs* began;
- today more people are incarcerated for drug offenses than were incarcerated for all reasons in 1980;
- 80% of drug arrests are for possession and 20% for sales, not for drug kingpins; and
- 80% of growth in drug arrests in the 1990s were for marijuana (page 74).

President Reagan's *War on Drugs* was not just a slogan but had components of a real war. The *War on Drugs* was financed through reallocation of federal funds to state law enforcement as well as through sharing of SWAT paramilitary equipment through the Military Cooperation with Law Enforcement Act (MCLE) (Alexander, 2010). The MCLE, which encouraged the military to allow local, state, and federal law entities access to intelligence, weapons, and equipment for use in drug raids, increased SWAT activity in impoverished Black neighborhoods (Alexander, 2010). For example, in 1972, the US had few paramilitary drug raids annually, yet by 1980, 3,000 raids per year took place, jumping to 30,000 by 1996, and 40,000

by 2000 (Alexander, 2010). The city of Minneapolis serves as a case in point. In 1986, Minneapolis had 35 “no knock warrants” and SWAT home invasions, yet, ten years later, by 1996, the city saw 700 SWAT home invasions, primarily in neighborhoods of color and poverty (Alexander, 2010). Finally, the federal government tied funding to anti-drug policing, the same way Federal Title monies were tied to school districts’ adoption of zero-tolerance policies. In addition to receiving federal funds, state and local law enforcement could keep cash and assets such as cars and homes related to probable cause drug investigations, creating new revenue streams (Alexander, 2010). For example, between 1988 and 1992, drug task forces seized and kept one billion in private assets (Alexander, 2010).

*Disparate outcomes from the War on Drugs.* Alexander (2010) reported, “Although the majority of illegal drug users and dealers nationwide are white, three-fourths of all people imprisoned for drug offenses have been black or Latino”. Mandatory sentencing laws determine sentencing limits for crimes, a power that once belonged to judges. Black Americans were three times more likely to receive sentences for drug felonies than their White counterparts, due in part to curious sentencing laws for derivatives of the same drug (Morsy & Rothstein, 2016). For example, “crack”, a cheap derivative of cocaine more likely to be used by people with low socio-economic status, was assigned penalties 100 times stiffer than penalties for the same amount of pure cocaine, a drug more likely to be used by affluent people (Alexander, 2010; DuVernay & Averick, 2016; Morsy & Rothstein, 2016; NAACP, 2017; Stevenson, 2014). Of the people sentenced for crack cocaine, 80% were Black and living in poverty, yet 67% of cocaine users were White or Hispanic (DuVernay & Averick, 2016; NAACP, 2017; Stevenson, 2014). Because of such sentencing laws, the prison population grew disparately for Black males, and media often covered arrests and showed footage of Black prisoners (DuVernay & Averick,

2016). A mental model regarding Black men as drug criminals developed and was further reinforced through the media.

**Clinton era legislation.** Democrats, in effort to increase political support, delivered incarceration-generating legislation of their own. Several bills introduced and signed into law during President Clinton's administration significantly increased incarceration rates as well as the overrepresentation of minoritized Americans, and, further, resulted in prison overcrowding.

In 1994, Clinton signed the *Truth in Sentencing* legislation which mandated 85% of sentences be served, regardless of whether the inmate was still deemed a threat to society (DuVernay & Averick, 2016; Stevenson, 2014). Thus, fewer people concluded their prison sentences at the same time as incarceration was on the rise. In addition, President Clinton signed *Three Strikes and You're Out* which mandated life imprisonment for anyone convicted of a third felony, regardless of case-specific information (DuVernay & Averick, 2016; Stevenson, 2014; Wagner & Rabuy, 2016, para. 6). A natural outcome of legislation that increased incarceration, decreased release, and mandated life-imprisonment was prison overcrowding and the need for more and then more prison beds.

**Clinton's war on welfare.** Incarceration of a former parental breadwinner increased familial poverty. Once released with felony status, the former prisoner found it difficult to secure employment at a living wage. More than half of incarcerated adults provided the family's income prior to being imprisoned (Morsy & Rothstein, 2016). Thirty years ago, social welfare programs assisted people in times of need. However, under the Clinton Administration, social welfare programs changed from *Aid to Families with Dependent Children* into *Temporary Assistance to Needy Families* (TANF) (Alexander, 2010). TANF has a five-year lifetime limit, and further, cannot be accessed by anyone with a felony drug conviction (Alexander, 2010).

Stevenson (2014) explained that 75% to 80% of incarcerated women are mothers of young children. Once released from prison, young mothers with a felony, and by proxy, their children, were not able to access public housing, food stamps, or basic services (Stevenson, 2014, p. 237).

Children of incarcerated parents are most often racial / ethnic minorities. Black children were 7.5 times more likely to have an incarcerated parent than White children; in fact, 1/4 of America's Black children under 14 years of age have a parent behind bars (DeNisco, 2016, p. 1). Thus, criminalization of welfare resulted in a vicious cycle of incarceration and perpetual poverty, particularly for Black people. So impactful is poverty caused by incarceration that it limits life outcomes not only for children of those imprisoned but also for grandchildren of those imprisoned (Morsy & Rothstein, 2016). Alexander (2010) referred to the generational impact of incarceration as the new caste system, a form of "legalized discrimination and permanent social exclusion" (p. 13). The pattern illustrated by Alexander (2010) supported the birth-to-prison helix theory. Furthermore, the pattern of social exclusion built a figured world about Black children's unworthiness when it comes to the political good of school.

***Clinton's criminalization of undocumented people, 1996 to the present.*** President Clinton signed *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* into law, influencing the figured world of Americans regarding undocumented people in the US. Undocumented people become the next new criminalized group. Paradoxically, though the actual number of undocumented people in the US remained static, both the number of undocumented immigrants and detention rates for the undocumented increased. This paradox lies in the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, which expanded the definition of deportable immigrants subject to mandatory detention (Gruberg, 2015). That is, immigrants not subject to deportation prior to the *Illegal Immigration Reform*

*and Immigrant Responsibility Act of 1996* were deportable after its adoption, and thus, became detainable. As a result, privatized immigration detention became a profitable and growing business for for-profit detention centers.

The number of federal contracts with for-profit detention centers increased following passage of *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, even though immigration detainees were seldom violent or flight risks (Gruberg, 2015). From 1994 to 2011, the US saw a 457% increase in immigrant detention, again despite the overall number of undocumented people remaining flat (Shapiro, 2011, p. 17). In the two-year period from 1996 to 1998, the demand for beds for immigration detainees nearly doubled, from 8,279 in 1996 to 14,000 by 1998 and continued to climb to 35,000 beds by 2015 (Gruberg, 2015). The need for more beds opened the door to private detention centers to provide them. The percentage of undocumented people housed in for-profit detention centers rather than in federal or state detention centers increased as well, from 49% in 2011 to 62% by 2015 (Shapiro, 2011, p. 17; Gruberg, 2015).

Expanding the definition of “illegal immigrant” proved expensive to taxpayers and lucrative to private detention providers. In 2015, the federal government contracted with for-profit private prisons such as the Core-Civic (CC) at \$11 million per month to detain undocumented people (DuVernay & Averick, 2016). CC was a member of the American Legislative Exchange Council, ALEC, who helped draft the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (Cohen, 2015; Gruberg, 2015). By 2015, nine of the 10 largest immigration detention centers were private, for-profit prison corporations (Gruberg, 2015).

*Clinton, zero-tolerance, and the STTP.* A red thread ran from federal legislation to school discipline policy. Zero-tolerance clauses in school discipline policies resulted in entry of some student groups into the STPP and not others. Researchers (Dancy II, 2014; DuVernay & Averick, 2016; Losen & Skiba, 2010; Padres & Jovenes Unidos and Advancement Project, 2004; Rumberger & Losen, 2016; Stevenson, 2014; Wolf & Kupchick, 2016) found two federal laws, the *Violent Crime Control and Enforcement Act of 1994* and the *Gun-Free Zone Act of 1994*, significant to construction of the STPP. Both laws enmeshed police, surveillance cameras, metal detectors, locker searches, and drug dogs into public schools with permanence.

*Violent Crime Control and Enforcement Act of 1994.* Prior to the *Violent Crime Control and Enforcement Act of 1994*, law enforcement and schools operated in relatively separate spheres. However, President Clinton's \$30 billion *Violent Crime Control and Enforcement Act of 1994* provided funding for community-based policing in the form of school resource officers (Wolf & Kupchick, 2016, p. 3). Today, two generations of American schoolchildren do not know school when it did not include law enforcement. Thus, the presence of law enforcement in school has become normalized.

*Gun-Free Zone Act of 1994 and Zero-Tolerance Policies.* The Federal *Gun-Free Zone Act of 1994* demanded that states require local school boards to expel for a least a year a student who brought a firearm to school, and further, to refer the student to the criminal justice system for the firearm or for bringing a weapon to school, regardless criminal intent (American Academy of Pediatrics Committee on School Health, 2003; Wolf & Kupchick, 2016). Federal Title funds help poor children achieve in school. States who failed to pass zero-tolerance legislation and school boards who failed to enforce the state's zero-tolerance law stood to lose Federal Title funds (U.S. Department of Education).

School's zero-tolerance policies (ZTP) and the surveillance that came along had detrimental effects on students; however, the school resource officer was linked to lower rates of drug use, crime, and victimization (Wolf and Kupchick, 2010, p. 24). That said, the ZTP accelerated school dismissal, which by turn, accelerated student entry into the juvenile justice system, a step accelerating progression to the adult prison system (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014).

Because of the financial incentive in the *Gun-Free Zone Act of 1994*, between 79% and 94% of schools adopted ZTPs, which list predetermined consequences for student misbehavior, regardless of the context or extenuating circumstances (Council on School Health, 2003, p. 1206; Skiba et al., 2008). For example, a student who hunted waterfowl before school and had a shotgun in the vehicle on school grounds must be expelled under zero-tolerance. The predetermined consequences in ZTP are like the Mandatory Minimum Sentencing legislation that stripped judges of decision-making power. Under ZTP, a principal lost the ability to apply common sense decision making to an issue. However, some schools extended ZTP well beyond weapons infractions to include drug offenses, fighting, and even student dress code violations (Forsyth et al., 2013, p. 2; Wolf & Kupchick, 2016, p. 3).

Expansion of zero-tolerance beyond weapons infractions increased disciplinary-based school dismissal at disparate rates. Under ZTP, suspension of Black students increased by 9-points, from 6% in 1973 to 15% in 2006 (Losen & Skiba, 2010, p. 3). Skiba (2002) stated that the consistent statistical patterns of disparity in suspension and expulsion rates between Black and White students indicated systemic and prevalent bias in the application of school discipline decisions (p. 338). *Padres & Jovenes Unidos and Advancement Project (2004)* agreed,



describing zero-tolerance as a “...sliding scale of tolerance largely determined by the race of students, though class and gender also played significant roles” (p. 8).

ZTPs, now more than 20 years old, show no evidence that dismissing students from school improved overall student behavior, school safety, or the academic environment (Skiba et al., 2008; Forsyth et al., 2013; Losen & Skiba, 2010). In fact, Martin and Bradshaw’s (2013) study of over 1900 students showed an inverse relationship between student exclusion and achievement, and further, noted that increased dismissal from the classroom was associated with an increase in disruptive behaviors in general. In addition, no evidence existed that ZTPs made school discipline more consistent across school districts (Skiba et al., 2008, p. 854). In fact, Rumberger and Losen (2016) stated the single strongest predictor of high suspension rates as well as large racial disparities in school exclusion was some principal’s preferences for harsh discipline (p. 6).

Finally, the largest concern with ZTP was that youth excluded from school were more likely to enter the juvenile justice system than were students who remained in school. Suspension, exclusion, and expulsion removed youth from the protective factor of school (Dancy II, 2014, p. 476; Wolf & Kupchick, 2016, p. 2). Given that youth of color experienced disciplinary-based school dismissal at disparate rates, youth of color funneled into the juvenile justice system at disparate rates (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014, p. 1111). In support of Critical Race Theory, Lawson (2017) found once youth were in the juvenile justice system, disparity flattened, reaffirming that the origin of disparity was likely at the school level, a result of implicit bias of the teacher.

*Super-predator Theory, 1995.* ZTP and the super-predatory theory originated at about the same time. The super-predator theory negatively influenced America’s figured world

regarding Black male youth. Princeton University professor John DiIulio convinced President Clinton, the media, and the public that gangs of “fatherless, Godless, and jobless” Black teen-aged super-predators would flood the streets by 2000 (Howell, 2009, p. 2-6). Furthermore, these “Black youth would create a “bloodbath” because they had “... absolutely no respect for human life and no sense of the future” but wished only to “... murder, assault, rob, burglarize, deal deadly drugs, join gun-toting gangs” (Howell, 2009, p. 2-6). So strong and pervasive was the fear generated by Dilulio that some states charged out Black children as young as eight as adults (Stevenson, 2014, p. 159).

Eventually, the super-predator myth was debunked due to the inverse relationship between declining juvenile crime and increasing numbers of teens, and Professor Dilulio recanted and apologized for his theory (Stevenson, 2014, p. 160). However, Dilulio’s prophecy of predatory adolescent behavior, specifically Black male adolescent behavior, shaped mental models of decision makers on many levels. Furthermore, Dilulio’s negative figured world influenced law and policy for youth. For example, Howell (2009) noted that while there was a one in two million chance that a child would die in a school, over 71% of respondents of a 1998 public poll reported believing a school shooting was likely to happen in their community (p. 8). The Columbine school rampage murders further cemented this belief in the minds of many.

*Rampage Shooting at Columbine High School, April 20, 1999.* Eric Harris and Dylan Klebold killed 15 people (counting themselves) and wounded an additional 24 students and staff at Columbine High School on April 20, 1999 (Gladwell, 2015, p. 38-40). Media coverage generated fear in parents, administrators, and school boards. The Columbine rampage built ground-swell support for zero-tolerance policies across the nation. Disciplinary-based school dismissal sharply increased as a result, as did the use of profiling, despite that profiling proved

unreliable in predicting who was likely to commit violent acts and tended to over-identify students from minority populations as potentially dangerous (Skiba et al., 2008, p. 854-855). Paradoxically, while most school shooters are traumatized, psychotic, or psychopathic White youth, data shows youth of color are more likely to be dismissed from school (Gladwell, 2015; Langman, 2008, p. 81).

In summary, two pieces of legislation helped build a school-to-prison pipeline in a few decades. One law, the *Violent Crime Control and Enforcement Act of 1994*, brought police into schools, a sign that adolescent behavior must be monitored for criminal tendencies. Therefore, challenging adolescent behaviors, and even some typical rite-of-passage behaviors, once seen as the part of the process of maturation, began to be seen as pre-criminal or criminal. Second, the *Gun-Free Zone Act of 1994* and the ZTP attached to it not only took away principal's case-based discretion through forced dismissal of students from school, but also, had no limits. Thus, some schools expanded the ZTP well beyond violent behavior to include other behaviors such as dress and speech. A pathway from school to the justice system resulted. America's figured world regarding adolescent behavior changed in a deep and negative way which proved particularly punishing to Black males.

### **Privatization of Prison and Profit Motives**

The Federal government, unable to keep up with public sector efforts to respond to mass incarceration, began contracting for beds with the private prison industry, despite that the US has 102 federal prisons, 1,719 state prisons, 3,283 local jails, 79 Indian Country jails, prisons in US territories, as well as military prisons, immigration detention facilities, civil commitment centers, and 942 juvenile detention centers (Wagner & Ruby, 2016). In addition, the US monitors an additional six million people on parole or probation, sentenced to wear ankle bracelets, or under

GPS monitoring or home surveillance (Stevenson, 2014, p. 15; The Sentencing Project, 2014, p. 2). And still, the US ran short of places to house the incarcerated. Imprisonment fast became an expanded business opportunity for the private sector.

**For-profit prison businesses and mass incarceration.** Several private, for-profit businesses contract for services with the federal and state government for the growing prison population. Federal and state taxpayers bear the expense of mass incarceration. Expenditures on mass incarceration increased nearly 12-fold in 34 years, from 6.7 billion in 1980 to nearly 80 billion by 2014 (Dancy II, 2014; DuVernay & Averick, 2016; Gruberg, 2015; Hetey & Eberhardt, 2014; NAACP, 2017; Stevenson, 2014).

Allocation of tax revenue for prison growth left fewer funds for other public services. Stevenson (2014) explained as follow:

Private prison builders and prison service companies have spent millions of dollars to persuade state and local governments to create new crimes, impose harsher sentences, and keep more people locked up so that they can earn more profits. Private profit has corrupted incentives to improve public safety, reduce the costs of mass incarceration, and most significantly, promote rehabilitation of the incarcerated. State governments have been forced to shift funds from public services, education, health, and welfare to pay for incarceration, and they now face an unprecedented economic crisis as a result (Stevenson, 2014, p. 16).

**For-profit prison businesses and lobbying.** Logic says there must be a strong relationship between mass incarceration and rising crime rates, but that is not the case. The massive growth in incarceration is attributed not to a phenomenal increase in crime but rather to changes in the sentencing laws (The Sentencing Project, 2014, p. 2). Legislators bring forth

legislation to be voted on by Congress and signed by the President. While an assumption may be made that legislators or their staff write draft legislation in response to citizen demand, the process is not always as clean as it first appears. For-profit prison related businesses have influenced legislation that increased rates of incarceration.

***American Legislative Exchange Council.*** Some legislators receive drafts for proposed legislation from the American Legislative Exchange Council (ALEC). ALEC, defined as a private club of business leaders, state and federal legislators, and public policy experts, designs legislation specifically to financially benefit their share-holding business members. In the case of for-profit prison businesses, ALEC works to maintain and increase the number of consumers of prison services, namely, prisoners (Nichols, 2011, p. 1; DuVernay & Averick, 2016).

ALEC shares responsibility for several laws, as follow (the list is not exhaustive): *Stand Your Ground; Three Strikes and You're Out; Stop and Frisk; Immigration Reform and Immigrant Responsibility Act of 1996; and Mandatory Minimum Sentencing* (DuVernay & Averick, 2016; Stevenson, 2014). Each of these laws have at least three significant commonalities, as follow: 1) each law limits a judge's ability to make case-specific decisions, 2) each law increases the number of people in prisons, and 3) each law increases profits of for-profit private prison businesses who provided prison laborers for JC Penney, Victoria's Secret, Idaho potatoes, and others (DuVernay & Averick, 2016; Stevenson, 2014). Additional corporations earned profit from what have been called out as inflated costs for services such as health care or tele-communications (Gusovsky, 2014). For example, in 2013, JPay Inc., a digital consumer software application company supplying electronic money transfers, email services, and video visitation services generated \$500 million in revenue from 1.7 million prison residents across 1,200 facilities in 32 states (Gusovsky, 2014). JPay CEO Ryan Shapiro reports that cash

strapped government agencies received a portion of every fee-for-service paid by the incarcerated person's family, at rates the Center for Public Integrity described as excessive and a financial burden to families (Gusovsky, 2014).

A strong demand for correctional facilities of all types opened the door to the for-profit prison industry to house the growing number of prison residents (Cohen, 2015; Gruberg, 2015). GEO Group and Corporate Corrections of America, now known as Core-Civic, are two of the largest US for-profit corrections providers, and both are known ALEC members, though ALEC's membership has been strictly kept out of public view (Cohen, 2015; Gruberg, 2015). Federal contracts accounted for much of Core-Civic and GEO Group's revenue. For example, in 2005, federal contracts made up 39% of Core-Civic's \$466.8 million revenue, and by 2010, that percentage increased to 43% of \$724.2 million revenue (Gruberg, 2015). GEO Group's numbers were similar. By 2005, 27% of GEO Group's revenues derived from federal contracts. By 2015, for-profit prison corporations such GEO Group and Core-Civic earned \$3.3 billion from federal contracts (Cohen, 2015).

Ensuring a consistent consumer base is important for fiscal health of any business. A three-pronged business model assisted for-profit prison corporations in securing legislation aimed to increase incarceration, as follows: 1) lobbying, 2) making campaign contributions to candidates who support or carry legislation to increase incarceration, and 3) relationship / network development (Cohen, 2015). Core-Civic and GEO Group spent \$22 million from 2006 to 2015 on lobbying for expansion of immigrant detention. In 2005, GEO Group earned \$33.6 million for immigrant detention; by 2010, earnings increased to \$216 million (Gruberg, 2015).

