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RESTORATIVE JUSTICE IN SCHOOLS:
Ending the Criminalization of Trauma, Race, and 'Childlike' Behavior in Children

H. Reynolds Martínez[1]

ABSTRACT

Student misbehavior is a problem that education professionals have struggled to manage since public schools first emerged during the American colonial period. Traditionally, schools have employed harsh disciplinary approaches such as corporal punishment and zero-tolerance policies to manage adverse behavior. This paper interrogates the potential benefits of restorative justice practices in public schools, especially given the pervasive use of discipline and policing to target especially vulnerable students for misbehavior. How, if at all, can restorative justice address racial disparities in education that are both (1) rooted in generational and cultural trauma, poverty, and other social issues; and (2) reinforced by the carceral, discipline focused structures of the public school education system? The Article also outlines tactics and critiques surrounding the implementation of restorative justice in schools, as well as potential opportunities to yield more success moving forward. This inquiry concludes with a case study and critique centered upon the implementation of restorative practices at Los Angeles Unified School District. This Article seeks to expand upon legal scholarship on restorative justice in schools through an interdisciplinary approach discussing both the internal and external social forces associated with misconduct and punitive discipline which disproportionately affects students of color.[2]

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1. UCLA Law J.D. Class of 2026, with specializations in Critical Race Studies and the Epstein Program for Public Interest Law and Policy Program; Princeton University, A.B. in Anthropology. The author is grateful to Professor LaToya Baldwin Clark for her indispensable support in writing this paper, Mr. Sanders for his important restorative justice work in LAUSD schools, and Luke for his support and dedication to education. Thank you also to the incredible UCLA Criminal Justice Law Review team for their extensive feedback and assistance.

2. I argue that critically informed, multidisciplinary analysis ought to form the basis for legal scholarship, especially when seeking to redress historic and ongoing racial harm affecting vulnerable communities like students. Without understanding how trauma impacts behavior in classrooms and how systemic issues shape students' vulnerability

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to punitive discipline, legal scholars may not be able to formulate meaningful avenues of redress that adequately respond to the root problems affecting students to limit future misbehavior. At the same time, failure to understand the original intentions behind restorative justice practices in indigenous communities can lead to Westernized, inadequate applications of restorative justice within the school setting.

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I. Introduction: Race and Discipline in Schools

For over a century, student misbehavior has been a challenge that educators and school administrators have sought to control.[3] Whether through traditional corporal punishment, strict zero tolerance policies, or more recently, restorative justice practices, school leaders have long centered discipline as a key tactic for responding to disruption and unwanted behaviors in the classroom.[4] Schools have traditionally focused not only on cultivating academic skills, but also training students to be upstanding, well behaved, responsible citizens.[5] However, student misbehavior is often the result of systemic problems that cannot be adequately addressed by the disciplinary approaches historically used within public schools.[6]

Often, disciplinary measures like zero-tolerance policies contribute to racially disparate consequences for misbehavior including exclusion from school, criminalization, and isolation from peers.[7] These harsh disciplinary measures can give way to a cycle of trauma, in which students who have experienced marginalization act out in schools and are punished for their misbehavior,

3. Irwin A. Hyman et al., Discipline in American Education: An Overview and Analysis, 161 J. of Educ. 51, 51 (1979).
4. Ryan Katz, *Two Centuries of School Discipline*, APM Reports, (Aug. 25, 2016), https://www.apmreports.org/story/2016/08/25/two-centuries-of-school-discipline [https://perma.cc/P8SU-8V53].
5. *Id.*
6. Scott E. Carrell & Mark L. Hoekstra, *Externalities in the Classroom: How Children Exposed to Domestic Violence Affect Everyone's Kids*, 2 Am. Econ. J.: Applied Econ. 211, 225 (2010) (finding that children exposed to domestic violence at home are more likely to experience poverty, unemployment, substance abuse, and lower educational attainment—which is associated with disruptive behavior in the classroom); *see also* Kyle Miller & Karen Flint-Stipp, *The Unintended Consequences of Integrating Trauma-Informed Teaching Into Teacher Education*, 35 Teaching Educ. 424, 426 (2024) (acknowledging the role of trauma and children's past experiences in misbehavior within the classroom).
7. Mawule A. Sevon, *Schooling While Black: Analyzing the Racial School Discipline Crisis for Behavior Analyst*, 15 Behav. Analysis in Prac. 1247, 1247 (2022).

contributing to further traumatization and subsequent behavioral concerns.[8] These exclusionary disciplinary practices contribute to the school-to-prison pipeline, in which high numbers of young people are arrested, removed from schools, and held in juvenile detention.[9] The school-to-prison pipeline shifts the responsibility for addressing student misbehavior from educators and school administrators to school police and prosecutors, criminalizing common child-like behaviors.[10] Ultimately, those most in need of support also tend to be the most impacted by harsh school disciplinary measures—students of color, students with disabilities, LGBTQ+ youth, and other marginalized students.[11]

All this leads to questions about the role of restorative justice practices in schools and how schools can avoid perpetuating cycles of trauma or violence within the classroom. This Introduction explores how unwanted behaviors manifest in the classroom, how schools have endeavored to manage these behaviors, and how punitive discipline has disparately impacted students of color. This Part sets up this Article's discussion of alternative paths forward for addressing disruptive behaviors and inappropriate conduct without punishing and criminalizing students.

A. *Behavior as a Symptom of Systemic Problems and Trauma*

Student misbehavior within schools is often treated as a problem in need of solving, but this characterization ignores the external factors impacting students' mood, conduct, and wellbeing in the classroom. Some may be inclined to blame parenting styles, whether too permissive or too authoritarian, for misbehavior in class.[12] However, student behavior also may depend on socioeconomic conditions, academic abilities, and classroom dynamics.[13] For instance, families in poverty may prioritize survival and basic needs over academics, which may be reflected in students' behaviors at school.[14] At the same time, similar behaviors may also arise in students from high income families if, for example, students are often left unattended at home while parents are working or traveling.[15]

Undesirable conduct labeled as misbehavior may result from boredom, lack of parental attention, inadequate monitoring and communication from

8. Maura McInerney & Amy McKlindon, Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools 2 (Educ. Law Ctr. 2014).
9. Roxana Gomez, *The School-to-Prison Pipeline: What It Is, How It Functions, and How We Can Work to Dismantle It*, ACLU Wash., (Sept. 22, 2023), https://www.aclu-wa.org/story/school-prison-pipeline-what-it-how-it-functions-and-how-we-can-work-dismantle-it [https://perma.cc/6K9P-6R6T].
10. *Id.*
11. Zabrina Aleguire et al., *Breaking the Chains: The School-To-Prison Pipeline, Implicit Bias, and Racial Trauma* 2–3 (Equal Just. Soc'y 2016).
12. Matthew Lynch, *Too Rough, Too Rowdy: External Causes of Student Misbehavior*, Education Week, (July 6, 2016), https://www.edweek.org/education/opinion-too-rough-too-rowdy-external-causes-of-student-misbehavior/2016/07 [https://perma.cc/2UC2–8DTT].
13. *Id.*
14. *Id.*
15. *Id.*

teachers, absence of clear rules and expectations, and peer pressure, among other sources.[16] In other words, unwanted behaviors can arise due a range of conditions—in poverty and wealth, high academic achievers and students struggling academically, and under both permissive and controlling parenting styles.[17] Misbehavior in the classroom can also be understood as a form of communication.[18] Katherine Evans and Jessica Lester describe how students—especially those with disabilities and behavior-related diagnoses—may use disruptive and even threatening behaviors to communicate with teachers and peers.[19] Students may engage in behaviors to avoid certain tasks or situations, gain attention from educators and peers, to acquire a specific outcome, or to regulate sensory needs.[20]