Federal government contracts may attract for-profit prisons partly because of guarantees within them, as follow: Federal contracts guarantee Core-Civic and GEO Group a 90%

occupancy rate, three Arizona for-profit prison contracts included a 100% occupancy rate, and Congress itself required Immigration and Custom Enforcement (ICE) to detain a minimum of 34,000 people per day to fill immigration detention beds (Cohen, 2015). In summary, Federal contracts with for-profit prison corporations sought to fill quotas.

Increased incarceration was significant to the bottom line, as shown in Core-Civic's 2010 and 2014 *Annual Report*, submitted to the Securities and Exchange Commission (Cohen, 2015). The following were listed as risks to for-profit prisons: 1) relaxation in enforcement efforts; 2) leniency in conviction or parole standards; 3) redefinition of criminalization; and / or 4) changes to definitions of illegal drugs or illegal immigrants which might decrease the number of persons arrested, convicted, and sentenced (Shapiro, 2011, p. 12; Cohen, 2015, para. 4-5). In short, for-profit prison businesses such as Core-Civic and GEO Group benefited financially and substantially through the ALEC's successful promotion of pro-incarceration legislation. As a group, Black males suffered disparate incarceration and associated negative life outcomes.

### **Conclusion**

America's figured world regarding mass incarceration normalized imprisonment of some demographic groups and not others. The figured world was built through numerous, interacting factors. One factor was teacher implicit bias, which selected some student groups and not others out of the classroom to the principal's office, and from there, out of school and into the juvenile justice system (Losen & Skiba, 2010). In addition, socio-political forces that helped support a status-quo response to American mass incarceration with its overrepresentation of minoritized people included American history, case law on school integration, political strategies, and legislation, including the zero-tolerance policy, and the growth of private prisons and related services (Stevenson, Dancy II, 2014; DuVernay & Averick, 2016; Gruberg, 2015; Cohen, 2015).

Critical Race Theory (CRT), the theoretical perspective used in this study, stated practices that support institutional racism provide a function in American society (Delgado & Stefancic, 2001). CRT suggested an arrow can be drawn from overrepresentation of some student groups in school dismissal to a similar pattern of overrepresentation of similar groups in the justice system to the adult prison system. Further, discrimination was normalized into the figured world of the dominant group, allowing a select demographic of students to continue year after year into the STPP and BTPH, reinscribing implicit bias, based on the stereotypes of those worthy of schooling and those worthy of being dismissed from school and society. The dominant group, consciously or unconsciously, held possessive investment in a figured world from which they stood to benefit at the suffering of the less dominant groups.



## CHAPTER 3. METHODOLOGY

### Research Plan

This dissertation of practice used Critical Discourse Analysis, as described by Gee (2011, 2014) to study *Model Policy 506, Student Discipline*, a 20-page model policy created by the Minnesota School Board Association and the Minnesota Association of School Administrators (MSBA, 2019).

### Statement of Purpose

The intent of this study was to bring to light any relationship between teacher bias and model school discipline policy and to recognize an opportunity to interrupt that bi-directional relationship, where the figured world in policy acts to reinscribe biased discipline decisions. This study sought to expose whether *Model Policy 506, School Discipline (Policy 506)* reinscribed implicit bias, the driver behind disparate discipline practices, knowing the school-to-prison pipeline may be interrupted by improved model discipline policy.

**Historical background of the school-to-prison pipeline.** The school-to-prison-pipeline (STPP) is a well-known, intractable social issue. The STPP, rooted in enslavement of minoritized people and built over time, originated at the classroom level (Losen & Skiba, 2010; Stevenson, 2014; Dancy II, 2014; DuVernay & Averick, 2016). Upon emancipation, White Americans' figured world of the harmless Black enslaved person, particularly the figured world of Black men, morphed into that of the freed Black man as sinister and needing to be controlled (DuVernay & Averick, 2016; Alexander, 2010). Civil rights activists fought for civil rights for people of color for nearly 100 years (Library of Congress, n.d.). Meanwhile, political parties found utility in the dominant group's negative mental model of the freed Black male to expand their political bases, just as for-profit prison businesses lobbied for legislation that would expand

their revenue streams (Stevenson, 2014; Alexander, 2010; Gruberg, 2015). Over time, legislation helped create overrepresentation of minoritized people, particularly Black males, in school dismissal, juvenile detention, and prison data, illustrating that the STPP was a tool of modern segregation (US Department of Education, 2014; Dancy II, 2014; Alexander, 2010). In short, complex social issues, of which the STPP is one, are held in place by a myriad of forces, clearly including the figured world of the dominant group (Kansai, Kraemer, & Senge, 2018).

### **Design of the Study**

This dissertation of practice was a qualitative study, employing the social science perspective of Critical Discourse Analysis (CDA). Both general discourse analysis and Critical Discourse Analysis (CDA) are social science research theoretical perspectives on the study of language. However, CDA, unlike general discourse analysis, focuses on how language feeds domination or the abuse of power within social issues (van Dijk, 2001; Fairclough, 2001). That is, Critical Discourse Analysis, in examining the figured world presented within a piece of discourse, seeks to expose the why behind the author's or speaker's construction of a particular figured world or social truth. CDA seeks to discern what the individual creating the discourse gains from the social truth presented in the discourse.

Exposing whether discourse serves to advantage one group more than another is important for it suggests that what is presented as an immutable social truth is only one group's preferred reality. If the social truth presented in the discourse is really nothing more than a construction of how the world is supposed to work when it is working to benefit one group over another, then discourse can be rewritten. That is, a new social truth can be written into policy language. A new social truth in policy premised on a more equitable figured world would better

serve all, and particularly those who being disadvantaged by the current figured world within the policy.

**Critical Discourse Analysis.** Critical discourse analysts recognize that language is far more than words that inform the reader or listener. Rather, language is a way to “say, do, and be” (Gee, 2014). That is, in addition to informing the reader or listener on a topic such as school discipline, policy language is rich with rules or activities (“do”), wherein the ability to know and follow rules defines the in-group (winners) and the out-group (losers) (Gee, 2014). The out-group stands to lose social goods, such as the right to be schooled in the public setting. Further, language sets up identities for the reader or listener. Language of policy, then, guides the reader to three understandings, as follow: 1) the reader is given information on expectations for proper student behavior (the “say”); 2) the reader is told the consequences for violating discipline rules (the “do”), and, 3) the reader is told whom ultimately holds decision-making power about sanctions and about changes to the policy (the “be”).

The social science perspective of CDA attempts to call out how dominance, power, control, and discrimination are being structured or being built by language in context. Teun van Dijk (2001) explained that real world problems need a “... historical, cultural, socio-economical, philosophical, logical or neurological approach” which Critical Discourse Analysis offers. Further, van Dijk (2001) and Wodak (2001) explained that CDA has a mission situated in ethics, which is to expose if and how discourse violates human rights and then to act on that knowledge to improve conditions for those who suffer. A Critical Discourse Analysis of *Policy 506* sought to assist in interrupting a relationship between implicit bias driving teacher discipline decisions and discipline policy.

***CDA and Critical Race Theory.*** Critical Race Theory (CRT) suggested policy provides a function in American society: to enhance the power of the dominant group by normalizing discriminatory practices (Delgado & Stefancic, 2001). Critical Race Theorists stated while the dominant group may not be conscious of their mental models or the harm caused by them, those groups with less power and prestige are well aware of the harm caused by the mental models of the dominant group (Delgado & Stefancic, 2001.) This school of thought aligned with van Dijk (2001) who felt a moral imperative to expose the harm discourse has on a less powerful group. However, Critical Race Theory (CRT) suggested the dominant group, who benefits financially and psychologically from complex social problems such as the school-to-prison pipeline / birth-to-prison-helix, has little motivation to ameliorate the suffering of the less powerful group. In fact, the dominant group may not even recognize the problem as a problem, or if the problem is seen and named, the dominant group may blame the less powerful for not fixing their problem, or the dominant group may see the issue as so complex as to be crippling (Kania, Kramer, & Senge, 2018).

Social scientists versed in either Critical Race Theory or Critical Discourse Analysis clearly agree that acting to improve life outcomes for groups who suffer is not optional; action is required (van Dijk, 2001; Gee, 2014; Delgado & Stefancic, 2001; Ledesma and Calderón, 2015). That is, once one is made aware of suffering, one is socially responsible to act to alleviate that suffering.

***Considering metaphorical concepts.*** Lakoff and Johnson (2003) elaborated on the idea of the figured world. They stated human thinking, both produced and governed by metaphorical concepts stored in the human subconscious, govern thought, action, and language. That is to say, the storehouse of metaphors (the “the understanding one kind of thing in terms of another”) gives

structure to a thing, drives the activities taken in regard to that thing, and shapes the language used to describe that thing (Lakoff & Johnson, 2003). Metaphorical concepts do not sit in random piles on the storehouse shelves, but rather, are organized systematically. Therefore, a Critical Discourse Analysis helps expose the metaphorical conceptual system undergirding thought, action, and language regarding that thing.

*Metaphorical entailments.* In addition to revealing the main metaphor, the discourse analysis may reveal sub-categories of conceptual understanding, called metaphorical entailments. Together, the main metaphorical concept and the metaphorical entailments shape the metaphorical expressions or language used (Lakoff and Johnson, 2003). Therefore, language is the window to the storehouse of metaphors. That means whoever has the social power to construct and organize metaphorical understandings also has the power to drive very organized systems of actions, thoughts, and language about the thing. Readers and listeners may adopt the system of thinking into their own subconscious storehouses without even realizing it. Therefore, a dominant entity, who crafts policy language also holds the power to structure and control not only policy discourse but also group members' figured worlds. A dominant entity who controls policy language can control challenges to that language. That is to say, policy discourse maybe be a tool of domination if it indexes power, stores the concept of that power in metaphorical concepts, and expresses those concepts in a manner which perpetuates the power one entity holds over others, while not allowing for an equitable opportunity for those with less power to make challenges (Wodak, 2001).

### **Research Questions**

The research questions in this study were addressed through a Critical Discourse Analysis, one which primarily employs the tools within Gee's (2011; 2014) framework, though

this study is influenced by the work of other discourse analysts. Gee's (2011, 2014) framework, particularly the figured world tool, was used to illuminate what seven building tasks are accomplishing within model policy.

Specifically, two questions were addressed in this study, as follow:

- 1) What will the figured world tool of inquiry illuminate about the work that the seven building tasks are accomplishing in *Model Policy 506, School Discipline; and*
- 2) What discourses are instantiated in *Model Policy 506, School Discipline?*

### **Selection of Data Source**

This data source selected for this study was the Minnesota School Board Association (MSBA) / Minnesota Association of School Administrators' (MASA) *Model Policy 506, Student Discipline*. MSBA's website stated, "Most school districts do not have the time and personnel to develop a comprehensive policy manual. In addition, school districts would require substantial legal assistance to develop policies on their own" (MSBA, 2019). Minnesota school districts who subscribed to MSBA policy services had access to download the policy template. Thus, the homogeneity of discipline policy across Minnesota public schools provided an opportunity to explore the ways discourse of model school discipline policy may influence school dismissal of minoritized populations.

**Aspects of *Model Policy, 506, Student Discipline*.** Language, whether written or spoken, has a recipient design and a position design (Gee, 2014). Policy writers design language for their intended audiences. The work of policy language is to convince, persuade, or manipulate the reader into accepting what the language directs them to believe.

*Model Policy 506*, originally written in 1995, was updated in 2019. *Model Policy* has 16 sections, as follows: I. Purpose, II. General Statement of Policy, III. Areas of Responsibility, IV.

Student Rights, V. Student Responsibilities, VI. Code of Student Conduct, VII. Disciplinary Action Options, VIII. Removal of Students from Class, IX. Dismissal, X. Admission or Readmission Plan, XI. Notification of Policy Violations, XII. Student Discipline Records, XIII. Disabled Students, XIV. Open Enrolled Students, XV. Distribution of Policy, and XVI. Review of Policy.

*Model Policy 506* referenced 18 Minnesota Statutes, two US codes, and one Federal regulation. In addition, *Model Policy 506* cross-referenced 14 MSBA policies. School staff were expected to act within the framework of the policy and school students were expected to know and follow school policy. The 2019 version of *Model Policy 506, School Discipline* sits in Appendix A.

*Model Policy 506* required an annual review. At the school building, a committee of administrators, teachers, and parents meet to determine if the policy is working as intended and if policy has been enforced. This committee may recommend policy changes to the superintendent who may bring those ideas to the school board for consideration (MSBA, 2019). This point in policy provides an opportunity to interrupt the STPP. However, a CDA was necessary to expose what the policy language in use was accomplishing.

### **Research Strategies**

Gee (2011, 2014) stated language is under continual construction in the moment, as people interact with language in its written or spoken form. That is to say, discourse is never “built”, as in the past tense, but rather, being built while in use. Gee’s framework guides the researcher away from the more common research step-by-step process toward an iterative process, revisiting policy discourse multiple times, while scrutinizing each of the seven building tasks in the search for hidden themes.

In this Critical Discourse Analysis, Gee's (2014) figured world tool of inquiry provided a lens to examine what each of the seven building tasks of discourse are accomplishing within *Model Policy 506, Student Discipline*. The figured world tool of inquiry helped demystify the work that the seven building tasks sought to operationalize within model policy.

**Figured worlds.** "Figured worlds" is a psychological anthropology term regarding simplified theories or social constructions which help people from a social group to make sense of the world and understand the "good way", the "right way", the "normal way" for social interactions and social values to operate (Gee, 2014). Figured worlds may also be called social truths. Figured worlds, held at the subconscious level inside the minds of a group of people in society, also exist in the outside world of media and stories.

Gee (2014) used figured worlds to explain how and why group members develop and operationalize simple thinking shortcuts. Figured worlds help people efficiently respond to daily life without spending exorbitant amounts of time thinking through each interaction. Gee acknowledged that sometimes figured worlds create and then reaffirm implicit biases that can marginalize those outside one's own social group.

**Figured world tool of inquiry.** Gee's (2011, 2014) offered six tools of inquiry for CDA. This study used the figured world tool of inquiry to illuminate the accomplishments of seven building tasks, busy at work in *Model Policy 506, Student Discipline*.

**Building tasks.** Building tasks are at work in language to build or enact a certain way of saying, doing, and / or being within policy (Gee, 2014). The seven building tasks are, as follow: significance, practice, identities, relationships, politics, connections, and sign systems and knowledge.



The study of building tasks requires a social science researcher to consider them in the form of questions (Gee, 2014). When studying the building task of significance, questions the researcher may consider are, “What is being made significant and insignificant? In what ways? In studying the building task of practices, the questions may include, “How does the language used in the discourse encourage socially recognized and institutionally or culturally supported actions? The researcher may ask when studying the task of identities, “What roles, for whom, are being constructed in the discourse?” When studying relationships, the researcher may consider, “What relationships is the discourse seeking to build? To sustain? To destroy?” The building task of politics directs the researcher to ask about political / social goods and who is getting them as well as who is being denied them. When considering the work of the connections building task, the researcher may ask what or whom the discourse is seeking to connect or disconnect, and to what end? Finally, the researcher may ask, “How does the discourse privilege or dis-privilege different sign systems, including language, social languages, other symbol systems and ways of knowing?”

**Analogy explains CDA, the figured world tool of inquiry, and the seven building tasks.** A construction analogy explains the social science process of Critical Discourse Analysis. When a newly constructed school building is ready to open, it stands uncompromising in its design. However, shortly after the certification of occupancy is issued, people begin changing the space just as they are changed by the space. That is, as people act within the space, the building makes them adapt, just as they make the building adapt. For example, the design of a building may be for common ownership of space between the teachers and the students. Thus, the classroom design includes ubiquitous technology access points but no storage cabinets or bulletin boards, since the teacher doesn't nest but rather moves from room to room just as the

students do the students, laptop in hand. Here, teachers adapt to the building's design. In addition to being changed by the design, there are times when people co-opt the building's intended use, meant for one thing but used for another thing. For example, a stage designed for the fine arts department to use for evening performances may be commandeered for wrestling practice after school. Here, people make the building's defined use adapt.

The reflexive process between the school building's design and the human beings who use it is like discourse's design and people who use that discourse. Just as a building has the power to change the people using it and people have the power to change a building's use, language changes the people who use it and is changed by the people using it. This iterative change process in language extends beyond spoken language, where it is easier to see how spoken language can change a listener and be changed when that listener becomes the speaker. It is less obvious that written language, such as language in policy, can change the reader and be changed by the reader, while the policy is in use. Therefore, written language is never static in a finalized document, but, rather, written language is iterative, always under construction in context of use, changing people and being changed by people as they use it (Gee, 2014; van Dijk, 2000).

The construction of a modern high school building is obviously complex and costly. Millions of dollars are spent on building materials and labor, which is provided by engineers and their subcontractors. When a school building fails to perform as it should, say the H-VAC system does not work or the steel beams begin to give way, the owner, in this case, the school district, must determine the point of fault to hold an entity financially responsible for fixing the error. A school district may hire a forensic engineer to conduct a forensic analysis to determine design and / or construction error. The forensic engineer seeks to expose not only any design

flaws by separate engineers but also how the work of each subcontractor performs, in use, in the building, as it stands. The forensic engineer may study the work of the structural engineer, the civil engineer, and the construction engineer to analyze how the work of each corresponds to the work of the other. In this way, the forensic engineer deconstructs and illuminates how the work of the engineers and their subcontractors is performing, underperforming, or failing to perform.

In a similar process, when a policy fails in some way, a social science researcher can conduct a forensic process called a Critical Discourse Analysis (CDA) to discover areas of fault in order to improve policy. In a CDA, the social science researcher seeks to expose the work each subcontractor or “building task” is performing, in use, in the language. Gee (2011, 2014) subcontractors are “building tasks”. Thus, the social science researcher, to see what each building task is accomplishing, uses one or more tools of inquiry, such as the figured world tool of inquiry. Tools of inquiry work like microscopes in that they help illuminate the accomplishments of the building tasks in the language in use (Gee, 2011, 2014). As in a construction project where one design team member’s work synchronizes with another design team member’s work, the work of any of the seven building tasks is dependent upon and related to what another building task is accomplishing, in use.

### **Data Collection Procedures, Extraction, and Rationale**

Several strategies were employed in this CDA. First, conducting this CDA demanded repetitious reading and review of *Model Policy 506*. Research notes on the achievements of each building were charted. In addition, NVIVO software and Microsoft Cloud provided insights on the policy’s word use. Next, a Lexile was run to discern the text level of the policy. Eventually, highlights and summary notes from multiple reviews of the policy began to expose themes. Finally, emerging themes were used to address the study’s questions.

**Data and analysis.** As a methodology, Gee's (2011, 2014) form of critical discourse analysis avoids step-by-step procedures and, rather, engages in forensic review as an iterative process. Gee (2014) suggested the figured world(s) in the data may be illuminated by the researcher when the researcher asks what readers are invited to assume about how the world works, in this case, in *Model Policy 506*. That is, the researcher may reveal the figured world of the writer by asking, "What participants, activities, ways of interacting, forms of language, people, objects, environments, and institutions, as well as values" is *Model Policy 506* telling the reader to assume? (Gee, 2014).

In this CDA, as the researcher, I familiarized myself with *Policy 506* by reading it several times. Next, I read *Policy 506* again, carefully looking for language to provide answers to each of the questions in Gee's seven building tasks. For example, as I read *Model Policy 506*, I considered the first building task of significance. I employed NVIVO software to find repetitious words, signaling importance, or the absence of words, signaling unimportance. Concerning the second building task, practice, I sought to assess verb usage because verbs call out the action expected from school employees, students, and families. I continued through each of the remaining five building tasks, making notes and highlighting what appeared to be key words and phrases. The research notes on each of the seven building tasks were organized in a table. As the table expanded, an ongoing data analysis was conducted to discern emerging themes.

Finally, I returned to addressing the research questions. I sorted the data collected on each of the seven building tasks by themes and began to form answers to my research questions, while allowing for any new themes or points to develop.

**Data from the seven building tasks.** Tools of inquiry and building tasks are thinking devices to help understand what the discourse is building in use. Specifically, this study employed Gee's (2014) seven building tasks, expressed as questions and collected by tools, as follow:

1. Significance: how is the language in *Model Policy 506, Student Discipline*, used to make certain things significant or insignificant? In what ways? What words or phrases are used to indicate significance in *Policy 506*? NVIVO software helped assess words of significance across *Model Policy 506*. The significance tool was focused on the full policy, in general, as well as on the "Student Rights" and "Student Responsibilities" section, in specific.
2. Practice: how does the language used in *Model Policy 506, Student Discipline* encourage socially recognized and institutionally or culturally supported actions in the context of schools and schooling? The practice tool was focused on the "Code of Student Conduction" section of the policy.
3. Identities: what roles for students, teachers, and parents are being constructed in *Model Policy 506, Student Discipline*? What role are readers of *Policy 506* guided to take on / enact? The identities were focused primarily on students and teachers within the "Areas of Responsibility" in *Model Policy 506*.
4. Relationships: what relationships between the school and the student is *Model Policy 506, Student Discipline*, seeking to build, sustain, change, or destroy? The relationships tool focused on, "Areas of Responsibility" as well as "Disciplinary Action Options".
5. Politics (perspectives on the social distribution of goods): what perspective on the social good of school / schooling is *Model Policy 506, Student Discipline* communicating?

What is *Policy 506* guiding the reader to see as normal, right, and appropriate? The politics tool was focused most intently on the “Dismissal” section of the policy.

6. Connections: how does *Model Policy 506, Student Discipline*, connect or disconnect students to the school community? The entirety of *Model Policy 506, Student Discipline*, was reviewed for connections.
7. Signs systems & knowledge: how does *Model Policy 506, Student Discipline*, privilege or dis-privilege different sign systems (language, social languages, other symbol systems) and ways of knowing? The signs, systems, and knowledge tool was focused on the entire policy with some specificity on the “Dismissal” section of the policy. In addition, the entire policy was studied with a Lexile tool to assess the grade level of the text.

### **Significance of Study**

Using the figured world tool of inquiry to understand more deeply what the seven building tasks are accomplishing in *Model Policy 506, Student Discipline*, has multiple benefactors. Improving model school policy may, over time, be one effort in guiding community thought leaders, parents, school boards, school administrators, and / or school climate and culture teams to become aware of potential biases within policy and to use that knowledge to build more just public schooling experiences for all students.

### **Timetable**

The proposed timeline for this study is July 2018 through December 2020.

### **Evaluation**

### **Data Analysis and Trustworthiness**

CDA is explicit in stating and defending a position, both political and social, as a matter of human rights. As a qualitative social science researcher, I acknowledge that my biases and

figured world shape the lenses through which I approach, analyze and interpret the subject matter of this CDA (Freire, 1998; Meyer, 2001; van Dijk, 2001). Researcher transparency strengthens trustworthiness of a study, and thus, I describe my unique history and positionality below.

I taught social studies and language arts to Minnesota public high school students in grades seven through 12 for 14 years. The high school where I grew up and later taught in and was the principal of had very few students of color and many students with a low socio-economic status. Early family life, college coursework, followed by preparation to teach high school courses such as anthropology, sociology, interpersonal communications, and human geography built my understanding of social justice issues and processes on an intellectual level. However, it was my leadership experiences as a high school principal for four years and a district superintendent for more than 15 years that slowly revealed my complicity in discipline practices disparately affecting minoritized populations. Specifically, I realized over time that students I suspended from my small-town high school were often children with low socioeconomic status and / or receiving special education services, and who often had a history of chronically stressful environments and / or of traumatic experiences. Upon first reading of the school-to-prison pipeline as a district superintendent, I fiercely defended against the idea that classroom disciplinary decisions and school practices increased adult incarceration. However, when I served as the district superintendent for what was North Dakota's largest school district at the time, my system's disparate patterns of referral to law enforcement for truancy, suspension, and expulsion were undeniable. Our suspension, expulsion, and referral to law enforcement data was disparate for the following student groups: student with low socio-economic status; children of color, primarily American Indian students; children whose behavior exhibited a high likelihood of adverse childhood experiences; children of single parents; children with no parents; children

whose parents were incarcerated or whose families had a history of incarceration; and children of parents who did not graduate high school. In short, it became apparent that our discipline policies and practices further harmed children who had already suffered great harm.

In addition, four crystallizing events compelled me to act. First, I became the grandparent of two children of color; now the school-to-prison pipeline was personal in a way it had not been before, and the outcomes for children of color terrified me then – and now. Second, when I explained to a school board president that we must act to better serve our Black and brown students, he directed me to never use the term “brown children” again. When I pivoted to use “American Indian” he reminded me “their parents don’t vote”. Third, I attended an institute at the McCourt School of Public Policy, Georgetown University, to learn the impact of schools and related agency law and policy. And fourth, a beautiful Native American middle-school person, born to parents probably did not vote since one parent was incarcerated and the other was an addict with no house, who was trans-gendering, committed suicide.

These four experiences compelled me to act: if the school-to-prison pipeline is personal for me, imagine the burden carried by people of color their entire lives and over generations. Minoritized people today, as well as generations before the current one, try surviving in a world that has normalized discrimination, not only the world of the adults, but also that of the children. I asked myself hard questions, including, “What can I do with a board leader who demands color blindness and believes his mission is to serve only those who vote? What moral ethical, actionable response do I owe, given the investment made in me to attend the McCourt School of Public Policy? And, if every student is someone’s child, then how can I live my promise to, “Cherish my Chance” to build a more just and humane public school system? I remain committed to acting on those questions as a school leader in the Midwest.



## **Statement of Limitations**

My researcher positionality is now shared. Critical discourse theory responds to claims of bias as “an attempt to marginalize and problematize dissent” (van Dijk, 2001). Being aware of my biases does not limit me from conducting a CDA in an ethical, scholarly manner.

Another limitation is more technical. Critical Discourse Analysis is never finished. This CDA employed one tool of inquiry, the figured world, across all seven building tasks, rather than the remaining six of Gee’s tools of inquiry across all seven building tasks. Thus, this CDA is limited in scope, and like all CDAs, this study is not complete, and so, leaves an open invitation for future research to expand upon current findings (van Dijk, 2001).

## **Conclusion**

Academic research of both school discipline and the STPP, applied inquiry, and authentic action research using CDA informed this study. A school administrator seeking to act upon issues of social injustice concerning student outcomes may find the processes in this study to have utility when taking action in a professional and scholarly manner. Action is demanded where injustice exists.

## CHAPTER 4. FINDINGS

### Introduction

This study was a Critical Discourse Analysis of *Model Policy 506, Student Discipline*, also referred to as “the policy” or *Model Policy 506*. Minnesota statute requires school districts to have a discipline policy (MSBA, 2019). The Minnesota School Board Association (MSBA) and the Minnesota Association of School Administrators (MASA) co-wrote *Model Policy 506 Student Discipline* and offer it to school districts who pay for policy services.

### Critical Race Theory

Critical Race Theory (CRT) was the conceptual framework used within this study. Ledesma and Calderón (2015) defined racism as the dominant groups’ powerful and pervasive ideology that gives shapes to society’s institutions, belief systems, and daily actions. The normalization of racist practices may make them invisible to the dominant group employing them (Delgado & Stefancic, 2001; Ledesma and Calderón, 2015). Therefore, this Critical Discourse Analysis, premised on CRT, identified and deconstructed practices in *Model Policy, 506, School Discipline*. This study illuminated the figured world /social truth held by those in power school discipline policy created a policy which acted to reinscribe implicit bias shelved and organized in school staff’s mental models.

**Teacher bias in discipline decisions.** Research (Okilwa, Khalifa, & Briscoe, 2017; Losen & Skiba, 2010) found that teacher implicit bias drove disparate rates of suspension, exclusion, and expulsion of minoritized student groups. This research project recognized that discipline policy was s a powerful tool in the school environment and sought to discover any bi-directional relationship between teacher bias and school discipline policy, whether the discourse within *Model Policy 506 School Discipline* reinscribed teacher implicit bias, resulting in

discipline decisions migrated some student groups and not others out of school and into the school-to-prison pipeline. One of Gee's (2011, 2014) six tools of inquiry, the figured world tool of inquiry, was employed to study the accomplishments of the seven building tasks which are always busy in written or spoken discourse, building a certain understanding for the reader or listener to assume is correct.

### **Findings**

This section presents and reviews findings on the study's questions, as follow:

- 1) What will the figured world tool of inquiry illuminate about the work that the seven building tasks are accomplishing in *Model Policy 506, School Discipline?* and
- 2) What discourses are instantiated in *Model Policy 506, School Discipline?*

In the following sections, the figured world in *Model Policy 506* is illuminated. Next, the work of the seven building tasks is shared. Finally, the discourses within *Model Policy 506* are discussed.

### **Figured Worlds and Building Tasks**

This CDA revealed that language in *Model Policy 506, Student Discipline*, did more than inform the reader. The sections that follow discuss how policy's language worked to position the reader to accept the policy authors' figured world regarding education and discipline, which is to say the reader was asked to assume at least three immutable social truths, as follow: 1) the school board is rightfully empowered by federal codes, Minnesota statutes, and other cross-referenced policies to discipline in the policy's prescribed fashion; 2) policy rightfully declares a certain kind of student is worthy of the modern version of education while another kind of student is worthy of dismissal from school. Therefore, that student must be shaped to become worthy through the application of increasingly powerful disciplinary sanctions. If sanctions fail,

it is because that student has proved himself/herself/themselves willfully recalcitrant or fundamentally flawed, and therefore, not presently worthy of the social good of modern education for a period ranging from days to a full school year; and; 3) the discipline methodology framed within *Model Policy 506* is the proper, modern process to rightfully apply in an effort to improve behavior or dismiss non-compliant students because the education process must efficiently proceed. This section offers an overview of policy's word usage. Next, a review of the work of the building tasks is shared. Finally, a discussion on each of the three social truths is provided.

**Word usage.** Pro Word Cloud identified and organized the 100 most frequent terms in *Model Policy 506* with common words removed. Not surprising in a school student discipline policy, terms such as “school/s, student/s, district/s, and policy/s” appeared with high frequency, as illustrated in Figure 3, *Pro Word Cloud of 100 term most frequently used in Model Policy 506, Student Discipline*. Additional terms such as shall, appropriate, conduct, behavior, property, and force were noticeable. However, removal of the expected terms, “school/s, student/s, district/s, and policy/s” unmasked frequency of other terms, including “shall, appropriate, behavior, conduct, discipline, property, and authority,” resulting in Figure 4, *Pro Word Cloud of 100 term most frequently used in Model Policy 506, Student Discipline with terms removed*. Additional word study was provided by NVIVO software, which counted more than 70 uses of “shall”, whereas “learning” was used seven times. NVIVO's ranking of frequently used terms sits in Appendix B.



**Accomplishments of the building tasks.** The figured world tool of inquiry helped illuminate what the building tasks were accomplishing as *Model Policy 506*. A summary of each building task’s accomplishments with examples from policy are shown in Table 3, *Summary of accomplishments of each building task*. Findings are further substantiated in the table under the column, “Anchor examples extracted from Model Policy 506”.

**Table 3**

*Summary of Accomplishments of Each Building Task*

<b>Building Task</b>	<b>Accomplishments</b>	<b>Anchor examples extracted from <i>Model Policy 506</i></b>
Significance	<p>Students' rights to an education and to learn refer to academics only.</p> <p>A compliant student is the end goal as compliance is needed for efficient academic achievement. However, the school is not responsible for teaching, nor does the student have a right to learn, social – emotional skills at school.</p> <p>Modern education, as a process, is not an experience to develop student agency.</p> <p>Discipline must be an efficient and expedient process due to the need for expediency and efficiency in achievement of the standards.</p>	<p>Policy has one sentence regarding student rights, as follows: “All students have the right to an education and the right to learn” (p. 4) whereas policy has 14 statements regarding student responsibilities (pp. 4-5) and 46 statements regarding unacceptable behavior subject to discipline (pp. 6-11).</p> <p>“The purpose of this policy is to ensure that students are aware of and comply with the school district’s expectations for student conduct. Such compliance will enhance the school district’s ability to maintain discipline and ensure that there is no interference with the educational process” (p. 1).</p> <p>“The school board recognizes that individual responsibility and mutual respect are essential components of the educational process” (p. 1).</p> <p>“Proper student conduct is necessary to facilitate the education process. . .” (p. 3).</p> <p>Student responsibilities. “To be aware of and comply with federal, state, and local laws” (p. 4).</p> <p>“Acts disruptive of the educational process. . .” (p. 8).</p> <p>“Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process” (p. 9).</p> <p>“Other acts, as determined by the school district, which are disruptive of the educational process. . .” (p. 11).</p>

**Table 3. Summary of Accomplishments of Each Building Task (continued)**

<b>Building Task</b>	<b>Accomplishments</b>	<b>Anchor examples extracted from <i>Model Policy 506</i></b>
Practice	<p>Discipline policy provides the school district and the actors within it social power and responsibility, when acting in the policy’s framework, to sort students into two groups: students who are worthy of the social good of education and students whose behavior, despite redirection through sanctions, proves them worthy of dismissal from the social good of education.</p> <p>Student behavior identifies those worthy of education. Worthy students know how to be “good students” when they arrive at school; others will learn through applied discipline, yet some must be dismissed from school to learn to comply. Progressively negative sanctions including short and long-term dismissal provide proper motivation for students to adopt compliant behavior.</p>	<p>Policy states, “The school board holds all school personnel responsible for the maintenance of order within the school district and supports all personnel acting within the framework of this discipline policy” (p. 2).</p> <p>Policy says, “The general policy of the school district is to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school district. . . . The school district shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student’s misconduct, as determined by the school district” (p. 12).</p>



**Table 3. Summary of Accomplishments of Each Building Task (continued)**

<b>Building Task</b>	<b>Accomplishments</b>	<b>Anchor examples extracted from <i>Model Policy 506</i></b>
Identity	<p>The student alone, not the school, is responsible to maintain the student right to an education and right to learn. Therefore, discipline policy is designed to support a certain kind of student toward academic achievement and to use power to force non-compliant students to adopt compliance or to be dismissed from the larger student body for a period of time where it is assumed they will learn, apparently on their own, how to adopt complaint behavior.</p> <p>Since good students choose to comply and conform to assist with the education process, students who do not conform are either willful in their refusal or damaged in some way and unable to conform. That a student is still a child provides no excuse for child-like behavior when adult-like decision making is needed. Exhibiting non-conforming behavior despite sanctions may be a sign of pre-criminal or criminal behavior, a disability, chemical dependency, mental illness, or improper parenting.</p>	<p>“All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy” (p. 4).</p> <p>School employees are granted use of reasonable force on students (pp. 2-4).</p> <p>The General Statement of Policy affirms the school board, “...“recognizes that individual responsibility and mutual respect are essential components of the educational process...further recognizes that nurturing the maturity of each student is of primary importance and ... the balance that must be maintained between authority and self-discipline as the individual progresses from a child’s dependence on authority to the more mature behavior of self-control” (p. 2). In addition, the General Statement of Policy, states, “All students are entitled to learn and develop in a setting which promotes respect of self, others, and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making, and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities” (p. 2-3). However, 7 pages of policy are dedicated to the list of misbehaviors, 2 pages to disciplinary action options, and 12 pages to removal of students from class and dismissal from school.</p> <p>“Grounds for removal from class shall include any of the following: willful conduct that significantly disrupts.... willful conduct that endangers....will violation of any school rules....” (p. 14).</p> <p>Damaged and therefore unable to conform:</p> <p>“Any procedures determined appropriate for referring students in need of special education services to those services” (p. 17).</p> <p>“Establishment of a chemical abuse preassessment team pursuant to Minn. Stat. § 121A.26” (p. 17).</p> <p>“Any Procedures Determined Appropriate for Encouraging Early Detection of Behavioral Problems” (p. 18).</p> <p>“Any Procedures for Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct” (p. 18).</p> <p>“...with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian’s expense....to attempt to determine the student’s need for assessment or other services or whether the parent or guardian should have the student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder” (p. 19).</p> <p>“A child with a disability may be suspended” (p. 20).</p> <p>Readmission plan after being dismissed, “The plan may include measures to improve the student’s behavior, including completing a character education program consistent with Minn. Stat. § 120B.232, Subd. 1, ... and may indicate the consequences to the student of not improving the student’s behavior.... must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission” (pp. 26-27).</p>

**Table 3. Summary of Accomplishments of Each Building Task (continued)**

<b>Building Task</b>	<b>Accomplishments</b>	<b>Anchor examples extracted from <i>Model Policy 506</i></b>
Relationships	<p>The school district holds the social power via law and custom to direct the actions of every actor in the school environment. The school board defines roles of, and power allowed each school staff member as well as all students, their parents, and the community.</p> <p>Each actor in the school system, in its power-differentiated relationship to the school board, has the responsibility to gain compliant behavior from students and to control students. The school board will support staff who work within the policy’s discipline framework.</p> <p>The reader of the policy will fall into one role in the hierarchy from school board through community. The reader is expected to assume that the school district is empowered, through law and custom, to rightfully use this discipline methodology, and further, that the discipline processed used in the discipline policy is appropriate for the modern student’s needs.</p>	<p>“Areas of Responsibility” (pp. 2-4) with eight categories of actors, each with a power differentiated role, as follow: 1) school board; 2) superintendent; 3) principal; 4) teachers; 5) other school district personnel; 6) parents / guardians; 7) students; 8) community members.</p> <p>“The school board holds all school personnel responsible for the maintenance of order within the school district and supports all personnel acting within the framework of this discipline policy” (p. 2).</p> <p>“The superintendent shall ... hold all school personnel, students, and parents responsible for conforming to this policy, and support all school personnel performing their duties within the framework of this policy” (p. 2”).</p> <p>“The principal shall give direction and support to all school personnel performing their duties within the framework of this policy” (p. 3).</p> <p>“All teachers shall enforce the Code of Student Conduct” (p. 3).</p> <p>“<u>Other School District Personnel</u>.... Their responsibilities relating to student behavior shall be as authorized and directed by the superintendent” (p. 3).</p> <p>“Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice... are expected to cooperate with school authorities and to participate regarding the behavior of their children” (p. 3).</p> <p>“All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy” (p. 4).</p> <p>“Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled” (p. 4).</p>

**Table 3. Summary of Accomplishments of Each Building Task (continued)**

Building Task	Accomplishments	Anchor examples extracted from <i>Model Policy 506</i>
Politics	<p>Some students, despite the intervention of multiple negative sanctions, prove to be unworthy of the social good of education. Such students must be removed for a period ranging from a few days to a full year to allow other students to access and achieve academics in the educational process.</p> <p>Parents unable to demand complaint behavior from their children may be referred to juvenile court where the case can be studied for child abuse and / or removal of the child from the home into custody.</p> <p>Changes to the policy may be considered only through a process involving a committee selected by the principal. The committee may refer suggestions for policy improvement to the superintendent who considers bringing those suggestions to the school board, who makes the final decisions regarding any policy changes.</p>	<p>Eight pages of policy (pp. 18-27) are dedicated to the dismissal process which includes suspension, expulsion, and exclusion.</p> <p>“The school administration shall implement alternative educational services. . . . Alternative education service may include. . . enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the student to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting” (p. 20).</p> <p>“. . . school administration may. . . do one or more of the following. . . petition the juvenile court that the student is in need of services under Minn. Stat. Ch. 260C.” (p. 21).</p> <p>“The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy” (page 27).</p>
Connections	<p>Discipline policy draws its power from three federal and 18 state codes as well as 15 other model policies. Power is used to demand compliance and conformity from every actor in the school environment, as needed, for an efficient education process.</p> <p>Model policy, developed by the MSBA and MASA, and sold to subscribing school districts includes the idea that such policy is locally developed rather than coming from MSBA / MASA.</p>	<p>Figures 4 and 5 illustrate the connections between <i>Model Policy 506</i> and federal and state code as well as other model policies.</p> <p><i>Model Policy 506</i> states, “In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the school board, with the participation of school district administrators, teachers, employees, students, parents, community members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the school district” (p. 2), yet only nine sections are locally written. “. . . The following Sections C. - K. must be developed and inserted by each school district based upon individual district practices, procedures, and preferences” (p. 15).</p> <p>The MSBA website states, “Most school districts do not have the time and personnel to develop a comprehensive policy manual. In addition, school districts would require substantial legal assistance to develop policies on their own” (MSBA, 2019).</p>

**Table 3. Summary of Accomplishments of Each Building Task (continued)**

<b>Building Task</b>	<b>Accomplishments</b>	<b>Anchor examples extracted from <i>Model Policy 506</i></b>
Sign Systems & Knowledge	It is fair and equitable that the same policy, written at an upper high school Lexile level, in English, applies to all students aged three to 21, including those who may not read or speak English. It is fair and equitable that a policy is not translated for those that need it, and further, that policy may dismiss a student from his or her educational setting using complex legal and medical terms and processes.	<p>The entirety of <i>Model Policy 506</i> is written in English. No translated versions are posted on the MSBA website (MSBA, 2020).</p> <p>Policy states, “The school district will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate (pp. 28-29).</p> <p>Students and parents are to be given a copy of the policy at the beginning of each year and may ask for additional copies from the principal (pp. 28-29).</p> <p>Model Policy requires notification of legal assistance. “The school district shall advise the student’s parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE)” (p. 24). “The school district shall advise the student’s parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE” (p. 24).</p> <p>psychotropic drugs, p. 20.</p> <p>sympathomimetic medication, p. 27.</p>

*The authority of the school district.* The relationship building task and the connection building task worked to ensure *Model Policy 506* showed the school district's legal authority regarding discipline. The first statement in the policy, following the title, declared, "School districts are required by statute to have a policy addressing these issues" (p. 1). The authority to apply the discipline processes described in policy was drawn from numerous federal and state laws as well as from other model policies; Figures 4 and 5 display an exhaustive list of laws referenced throughout *Model Policy 506*. Furthermore, regarding the application of policy's legal authority, *Model Policy 506* asked the reader to assume that power is rightly indexed from the top down, with the student having no power other than a presumed or expected power of self-control to achieve compliance (p. 2-3). Next, the social truth / mental model / figured world presented in policy was that the school board may demand that not only employees and students enact policy's view of discipline, but also that parents and community members follow along with it as well (p. 2-3). Finally, Section XVI, Review of Policy, described a process for changing discipline policy language, which, in its effect, limits access by many participants involved in schooling, particularly those who have been dismissed from school (p. 29).