Exposure to traumatic events such as abuse, incarceration, separation from families, disasters, immigration, discrimination or community violence can also impact behavior, as well as the emotional wellbeing of students.[21] Trauma can threaten children's sense of safety, whether experienced individually or through collective harm.[22] Psychologists explain that when children face chronic trauma without the support of a caring adult to help process adverse experiences, the body's stress response may be impeded, leading to emotional dysregulation.[23] Thus, when students become dysregulated, areas of the brain that control higher order thinking—or "thinking straight"—become unavailable as a result of an overactive stress response system.[24]

Studies suggest young people growing up in urban, impoverished areas are more likely to experience repeated traumatic events, posing a risk of long term developmental issues and psychological trauma.[25] Undesirable conduct in school settings commonly is associated with individual children's experiences of personal and cultural trauma, as well as social disparities related to income,

16. Abera Getachew et al., *Nature and Causes of Students' Misbehavior as Perceived by Ambo University Teachers*, 48 J. of the Soc. Scis. 763, 769 (2020).
17. Lynch, *supra* note 12.
18. Katherine R. Evans & Jessica Nina Lester, *Zero Tolerance: Moving the Conversation Forward*, 48 Intervention in Sch. & Clinic 108, 108–09 (2012).
19. *Id.*
20. Amanda Morin, *Understanding Behavior as Communication: A Teacher's Guide*, Understood, https://www.understood.org/en/articles/understanding-behavior-as-communication-a-teachers-guide [https://perma.cc/6B2J-TKWQ] (last visited Mar. 27, 2026).
21. Jessica B. Koslouski et al., *Understanding and Responding to the Effects of Trauma in the Classroom: A Primer for Educators*, 1 Soc. & Emotional Learning: Rsch., Prac., & Pol'y 1, 2 (2023).
22. Uma Dorn Parameswaran et al., *Healing Schools: A Framework for Joining Trauma-Informed Care, Restorative Justice, and Multicultural Education for Whole School Reform*, 56 Urb. Rev. 186, 189 (2024).
23. Koslouski et al., *supra* note 21, at 3.
24. *Id.*
25. Kelli L. Cover, *Baltimore City Schools Need Many Things - A Personal Police Force is Not One of Them*, 48 U. Baltimore L. F. 69, 87–88 (2018) (describing how Baltimore youth often experience violence death in their family and community, as well as other trauma caused by systemic violence which is not adequately addressed by policing).

education, health, nutrition, employment, and safety.[26] Youth who are impacted by various forms of trauma often also experience the harshest discipline in school settings, reinforcing existing challenges with adjustment to structured school settings.[27]

Students today have grown up during a period of ongoing collective trauma, caused by a number of issues such as the COVID-19 pandemic, worsening climate change, repeated police killings of people of color, the increased detention of immigrants, and other forms of political violence rendered visible to all through social media.[28] In particular, the closure of in-person schools during 2020 disrupted formative years of students' lives, which may contribute to even more disruptive behavior, inattention, and delays in socioemotional development across students.[29] In many cases, post pandemic discipline has become even more severe in classrooms as a result of rising instances of unwanted conduct at school.[30]

Ultimately, what is often viewed as misbehavior in the classroom is a product of complex, multifaceted experiences of each child, arising out of systemic problems and social conditions, as well as more personal experiences of trauma, individual development, and differing modes of communication. However, responses to misbehavior from educators and administrators have historically centered around punitive discipline and zero tolerance policies that fail to address the roots of the undesirable, often disruptive conduct.

B. *Racially Disparate Zero Tolerance Disciplinary Policies*

The management of unwanted conduct and misbehavior in the classroom has proven to be a longstanding challenge for educators.[31] Worsening student behavior is widely viewed as a glaring cause of teacher burnout, causing

26. Mara Schiff, *Can Restorative Justice Disrupt the 'School-to-Prison Pipeline?*, 21 Contemp. Just. Rev. 121, 122 (2018).
27. *Id.*
28. Martha A. Brown, *We Cannot Return to "Normal": A Post-COVID Call for a Systems Approach to Implementing Restorative Justice in Education (RJE)*, 10 Laws 1, 1–2 (2021); *see also* Carmen Suen, *Study Finds Immigration Detention Harms Children's Mental, Physical Health*, The Harvard Gazette, (Jan. 22, 2024), https://news.harvard.edu/gazette/story/newsplus/study-finds-immigration-detention-harms-childrens-mental-physical-health/ [https://perma.cc/7GAC-QF3H].
29. *See* Brown, *supra* note 28, at 1; *see also More Than 80 Percent of U.S. Public Schools Report Pandemic Has Negatively Impacted Student Behavior and Socio-Emotional Development*, Nat'l Ctr. for Educ. Stats., (July 6, 2022), https://nces.ed.gov/whatsnew/press_releases/07_06_2022.asp [https://perma.cc/KKE8-A282] (describing how schools have largely reported increased classroom disruptions related to misconduct, rowdiness, disrespect, chronic absenteeism, and unpermitted use of electronic devices following the COVID-19 pandemic).
30. Elaine S. Povich, *Shaken by Post-Pandemic Disruptions, Some States Take a Harder Line on School Discipline*, Stateline, (Sept. 25, 2023), https://stateline.org/2023/09/25/shaken-by-post-pandemic-disruptions-some-states-take-a-harder-line-on-school-discipline.
31. Zachary A. Casey et al., *From Neoliberal Policy to Neoliberal Pedagogy: Racializing and Historicizing Classroom Management*, 4 J. of Pedagogy 36, 41 (2013) (describing how classroom management has been a concern since education was first formalized in the 19th century).

near constant stress for educators.[32] Research suggests that trauma informed approaches such as schoolwide positive behavioral interventions, behavior specific praise statements, culturally responsive class environments, and targeted supports can support the individual needs of students and limit disruptive behaviors in the classroom.[33]

While teachers may be able to teach students more appropriate behavior and conflict resolution skills when faced with misbehavior from a student, zero tolerance policies often restrict the ability of teachers to build student resilience through such learning opportunities.[34] Under zero tolerance policies, teachers are required to follow uniform school discipline policies to address particular behaviors without regard for unique student needs or experiences.[35] Zero tolerance policies largely focus upon punishing specific actions and deterring students from engaging certain behaviors.[36] One of the defining qualities of zero tolerance policies is their predetermined nature—that is, consequences are assigned without regard for the circumstances or disciplinary history of the student.[37] Oftentimes, zero tolerance punishments involve automatic expulsions and suspensions.[38]

Zero tolerance policies emerged not from school settings, but rather from America's war on drugs in the early 1980s.[39] Soon after, zero tolerance became a catchphrase applied to social issues ranging from homelessness to trespassing to environmental pollution.[40] Within the school setting, zero tolerance policies permit the use of criminal penalties for student misbehavior, which has led to schools ticketing and arresting students for nonviolent actions, including arbitrary offenses like "disrespect," "disobedience," or "disruption."[41] The number of expulsions, suspensions, school based arrests, and referrals to law enforcement also escalated drastically, with out of school suspensions more than doubling between 1974 and 2012, and tens of thousands of arrests in 2011 alone.[42] Since schools routinely refer students to the adult and juvenile justice systems as well as school discipline, students are uniquely subjected to a form

32. Caelan Soma, *Dysregulation and Behavior: The Roots of Teacher Burnout*, Starr Commonwealth, (Nov. 17, 2023), https://starr.org/2023/dysregulation-and-behavior-the-roots-of-teacher-burnout/?srsltid=AfmBOoodK3EromgpTwtFcbwQr665L2yOz9Ojdlfhu0-kOPhpiyBUKqkm [https://perma.cc/V966-FB4S].
33. Brian Cavanaugh, *Trauma-Informed Classrooms and Schools*, 25 Beyond Behav. 41, 42–43 (2016).
34. Evans & Lester, *supra* note 18, at 109.
35. *Id.*
36. Scott Russell & Diane Crocker, *The Institutionalisation of Restorative Justice in Schools: A Critical Sensemaking Account*, 4 Restorative Just.: An Int'l J., 195, 197 (2016).
37. Sheena Molsbee, *Zeroing Out Zero Tolerance: Eliminating Zero Tolerance Policies in Texas Schools*, 40 Tex. Tech L. Rev., 325, 327 (2008).
38. David Knight & Anita Wadhwa, *Expanding Opportunity Through Critical Restorative Justice*, 11 Sch.: Studs. in Educ., 11, 13 (2014).
39. Molsbee, *supra* note 37, at 332–33.
40. *Id.*
41. *Id.* at 337–38.
42. Jason P. Nance, *Over-Disciplining Students, Racial Bias, and the School-to-Prison Pipeline*, 50 U. Rich. L. Rev. 1063, 1063–64 (2016).

of "double jeopardy" which denies them traditional protections against double charging for the same offense.[43]

Though many charges students face under zero tolerance policies would not constitute criminal charges for adults, these policies lead many students to develop a permanent criminal record.[44] For instance, in Texas, criminal charges have been levied for offenses as minor as chewing gum in class.[45] Similarly, at a Maryland school in 2013, a seven year old boy who munched on his Pop-Tart into the shape of a gun was suspended for two days, causing him to miss valuable instruction time.[46] Since zero tolerance policies were adopted in the 1990s, many new laws have been enacted requiring the referral of children to law enforcement authorities for various school code violations. Overall, students of color have been disproportionately sanctioned for misbehavior.[47]

Though some states limit use of zero tolerance policies to offenses related to drugs and weapons, many others apply mandatory suspension or expulsion for other, ambiguous behaviors that may only be distracting or inappropriate, rather than explicitly threatening.[48] These behaviors include fighting (broadly), insubordination, and bullying.[49] Some schools even apply preventative detention policies, excluding students from school due to their perceived potential to be dangerous even without any explicit misbehavior.[50] Out of school suspensions are among the most widely used disciplinary techniques in schools, yet these exclusive policies tend not to respond to the most dangerous behaviors but rather, relatively trivial acts like disrespect towards authority figures or disruptiveness in the classroom.[51]

Given that zero tolerance policies tend to disproportionately impact Black, low income, and disabled students, policies targeting vague behaviors may not be equally applied across protected categories like race or ability.[52] Administrators have broad discretionary powers in applying zero tolerance policies, which may contribute to disparities in student outcomes.[53] Studies suggest zero tolerance policies do not reduce violence or behavioral concerns within schools, at times even exacerbating existing problems within schools.[54]

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43. David Simson, *Exclusion, Punishment, Racism, and Our Schools: A Critical Race Theory Perspective on School Discipline*, 61 UCLA L. Rev., 506, 518 (2014).
44. Molsbee, *supra* note 37, at 337–38.
45. *Id.* at 339.
46. Sydney Ford, *Learning While Black: How "Zero Tolerance" Policies Disproportionately Affect Black Students*, 32 U. Fla. J. Law & Pub. Pol'y, 49, 50 (2021).
47. Johanna Wald & Daniel J. Losen, *Defining and Redirecting a School-to-Prison Pipeline*, 99 New Directions for Youth Dev., 9, 10 (2003).
48. Evans & Lester, *supra* note 18, at 109.
49. *Id.*
50. Wald & Losen, *supra* note 47, at 13.
51. Simson, *supra* note 43, at 515.
52. Ernesto Lodi, Lucrezia Perrella, Gian Luigi Lepri, Maria Luisa Scarpa & Patrizia Patrizi, *Use of Restorative Justice and Restorative Practices at School: A Systematic Literature Review*, 1 Int'l J. Env't Rsch. & Pub. Health, 1, 4, (2022). *See also* Molsbee, *supra* note 37, at 343–44.
53. Evans & Lester, *supra* note 18, at 109.
54. Russell & Crocker, *supra* note 36, at 196.

In fact, zero tolerance policies increase recidivism rates, as students tend to engage in similar or even worse behaviors upon their return to school.[55]

At the same time, these policies increase the likelihood of unequal treatment of Black and low income students; urban school districts likewise see enhanced disparities when implementing zero tolerance policies.[56] Similarly, disabled students have faced more frequent punishment under these strict disciplinary policies, causing many students with learning disabilities to be suspended, expelled, and removed from the classroom.[57]

C. *Racial Disparities in Educational Outcomes and the School to Prison Pipeline*

This Part interrogates the specific relationship between race and educational outcomes as a result of punitive discipline in schools. First, this Part demonstrates how exclusionary discipline like suspension or expulsion can contribute to cycles of trauma and failure while failing to address behavioral concerns. From there, the Part tracks racial disparities in educational outcomes as a result of punitive discipline, such as criminalization, lack of job prospects, and economic insecurity, demonstrating the long-term consequences of exclusionary discipline.

1. Cycles of Trauma and Failure

The use of harsh, exclusionary disciplinary policies meant to combat misbehavior in schools may actually have the effect of traumatizing students, especially when policies disproportionately marginalize based on identity markers like race or disability.[58] Adverse circumstances at schools can make it difficult for students to access support from staff when navigating traumatic experiences and to build community trust amongst diverse school communities.[59]

While much of the literature on adverse childhood experiences and student misbehavior concerns trauma that happens outside of school, students may also become retraumatized[60] in the classroom.[61] Students in lower income majority minority school districts may face bullying, inadequate and culturally irrelevant curricula, inequitable school funding, and high staff turnover at their schools, reinforcing societal inequities inside the classroom.[62]

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55. Molsbee, *supra* note 37, at 349–50.
56. Lodi, Perrella, Lepri, Scarpa & Patrizi, *supra* note 52, at 4.
57. Molsbee, *supra* note 37, at 343–44.
58. Koslouski, Stark & Chafouleas, *supra* note 20, at 2.
59. *Id.*
60. Retraumatization refers to exposure to stressful or traumatizing events, actions, or situations that can compound the effects of past traumatic experiences. In the school environment, disciplinary action, exclusion from peers, bullying, or other adverse circumstances can result in retraumatization.
61. Carrie Gaffney, *When Schools Cause Trauma*, Southern Poverty Law Center, (May 20, 2019), *https://www.learningforjustice.org/magazine/summer-2019/when-schools-cause-trauma* [https://perma.cc/UY9F-M9UN].
62. Koslouski, Stark & Chafouleas, *supra* note 21, at 2.