*Authority from state and federal laws and school policies.* That the reader understands *Model Policy 506* drew its authority from law and other policy was not left to chance. Figures 5 and 6 summarize 21 legal references found in *Model Policy 506*, whereas Figure 7 shows 14 cross-referenced policies. Policy stated students were expected to know and obey this discipline policy, the cross-referenced policies, and the federal, state, and local laws cited in this policy as well as any other local, state, and federal laws that were or may become pertinent at any time.

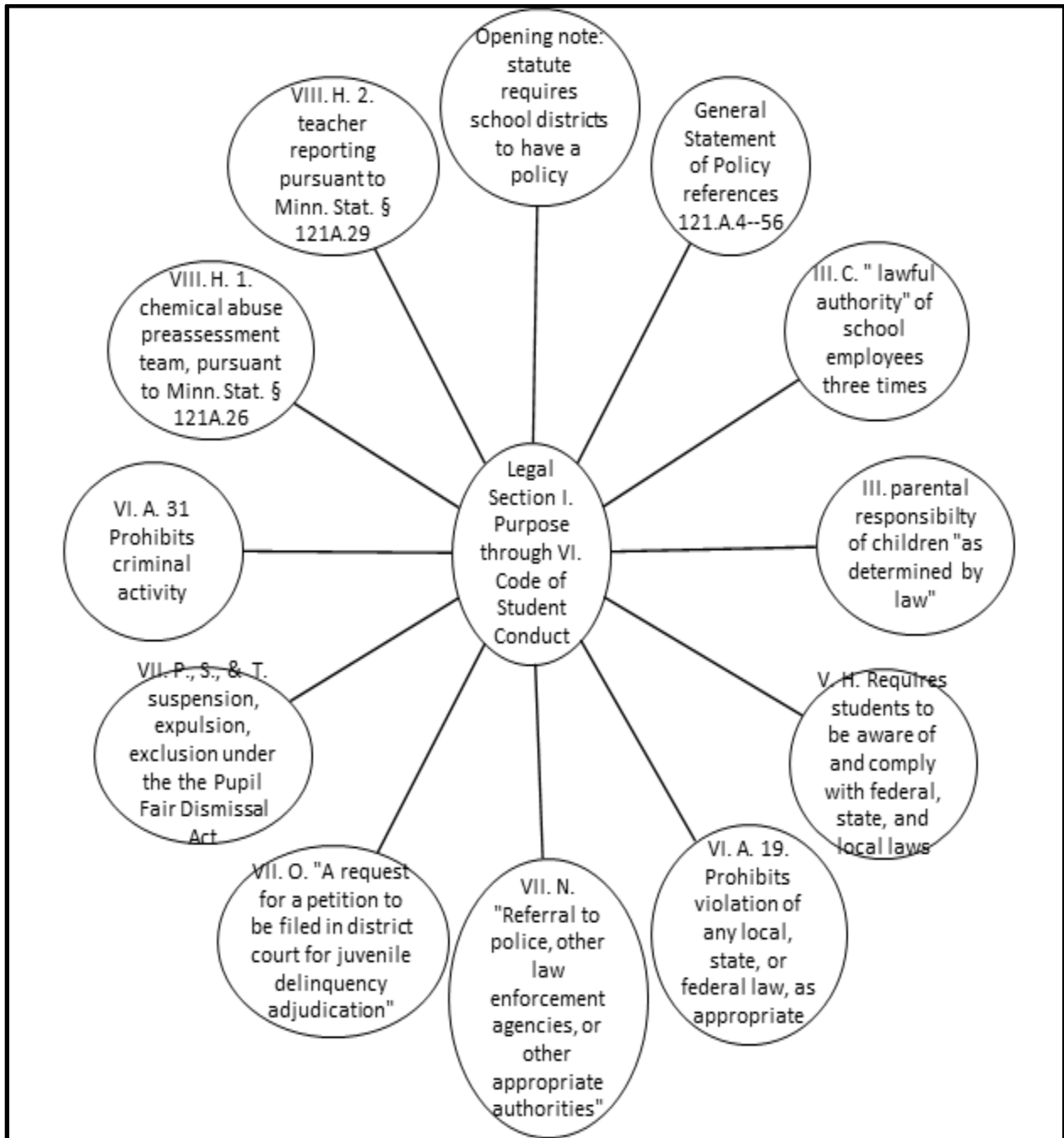
*Legal authority.* The 21 laws cited in *Model Policy 506* created a complex intersection of dense legal jargon and processes. Laws cited included, but were not limited to, the legal

processes of dismissing of students from school, to student character education, to student chemical assessment, to petitioning for the termination of parental rights (p. 29-30). Expansion beyond those 21 laws cited appeared in Section VI. Student Code of Conduct which listed 46 unacceptable behaviors (pp. 5-11). The 19<sup>th</sup> item on the list was, “Violation of any local, state, or federal law as appropriate”, which, in effect, increased the known 21 laws to an infinite number, given intertextuality. The connection from policy to federal and state code is shown in figures 4 and 5.

*Authority in cross-referenced policies.* In addition to knowing the laws cited in the policy as well as other laws not cited which may intersect with student discipline, students were expected to know and obey all cross-referenced policies. Fourteen model policies intersected with *Model Policy 506* (p. 30-31). Those 14 cross-referenced policies, like *Model Policy 506*, are lengthy and have legal references and citations of their own. Further, each of those policies was cross-referenced to other policies. Figure 6 shows the connections between *Model Policy 506* and the 14 cross-referenced policies.

**Figure 5**

*Legal references in Model Policy 506 from I. Purpose through VIII. H. 2.*



*Indexes power over others to enact policy. The relationship task in Model Policy 506, Student Discipline, sought to support the educational process by indexing power in a pyramid fashion as shown in Figure 8. The policy authors' delineated power through role assignment,*

with each role having limited powers (p. 2-4). Roles were clarified in Section III. Areas of Responsibility (p. 2-4). The School Board reserved itself the most power, followed by the superintendent, then the principal, then teachers, then other school employees, and then students. Policy stated three times that the school board supports those employees who “act in the framework of this policy” which is a demand for policy language to be enacted as a condition of continued employment (p. 2-3). Van Dijk (1996) warns, “Power abuse not only involves the use of force...but also and more crucially affects the minds of people.” He goes on to explain that the dominant group’s interests are protected through its ability to influence the figured worlds of recipients. Herein, building tasks were engaging in manipulating the mental models of all school employees not only throughout the policy’s sections which describe a specific process-based discipline framework but also by the simple statement of support only for those who act within that framework.

Students, in last place on the internal hierarchy, were held “individually responsible for their behavior” and “individually responsible for knowing and obeying the Code of Conduct and the policy” (p. 4). Maintaining power over students to control them was important in the policy. For example, Section VIII. Removal of Students from Class, Section D. Responsibility for and Custody of a Student Removed from Class, required designation of someone to have “control over and responsibility for student after removal from class” (p. 16).

Finally, parents and community members, entities that reside outside the system, were assigned roles and associated powers by *Model Policy 506*. Parents were empowered above students whereas community members were below students (p. 3-4). Policy directed parents that they were “responsible for their children’s behavior” and are expected to “cooperate with school authorities and participate regarding the behavior of their children” (p. 3). In IX. Dismissal,



policy stated the school administrator may petition the court to consider terminating parental rights of parents assumed to be underperforming (p. 21). Community members, listed last in this section, were charged to help ensure each actor acknowledged and fulfilled their roles (p. 4).

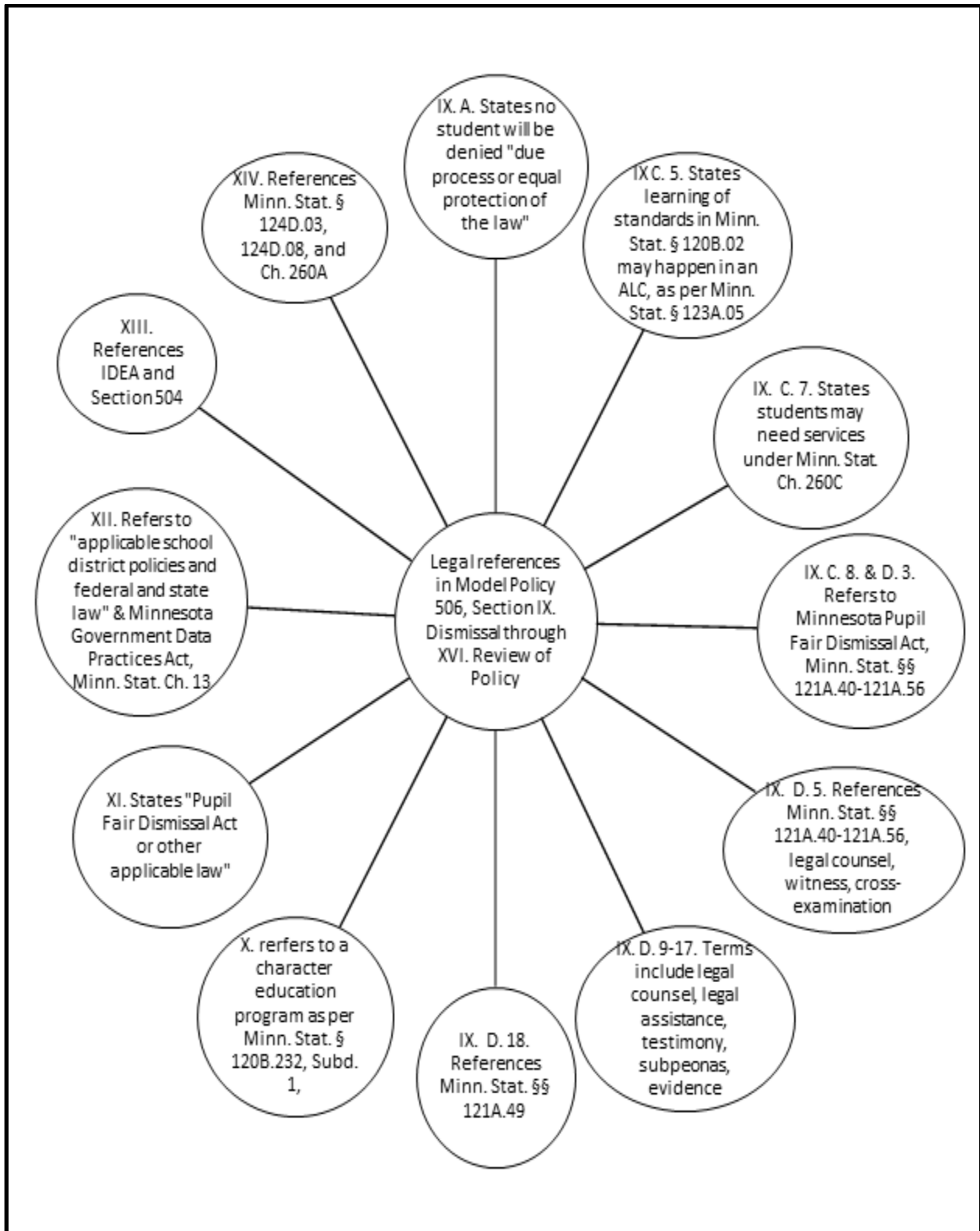
*Changes to policy language.* *Model Policy 506*, by design, limited the opportunity for some demographics of people to offer feedback for improvements to discipline policy while allowing input from people of other demographics. *Model Policy 506* is not vested, as it should be, in improving policy by securing input from marginalized parents and students who are overrepresented in school dismissal. Thus, *Model Policy 506* acts as a form of power abuse by controlling the audience, setting, and voice in participation. Policy required a minimum of one annual review to “. . . determine if policy is working as intended, and to assess whether the discipline policy has been enforced”. The review committee included the “principal and representatives of parents, students, and staff in each building” or, in other words, *Model Policy 506* seeks input from those benefiting from policy as it is currently written. Herein, policy, ignores the bi-directional relationship between policy, which reinscribes bias, and biased staff upholding existing policy. Furthermore, the policy directs the committee to “. . . determine if the policy is working as intended” but does not explicitly state to study the parity of policy’s application through the lens of school’s discipline and dismissal data to assess whether the protective factor of schooling is removed for some student demographic groups while keeping education in place, along with all the other benefits education offers, for others (MSA, 2019).

Policy stated, “Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy.” In this language, the School Board and Superintendent hold special access to both the discourse of the policy and the means of public discourse about the policy, yet their own process within model

policy is not designed for input from those who suffer its harms disparately. This is a form of power abuse (van Dijk, 2001).

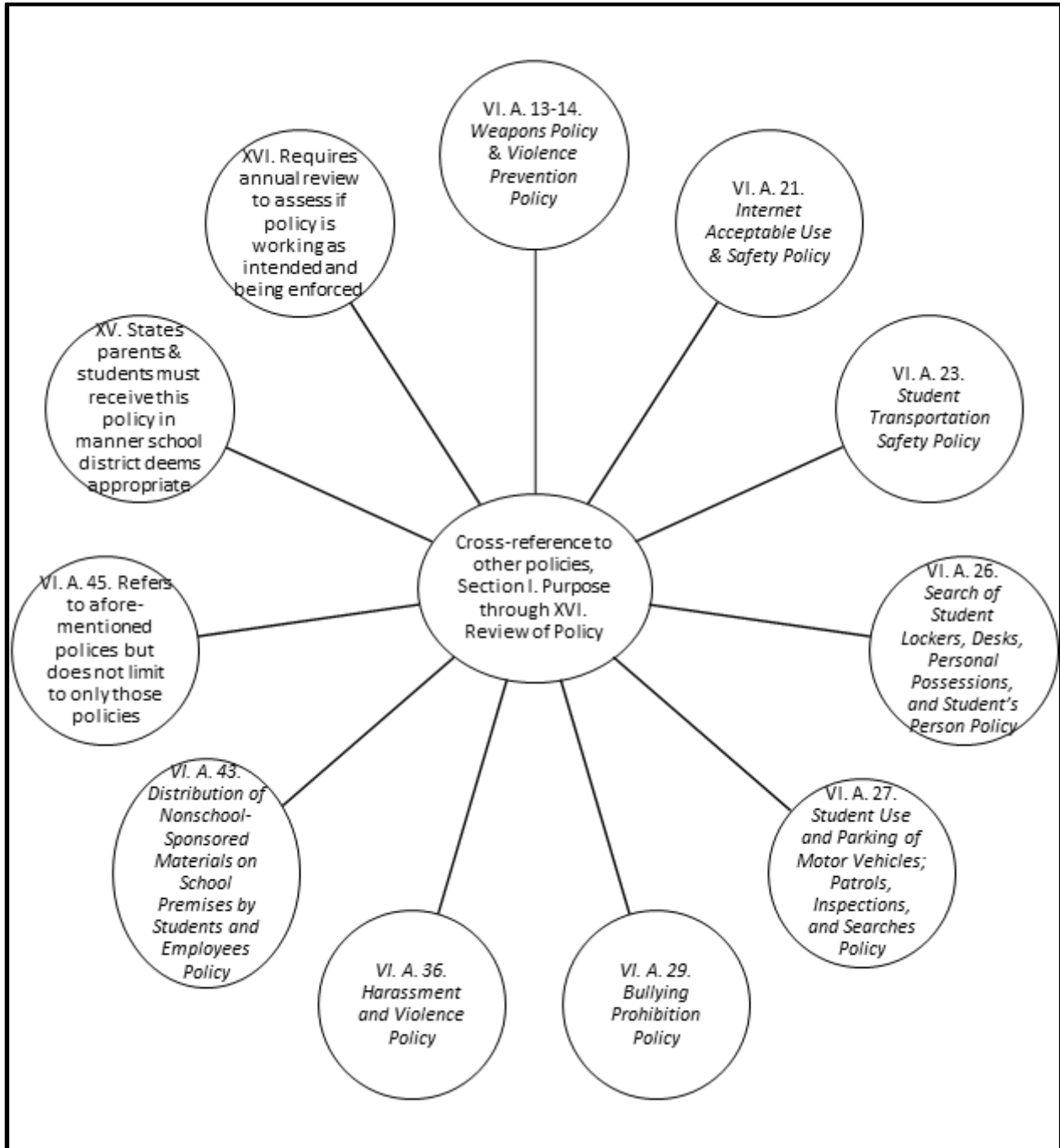
**Figure 6**

*Legal references in Model Policy 506, IX. Dismissal through XVI. Review of Policy*



**Figure 7**

*Cross-references to other MSBA model policies in Model Policy 506, Section I. Purpose through XVI. Review of Policy*



**Figure 8**

*Power is indexed in policy*



*The use of force on students.* The relationship task which helps build the differentiated power structure in *Model Policy 506* assumed the reader would agree that use of force on students was appropriate, not only in circumstances that meet the standard of life versus death or bodily harm but also in circumstances for correction and / or redirection (p. 2-4). Employees granted authority to use “reasonable force” on students included the principal, teachers, and other

employees (p. 3). However, while “other employees” as well as teachers and principals were authorized to use reasonable force to prevent bodily harm or death, principals and teachers were authorized to use force to restrain or correct a student, too (p. 3). In other words, use of force beyond issues of immediate harm or death required a teaching license. The concept that a policy does not define limits of where the teacher may use power to correct or restrain a student opens the door for the misuse of power in the student-teacher relationship.

In terms of requiring restraint or correction, *Model Policy 506* listed 45 unacceptable behaviors in the Code of Student Conduct and added a 46<sup>th</sup> item, which was, “other acts, as determined by the school district, which are disruptive to the educational process or dangerous or detrimental . . .” (p. 11). Students were expected to know and obey the policy in full (p. 1), though policy was ambiguous in explaining how students would come to fully understand the nature of “other acts”, prior to committing one of them.

*The extension of monitoring beyond the school walls.* The figured world presented in policy was that the school district was justified in the monitoring of and control over student behavior in spaces beyond the schoolhouse. In VI. Code of Student Conduct, Section A., monitoring of and therefore an effort to control student behavior extended to “. . . any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student, other students, or employees,” including a student’s route to school as well as on property adjacent to the school’s grounds (p. 6).

***Policy to re-inscribe or create a certain kind of student.*** The identity building task sought to affirm where it existed, and create where it did not, a certain kind of student through *Model Policy 506*. This section reviews two considerations in defining the desired student.

First, *Model Policy 506*'s perspective on modern education as an efficient process is reviewed. Next, the theme of good student versus the unworthy student is revealed and discussed

*Modern education as an efficient process.* *Model Policy 506* held a certain figured world about modern education. Section II. General Statement of Policy, states, "Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement" (p. 1). Discussion on two clauses, education as a process and school atmosphere as it relates to high achievement, follows.

Policy described education as a process of academic achievement rather than a social contract to develop student agency. The term education process / educational process was used nine times in the policy with examples shown in Table 3, *Summary of accomplishments of each building task*. In addition, academic achievement was described in *Model Policy 506* Section IX. Dismissal, C. 5, as "making progress toward meeting graduation standards" (p. 20). When education is a process toward achievement of graduation standards, standardization and efficiency are valued over the development of student agency. Here, the identity building task is building a theme of the good student and the unworthy student. By defining the schema of a "good student", the identity building task stayed busy working to influence the mental models held by staff, students, parents, and the broader community not only about the good student but also, by contrast, the student unworthy of participating in school due to lack of good student characteristics. Examples of the identity tool at work in policy language are shown in Table 3, *Summary of accomplishments of each building task*.

*The students worthy of education and students worthy of dismissal from education.* The identity building task created a model of the good student, worthy of education as well as the student worthy of dismissal from education. Not only was the good student one who valued lone

achievement of academic standards, but also, the good student “individually” maintained the right to an education and the right to learn. *Model Policy 506* presented the theme that some students and their like-behaved peers will behave in a manner that allows the educational process to be enacted, which is, to achieve the academic standards efficiently as individuals. Yet, policy described the opposing student, one who abdicates responsibility for behaving in a manner that supports the efficiency necessary for the education process to proceed. Therefore, while *Model Policy 506* stated, “. . . this policy emphasizes the development of self-discipline”, policy offered 21 graduated negative sanctions to be used on non-compliant students (p. 6-11). Because policy was silent about social-emotional learning as a necessary technique for building self-discipline, the identity building task created the good student as one who did not need social-emotional learning (SEL). Further, because *Model Policy 506* made no mention of the student’s need for SEL, policy assumed that students acquired social-emotional self-regulation somewhere outside the school setting showing, by its silence, it was not the role of the school to teach social-emotional learning to students whose behaviors indicated they needed skill development in this area.

*Worthy students.* The identity task described good students in terms shown in Table X.



**Table 4***Descriptors in Model Policy 506 of the Good Student*

Desired traits	Anchored in policy on page
Comply / compliance	1, 5
Internal discipline / self-discipline / self-control / self-direction /	1, 2
Individually responsible / student as “self”	1, 8, 17, 19, 20
Knowing and obeying all rules, regulations, policies, and procedures as well as local, state, and federal laws	1, 3, 5
Good attendance	4
Makes up work when absent	4
Keeps the school safe	4
Volunteers information in investigations	5
Respects the school’s and others property	4
Dress meets common decency and policy requirements	4
Avoids inaccuracies as well as indecent or obscene language, in student publications	4
Appropriate physical and verbal behavior	4
Recognizes and respects the rights of others	1, 4

In addition to the desired traits of the good student, the signs system and knowledge building task was working more subtly to define the good student. *Model Policy 506* demand is that all students know and obey the policy (p. 1). School students range from age 3 to 21, yet a Lexile review of *Model Policy 506* found the policy’s reading complexity in the upper high school range of 11 and 12<sup>th</sup> grade. Thus, 87% of students had not been taught to read the policy to which the school was holding them accountable. Policy was not accessible to students whose reading skills were in the age 3 to grade 10 level, juniors and seniors with below grade level reading skills, and many English learners and students disabled in reading. Furthermore, standard English developed in the 14<sup>th</sup> Century with the rise of the Merchant class (Gee, 2011). Therefore, *Model Policy 506* privileged middle class, Western European English-as-first language speakers. Policy’s “good student”, then, would not learn discipline through the policy but, rather, would have absorbed the hidden curriculum of middle-class social norms and values as part of maturation.

*Students deemed worthy of dismissal from education.* Policy stated that young students need nurturing toward self-control, as the child progresses from a child's dependence on authority to the more mature behavior of self-control" (p. 1). Yet nowhere does the policy itself differentiate for student's age, cultural linguistic diversity compared with the dominant culture, or English-learner status. Rather, policy illustrated a theme regarding students who "fail to adhere" with the behavioral expectations outlined in VI. Code of Student Conduct (p. 5-6). Note that policy described student misconduct as either willful, the result of a disability, the result of an undiagnosed disability, a result of chemical abuse, the result of a mental health disorder, the result of an undiagnosed mental health disorder, and / or the result of poor parenting, shown in Table 3, *Summary of accomplishments of each building task* and Table 5, *Descriptors in Model Policy 506 of the Unworthy Student*. In a single exception, the policy allowed for examination of the student's misconduct as a potential result of the school's "failure to implement the child's IEP" (p. 26). Table 5 lists the concepts in policy language for non-compliant students, extracted from VII. Disciplinary Action Options through the end of the policy.

**Appropriate behavior through a prescribed discipline methodology.** The practice building task in *Model Policy 506* was working to accomplish at least three points regarding discipline practices. First, the practice task was working to show student conformity as the goal of discipline. Second, the practice task was saying negative sanctions best teach students to curtail non-forming behavior. Third, the practice task was conflating the term "equitable" with equal and working to assume the reader agreed.

*Model Policy 506's* theme of education as an efficient, standardized process crafted a need for a standardized discipline process to support the educational process. Education as a process was mentioned several times in *Model policy 506* (pp. 1, 3, 8) as shown in Table 3. A

good student was able to navigate the two processes of education and discipline, allowing for individual academic achievement to proceed with efficiency. In fact, policy’s purpose in Section I. Purpose, states exactly that, to “. . . ensure that students are aware of and comply with the school district’s expectations for student conduct” because, “Such compliance will enhance the school district’s ability to maintain discipline and ensure that there is no interference in the educational process” (p. 1).

**Table 5**

*Descriptors in Model Policy 506 of the Unworthy Student*

Descriptor	Anchor page
Willful conduct (disruptive or dangerous)	pp. 13-14
Willful violation of any school rules, regulations, policies, or procedures	p. 14
Other conduct as determined by the teacher or administrator	p. 14
In need of referral to in-school supports, community agencies, police, and / or other law enforcement agencies	p. 12
Disabled, with consideration of the need for further assessment	p. 16
Procedures for referring students to special education services	p. 16
Chemical abuse assessment	pp. 16-17
Early detection of behavioral problems	p. 17
Arrange for a mental health screening for a mental health disorder	p. 18
Avoiding obligating parents to provide drugs or psychiatric evaluation, “as a ground, by itself”, to allow the student return to school	p. 19
Avoiding referral of parents for child abuse or neglect or medical or educational neglect “as a ground, by itself” for lack of provision of psychotropic drugs or psychiatric evaluation	p. 19-20
Rather than suspending the student, the administrator may instead petition the juvenile court to consider the student is in need of protective services under Minn. Stat. Ch. 260C, which allows, among other things, parental rights to be terminated	p. 20
Character education program	p. 24
Required parental participation without obligating the parent to provide sympathomimetic medication	p. 25
Review of the IEP to see if the student’s behavior was a failure of the school to implement the IEP	p. 26

Next, *Model Policy 506* created for the reader the idea that proper discipline, that is, compliance, is best reached through applications of negative sanctions of increasing severity. Policy stated the school is to generally “utilize progressive discipline” but adds “the specific form of discipline is solely within the discretion of the school district” (pp. 11-14). Eighteen

discipline sanctions, in a graduated order of severity, were listed in policy, prior to the three types of dismissal which include suspension, expulsion, or exclusion (pp. 11-14). If, after application of up to 18 sanctions, assuming the school did not elect to skip any, the student did not exhibit compliant behaviors, the school district proved it exhausted its options and could rightfully dismiss the individual, non-compliant student from school (p. 14). With dismissal, the practice tool was working to have the reader agree that the lone child will most efficiently acquire complaint behaviors during an absence from the school community, though policy does not speak to specific resources, processes or procedures the student could employ to develop his / her / their compliance skill set during the period of banishment. Further, the politics tool was building justification for removal, working to show the student proved incorrigible despite the intervention of sanctions. In summary, policy presented the theme that increasingly negative sanctions resulted in one of two outcomes, as follow: either an adult-like, individually responsible child would develop, or the student would have proven, despite the school's strongest sanctions-as-interventions, that the student was not currently worthy of the social good of schooling, and therefore, the school was protecting the academic atmosphere of individual achievement by dismissing the student, allowing other students to proceed efficiently with their individual academic achievement.

Finally, *Model Policy 506* conflated equity with equality. Policy stated, "The position of the school district is that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience." However, the term "equitable" stands in juxtaposition with policy sanctions which did not differentiate by age, cultural linguistic barriers, or backgrounds of trauma or PTSD. Rather, the policy did not employ the concept of student equity to direct the school to look for patterns of suspension, expulsion, and /

or exclusion by gender, age, race/ethnicity, cultural linguistic diversity, special education status, mental or behavioral health status, English learner status, or socio-economic status. Finally, in profound irony and double-speak, *Model Policy 506* violated item number 42 in its Code of Student Conduct, which bars, “inappropriate. . . or demeaning actions based on race, color, creed, religion. . . status with regard to public assistance, disability, national origin, or sexual orientation.” National as well as Minnesota’s school dismissal data clearly shows overrepresentation of many of these same demographic groups which policy espouses to protect. In summary, while the policy appeared to treat students equally, there was no evidence of equity.

In conclusion, early in policy, within II. General Statement of Policy, a statement was made regarding the need to nurture the child as the child matures and balance authority with self-discipline (p. 1). However, policy was silent thereafter about child development. Furthermore, outside the single exception of the possibility that the school may not have implemented the IEP properly, the theme in policy was that one of two entities was at fault when a student was dismissed from school, the individual student or the student’s underperforming parents. Therefore, behavioral issues, even those of the parents, lied fully within the lone student’s area of responsibility. Policy stated, “All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy” (p. 3).

Policy made no mention of the potential for implicit bias of school employees or the presence of structural racism, nor did policy require reflection on school climate and / or social emotional curriculum or gaps in the system of services. In its silence about the school environment, the implicit bias of adults, as well as the presence of structural racism, policy acted as a form of power abuse, blaming the victims only. Policy was clear that the individual student who did not respond to sanctions by showing compliance could be deemed unworthy of

participating in the social good of schooling, and thus, dismissed from the school community (p., 13, 17-14).

### **Discourses Instantiated**

Stevenson (2014) reported that one in every three Black baby boys born in the United States in this century will be incarcerated in their lifetimes. Dancy, II (2014) stated schools are fulfilling their mission, which is to ensure Black boys go to prison. However, this Critical Discourse Analysis of *Model Policy 506, Student Discipline*, found some student demographic groups need not wait to be incarcerated to experience exclusion from society. This section of Chapter four includes discussion of freedom-limiting themes and conflicting ideologies exposed by the CDA of *Model Policy 506* as well as discourses instantiated by *Model Policy 506*.

Gee (2014) advised in a CDA the researcher should assess if discourse states one thing yet does another. This section discusses issues of area learning centers, recognition of audience, issues of age appropriateness, issues regarding students' educational rights, and annual review of policy.

**Area learning centers as “soft” exclusion.** *Model Policy 506* referenced alternative learning eight times in addition to a reference of the Minnesota statute on alternative learning (pp. 17-19, 21, 24-25). Placement of students into alternative learning settings allows students the opportunity to continue achieving the academic standards, yet policy espoused that placement in alternative learning settings was not another form of dismissal from the comprehensive high school setting, when, in fact, it is. Students who attend area learning centers are not attending comprehensive high schools. School experiences socialize students and teach them their roles in adult life and their place in and value to society (Wolf and Kupchick, 2016). While assignment of students to area learning centers allows non-conforming students to

continue achieving the standards, it does little to motivate or pressure or encourage the comprehensive high school setting to meet the needs and desires of the modern student. Critical Race Theorists call this out as lack of motivation to fix structural inequities (Delgado & Stefancic, 2001; Ledesma and Calderón, 2015). For example, the modern student wants, and society needs, an education system more focused on agency than on compliance and acquisition of content standards. Furthermore, modern education needs to build a more robust version of itself, one that more justly serves all students, and particularly Black, Indigenous students of color as well as all student groups who are overrepresented in school discipline data. The use of the alternative school reinscribes the figured world of behavioral issues as a student- deficit rather than a structural system deficit and removes the urgency for the system to examine itself.

**Failure to recognize the audience.** Questions of fairness and equity are noted when looking at policy through the lens of student age, primary language, and culture. *Model Policy 506* applied to all students and families as well as the community of a school district. Students, expected to know and comply with the policy, are placed in a double bind when they cannot access the discourse. The reading level of *Model Policy 506* is problematic for many students for whom the policy applies. The Lexile review as part of this CDA found that junior or senior in high school who can read in English at grade level should be able to read and understand *Model Policy 506*. However, the policy applies to all students, age from 3 to 21. In addition, the policy applies to students with special education needs, unless the individual Education Plan (IEP) states otherwise. Therefore, the discipline policy still applies to many students served in special education for a reading disability, a language processing disorder, and even an emotional behavioral disability. Furthermore, many Minnesota schools have students from a variety of cultural-linguistic diverse (CLD) backgrounds within the student body. Minnesota's citizenry

has upward of 250 home languages other than English (Jones, 2019). Students who are English learners as well as their parents may not yet be able to read and understand the policy language and there is no requirement for the policy to be translated or transcribed into languages which CLD students and parents understand. Some home languages are spoken only, not written, or have existed in written form for such a short time that parents may not have learned to read their primary language, even if policy were scripted for them.

Finally, *Model Policy 506* is rife with intertextuality. The policy draws its power from at least 21 laws and 15 other policies. The number of legal references and cross-referenced policies is substantial, presenting a challenge to a skilled reader of English text and even more formidable challenge to a student or family who must translate *Model Policy 506* and those intersections of state and federal code and cross-referenced policies from English to their home language, on their own. Therefore, because the discourse of the Model Policy cannot truly be accessed by all to whom it applies, the policy works to reinscribe the figured world that students who are worthy of education come to school having already achieved as the hidden middle class curriculum as well as standard English. *Model Policy 506*, then, codifies that some students do not deserve to be in school, and furthermore, that all adult actors are rightfully duty-bound to participate in the sanctioning process of students until behavioral compliance is achieved or proof exists of efforts failed to reach compliance, upon which individuals must be dismissed in order not to slow the achievement of other students who do conform.

**Age appropriateness.** Challenges to fairness and equity are seen when looking at application of sanctions to students who range in age from three to 21. Policy stated that, “. . . nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline” (p. 1), yet Section VII.



Disciplinary Action Options offers no differentiation of sanctions by age (p. 11-14). Policy allows for the dismissal of very young children from pre-school or the primary grades. Child development science speaks against harsh discipline. Young children may have an undetermined disability, may be new to American culture and to school settings, and / or may need social-emotional learning or trauma therapy, yet the policy language on these possibilities is limited whereas discipline sanctions are expansive. Policy then contradicts itself when it offers, on the one hand, a single phrase about the need to nurture students and, on the other hand, lists 21 disciplinary action options. Even more problematic is that policy is largely silent in terms of requiring or even guiding schools to see student behavior as an expression of the individual student's needs or cries for help, based on a potential background of trauma, or of not understanding the new culture of American schools, of being unable to access the academic curriculum, or similar issues.

**Students' educational rights.** Challenges to fairness and equity are noted again regarding a student's rights to an education and right to learn. First, the type of student the policy seeks to create or reaffirm may stand in contrast to a school's vision of a 21<sup>st</sup> Century student. Policy crafts a figured world of "good student", an individual whose academic achievement involves the mastering of graduation standards in an efficient and compliant way. Policy's good student is a departure from the vision of the modern student as one who can think critically, respond creatively, communicate, and collaborate, often stated in shorthand as "the four C's". It is notable that "compliance" is not only not one of the four C's but also, compliance stands in direct contrast to the engaged student, who actively learns through "co-labor" processes to find answers to complex issues and one whose teacher may guide the student to challenge the status quo. Policy envisions a student of the last century.

Policy contradicts itself again and is further problematic in regards fairness and equity in terms of social emotional learning needs of students. *Model Policy 506* recognized students who lack social – emotional skills and offers sanctions as corrections. Eventually, the school may sanction through dismissal. Policy assumed the learning of social-emotional skills will happen during the period of dismissal. Students with a low socio-economic status are dismissed from school at disparately higher rates than their middle-class peers, as are students who are culturally-linguistically diverse (CLD). Two challenges are presented when children in poverty or CLD children are dismissed from school. First, families with a low socio-economic status lack funds for private educational or counseling services regarding social-emotional skills (SEL). Because policy does not include social-emotional learning under a student’s right to learn and right to an education, one is left to assume that policy asks the reader to agree it is appropriate to exclude students with SEL needs from the school setting. Therefore, policy reinscribes that a student with missing SEL skills is unworthy of being in the social setting of students who came to school with those skills in place. Second, dismissing a CLD child from school to the CLD home offers no chance that the child will access a hidden curriculum of western European middle-class values.

**Annual review.** Opportunities to recognize the fairness and equity of *Model Policy 506* listed in XVI, Review of Policy. While policy requires a team to provide input on possible language changes, that input is limited in at least two ways, as follows. First, XVI, Review of Policy, states, “The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced” (p. 29). School staff, as well as students and parents who can access school discipline policy as it is

written, likely have normalized the figured world lying within school discipline policy. That is, application of school discipline policy results in disparate discipline for some students and not others, and, over time, that is absorbed as how school is supposed to work. Adults who work in schools build their social truths, their figured worlds, by witnessing how school works. Simply by coming to work and participating in work, disparity in discipline is normalized. Therefore, a team of people who have normalized discipline practices and who have benefited from policy as it is written are not best positioned to make policy improvements for those harmed by policy's current discipline framework unless informed of the lived experiences of students overrepresented in dismissal.

Second, Section. XVI, Review of Policy, states, "Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy" (p. 29). The reader should question if equal and equitable opportunities to recommend policy changes are actually provided to all people impacted by policy language. That is, would a reasonable person believe that minoritized students sanctioned at disparate rates and / or their families are positioned to provide input for policy improvement? A good first step in the annual review may be for policy to explicitly require committee membership to include student demographic groups disparately represented in discipline data, and their parents, specifically Black males and females, culturally linguistically diverse students, students enrolled in special education programs, students and families with low socio-economic status, students with diagnosed mental health needs, students being raised by one, not two, parents, and students with incarcerated parents. The very presence of students and families harmed by the policy would illustrate the impact of application of the discipline policy as it is written. Dismissal and discipline data may begin to map out implicit bias as structural racism

within discipline practices within the school. Furthermore, discipline data as well as participation by minoritized groups harmed by policy may inform school actors about what the students need the adults in the system to learn, in two areas, as follows: 1) social emotional learning needs of children as they mature, and 2) how the resulting patterns of discipline application actually reinscribe implicit bias of staff and structural racism at play. As it stands, *Model Policy 506* requires all staff to “act within the framework of the policy” as a condition of employment.

### **Summary**

In summary, *Model Policy 506, Student Discipline*, instantiated a figured word where it was right that adults at school support some groups of students to excel into the future while sorting other student groups into two sub-groups: the willfully non-compliant and the damaged. School adults, required to act within the framework of the discipline policy as a condition of employment, normalized a figured world where student compliance was reached by increasing the pressure of sanctions, including dismissal from the social experience of school. The building tasks at work in policy sought to normalize the sorting of students who did not express behavioral compliance into two groups, the willfully non-compliant and the flawed. Consideration for the flawed students included, as follow: need for special education assessment, need for character education curriculum, need for assessment to determine chemical dependency, need for medical screening to determine mental illness, and the need for juvenile court referral to determine if the student should be removed from the home and placed in detention.