Poorly chosen activities, readings, and assignments can also contribute to retraumatization of students from marginalized backgrounds.[63] For instance, students of color reading *To Kill A Mockingbird* may be told they are learning about past racism without acknowledging present experiences of racism in their school or communities.[64] This erasure can compound the trauma of experiencing racism, undermining students' abilities to explore injustices in their own communities.[65] At the same time, harsh school discipline policies can retraumatize students by stigmatizing and punishing students without regard for their life experiences.[66]

Students may also end up in a "cycle of failure" as a result of zero tolerance discipline policies.[67] Since zero tolerance policies cause disruptive or otherwise misbehaving students to be removed from the classroom more often due to expulsions and suspensions, students impacted by zero tolerance policies may be more likely to fail academically.[68] Research suggests that academic failure may lead to poor behavior in the classroom, leading to increased suspensions and expulsions, producing a cycle of failure and misbehavior.[69] This pattern of failure and acting out may ultimately lead students into the juvenile justice system.[70]

Beyond this, racial disparities within experiences of trauma, systemic oppression, and interpersonal harm further reinforce marginalization and risk of punitive discipline. Students of color—especially non-Hispanic Black and Hispanic youth—are more likely to have experienced repeated instances of personal violence and are at higher risk of post-traumatic stress disorder.[71] Simultaneously, experiences of race discrimination, poverty, and intergenerational trauma may also lead students of color to be disproportionately impacted by cyclical, ongoing trauma.[72]

When young people are repeatedly traumatized both by external traumatic experiences and punitive discipline in the classroom, students may experience long term effects like life threatening medical conditions and impaired social, cognitive, and emotional development.[73] In fact, studies suggest there is a strong correlation between exposure to childhood trauma and vulnerability to many of the leading causes of death in adulthood.[74]

The rise of zero tolerance policies in combination with strict testing regimes have contributed to what has come to be known as the "push-out

63. Gaffney, *supra* note 61 .
64. *Id.*
65. *Id.*
66. Basha Krasnoff, *A Practitioner's Guide to Educating Traumatized Students*, Educ. Nw., 1, 6–7.
67. Evans & Lester, *supra* note 18, at 109–10.
68. *Id.*
69. *Id.*
70. *Id.*
71. Stacey Dutil, *Dismantling the School-to-Prison Pipeline: A Trauma-Informed, Critical Race Perspective on School Discipline*, 42 Child. & Schs., 171, 171 (2020).
72. *Id.*
73. *Id.* at 173.
74. *Id.*

phenomenon," reinforcing academic disparities and ongoing cycles of failure for marginalized students.[75] The No Child Left Behind Act of 2001 tied federal school funding to student test scores, incentivizing school leaders to exclude young people deemed as problem students through punitive school discipline.[76] Since suspensions are predictors of later high school dropout, students become caught in a cycle of mutually reinforcing pressures that may lead to adverse outcomes, like a failure to graduate from high school, reduced job opportunities, and involvement in the criminal justice system.[77] Thus, zero tolerance policies in the current educational climate can contribute to ongoing cycles of trauma and failure for students impacted by these policies.

School practices can contribute to patterns of trauma, failure, misbehavior, and adverse academic outcomes for marginalized students. The prevalence of zero tolerance policies and punitive discipline in schools causes many marginalized students—including low-income, students of color, disabled, LGBTQ+ youth, and immigrants—to face disproportionate barriers to educational opportunity and favorable life outcomes.

2. School to Prison Pipeline and the Racial Achievement Gap

The school to prison pipeline encapsulates the racial inequalities that emerge out of cyclical, intergenerational trauma and are reinforced by punitive discipline in schools. Critical race scholars describe the school to prison pipeline as a "tool of White supremacy," functioning to criminalize children of color.[78] The term refers to the overrepresentation of Black students disciplined in schools for misbehavior, theoretically leading to an overrepresentation of Black Americans in the criminal justice system.[79] Specifically, researchers have identified a link between experiencing discipline like suspension or expulsion and a greater likelihood of incarceration or other criminal justice system involvement later in life.[80]

The combination of punitive school discipline and the involvement of the criminal justice system in school policing has reinforced the school to pipeline phenomenon and contributed to a racial achievement gap within our education system. Many people in the criminal justice system have faced academic barriers from a young age. As of 1997, over two thirds of people in state prison had not completed high school and three quarters of minors in adult prisons had not passed the 10th grade.[81] When students are excluded from schools as a result of harsh school disciplinary policies and police involvement, students face barriers not only to acquiring their degrees, but also to securing jobs and financial

75. Simson, *supra* note 43 at 519.
76. *Id.* at 520.
77. *Id.* at 520–21.
78. Dutil, *supra* note 71, at 172.
79. J.C. Barnes & Ryan T. Motz, *Reducing Racial Inequalities in Adulthood Arrest by Reducing Inequalities in School Discipline: Evidence From the School-to-Prison Pipeline*, 54 Dev. Psych., 1, 3 (2018).
80. *Id.* at 4.
81. Wald & Losen, *supra* note 47, at 11.

security in the future.[82] At the same time, students who do become system involved, even at a young age, may lose their right to vote if convicted of a felony, permanently eliminating students' voices within our political system for school age mistakes.[83]

Many approaches to punitive discipline in schools directly lead to adverse outcomes for students of color. Black students disproportionately represented in instances of school based arrests and law enforcement referrals.[84] Students of color also tend to face higher rates of exclusionary school discipline and other school sanctions.[85] Schools have also implemented security profiling efforts in schools, seeking to identify students at risk of committing disciplinary infractions that might warrant suspensions, expulsion, or referral to the justice system.[86] According to an American Psychological Association task force, students were profiled through comparisons to other students who had engaged in misbehavior in the past.[87] However, this approach to profiling has proven unreliable in advancing school safety, disproportionately overidentifying students of color as potentially dangerous.[88] As a result of these increased arrests, punitive disciplinary actions, referrals to police, and profiling tactics, students of color face heightened obstacles to positive academic and life outcomes.[89]

Even in cases with discretionary discipline, Black students and students from other minority backgrounds are far more likely to be suspended and ultimately to face academic setbacks like repeating a grade, dropping out of school, and even entering the juvenile justice system.[90] Some conservative media and scholars have advanced a misconception that the cause of racial disparities in school discipline result from the fact that students of color simply tend to misbehave more than white students—that Black people can "get away with behavior that white people can't."[91] However, this blame is misplaced. The

82. Dutil, *supra* note 71, at 173.
83. *Id.*
84. Nance, *supra* note 42, at 1066.
85. Kelly Welch, Peter S. Lehmann, Cecilia Chouhy & Ted Chiricos, *Cumulative Racial and Ethnic Disparities Along the School-to- Prison Pipeline*, 59 J. Rsch. Crime & Delinq., 574, 576 (2022).
86. Deb Shartle, *Can Implementing Restorative Justice in K – 12 Schools Eliminate the School-to-Prison Pipeline for Minority Students?*, Campbell L. Observer, (Feb. 19, 2021), *https://campbelllawobserver.com/can-implementing-restorative-justice-in-k-12-schools-eliminate-the-school-to-prison-pipeline-for-minority-students/* [https://perma.cc/6B5S-563S].
87. *Id.*
88. *Id.*
89. Janel George, *Populating the Pipeline: School Policing and the Persistence of the School-to-Prison Pipeline*, 40 Nova L. Rev. 493, 512 (2016).
90. Shartle, *supra* note 86 .
91. Nance, *supra* note 41, at 1066. *See also* Rod Dreher, *The Racial Double Standard*, Am. Conservative, (June 5, 2018), https://www.theamericanconservative.com/coleman-hughes-racial-double-standard/ [https://perma.cc/RPF5-SXX6] (citing a Black conservative Columbia student who argued that Black people tend to behave in ways that white people cannot get away with). *See also* Deborah Toler, *Black Conservatives: Part One*, Pol. Rsch. Assocs., (Sept. 1, 1993), https://politicalresearch.org/1993/09/01/

literature overwhelmingly suggests that disparate treatment of students of color within school disciplinary processes are not connected to racial or ethnic differences in behavior.[92] As early as preschool, Black students face higher rates of harsher, more exclusive forms of punishment such as suspensions, expulsions, corporal punishment, and school-related arrests, and higher rates of comparatively mild discipline as well.[93]

One of the most significant factors contributing to the racial achievement gap is the ongoing disparities in schools' use of discipline practices that disproportionately punish and alienate Black and Brown students.[94] In particular, the use of surveillance and suspensions is especially prevalent in urban school districts consisting primarily of students of color.[95] Suspensions and expulsions cause students' routines to become less structured, limiting the amount of social control over the student's own life and increasing the likelihood that the student ends up engaging in antisocial behaviors.[96] As a result, students of color are disproportionately isolated from school through punitive discipline and over policing, resulting in adverse academic outcomes like dropping out of high school, as well as early exposure to the criminal justice system, increasing likelihood of later incarceration.

II. Theoretical Frameworks: Handling (Mis Behavior)

This Part begins with a discussion of how discipline and the handling of misbehavior in schools has evolved in recent memory. Next, this Part addresses the key tenets of restorative justice theory generally, as well as legal and sociocultural theories that extend beyond traditional conceptions of restorative justice. This Part seeks to provide important context and framing for later analysis of restorative justice as it operates within the school setting, demonstrating the historical and theoretical contexts within which restorative practices in schools has emerged.

A. *History of Discipline in Schools*

1. Overview

The history of disproportionate discipline for students of color is in many ways rooted in both sequestration and suspension aimed at marginalizing and

black-conservatives-part-one [https://perma.cc/64SE-BCW8] (blaming "irresponsible behavior" by Black people on "psychological hang-ups about . . . group identity and past victimization," as well as reliance on social welfare programs).

92. Russell J. Skiba & Natasha T. Williams, *Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior*, Equity Project at Ind. Univ., 1, 5 (March 2014).

93. Sean Darling-Hammond & Eric Ho, *No Matter How You Slice It, Black Students Are Punished More: The Persistence and Pervasiveness of Discipline Disparities*, 10 AERA Open 1, 8, 11 (2024).

94. Hilary Lustick, *"Restorative Justice" or Restoring Order? Restorative School Discipline Practices in Urban Public Schools*, 56 Urb. Educ., 1269, 1270 (2017).

95. *Id.*

96. Barnes & Motz, *supra* note 79, at 5.

excluding nonwhite students from mainstream education.[97] In fact, indigenous students across North America faced exclusion from traditional schools through enrollment in forced, abusive residential schools meant to assimilate indigenous students, separating children from their families. [98]

Dating back to the American colonies, corporal punishment was long seen as a "necessary component" of school discipline programs.[99] In Puritan New England, adults traditionally viewed children as "creatures of sin" and "born evil as well as ignorant," which was used to justify floggings, beatings, and other physical violence in colonial times.[100] By the 19th century, corporal punishment became a widely accepted feature of most American schools.[101]

Police officers first began to be employed in schools in the 1950s, but federal funding for policing in schools grew during the 1990s due to a rise in school shootings.[102] Between 1975 and 1997, the number of schools reporting the presence of police officers within their districts jumped from just one percent to 22 percent.[103] The 1999 shooting at Columbine High School in Colorado prompted the Department of Justice to initiate its "COPS in Schools" program, which allowed school personnel to formalize punitive discipline policies within schools.[104] This initiative led schools across America adopting zero tolerance policies to manage disobedience and violence, while a tough on crime approach simultaneously grew stronger within the criminal justice system.[105]

Alternatives to punitive discipline like restorative justice first appeared in the United States within criminal and juvenile justice systems, especially for low level crimes and young people.[106] Within schools, restorative justice efforts emerged during the 1990s, beginning with select pilot programs and becoming a comprehensive and thorough set of practices within mainstream education policy.[107] As the negative consequences of exclusionary discipline became more apparent, school leaders sought alternatives to suspensions, expulsions, and other forms of exclusion.[108]

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97. Lustick, *supra* note 94 , at 1271–1272.
98. Jenna Smith, *Decolonizing Restorative Justice: Reconstructing Restorative Justice Practices*, *in* Decolonization and Justice: An Introductory Overview 96 , (Univ. of Regina 2022).
99. Sarah A. Font & Elizabeth T. Gershoff, *Contextual Factors Associated with the Use of Corporal Punishment in U.S. Public Schools*, 79 Child. & Youth Servs. Rev., 408 (2017). *See also* Jerry R. Parkinson, *Federal Court Treatment of Corporal Punishment in Public Schools: Jurisprudence That is Literally Shocking to the Conscience*, 39 S.D. L. Rev. 276, 278 (1994).
100. Francis J. Ryan, *Historical Perspectives on Corporal Punishment in the Public School, 1642–1994*, 72 Educ. Horizons 70, 72 (1994).
101. *Id.* at 73.
102. Cover, *supra* note 25 , at 71.
103. *Id.* at 71–72.
104. *Id.* at 71.
105. Russell & Crocker, *supra* note 36 , at 196.
106. Trevor Fronius et al., Restorative Justice in U.S. Schools: A Research Review 1, 7 (WestEd Feb. 2016).
107. Thalia Gonzalez et al, *New Directions in Whole-School Restorative Justice Implementation*, Conflict Resol. Q., 207 (2019).
108. Fronius et al., *supra* note 106, at 10.