Policy recognized the discipline’s goal to extinguish an individual student’s improper behavioral actions, though, as mentioned, space is given in policy for consideration that an individual student may not be responsible for behavior due to a flawed composition. In this

manner, policy assumes that social - emotional learning comes pre-built into the student skill set before the student arrives at school, and thus, ignores that the learning of social – emotional skills falls within the student’s right to learn. Furthermore, it is significant that policy focuses steadily on the individual student. By failing to address disparity for some student demographic groups and not others, policy remains silent about structural racism. Therefore, the discipline experience for minoritized students is less the impersonal quality control found on a factory floor, and, rather something far more punishing. Furthermore, this disparity also normalizes that some student demographic groups deserve to suffer immediate harms, future harms, and harms to subsequent generations because school socializes students into their future roles as citizens, either as people included in society or as people deemed unworthy of inclusion to be segregated from society in the penal system and forgotten (Wolf and Kupchick, 2016).

In 1954, Black students bravely walked past protesters into the newly integrated schools of Topeka, Kansas, after the Supreme Court ruled “separate but equal” yielded an inherently unequal education. Today, data on school suspension, expulsion, and exclusion raise the question about whether America’s public schools have abandoned that lesson in integration or whether discipline policy helps normalize a figured world of separate and unequal education for minoritized students (US Department of Education, 2014). Model school discipline policy not only supported the school-to-prison pipeline by creating a discipline framework which resulted in disparate dismissal of minoritized students from school but also, model policy directed school adults to participate in the discipline process, helping to create within school staff a figured world that normalized that public good of education rightfully belonged to some student demographic groups and not others.

## Conclusion

This chapter presented findings from a Critical Discourse Analysis of *Model Policy 506, Student Discipline*. The study found that *Model Policy 506, Student Discipline*, created a framework of patterns of dominance, leaving some student demographic groups to suffer the harms of school discipline more disparately than others. Policy normalized the dominant's group figured world where discipline sanctions were needed in education as a process-based experience rather than one where student agency was developed. Further, policy sought to clarify that when students lost the social good of schooling it was the student's fault. School employees were directed in policy to enact this figured world by fulfilling their required roles, acting within the framework of the policy. Resulting discipline, including dismissal when applying policy further reinscribed teacher and school employee bias, which expected that some students would not only understand the hidden curriculum of desired social behavior but also express the value of achieving specific academic skills and knowledge, while other students would not produce compliant, acceptable behaviors and should be sorted out. The building task of identity created models of students who were willfully non-compliant or perhaps chemically dependent, in need of character education or special education services, victims of bad parenting, mentally ill, or disabled. In summary, policy worked to create the mental model that issues of noncompliance within the student, alone. Outside one exception, that being a school's potential failure to implement the IEP correctly, policy failed to present student behavior as a result of being unable to access the policy's discourse, a result of teacher bias, systemic racism, or system gaps. Ironically, while policy worked to prove which students were in the greatest need of social-emotional skill building and self-regulation, the solution provided was discipline, including

removing students from the protective factor of school from the students with the greatest needs in the area of discipline.

The school setting, where the results of policy's application were seen daily, influenced staff's mental models about which students were deserving of school and which students must be ferreted out of the school setting. Sanctions listed in policy included school dismissal through suspension, expulsion, or exclusion. Both national and Minnesota suspension and expulsion data exposed disparate representation of minoritized student groups in school dismissal as compared with their middle class peers, as follows: males, students of color, particularly Black males, students served through special education programming, students living in impoverished conditions, students being raised by a single parent, students with PTSD or behavioral health concerns, and students who have or had an incarcerated parent or grandparent (US Department of Education, 2014; Council on School Health, 2003; MDE, 2020). Therefore, this CDA found implicit bias and practices which uphold structural racism are reinscribed as a function of carrying out the work role assigned through policy and witnessing which student demographic groups are sanctioned. Further, the building tasks busy in *Model Policy 506* were working to ensure the reader built a similar figured world regarding student behavior and the school's response to it. Finally, while the policy offered a method where policy could be improved, student groups and their families impacted negatively by discipline policy did not have equitable access to improving policy discourse due to functions of social power maintained by the school board, written into *Model Policy 506*.

Chapter Five, which follows, is a discussion of the findings in a broader context. Chapter Six is an actionable response to a potential policy window, regarding model school discipline policy.

## CHAPTER 5. DISCUSSION

### Introduction

This chapter discusses the findings presented in Chapter Four of a Critical Discourse Analysis of the Minnesota School Board Association's and Minnesota Association of School Administrators' *Model Policy 506, Student Discipline*. Chapter four reviewed the results of the CDA of *Model Policy 506, Student Discipline*. This chapter presents a discussion of the findings. Specifically, this chapter summarizes Chapter Four and then reviews and then re-frames, through a metaphor, the Taylor-esque and Tyler-esque commitment to behavioral compliance in *Model Policy 506, Student Discipline*. Furthermore, discussion is offered on the dehumanization of diversity caused when the pressure of punitive sanctions is used to achieve compliant student behavior.

### Results Summary

This CDA employed one of Gee's (2014) tools of inquiry, the figured world tool, to illuminate themes built in-use by seven building tasks in the *Model Policy's* discourse. Tools of inquiry, such as the figured world tool, along with the seven building tasks, are really just thinking devices employed by a social scientist using CDA to illuminate what language, in use, is constructing in terms of social truths for the reader to assume. Results of this CDA illuminated a bi-directional relationship between the mental models of school employees and the discourse of *Model Policy 506*. This relationship between discipline policy and existing teacher bias helped re-inscribe teacher implicit bias, which researchers (Skiba, Nardo, & Peterson, 2002) found to be the driver of disparate discipline of minoritized students.



## **Commitment to Academic Efficiency and Behavioral Compliance**

This CDA revealed a figured world in *Model Policy 506* where education was process, and, as a process, required efficiency toward the end goal of student achievement of the academic standards. Kleibard (1975a) stated the demand for an “efficient, means-ends rationalized curriculum had a negative impact on both the relationship between teachers and students as well as the relationship between students and the curriculum by “alienating them from their own creativity and intellectual curiosity” (Au, 2011). Additionally, alienation is compounded when the efficient learning process is coupled with an equally efficient discipline process, prized efficient, compliant mastery of academic standards.

**Control through the indexing of power and required actions.** *Model Policy 506* framed a discipline process which pulled its power from federal and state law as well as other school policies. All school employees were assigned a role in the discipline process, creating what at first appeared to be a factory-like production line beginning with the school board and superintendent and chaining down to the principal, teachers, other employees, parents, students, and community (p. 2-3). Actors at each level in the chain of command not only held more status and broader powers than those in a lower level, but also, every level of actors held power over students in roles that demanded they, as a condition of employment or participation, act “within the framework of this policy” (p. 2-3).

**Normalizing disparity.** *Model Policy 506* helped school actors rationalize and normalize a subtle form of torture where students were surveilled and regulated throughout the entire school day as well at any time and into any spaces beyond school that bore connection to the school, including grounds adjacent to the school, as well as the walking route to school or to school activities with no pretense of adult supervision in those areas. School actors, as a normal

function of their daily work, engaged in sorting students in the moment, based on perceived misconduct. On the one hand were good students who expressed the social norms of complaint behavior, and on the other were students unworthy, due to non-compliant behavior. *Model Policy 506* listed graduated sanctions of increasing pressure for students whose behavior was non-compliant, culminating in student dismissal from the school setting through suspension, expulsion, exclusion, or through placement into an area learning center. As a form of power domination, the building tasks at work in *Model Policy 506* sought to build the case that a student's non-compliance was due to an individual student's willful misconduct or individual flaw, not due to bias, school climate and culture, a services gap within the school system, or structural racism.

Nationally, some student groups (males, students of color, particularly Black males, culturally linguistically diverse students, students served through special education programming, students with low socio-economic status, student with a single parent, students with PTSD or behavioral health concerns, and students with an incarcerated parent or grandparent) are overrepresented in suspension, exclusion, and / or expulsion data (National Center for Education Statistics, 2015, figure 60, MDE, 2020). Students dismissed from school are more than twice as likely to enter the juvenile justice system as are students who remain in school (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014). Finally, research (Losen & Skiba, 2010; Wolf & Kupchick, 2016) illustrated a pathway from the juvenile justice system to the adult prison system. That three-stage pathway from school to juvenile detention to adult jails and prisons is known as the school-to-prison pipeline.

**Conclusion.** This CDA illuminated a figured world within *Model Policy 506, Student Discipline* where school actors, working within their power-differentiated defined roles, acted

within the policy's discipline framework. As a result of the figured world in policy discourse, teacher bias, which was reinscribed by policy, was the normalization of students from some demographic groups and not others to be overrepresented in school dismissal. Staff's daily involvement in coercive student discipline as well their exposure at work witnessing the results of an unjust discipline framework helped staff develop dispositions supportive of such discipline practices. That is, the application of school discipline policy normalized disparate discipline into the figured world of teachers and school staff. In addition, this CDA exposed that student groups suffering most harms from the discipline policy were not specifically allowed equitable access to the committee process to improve school discipline policy. *Model Policy 506* helped enact a figured world, premised on laws and customs, where some students and not others deserved the social good of education. Furthermore, *Model Policy 506* worked to normalize within the mental models of school staff and community members a powerful, somewhat mechanical process of discipline. Further, *Model Policy* held students individually responsible for the loss of their rights to attend school and to learn. Dismissal from school facilitates entry into the school-to-prison pipeline and birth-to-prison helix.

### **Dehumanization of Diversity: A Metaphorical Concept**

The figured world tool of inquiry exposed that the building tasks in *Model Policy 506* asked readers to assume that a punishing, sift and sort system of behavior management was proper. The "Disciplinary Action Options" in *Model Policy 506* included a list of graduated sanctions to reach behavioral compliance (p. 11-13). These graduated sanctions, along with school actors, parents, and the community, acting within the framework of the policy, created a discipline process less like an impersonal factory production line and more like a processed used in the aggregate industry.

## **Creating Aggregate**

The process of producing aggregate involves the sorting of rocks into piles of conforming sizes, to be used by consumers in landscape projects, roads, septic systems, and more. In the first stage of the production of aggregate materials, trucks are loaded with rocks at the source point. Trucks then dump the rocks onto a conveyor to be carried to a gravel screening machine. Rocks which conform to the gravel screen fall through the screener onto piles on the ground. Rocks too large to fit through the gravel screener are carried by the conveyor belt to an impact crusher where extreme force is applied to pulverize the rocks into conforming sizes. After a round in the impact crusher, rocks are then re-returned to the gravel screening machine for a second round of sorting. While most rocks succumb to the pressure of the impact crusher, it cannot pulverize all rocks. Rocks that do not give way to the pressure of the impact crusher may be run through the crusher several times. Rocks that prove impervious to the pressure of the impact crusher are eventually pulled off the conveyor belt and set aside. Meanwhile, the gravel-screening process continues to impersonally and efficiently sort, crush, and re-sort and re-crush as necessary, endless loads of rocks, into conforming piles of aggregate. The exception is those rocks that, due to the chemical bonds of their mineral composites, cannot be crushed and must be expelled from the aggregate production line.

## **Creating Compliant Students**

The behavior management framework of *Model Policy 506* enacted a discipline management process with similarities to the gravel-screening process. Just as the gravel screening process requires machinery to efficiently haul, sort, and crush rocks, *Model Policy 506* demands school actors who know and understand their roles in creating compliant student bodies.

As the educational process is enacted, the first step involves busing loads of students to the school setting. Here the academic process is begun with little regard for each student's unique "chemical bonding" to the school, and further, with little regard for each student's "mineral composite", that is, his / her / their unique social-emotional needs and personal backgrounds. Next, in the educational process, students are sent down the conveyor, the hallway, to the screener machine, known as the classroom. It is generally at this stage where the policy, in its entirety, begins to screen students who are worthy of education from those who are not worthy, though student behavior data may travel ahead of the student from one grade to the next through a student management system. Students who, by their behavior, seek academic mastery and exhibit behavioral conformity are screened into the "save" pile. However, students, who by their behavior, exhibit non-conformity in behavioral compliance are screened out as problematic.

Notably, *Model Policy 506* scribed a social truth that behavioral issues lie within the individual student himself / herself / their-self, as a result of their own willful behavior, their flawed composition, or as a result of the improper parenting they received. Just as rocks that do not conform to industry standards must be sent to the impact crusher, some students, too, who do not conform to pre-determined, externally imposed discipline standards and must experience disciplinary sanctions. Following application of a disciplinary sanction, the student is returned on the conveyor belt of the hallway, back to the screener machine of the classroom, for another chance to demonstrate compliance, and thus, to become part of the "save" pile of those who maintain the right to an education and the right to learn. However, students whose behavior does not improve through the pressure of a disciplinary sanction are returned to the impact crusher of progressive discipline where he / she / they may experience up to 18 different discipline options.

Much like rocks which the impact crusher is unable to pulverize are set to the side, students whom the impact crusher of disciplinary action options fails to bring to conformity, are set outside the school setting through dismissal. That is, the discipline framework in *Model Policy 506* upheld the idea that either the pressure of 18 applied sanctions will cause the student to conform to the behavioral standard, or the student will prove that he / she / they cannot be made to conform, and therefore, must be removed from the process. The student may be dismissed from the educational process for a period ranging from five days to a full school year. Whereas a real-life aggregate screener sorts rocks by size only, the gravel screener of the discipline process, based on national and Minnesota school discipline data, to sort by color, gender, special education status, PTSD or behavioral health status, by whether a student has only one parent rather than two, by whether the student has a low socio-economic status, and / or by whether the student's parents or grandparents experienced incarceration (National Center for Education Statistics, 2015, figure 60; MDE, 2020).

Model policy not only remained silent on how the student is to address his / her / their social emotional needs during the period of dismissal prior to returning to school, but also, in dismissing the student from the school setting, removed all services which may help the student and his / her / their school discover and respond to the antecedent for the behavior. In addition, policy neither requested nor required the school committee to assess implicit bias is at play, structural racism, or whether a gap in the school's multi-tiered systems of support existed.

Policy permitted that the dismissal process to be avoided by placement into an area learning center if the student is deemed not to be an "immediate and substantial danger to self or to surrounding persons or property (MSBA, page 17). Given this exception, an argument can be made that the area learning center is simply a subtler form of dismissal from the comprehensive

school than is suspension, expulsion, or exclusion. Meanwhile, the gravel screener of the discipline framework continues to seek homogeneity and compliance, a process which reinscribes the figured world where it is right and proper that some student groups achieve academic mastery while other student groups continue to be overrepresented in the impact crusher of the discipline and dismissal process.

Businesses in the aggregate industry may hold annual meetings to review the successes and challenges of their fiscal year. Similarly, the last requirement within *Model Policy 506* was an annual review where “The principal and representatives of parents, students and staff in each school building” met to “review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced” (p. 27). Logically, students dismissed from the educational process through suspension, expulsion, and/ or exclusion as well as their parents were likely not included in the annual review, and therefore, were unable to realistically offer, “Any recommended changes” which, “... shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy” (p. 27). Minoritized families, even if invited, often cannot afford time off work to attend meetings during the school day. Further, the meetings may be in English only, leaving out access, participation, and representation by many culturally linguistically diverse families. Further, because the policy’s Lexile level is at the upper high school level, families who use vernacular English rather than business English or whose home language is not English may not feel ill equipped to participate. Over time, minoritized people may come to believe the school is not interested in their voices and perspectives. Therein, *Model Policy 506* resisted interruption by groups most subject to its harms, and thus, acted as a form of power abuse (van Dijk, 2001).

## School Systems as Mirrors of Larger Society

The disparate representation of minoritized students in school discipline policy is strikingly like disparate representation found in adult incarceration. That the dismissal of minoritized students from the social good of school mirrors that of the dismissal of minoritized adults from larger society should come as no surprise, given that *Model Discipline Policy 506* draws its power from federal and state laws as well as customs and practices – or more bluntly stated, from the figured world of the dominant group. In other words, the dominant group in society has privileged access to discourse in legislation, and by proxy, the discourse in school discipline policy when policy is premised on legislation. For example, the federal *Gun-Free Schools Act of 1994* required that local school boards adopt zero-tolerance within school discipline policies or forgo federal Title funds (Padres & Jovenes Unidos and Advancement Project, 2004). Federal Title funds help support impoverished children to meet high academic standards. Ironically, the zero-tolerance policy helped exit from school the very student group that Federal Title aid intended to help. Recall that the financial incentives of Federal Title funds motivated schools to integrate peacefully, following the response to the 1954 *Brown* case.

Society's master figured world helps uphold the structurally racist framework where it has become normal to see dismissal of some demographic groups of people and not others from society, a practice which ingrains implicit biases even more deeply. That bias, in turn, supports structurally racist practices. As a result, some demographic groups of adults and their children are consistently overrepresented in dismissal from society while other groups of adults and their children are not. The sanctioning of children through school dismissal as a disciplinary action option in school policy not only helped to build, but also works to feed children into the school-to-prison pipeline, a pipeline offering three points of dismissal from society, as follow: through



school dismissal which opens opportunity for enmeshment in juvenile justice, and, from there, into adult incarceration. Furthermore, the injustice of the school-to-prison pipeline impacts future generations due to the intergenerational, socio-economic impact of under-education. That is, students dismissed from school are more likely to enter the juvenile justice system (Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E., 2014), to drop out (Rumberger & Losen, 2016, p. 6; The Schott Foundation for Public Education, 2012, p. 32), to be under-employed or not employed (Carnevale, Rose, Cheah, n.d., p. 5; The Schott Foundation for Public Education, 2012; to live in poverty (Skiba et al., 2008, p. 856) , to face adult incarceration (Skiba, Michael, Nardo, & Peterson, 2002), and to raise children of their own who face both the impact crusher that is school discipline as well as the impact crusher of laws and customs of larger society. The punishing relationship between the school-prison-pipeline and the birth-to -prison helix can be illustrated by an example. The *Violent Crime Control and Enforcement Act of 1994* overturned an inmate's rights to access the Pell Grant to fund college coursework while incarcerated, as had been permitted in the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)). The effect was that impoverished inmates were no longer able to improve their educational status while incarcerated, almost ensuring their limited employability once freed. Children of former inmates, then, were more likely to be raised in poverty and have poorer academic outcomes and higher discipline dismissals as compared with their peers who did not have an incarcerated parent or grandparent (Stevenson, 2014). And the cycle of punishment continues today.

It is sadly telling that the impact crusher of school discipline policy screens students not by size but by color, gender, culturally linguistic diversity, socio-economic status, behavioral health needs, special education status, by whether the student has one parent, and by family history with incarceration. In this view, the school-to-prison pipeline is a sub-process of a larger

birth-to-prison helix, so subtly normalized in the dominant groups' figured world that they may not even realize their complicity in participating. However, if school discipline policy constructs the conditions for overrepresentation of some student groups and not others, then herein lies a leverage point for interrupting both the school-to-prison pipeline and birth-to-prison helix.

### **Leverage Points in Model Policy 506**

It is important to note neither this CDA nor the discussion in this chapter advocates that student discipline be abandoned. Parents, including parents of minoritized students most harmed by discipline policy want their children to attend safe, orderly, and fair schools that show parity in discipline. Furthermore, parents may not want their children to be by products of “education as a system” but rather human beings allowed to engage in democracy at the schoolhouse level, where they learn about themselves, the needs of the world, and how academic content may be applicable to both self and world issues. That said, discipline policy must be improved to be responsive to the needs of all students, particularly to the students suffering most brutally under the current *Model Policy 506*.

*Model Policy 506* offers at least three key leverage points for improvement. First, *Model Policy 506* serves students and families who cannot access it due to the reading complexity or the fact that it is offered only in English, yet all students are required to “know and obey” the policy. The Lexile level of *Model Policy 506* is higher than the grade level of 87% of the students to whom it applies. In other words, the school holding the students accountable for knowing and obeying the policy has not yet taught students to read documents as complex as the one to which it is holding its students accountable. Regarding New American families, model policy is offered in English only. MSBA states, on the prelude to the policy services section on its website, “Most school districts do not have the time and personnel to develop a comprehensive

policy manual. In addition, school districts would require substantial legal assistance to develop policies on their own” (MSBA, 2019). Therefore, MSBA must recognize its responsibility to translate *Model Policy 506* into the 250 home languages of all Minnesota school students and families or to put into model policy an expectation that local districts translate their final version into the home language of the students and families to whom discipline policy applies. If not, can a policy call itself fair and equitable when many who are expected to uphold it cannot access the discourse of it?

A second leverage point sits in the section on annual review of policy. The required review committee which includes the school principal, teachers, and students must also include representation of both adults and students from groups who lack parity in school level discipline data. In addition, the annual review should include a public accounting of the results of the application of discipline policy by race / ethnicity, cultural linguistic diversity, gender, socio-economic status, special education status, as well as the tender information on the number of student with PTSD or behavioral health concerns who have been dismissed from school, the number dismissed who have one parent rather than two parents, and the number of students dismissed with an incarcerated parent or grandparent. If the number of students in any category is so low that it may identify specific students, that data should not be made public.

Furthermore, the annual process of studying the results of discipline should include, as a condition of employment, implementation of a plan to reach parity across student groups. Finally, this review committee must answer the question asked in policy, “Is the policy is working as intended” (p. 27)? In other words, are the ethical beliefs of the school staff, students, and parents that some student groups should prosper while other student groups are

overrepresented in school dismissal and sent on a pathway to the justice system? And if not, what mitigation response will be recommended to the superintendent to go to the board?

A third leverage point in *Model Policy 506* hides in plain sight in the policy's statement that, "The position of the school district is that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience". This CDA illuminated that the figured world within *Model Policy 506* results in discipline that is neither fair nor equitable for some student demographic groups. Rather, *Model Policy 506*, in its current form, works to rationalize discipline results as individual student issues. To improve outcomes for all students, particularly for minoritized students, *Model Policy 506* should include the statement that student behavior is an expression of student need as well as a measure of school climate and culture, implicit bias, and structural racism at play. Therefore, the school must respond not only to the individual student's needs but also to aggregate discipline results by student group in an effort to determine where overrepresentation exists, what bias and structural issue may support its existence, and then act on that knowledge with expediency.

### **Conclusion**

This Critical Discourse Analysis involved academic research of both school discipline and the STPP, applied inquiry, and authentic action research. The intent of this Ed. D. is for school administrators and other interested parties to act upon issues of social injustice concerning student discipline outcomes and the dismal trajectory of life outcomes associated with school dismissal. While this chapter offered a discussion of the results of a Critical Discourse Analysis of *Model Policy 506, Student Discipline*, Chapter Six provides an actionable response to the study.

## CHAPTER 6. CALL TO ACTION

### Introduction

Named Cherish at birth and Chance at death, a middle school student committed suicide on my watch; I am forever changed. If I don't act on what I have since learned, I am morally complicit. Frankly, we all are, just as we can all choose not to be complicit any longer. Three contemporary Black Americans motivated me to move from complicity to action. First, author Ibram X. Kendi spoke to policy consumers when he said, "Racism is a problem of bad policy, not bad people."<sup>1</sup> Next, Congressman John Lewis called us to help redeem the soul of America through courageous work, "good trouble", as he called it, over injustice. Finally, Vynetta M, a wise Black woman heard my presentation on the school-to-prison pipeline and exclaimed, "Do something, White girl!". And so, my "do" is to make good trouble over bad policy. *Model Policy 506, Student Discipline*, is bad policy.

As a Minnesota resident, with more than 35 years of combined experience as a high school English language arts and social studies teacher, school principal, assistant superintendent, superintendent, and director of equity and inclusion, I feel a moral obligation to students. Acting to improve school discipline policy is a significant bias mitigation effort because minoritized students suffer due to bad policy during their school years, into their adult futures, and across generations. For the last two years, I have conducted a Critical Discourse Analysis of *Model Policy 506, Student Discipline*, co-authored by the Minnesota School Board Association (MSBA) and the Minnesota Association of School Administrators (MASA). My study involved extensive research into the link between school discipline and the school-to-

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<sup>1</sup> See <https://www.ibramxkendi.com/antiracism-center-2>

prison pipeline. My study exposed that, when enacted, *Model Policy 506*, reinscribes implicit bias of school staff, resulting in continuous punishing inequity for Minnesota's minoritized student groups. This is bad policy; it is time to make good trouble over bad policy.

### **The Homogeneity of *Model Policy 506, Student Discipline* in Minnesota Schools**

The MSBA's website states, "Most school districts do not have time and personnel to develop a comprehensive policy manual. In addition, school districts would require substantial legal assistance to develop policy on their own."<sup>2</sup> As a result, the fairly ubiquitous implementation of *Model Policy 506, Student Discipline*, in Minnesota schools from Alexandria to Zumbrota, provided homogeneity for my study. From afar, policy architects have written policy for hypothetical Minnesota students; however, the application of policy results in abysmal outcomes for some student groups while making the public good of education more accessible to other student groups. This is structural racism; this is bad policy. It's time to make good trouble over this bad policy.

### **Minnesota's Outcomes**

School discipline is necessary; *of course*, Minnesota's students, parents, and teachers want safe, civil schools, yet parity should result from discipline policy that is equitable. However, Minnesota's children of color are overrepresented in school dismissal, with no demographic group more grossly overrepresented than Black males. For example, in 2018, White students outnumbered Black students in Minnesota schools by a six-to-one ratio. However, in 2018, more than 19,000 school dismissals were for Black students whereas 17,615 were for White students.<sup>3</sup> Sadly, Minnesota's Indigenous students fared no better. Indigenous

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<sup>2</sup> See MSBA (2020)

<sup>3</sup> See MDE 2020

students, who made up 1.5% of the total student population in 2018, experienced 5% of the school dismissals. Multi-race students and students served in special education were overrepresented in school dismissal, as well.<sup>4</sup> While national school dismissal is similarly discriminatory like Minnesota's, showing overrepresentation of students of color, particularly Black males, as well as students who are culturally linguistically diverse, raised by a single parent, with low socio-economic status, with PTSD or mental health needs, or who have or had an incarcerated parent or grandparent, Minnesota's outcomes are deeply troubling.<sup>5</sup> Minnesota ranked 40<sup>th</sup> in the achievement gap, 44<sup>th</sup> for progress in closing that gap, and 50<sup>th</sup> in disparities by race / ethnicity in earning a diploma<sup>6</sup>. The truth is *Model Policy 506* is neither fair nor equitable for Minnesota's students. It's time to make good trouble over this bad policy.

School dismissal sets up students for life-long, intergenerational, punishing life outcomes. Academic research states school dismissal directly links to dropping out<sup>7</sup>, under-employment<sup>8</sup>, and poverty<sup>9</sup>. Further, school dismissal doubles the likelihood students will become enmeshed in juvenile detention, and from there, adult incarceration, and dropping out triples the likelihood.<sup>10</sup> This is Minnesota's and the nation's school-to-prison pipeline. It's time to make good trouble over bad policy.

### **Findings from the Critical Discourse Analysis of Model Policy 506, Student Discipline**

Findings from my Critical Discourse Analysis of *Model Policy 506, Student Discipline*,

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<sup>4</sup> See MDE 2020

<sup>5</sup> Retrieved from U.S. Department of Education, National Center for Education Statistics website: <http://nces.ed.gov/pubsearch>

<sup>6</sup> See Jones (2019), Minnesota's racial disparities in the City Pages

<sup>7</sup> See Gregory et al (2010)

<sup>8</sup> See The Schott Foundation for Public Education (2015), p. 30

<sup>9</sup> See Carnevale, Rose, & Cheah (n.d.), p. 5

<sup>10</sup> See Gregory, Skiba, & Noguera (2010), and Rausch & Skiba (2005), and Rumberger & Losen (2016)

show some student demographic groups benefit when policy is enacted while others suffer.

*Model Policy 506* further opens the door to the STPP because it: 1) cannot be accessed by the majority of students who are held accountable to it; 2) possess spaces beyond the school campus and school schedule with no pretense of adult support; 3) sorts students into the worthy of education and the unworthy, who do not deserve their rights to an education; 4) mutes the voices of minoritized populations in policy improvement, and 5) defines education and discipline as process-based experiences with a discipline framework of rock crushing efficiency. *Model Policy 506* is bad policy; is time to make good trouble over bad policy.

**Access issues.** *Model Policy 506* states, “All students shall be held individually accountable for knowing and obeying the Code of Student Conduct and this policy.”<sup>11</sup> The Lexile level of *Model Policy 506* is at the 11<sup>th</sup> to 12<sup>th</sup> grade.<sup>12</sup> In a preK-12 school, more than 87% of the student body could not understand *Model Policy 506*, even if reading on grade-level in English. Yet students are held accountable for “knowing and obeying” a policy their school has not yet taught them how to read. *Model Policy 506* is bad policy; is time to make good trouble over bad policy.

*Model Policy 506* is not accessible to English learners. Minnesota’s culturally linguistically diverse students speak upward of 250 home languages other than English,<sup>13</sup> yet *Model Policy 506*, written in English only, states students must “know and obey” the policy, while parents are expected to, “. . . cooperate with the school authorities and participate regarding the behavior of their children”<sup>14</sup> New Americans, learning a new language, English,

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<sup>11</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>12</sup> See Uselman (2020), Words Matter: a critical discourse analysis of Model Policy 506, Student Discipline

<sup>13</sup> See Jones (2019)

<sup>14</sup> See MSBA (2019) Model School Policy 506, School Discipline



and navigating a new culture, middle class White culture, can't access the policy they need to know in order to assist their children. This is bad policy.

*Model Policy 506* assumes students, aged 3 to 21, will synthesize jargon from multiple texts - intertextual reading skills adults may not have. Though *Policy 506* makes a nod to “ a balance between authority and self-discipline”, the Student Responsibilities section requires students, “To be aware of all school rules, regulations, policies, and procedures, including those in this policy and to conduct themselves in accordance with them.”<sup>15</sup> *Model Policy 506* references 18 state laws, two federal laws, and one federal code<sup>16</sup>. In addition, 14 other model policies are cross-referenced with each of those policies additionally cross-referenced.<sup>17</sup> *Model Policy 506* then expects even deeper legal expertise from students when it states students must know all “local, state, and national laws, as applicable”<sup>18</sup> Even a school superintendent who reads voraciously in English would be bamboozled when expected to know and draw from all district policies, regulations, rules, 21 specific federal and state laws, and any other local, state, or federal laws that may apply to a situation, on or off campus. Asking students to have this depth of intertextual expertise is simply wrong and asking it in a policy most of the student body cannot read is even more wrong. *Model Policy 506* is bad policy; is time to make good trouble over bad policy.

**Possessing spaces beyond the school setting.** *Model Policy 506* seeks to surveil students extensively for misbehavior, in some places demanding accountability without even the pretense of adult protection. *Model Policy 506* dedicates page space to student rights and to how

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<sup>15</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>16</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>17</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>18</sup> See MSBA (2019) Model School Policy 506, School Discipline

those rights can be taken away. In policy, students are afforded two rights in a single clause: the right to an education and the right to learn. Disciplinary action options consumes two pages, school dismissal processes get 12 pages, and the Code of Student Conduct is allocated six pages which are dedicated listing 45 specific behavioral infractions. A 46<sup>th</sup> infraction is a broadly generic statement of “other acts”.<sup>19</sup> While much surveillance and monitoring for student misbehavior occurs in areas supervised by adults, such as school campuses, buses, activities, and trips, policy possess areas where there is not even a pretense of adult supervision, including, “. . . a student’s walking route to or from school for the purposes of attending school or school-related functions, activities, or events” and adds, “. . . any time or in any place. . . .” if student conduct interferes with the district’s mission or operations<sup>20</sup>. Expanding discipline’s reach to times and places well beyond the school day and schoolhouse proper, in policing for numerous infractions well beyond zero-tolerance for weapons, in using progressive disciplinary action options is problematic. Doing so expands the gateway into the school-to-prison pipeline. Minnesota’s school dismissal data proves that gateway is opened disparately for some student demographic groups and not others. In this way, *Model Policy 506* is bad policy; is time to make good trouble over bad policy.

*Model Policy 506* requires, as a condition of employment, school staff to enforce the Code of Student Conduct. Teachers and principals are afforded the use of force beyond situations of life, death, or bodily harm to correct or restrain students.<sup>21</sup> Further, the Code of Student Conduct polices student dress and language, making White middle-class ways of

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<sup>19</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>20</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>21</sup> See MSBA (2019) Model School Policy 506, School Discipline

knowing significant and the vernacular of other demographic groups insignificant. Herein *Model Policy 506* is tone deaf to the limited closets of students in poverty and of cultural expressions such as baggy clothing, a throwback to the days when the only clothing available was hand-me-downs. In addition, the human mind is an organizing and sense making machine. Implicit bias develops from over-exposure to negative messaging about a demographic group, such as Black students. That messaging does not occur only in the school's ecosystem; it is in the larger society as well. However, teacher implicit bias is further reinscribed as a function of policy application when teachers witness minoritized students being disciplined over language and dress infractions. Implicit bias is not overt bigotry. Rather, disparate discipline becomes silently normalized as a function of the school's ecosystem. Staff may not even be aware of how their implicit bias impacts discipline determinations.

Finally, in profound irony and double-speak, *Model Policy 506* violates item number 42 in its own Code of Student Conduct, which bars, "inappropriate. . . or demeaning actions based on race, color, creed, religion. . . status with regard to public assistance, disability, national origin, or sexual orientation."<sup>22</sup> Minnesota's school dismissal data clearly shows overrepresentation of many of the same demographic groups which policy espouses to protect. *Model Policy 506* is bad policy; it is time to make good trouble over bad policy.

**Sorting the worthy from the unworthy.** *Model Policy 506* ignores the symbiotic relationship between the school and the children entrusted to its care when it defines only two student identities, students worthy of education and students worthy of losing their rights to learn and to an education. The social truth being built in *Model Policy 506* is student misbehavior is

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<sup>22</sup> See MSBA (2019) Model School Policy 506, School Discipline

due to one of three root causes: 1) the individual student's free, but bad, choices, 2) flaws within the student that need fixing, or 3) bad parenting. Notably, *Model Policy 506* remains silent on how school climate, implicit bias, or structural racism, illustrated by Minnesota school dismissal data with consistent overrepresentation of minoritized students, impacts students. This is bad policy.

The first theory, the willfully bad student theory, ignores that behavior has antecedents such as responses to chronic poverty or stressful environments, including being a child of color in an institution based on White middle-class values and run largely by White middle-class adults. It is abhorrent to assume some student demographic groups are overrepresented in school disincline because their demographic is willfully bad. The flawed-student-who-needs-fixing theory operates on the same assumption, that some student demographic group's behavior, if not willfully bad, shows students in that demographic are more likely to need a chemical evaluation, a mental health screening for a "mental disorder", an evaluation for special education where children of color are already overrepresented, or character education.<sup>23</sup> The third theory of student misbehavior, the bad parenting theory, references state law regarding how parental rights may be terminated if parents do not support students toward compliant behaviors. To adopt any of the root causes presented by policy, based on Minnesota's school dismissal data, asks us to assume it is normal to have disparate school dismissal rates for males, particularly Black males, students of color, culturally linguistically diverse students, students served in special education, students with one, not two, parents, students living in impoverished conditions, students with PTSD or mental health issues, or students with an incarcerated parent or grandparent. That is a

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<sup>23</sup> See MSBA (2019) Model School Policy 506, School Discipline

profoundly racist social truth to hold, and I reject it. Join me in calling out these racist underpinnings. It is time to make good trouble over bad policy.

**Excluding minoritized voices from policy improvement.** *Model Policy 506* acts as a form of power abuse because it controls the audience, setting, and voice in participation<sup>24</sup> and it is not vested in securing input from those who are overrepresented in school dismissal. *Model Policy 506* demands at least one annual review to “. . . determine if policy is working as intended, and to assess whether the discipline policy has been enforced.” The review committee must include the “principal and representatives of parents, students, and staff in each building”.<sup>25</sup> In other words, *Model Policy 506* seeks input from those who benefit from policy as it is written. Herein, policy fails to recognize the bi-directional relationship between policy which acts to reinscribe bias, and biased staff upholding existing policy. Likely not included on the committee are students dismissed from school, their parents, as well as culturally linguistically diverse students and parents with limited English skills, parents with special education needs, parents with mental health needs, parents with low socio-economic status unable to take time off work during the school day, single parents raising students on their own, and parents with a history of incarceration. Furthermore, the committee, who is tasked to, “. . . determine if the policy is working as intended”<sup>26</sup> is not explicitly directed to study school’s discipline and dismissal data for parity of policy’s application and to assess whether the protective factor of schooling is lost by some student demographic groups while other groups receive education and all the other benefits education offers. This is bad policy.

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<sup>24</sup> See Van Dijk (2001)

<sup>25</sup> See MSBA (2019) Model School Policy 506, School Discipline

<sup>26</sup> See MSBA (2019) Model School Policy 506, School Discipline

Some might argue that schools could already design their committee and shape its work in this fashion, yet do not; yes, that is the very point. MSBA and MASA must acknowledge the responsibility that comes with their power to design model policy to work for the betterment of all Minnesota's children, particularly those suffering disparately under the current *Model Policy 506*. Some might argue state entities should not direct local districts how to act; however, model policy is already doing that by advising districts to adopt model policy rather than writing it locally. Some may fear the financial burden of improved discipline policy if it were to address social-emotional learning needs for students and staff, school climate issues, and examination for implicit bias and structural racism. However, minoritized students overrepresented in school dismissal, who experience punishing life outcomes and are socialized for limited adult roles as a result of school dismissal have, for too long, carried the burden alone. Finally, some might argue that for schools to be safe, school dismissal must remain color blind, yet we know 20 years of data says schools are not made safer through suspension, expulsion, or exclusion,<sup>27</sup> academic achievement is not increased for anyone, including the students who remain in school,<sup>28</sup> and while most school shooters have been White, male, and psychotic, Black males are disparately dismissed from school.<sup>29</sup> There is nothing color blind about *Model Policy 506*. It's time to make good trouble over bad policy.

**Rock crushing efficiency when education and discipline are process-based experiences.** *Model Policy 506* includes a discipline framework of rock crushing efficiency.

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<sup>27</sup> See American Psychological Service (2008), Forsyth (2013) and Losen & Skiba (2010)

<sup>28</sup> See Martin & Bradshaw (2013)

<sup>29</sup> See Gladwell (2015, October 19). pp 33-38

Policy uses “learn” seven times, “force / enforce” 13 times, “appropriate” 24 times, “violation” 31 times, and “shall” 74 times to create an efficient discipline process which can support education as a process of achieving the academic standards. *Model Policy 506*, drafted in 1999, remains unschooled about the transition from the factory style of education toward the 4 C’s: creativity, communication, critical thinking, and collaboration. Notably, “compliance” is not one of the 4 C’s, nor is learning the lone endeavor it was in the last century. It’s time to make good trouble over bad policy.

***Less factory, more aggregate industry.*** The 21 Disciplinary Action Options in *Model Policy 506* are less an impersonal factory of the last century and more the rock sorting and crushing process of today’s aggregate industry. The parallels are chilling. Aggregate production creates rocks for landscape projects, roads, and septic systems, whereas schools pontificate about creating students who are choice-ready for college, career, and community life. In the first stage of aggregate production, trucks load up rocks from the source point, just as buses pick up children from homes. Trucks dump rocks onto conveyors to be carried to a gravel screening machine; buses drop off students to enter schools. Rocks naturally sized to fit through the gravel screen fall onto piles on the ground; students, sized to fit the values of schools designed for White middle-class, fall into place into the classroom. Rocks that don’t conform to the gravel screener’s openings are conveyed to the impact crusher to be pulverized into conforming sizes; students, whose teachers determine they have non-compliant behavior, are sent to the principal’s office to face the pressure of policy’s sanctions. After experiencing the impact crusher, rocks are returned to the gravel screener and sorted for compliance in size; students, after experiencing a disciplinary sanction, are returned to the classroom, with expectations of compliance.