2. The Legal History of School Discipline

The use of discipline in schools initially emerged out of schools legal position in loco parentis, allowing schools to act "in the place of the parent" to discipline students.[109] The principle behind in loco parentis was to provide schools with at will disciplinary authority mirroring that of a parent.[110]

By the 1970s, however, the use of corporal punishment in schools declined, as out of school suspensions and expulsions became more widely used to manage behavior in the classroom.[111] In 1974, Congress established the Office of Juvenile Justice and Delinquency Prevention ("OJJDP") to coordinate the government's response to juvenile delinquency.[112] Two decades later, the Gun Free Schools Act required schools to expel students found in possession of a weapon for a year and to refer students to the criminal or juvenile justice systems.[113] Zero tolerance policies were adopted in response to parents' and educators' fears about the possibility of gun related incidents at schools.[114] The passage of the act marked the rise of the zero tolerance policies which mandated the adoption of professional security, metal detectors, cameras, and school resource officers to surveil students.[115]

Following the enactment of zero tolerance policies under the Gun Free Schools Act, schools saw disproportionately heightened suspensions and expulsions for Black and Hispanic youth.[116] A rise of suspensions and expulsions followed the expansion of zero tolerance policies beyond their original application to possession of guns on school premises, becoming a one-size-fits-all approach to severely discipline students for any uncondoned behavior.[117] Several states expanded the mandate of the Gun Free Schools Act to encompass less serious offenses like shoving, classroom disruption, skipping classes, and the use of curse words.[118] Some jurisdictions have encoded zero tolerance policies in state law, requiring educators to follow particular procedures whenever students have committed particular offenses subject to zero tolerance.[119]

109. Molsbee, *supra* note 37 , at 329.
110. Susan Stuart, *In Loco Parentis in the Public Schools: Abused, Confused, and In Need of Change*, 78 Univ. of Cin. L. Rev. 969, 970 (2010).
111. Ford, *supra* note 46 , at 51.
112. Sandra Pavelka, *Restorative Justice in the States: An Analysis of Statutory Legislation and Policy*, 2 Just. Pol'y J. 1, 4 (2016).
113. Lustick, *supra* note 94 , at 1272.
114. Molsbee, *supra* note 37, at 327.
115. Lustick, *supra* note 94, at 1272.
116. *Id.* at 1273.
117. Molsbee, *supra* note 37, at 327.
118. Rebekah Skelton, *Thirty Years Later, the 1994 Gun-Free Schools Act Continues to Harm Students and Communities*, Intercultural Dev. Rsch Ass'n Newsl., (March 2024), https://www.idra.org/resource-center/thirty-years-later-the-1994-gun-free-schools-act-continues-to-harm-students-and-communities/ [https://perma.cc/7F55-FQ99].
119. Vann ex. rel. Vann v. Stewart, 445 F.Supp. 2d 882, 886 (E.D. Tenn. 2006) (stating that when a principal, principal-teacher, or assistant principal determines a student committed an offense warranting zero-tolerance, the official must follow certain procedures to apply sanctions). *See also* J.M. v. Webster Cnty. Bd. of Educ., 207 W. Va. 496, 510 (2000) (stating that under Ohio law, every school district must employ its zero-tolerance policy without exception).

While corporal punishment and zero tolerance policies remain in many states, some jurisdictions have begun to reject zero tolerance policies and to adopt restorative practices through statewide policies. For instance, the state of California recently passed Senate Bill 274, expanding a ban on suspensions for "low-level defiance" to also cover older students.[120] Further, in 2010, the Boston Public School District revised its code of conduct and implemented restorative justice practices.[121] Not long after, Colorado legislators also revised state laws on school discipline to reduce school reliance on suspension and expulsion, while also funding additional training for school resource officers.[122] Ultimately, state level legislation has played a major role in changing the direction of school discipline across the United States.

3. Legal Developments

The right to discipline students and manage student misbehavior in schools has evolved within the American legal system since the emergence of American public education. In *State v. Pendergrass*, the earliest U.S. case applying in loco parentis, a schoolmistress was charged with assault and battery for use of a switch against a seven-year-old boy.[123] The *Pendergrass* court found the in loco parentis principle granted school employees broad discretion to impose corporal punishment under the delegation of parental authority.[124] By 1977, the Court updated its view of in loco parentis to encompass only the force "necessary to answer the purposes for which (the teacher) is employed."[125]

School disciplinarians have also relied on principles of constitutional law. The Supreme Court decided in *Ingraham v. Wright* that the cruel and unusual punishments barred by the Eighth Amendment of the Constitution applied only to criminal penalties, declining to extend the same protections to students in public schools facing corporal punishment.[126] Since 1977, courts have repeatedly critiqued and declined to extend the ruling in *Ingraham*, but the case has never been formally overturned.[127] More recently, in *Safford*

120. Thomas Courtney, *Let's Fully Fund Restorative Justice—Because It Works*, EdSource, March 24, 2025, https://edsource.org/2025/lets-fully-fund-restorative-justice-because-it-works/729030 [https://perma.cc/88TB-P2LT].
121. Ford, *supra* note 46 , at 68.
122. *Id.*
123. Stuart, *supra* note 110, at 975. *See also* State v. Pendergrass, 19 N.C. 365, 365 (1837).
124. Stuart, *supra* note 110, at 975. *See also* Pendergrass, 19 N.C. at 365.
125. Stuart, *supra* note 110, at 976. *See also* Ingraham v. Wright, 430 U.S. 651, 662 (1977).
126. Parkinson, *supra* note 99 , at 281–282. *See also Ingraham*, 430 U.S. at 651.
127. *See* Jefferson v. Ysleta Indep. Sch. Dist., 817 F.2d 303, 305–6 (5th Cir. 1987) (holding that *Ingraham* does not shield school districts from liability where corporal punishment is arbitrary, capricious, or wholly unrelated to the legitimate state goal of maintaining a conducive learning environment for students). *See also* B.B v. Appleton Area Sch. Dis t., No. 12-C-115 , 2013 WL 3972250 at *9 (E.D. Wis. Aug. 1, 2013) (declining to extend *Ingraham* on account of potential substantive due process concerns, the significant protections under state criminal and common law for children, and related policy reasons). *See also* Clark v. Stone, 998 F.3d 287, 300 (6th Cir. 2021) (holding that *Ingraham* allowed only use of reasonable corporal punishment, so the right to use corporal punishment on a child even if it leaves more than fleeting marks on a child is not clearly established under the case law).

Unified School District No. 1, the Court held that a strip search of a thirteen year old girl accused of possessing prescription and over the counter pain relief pills in schools violated the Fourth Amendment.[128] Notably, Justice Clarence Thomas dissented, stating that the task of implementing and amending public school discipline policies was beyond the function of the court, with teachers, parents, administrators, and local and state officials all better suited to promote school order.[129]

School boards and administrators have been allocated broad discretion to discipline students by the courts.[130] In *Albert v. Board of Education*, an Illinois appellate court held that the City of Chicago School Board members possessed immunity from liability for disciplinary decisions under the Tort Immunity Act.[131] In a 2000 West Virginia case, the state Supreme Court decided against undermining the authority of school officials even when facts supported relief for the student facing discipline.[132] Justice Starcher, dissenting from the judgment, argued that the "only explanation" was that the majority did not want to undermine the school board, even though the equities and the law, as well as expert evidence that inflexible zero tolerance policies are "counterproductive" supported a finding for the student plaintiff.[133] The discretion allocated to school administrators is evidently so broad that the judgment of school leaders often prevails, even when the facts support a more rehabilitative response to student misbehavior.