While most rocks succumb to the impact crusher, not all are pulverized in the first round; some students learn compliance after a single sanction, but not all students are able to display immediate compliance. Rocks not conforming in size return to the impact crusher; students, recognized by school staff as not conforming, return to the administrative office for up to 19 additional sanctions. Rocks judged impervious to the impact crusher due to the chemical bonds of their mineral compounds are expelled from the aggregate production line to sit to the side in the hope for a future use; students, judged on their demographic and social compositions, are dismissed from school and / or the comprehensive school setting, segregated from society. Despite these similarities between the aggregate industry and school discipline processes, the aggregate screener differs from *Model Policy 506* in that the aggregate material is sorted by size only. The gravel screener of the discipline process, based on both national and Minnesota's school discipline data, sorts students by their gender, color, special education status, PTSD or behavioral health status, whether they have only one parent, by their socio-economic status, and / or familial history with incarceration. *Model Policy 506* is bad policy; it is high time to make good trouble over bad policy.

### **Call to Action**

Bias mitigation is important social justice work and improving school discipline policy is an important part of bias mitigation in Minnesota's public schools. *Model Policy 506*, when enacted, reinscribes staff implicit bias and normalizes structurally racist practices. Twenty years of research says teacher implicit bias is the point of origin of the school-to-prison pipeline. Incarceration in the US has increased 1600% over the last twenty years<sup>30</sup> at a cost of \$87 billion

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<sup>30</sup> See Shapiro, (2011), p. 5



annually<sup>31</sup>. Funds spent on incarceration might better be spent on teachers and counselors, smaller class sizes, public health services during a global pandemic, public roads, and bridges. That said, placing the blame for disparate incarceration at the feet of teachers is incomplete. Teacher implicit bias did not develop in isolation, nor are teachers alone responsible for feeding students into the school-to-prison pipeline. The responsibility is ours, collectively, and we must act to improve school discipline policy. Creating inclusive and equitable school discipline policy, as measured by parity in outcomes, is a significant bias mitigation effort which will serve to interrupt the school-to-prison pipeline.

In summary, ethical school leaders change what they cannot accept. I cannot accept that Cherish / Chance left without leaving a lesson, just as we, school leaders, cannot accept that *Model Policy 506* assumes we will continue to normalize disparate school dismissal of Minnesota's minoritized students. We know *Model Policy 506, Student Discipline*, is bad policy; we can't unknow it. Therefore, let's Cherish our Chance to improve the lives of all Minnesota's students, forging a statewide commission, inclusive of all voices, to develop fair and equitable model school discipline policy. Kendi advised us that racism is the result of bad policy, Lewis dared us to, "Make good trouble", and Vynetta M. challenged this White girl to, "Do something." That challenge is now extended to all school leaders who, by virtue of position, hold both the power and responsibility to act on issues of social injustice for the children in their care. Now is our time to make good trouble over bad policy. For Minnesota's students, there is no time to wait.

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<sup>31</sup>Retrieved from <http://sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf>

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## APPENDIX. MSBA /MASA MODEL POLICY 506, STUDENT DISCIPLINE

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 506

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2019

### 506 STUDENT DISCIPLINE

*[Note: School districts are required by statute to have a policy addressing these issues.]*

#### I. PURPOSE

The purpose of this policy is to ensure that students are aware of and comply with the school district's expectations for student conduct. Such compliance will enhance the school district's ability to maintain discipline and ensure that there is no interference with the educational process. The school district will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

#### II. GENERAL STATEMENT OF POLICY

The school board recognizes that individual responsibility and mutual respect are essential components of the educational process. The school board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others, and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making, and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. The position of the school district is that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56.

In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the school board, with the participation of school district administrators, teachers, employees, students, parents, community members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the school district.

### III. AREAS OF RESPONSIBILITY

- A. The School Board. The school board holds all school personnel responsible for the maintenance of order within the school district and supports all personnel acting within the framework of this discipline policy.
- B. Superintendent. The superintendent shall establish guidelines and directives to carry out this policy, hold all school personnel, students, and parents responsible for conforming to this policy, and support all school personnel performing their duties within the framework of this policy. The superintendent shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents. Any guidelines or directives established to implement this policy shall be submitted to the school board for approval and shall be attached as an addendum to this policy.
- C. Principal. The school principal is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final school board approval. The principal shall give direction and support to all school personnel performing their duties within the framework of this policy. The principal shall consult with parents of students conducting themselves in a manner contrary to the policy. The principal shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. A principal, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- D. Teachers. All teachers shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct. In exercising the teacher's lawful authority, a teacher may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- E. Other School District Personnel. All school district personnel shall be responsible for contributing to the atmosphere of mutual respect within the school. Their responsibilities relating to student behavior shall be as authorized and directed by the superintendent. A school employee, school bus driver, or other agent of a school district, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

- F. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with school authorities and to participate regarding the behavior of their children.
- G. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.
- H. Community Members. Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled.

#### **IV. STUDENT RIGHTS**

All students have the right to an education and the right to learn.

#### **V. STUDENT RESPONSIBILITIES**

All students have the responsibility:

- A. For their behavior and for knowing and obeying all school rules, regulations, policies, and procedures;
- B. To attend school daily, except when excused, and to be on time to all classes and other school functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state and local school authorities;
- D. To make necessary arrangements for making up work when absent from school;
- E. To assist the school staff in maintaining a safe school for all students;
- F. To be aware of all school rules, regulations, policies, and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. To assume that until a rule or policy is waived, altered, or repealed, it is in full force and effect;
- H. To be aware of and comply with federal, state, and local laws;
- I. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with school staff as appropriate;
- J. To respect and maintain the school's property and the property of others;
- K. To dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable school district policy;

- L. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. To conduct themselves in an appropriate physical or verbal manner; and
- N. To recognize and respect the rights of others.

## **VI. CODE OF STUDENT CONDUCT**

- A. The following are examples of unacceptable behavior subject to disciplinary action by the school district. These examples are not intended to be an exclusive list. Any student who engages in any of these activities shall be disciplined in accordance with this policy. This policy applies to all school buildings, school grounds, and school property or property immediately adjacent to school grounds; school-sponsored activities or trips; school bus stops; school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes; the area of entrance or departure from school premises or events; and all school-related functions, school-sponsored activities, events, or trips. School district property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting unacceptable behavior subject to disciplinary action at these locations and events, the school district does not represent that it will provide supervision or assume liability at these locations and events. This policy also applies to any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student, other students, or employees.
  - 1. Violations against property including, but not limited to, damage to or destruction of school property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
  - 2. The use of profanity or obscene language, or the possession of obscene materials;
  - 3. Gambling, including, but not limited to, playing a game of chance for stakes;
  - 4. Violation of the school district's Hazing Prohibition Policy;
  - 5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving school grounds without permission;
  - 6. Violation of the school district's Student Attendance Policy;
  - 7. Opposition to authority using physical force or violence;

8. Using, possessing, or distributing tobacco, tobacco-related devices, electronic cigarettes, or tobacco paraphernalia in violation of the school district's Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices Policy;
9. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of alcohol or other intoxicating substances or look-alike substances;
10. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of narcotics, drugs, or other controlled substances (except as prescribed by a physician), or look-alike substances (these prohibitions include medical marijuana or medical cannabis, even when prescribed by a physician, and one student sharing prescription medication with another student);
11. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
12. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;
13. Violation of the school district's Weapons Policy;
14. Violation of the school district's Violence Prevention Policy;
15. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
16. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
17. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
18. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the school;
19. Violation of any local, state, or federal law as appropriate;
20. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority,

cheating, insolence, insubordination, failure to identify oneself, improper activation of fire alarms, or bomb threats;

21. Violation of the school district's Internet Acceptable Use and Safety Policy;
22. Possession of nuisance devices or objects which cause distractions and may facilitate cheating including, but not limited to, pagers, radios, and phones, including picture phones;
23. Violation of school bus or transportation rules or the school district's Student Transportation Safety Policy;
24. Violation of parking or school traffic rules and regulations, including, but not limited to, driving on school property in such a manner as to endanger persons or property;
25. Violation of directives or guidelines relating to lockers or improperly gaining access to a school locker;
26. Violation of the school district's Search of Student Lockers, Desks, Personal Possessions, and Student's Person Policy;
27. Violation of the school district's Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches Policy;
28. Possession or distribution of slanderous, libelous, or pornographic materials;
29. Violation of the school district' Bullying Prohibition Policy;
30. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
31. Criminal activity;
32. Falsification of any records, documents, notes, or signatures;
33. Tampering with, changing, or altering records or documents of the school district by any method including, but not limited to, computer access or other electronic means;

34. Scholastic dishonesty which includes, but is not limited to, cheating on a school assignment or test, plagiarism, or collusion, including the use of picture phones or other technology to accomplish this end;
35. Impertinent or disrespectful words, symbols, acronyms, or language, whether oral or written, related to teachers or other school district personnel;
36. Violation of the school district's Harassment and Violence Policy;
37. Actions, including fighting or any other assaultive behavior, which causes or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other school district personnel, or other persons;
38. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
39. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
40. Verbal assaults or verbally abusive behavior including, but not limited to, use of words, symbols, acronyms, or language, whether oral or written, that are discriminatory, abusive, obscene, threatening, intimidating, degrading to other people, or threatening to school property;
41. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;
42. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin, or sexual orientation;
43. Violation of the school district's Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees Policy;
44. Violation of the school district's one-to-one device rules and regulations;
45. Violation of school rules, regulations, policies, or procedures, including, but not limited to, those policies specifically enumerated in this policy;
46. Other acts, as determined by the school district, which are disruptive of the educational process or dangerous or detrimental to the student or other students, school district personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the school, or which otherwise interferes with or obstruct the mission or operations of the school district or the safety or welfare of students or employees.

## VII. DISCIPLINARY ACTION OPTIONS

The general policy of the school district is to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school district. At a minimum, violation of school district rules, regulations, policies, or procedures will result in discussion of the violation and a verbal warning. The school district shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the school district. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, principal, counselor, or other school district personnel, and verbal warning;
- B. Confiscation by school district personnel and/or by law enforcement of any item, article, object, or thing, prohibited by, or used in the violation of, any school district policy, rule, regulation, procedure, or state or federal law. If confiscated by the school district, the confiscated item, article, object, or thing will be released only to the parent/guardian following the completion of any investigation or disciplinary action instituted or taken related to the violation.
- C. Parent contact;
- D. Parent conference;
- E. Removal from class;
- F. In-school suspension;
- G. Suspension from extracurricular activities;
- H. Detention or restriction of privileges;
- I. Loss of school privileges;
- J. In-school monitoring or revised class schedule;
- K. Referral to in-school support services;
- L. Referral to community resources or outside agency services;
- M. Financial restitution;
- N. Referral to police, other law enforcement agencies, or other appropriate authorities;
- O. A request for a petition to be filed in district court for juvenile delinquency adjudication;



- P. Out-of-school suspension under the Pupil Fair Dismissal Act;
- Q. Preparation of an admission or readmission plan;
- R. Saturday school;
- S. Expulsion under the Pupil Fair Dismissal Act;
- T. Exclusion under the Pupil Fair Dismissal Act; and/or
- U. Other disciplinary action as deemed appropriate by the school district.

### **VIII. REMOVAL OF STUDENTS FROM CLASS**

- A. The teacher of record shall have the general control and government of the classroom. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail, or when the teacher determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by this discipline policy. "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school district employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

Grounds for removal from class shall include any of the following:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school;
3. Willful violation of any school rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the teacher or administration, requires removal of the student from class.

Such removal shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

A student must be removed from class immediately if the student engages in assault or violent behavior. "Assault" is an act done with intent to cause fear in another of

immediate bodily harm or death; or the intentional infliction of, or attempt to inflict, bodily harm upon another. The removal from class shall be for a period of time deemed appropriate by the principal, in consultation with the teacher.

- B. If a student is removed from class more than ten (10) times in a school year, the school district shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

***[Note: The following Sections C. - K. must be developed and inserted by each school district based upon individual district practices, procedures, and preferences.]***

**C. *Procedures for Removal of a Student From a Class.***

1. *Specify procedures to be followed by a teacher, administrator or other school district employee to remove a student from a class;*
2. *Specify required approvals necessary;*
3. *Specify paperwork and reporting procedures.*

**D. *Responsibility for and Custody of a Student Removed From Class.***

1. *Designation of where student is to go when removed;*
2. *Designation of how student is to get to designated destination;*
3. *Whether student must be accompanied;*
4. *Statement of what student is to do when and while removed;*
5. *Designation of who has control over and responsibility for student after removal from class.*

**E. *Procedures for Return of a Student to a Class From Which the Student Was Removed.***

1. *Specification of procedures;*
2. *Actions or approvals required such as notes, conferences, readmission plans.*

**F. *Procedures for Notification.***

1. *Specify procedures for notifying students and parents/guardians of violations of the rules of conduct and resulting disciplinary action;*

2. *Actions or approvals required, such as notes, conferences, readmission plans.*

**G. *Disabled Students; Special Provisions.***

1. *Procedures for consideration of whether there is a need for further assessment;*
2. *Procedures for consideration of whether there is a need for a review of the adequacy of the current Individualized Education Program (IEP) of a disabled student who is removed from class or disciplined; and*
3. *Any procedures determined appropriate for referring students in need of special education services to those services.*

**H. *Procedures for Detecting and Addressing Chemical Abuse Problems of Students While on School Premises.***

1. *Establishment of a chemical abuse preassessment team pursuant to Minn. Stat. § 121A.26;*
2. *Establishment of teacher reporting procedures to the chemical abuse preassessment team pursuant to Minn. Stat. § 121A.29.*

**I. *Procedures for Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct.***

**J. *Any Procedures Determined Appropriate for Encouraging Early Involvement of Parents or Guardians in Attempts to Improve a Student's Behavior.***

**K. *Any Procedures Determined Appropriate for Encouraging Early Detection of Behavioral Problems.***

**IX. DISMISSAL**

- A. “Dismissal” means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

The school district shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

The school district shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

B. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:

1. Willful violation of any reasonable school board regulation, including those found in this policy;
2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including school district employees, or property of the school.

C. Suspension Procedures

1. “Suspension” means an action by the school administration, under rules promulgated by the School Board, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the suspending administrator shall provide the superintendent with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less where a student with a disability does not receive regular or special education instruction during that dismissal period.
2. If a student’s total days of removal from school exceed ten (10) cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the student and the student’s parent or guardian before subsequently removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian’s expense. The purpose of this meeting is to attempt to determine the student’s need for assessment or other services or whether the parent or guardian should have the student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder.
3. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission which must not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School administration must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect. The school

administration may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.

4. A child with a disability may be suspended. When a child with a disability has been suspended for more than five (5) consecutive days or ten (10) cumulative school days in the same year, and that suspension does not involve a recommendation for expulsion or exclusion or other change in placement under federal law, relevant members of the child's IEP team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's IEP. That meeting must occur as soon as possible, but no more than ten (10) days after the sixth (6<sup>th</sup>) consecutive day of suspension or the tenth (10<sup>th</sup>) cumulative day of suspension has elapsed.
5. The school administration shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the student to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting.
6. The school administration shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a school administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.
7. After school administration notifies a student of the grounds for suspension, school administration may, instead of imposing the suspension, do one or more of the following:

- a. strongly encourage a parent or guardian of the student to attend school with the student for one day;
  - b. assign the student to attend school on Saturday as supervised by the principal or the principal's designee; and
  - c. petition the juvenile court that the student is in need of services under Minn. Stat. Ch. 260C.
8. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference. (See attached sample Notice of Suspension.)
  9. The school administration shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone as soon as possible following suspension.
  10. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.
  11. Notwithstanding the foregoing provisions, the student may be suspended pending the school board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

D. Expulsion and Exclusion Procedures

1. "Expulsion" means a school board action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the school board.
2. "Exclusion" means an action taken by the school board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year. The authority to exclude rests with the school board.
3. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40-121A.56.

4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.
5. The student and parent or guardian shall be provided written notice of the school district's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE).
6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the school district, student, parent, or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student, parent, or guardian and shall be closed, unless the student, parent, or guardian requests an open hearing.
8. The school district shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.
9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The school board may appoint an attorney to represent the school district in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.
11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school district. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.

12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school district employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for the school district.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.
16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the school board and served upon the parties within two (2) days after the close of the hearing.
17. The school board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.
18. A party to an expulsion or exclusion decision made by the school board may appeal the decision to the Commissioner within twenty-one (21) calendar days of school board action pursuant to Minn. Stat. § 121A.49. The decision of the school board shall be implemented during the appeal to the Commissioner.
19. The school district shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
20. The school district must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the



effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.

21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, a school administrator shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the school district.

## **X. ADMISSION OR READMISSION PLAN**

A school administrator shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan may include measures to improve the student's behavior, including completing a character education program consistent with Minn. Stat. § 120B.232, Subd. 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

## **XI. NOTIFICATION OF POLICY VIOLATIONS**

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, principal or other school district official may provide additional notification as deemed appropriate.

In addition, the school district must report, through the MDE electronic reporting system, each physical assault of a school district employee by a student within thirty (30) days of the assault. This report must include a statement of the alternative educational services or other sanction, intervention, or resolution given to the student in response to the assault and the reason for, the effective date, and the duration of the exclusion or expulsion or other sanction, intervention, or resolution. The report must also include the student's age, grade, gender, race, and special education status.

## **XII. STUDENT DISCIPLINE RECORDS**

The policy of the school district is that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable school district policies and federal and state law, including the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

## **XIII. DISABLED STUDENTS**

Students who are currently identified as eligible under the IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 plan specifies a necessary modification.

Before initiating an expulsion or exclusion of a student with a disability, relevant members of the child's IEP team and the child's parent shall, consistent with federal law, conduct a manifestation determination and determine whether the child's behavior was (i) caused by or had a direct and substantial relationship to the child's disability and (ii) whether the child's conduct was a direct result of a failure to implement the child's IEP. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the school district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that the school district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the school district shall continue to provide special education and related services during the period of expulsion or exclusion.

#### **XIV. OPEN ENROLLED STUDENTS**

The school district may terminate the enrollment of a nonresident student enrolled under an Enrollment Option Program (Minn. Stat. § 124D.03) or Enrollment in Nonresident District (Minn. Stat. § 124D.08) at the end of a school year if the student meets the definition of a habitual truant, the student has been provided appropriate services for truancy (Minn. Stat. Ch. 260A), and the student's case has been referred to juvenile court. The school district may also terminate the enrollment of a nonresident student over the age of seventeen (17) enrolled under an Enrollment Options Program if the student is absent without lawful excuse for one or more periods on fifteen (15) school days and has not lawfully withdrawn from school.

#### **XV. DISTRIBUTION OF POLICY**

The school district will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in each principal's office.

#### **XVI. REVIEW OF POLICY**

The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy.

- Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
- Minn. Stat. § 120B.02 (Educational Expectations for Minnesota Students)
- Minn. Stat. § 120B.232 (Character Development Education)
- Minn. Stat. § 121A.26 (School Preassessment Teams)
- Minn. Stat. § 121A.29 (Reporting; Chemical Abuse)
- Drugs
- (Pupil Fair Dismissal Act)
- Minn. Stat. § 121A.575 (Alternatives to Pupil Suspension)
- Minn. Stat. § 121A.582 (Reasonable Force)
- Minn. Stat. §§ 121A.60-121A.61 (Removal from Class)
- Minn. Stat. § 122A.42 (General Control of Schools)
- Minn. Stat. § 123A.05 (Area Learning Center Organization)
- Minn. Stat. § 124D.03 (Enrollment Options Program)
- Minn. Stat. § 124D.08 (Enrollment in Nonresident District)
- Minn. Stat. Ch.125A (Students with Disabilities)
- Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
- Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
- Minn. Stat. Ch. 260A (Truancy)
- Minn. Stat. Ch. 260C (Juvenile Court Act)
- 20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Improvement Act of 2004)
- 29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)
- 34 C.F.R. § 300.530(e)(1) (Manifestation Determination)
- Cross References:** MSBA/MASA Model Policy 413 (Harassment and Violence)

MSBA/MASA Model Policy 419 (Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices)

MSBA/MASA Model Policy 501 (School Weapons)

MSBA/MASA Model Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)

MSBA/MASA Model Policy 503 (Student Attendance)

MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)

MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)

MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)

MSBA/MASA Model Policy 525 (Violence Prevention)

MSBA/MASA Model Policy 526 (Hazing Prohibition)

MSBA/MASA Model Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)

MSBA/MASA Model Policy 610 (Field Trips)

MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)

MSBA/MASA Model Policy 711 (Video Recording on School Buses)

MSBA/MASA Model Policy 712 (Video Surveillance Other Than on Buses)