Even the First Amendment is sometimes invoked in legal battles over school discipline, with courts recognizing a right to discipline speech that disrupts classwork, causes substantial disorder, or invades the rights of other students.[134] Courts even permit school officials to act "prophylactically"—or preventatively—to discipline disruption even if the suspect behavior has not yet occurred, so long as the disruption is reasonably foreseeable.[135] In a 2017 challenge to school discipline, a federal district court in California explained that students' "subjective state of mind is irrelevant" in whether a district can

128. Safford Unified Sch. Dist. No. 1 v. Redding, 557 U.S. 364, 368 (2009).
129. *Id.* at 402.
130. Jordan ex. rel. Edwards v. O'Fallon Twp. High Sch. Dist. No. 203 Bd. of Educ., 302 Ill. App. 3d 1070, 1078 (1999) (describing the court as "consistently reluctant to intrude" upon school disciplinary decisions, rejecting a due process claim based on interference with participation in interscholastic athletics).
131. Albert v. Bd. of Educ. of the City of Chicago, 24 N.E.3d 28, 47 (Ill. App. Ct. 2014).
132. *J.M.*, 207 W. Va. at 507.
133. *Id.*
134. Shen v. Albany Unified Sch. Dist., No. 3:17-cv-02478-JD, 2017 WL 5890089, at *8 (N.D. Cal. Nov. 29, 2017).
135. *Id.*

administer discipline for speech that is viewed as infringing on the rights of others, demonstrating the broad reach of school disciplinary powers even when it comes to First Amendment claims.[136] The right to discipline remains strong even with only a perceived risk of disruption. This incentivizes school leaders to rely on flash judgments of students' likelihood to disrupt—likely causing implicit bias to shape teachers' decisions of when to act prophylactically to prevent risk of misbehavior before students even have the opportunity to make the right decisions on their own. Such preventive discipline may especially harm students of color.

Schools have shifted between internal, school-based and exclusionary discipline over the years. The court's decision in *Goss v Lopez* during the 1970s led schools to favor in school suspensions instead of exclusionary discipline policies, as due process protections were allocated to students.[137] But once zero tolerance policies were widely adopted during the late 1980s into the 1990s, schools once again adopted exclusionary discipline policies.[138] Courts have repeatedly acknowledged schools "right to mete out discipline" when students violate school rules.[139] However, the Sixth Circuit has insisted that schools must still ascertain whether students intentionally committed a wrongful act before being expelled for that act.[140] A Texas Court of Appeals similarly recognized in 2010 that strict adherence to zero tolerance policies without considering a student's mens rea—or state of mind—could potentially violate students substantive due process rights.[141] While in general, schools have wide discretion to adopt even the most exclusionary disciplinary tactics, zero tolerance policies often require knowledge and intentional violation of school rules.

Mens rea and intent are not always required, however. Perhaps one of the most egregious examples of the incongruity between zero-tolerance policies and student outcomes is *Ratner v. Loudoun County Public Schools*.[142] In *Ratner*, the plaintiff—a 13 year old boy named Benjamin Ratner—faced indefinite suspension (after initially being suspended for 10 days) for possessing a knife on school property in violation of a school board policy.[143] However, the school failed to consider Ratner's unique circumstances in allocating these

136. *Id.* at *10.
137. Goss v. Lopez, 95 S. Ct. 729, 741 (1975). *See also* Evans & Lester, *supra* note 18, at 109. *See also* Simson, *supra* note 43, at 508.
138. Simson, *supra* note 43, at 508.
139. Seal v. Morgan, 229 F.3d 567, 581 (6th Cir. 2000) (finding that schools can even use expulsions when severe infractions occur). *See also* Bethel Sch. Dist. No. 403 v. Fraser, 478 U.S. 675, 681 (1986) *(*holding that "society's countervailing interest in teaching students the boundaries of socially appropriate behavior" gives schools the authority to discipline students for speech involving sexually explicit content even under the First Amendment).
140. *Seal*, 229 F.3d at 581.
141. Hinterlong v. Arlington Indep. Sch. Dist., No. 2–09–050-CV , 2010 WL 522641, at * 2 (Tex. App. Feb. 11, 2010) (unreported case where the court found no deprivation of procedural or substantive due process rights based on the specific facts, yet recognizing the potential for a due process violation).
142. Ratner v. Loudoun Cnty. Pub. Sch., 16 F . App'x. 140, 141 (4th Cir. 2001).
143. *Id.*

penalties.[144] Ratner clearly did not have the knife on school property with the intent to harm anyone, but actually had the knife in his possession because he wished to protect a classmate from imminent self-harm.[145] Ratner's classmate, who had a history of suicide attempts, had told him that she had inadvertently brought a knife to school in her binder after feeling suicidal the night before.[146] When the assistant principal asked Ratner about the knife, Ratner openly admitted having the knife and brought it to her.[147] Though the assistant principal herself expressed a belief that Ratner acted in what he thought was his classmate's best interest and had no intent to harm anyone, Ratner was suspended indefinitely.[148] The court ultimately decided that "federal courts are not properly called upon to judge the wisdom of a zero tolerance policy," no matter how harsh the result.[149]

The courts have, however, permitted plaintiffs in some cases to challenge punitive discipline policies under both substantive and procedural due process theories under the Fifth and Fourteenth Amendments to the U.S. Constitution.[150] In *Colvin ex. rel. Colvin*, a Mississippi district court found that a school board's adoption of an "unwritten blanket policy of expulsion," a serious penalty, prevents independent consideration of relevant facts and circumstances.[151] The court decided that the way the school "blindly meted out" a year-long expulsion without regard for the relevant circumstances violated the student's due process rights.[152] Courts look to whether there is clear error in the school officials' determination that a student's ongoing presence would pose a safety threat or substantial school disruption, as well as whether school officials improperly followed a de facto zero tolerance policy prohibited by statute.[153]

Legal practitioners have sought to challenge discriminatory discipline based on race, yet students of color have found little redress for these policies.[154] For instance, the court rejected a Title VI disparate impact claim for discriminatory discipline by a private individual in *Alexander v. Sandoval*.[155] An Illinois district court also denied an Equal Protection claim, rejecting the Black plaintiffs' argument that their school expulsions were based upon race.[156] In *Carolina Youth Action Project*, the Fourth Circuit recognized the "starkly disparate outcomes" between Black and White peers facing disorderly conduct

144. *Id.*
145. *Id.*
146. *Id.*
147. *Id.*
148. *Id.*
149. *Id.*
150. Simson, *supra* note 41, at 510.
151. Colvin *ex rel.* Colvin v. Lowndes Cnty., Miss. Sch. Dist., 114 F. Supp 2d 504, 512 (N.D. Miss. 1999).
152. *Id.* at 513.
153. A.A. *ex rel.* Pasillas v. Bd. of Educ., Summit Sch. Dist. No. 104, No. 1–23–2451, 2024 WL 232451, at *5–6 (Ill. App. Nov. 27, 2024).
154. George, *supra* note 88, at 519–20.
155. *Id. See also* Alexander v. Sandoval, 121 S. Ct. 1511, 1519 (2001).
156. Fuller v. Decatur Pub. Sch. Bd. of Educ. Sch. Dist. 61, 78 F. Supp. 2d 812, 824 (C.D. Ill. 2000).

charges—with Black students facing charges seven times more often.[157] However, plaintiffs have generally found little relief in the courts for concerns around racial disparities in discipline.

States have sought to increase the criminal penalties associated with juvenile misbehavior. Since the early 1990s, at least 45 states have passed laws that make it easier to try children as adults, leading to an increased number of juveniles held in secure facilities even for nonviolent crimes.[158] For instance, a South Carolina law criminalized elementary and secondary school students who act "disorderly," in a "boisterous manner," use "obscene or profane language," or "interfere with, loiter about, or act in an obnoxious manner" in or near a school.[159] In 2023, the Fourth Circuit held that the law on disorderly conduct and disturbing schools was "unconstitutionally vague" unless South Carolina intended to criminalize "many childish shenanigans."[160] The criminalization of student behavior, on top of traditional exclusionary discipline, demonstrates the compounding impacts of zero-tolerance mindsets on students—especially students of color and those from other marginalized backgrounds.

Litigation around the implementation of restorative justice has recently emerged within the education space. In an unreported federal case in 2023, a Louisiana district court found that revising a school district's discipline policies in a way that graduated infractions, prevention strategies, behavioral supports, and alternatives to exclusionary discipline was a "reasonable and practicable remedy to address discipline disparities."[161] The court found in the same case that establishing a Restorative Justice Program was both "reasonable and practicable," citing the importance of improving relationships, reducing physical conflicts, and preventing behavioral challenges in the classroom.[162] While there is currently limited case law on restorative justice in schools, litigation around its implementation and enforcement will likely grow more frequent in the years to come.

B. *Origins of Restorative Justice*

The roots of restorative justice are commonly traced back to indigenous epistemologies from all over the world—including in North America, Africa, Japan, and New Zealand—dating back centuries.[163] In many indigenous communities, whenever a community member committed an offense, that individual would be expected to face the person(s) they had harmed and commit

157. Carolina Youth Action Project v. D.S. *ex rel.* Ford & Wilson*,* 60 F.4th 770, 784 (4th Cir. 2023).
158. Wald & Losen, *supra* 45, at 10.
159. Carolina Youth Action Project, 60 F.4th at 775.
160. *Id.* at 783–4.
161. Thomas v. Sch. Bd. St. Martin Parish, No. 65–11314, 2023 WL 3679056, at *20–2 (D. La. May 25, 2023).
162. *Id.* at 24.
163. Marcucci, *supra* note 96, at 2. *See also* Andrea A. Joseph-McCatty & Rebecca J. Hnilica, *Restorative Practices: The Application of Restorative Circles in a Case Study School*, Teaching & Tchr. Educ., 1, 1 (2023). *See also* Glenn Rideout et al., *Measuring the Effect of Restorative Justice Practices: Outcomes and Conflicts*, 21 J. of Educ. Admin. & Founds.35 (2010).

to working to remedy the problem.[164] There are a wide range of peacemaking and alternative dispute resolution tactics employed within different indigenous communities, but many instill similar values around restoring harmony and resolving conflict.[165]

While indigenous communities are not a monolith in terms of their cultural practices, beliefs, and methods of peacemaking, scholars characterize many traditional indigenous models of culture and relationships in terms of an "extended family worldview" in which every member of a tribe contributed to forming and sustaining their community.[166] Compared with the predominantly individualistic approach the adversarial system of the United States, indigenous communities principles of restorative justice have emphasized collective harmony over individual vindication for centuries.[167]

Approaches to peacemaking and dispute resolution vary among Indigenous groups. For instance, the Navajo Nation has utilized peacemaking approaches to resolve criminal, civil, and interpersonal conflicts for hundreds of years.[168] The Navajo people view law as the basic element of life, making no distinction between common law and the spiritual plane.[169]

As a result, restorative interventions within Navajo culture are premised on the belief that an offense against another person reflects one's own state of disharmony, rather than a normatively blameworthy crime. Navajo practice therefore seeks to restore harmony by creating an opportunity for the offender to experience greater self-understanding.[170] Navajo peacemaking processes are meant to allow an offender to "realize that what he or she has done is incorrect, addressing the root causes of crimes rather than jumping to legal recourse and criminalization.[171] The Navajo people historically employed a horizontal legal system and community based dispute resolution focused on relationships and collaborative justice where all are on equal footing.[172] Today, the Navajo Nation's justice system represents an amalgamation of horizontal and vertical justice systems, incorporating some more adversarial components of Western legal systems that were involuntarily forced upon the Navajo peoples during the late 1800s.[173]

164. Knight & Wadhwa, *supra* note 36, at 14.
165. Hanni Wiegand, *Student Research: Comparing Navajo Peacemaking & Restorative Justice: A Discussion of the Advantages of Peacemaking for Community*, ILR Scheinman Inst.(May 11, 2021, time), https://www.ilr.cornell.edu/scheinman-institute/blog/student-activities/student-research-comparing-navajo-peacemaking-restorative-justice-discussion-advantages-peacemaking [*https://perma.cc/8SKN-EHJ3*].
166. Carol A. Hand et al., *Restorative Justice: The Indigenous Justice System*, 15 Contemp. Just. Rev., 449, 451–2 (2012).
167. *Id.* at 451–2.
168. Wiegand, *supra* note 188, at ?.
169. *Id.*
170. *Id.*
171. Laura Mirsky, *Restorative Justice Practices of Native American, First Nation and Other Indigenous People of North America: Part One*, Int'l Inst. for Restorative Practices, 1, 2 (Apr. 27, 2004), *https://www.iirp.edu/news/restorative-justice-practices-of-native-american-first-nation-and-other-indigenous-people-of-north-america-part-one* [https://perma.cc/8SKN-EHJ3].
172. Hand et al., *supra* note 189, at 453.
173. Wiegand, *supra* note 188, at ?. *See also* Mirsky, *supra* note 195, at 4.

Similarly, in Canada, the disproportionate number of Indigenous peoples appearing in courts during the 1990s prompted the creation of Aboriginal justice programs meant to reduce the number of indigenous offenders within the criminal justice system.[174] For instance, the Biidaaban restorative justice model in Canada seeks to allow indigenous peoples to heal from colonial violence in a culturally relevant way.[175] The Biidaaban approach is a community based healing model and restorative justice program meant to allow people to repair relationships and strengthen community following the commission of crimes like assault, breaking and entering, and impaired driving.[176] Biidaaban practice is rooted in Anishinaabe legal principles[177] and was created in the Rama First Nation, with a recidivism rate of less than five percent.[178] This holistic approach to community healing allows for community healing with costs that were "extraordinarily small" compared to incarcerating offenders.[179]

Restorative practices within indigenous communities tend to center values of interconnectedness and collective responsibility for building and repairing connections.[180] In Canada, sentencing circles were implemented by First Nations groups to respond to conflict through circles held with crime victims and offenders and their families.[181] Traditional indigenous practices center reciprocity and interconnectedness within the justice system, recognizing how all people are in need of help and should also help others whenever possible.[182] Rather than determining innocence or guilt like in traditional criminal justice systems, many indigenous communities recognize that there is no one accurate conception of the truth, understanding how communities are systematically entangled with one another.[183]

By the 1960s, principles central to restorative justice—tied to critiques of overcriminalization of people of color and racism within the legal system—emerged in practice for the first time within Western spaces.[184] Specifically, scholars have cited moments within the 1960s civil rights and 1970s women's movements as moments in which critiques of colonialism, incarceration, and

174. Jeffrey G. Hewitt, *Indigenous Restorative Justice: Approaches, Meaning & Possibility*, 67 Univ. New Brunswick L. J. 313, 315 (2016).
175. *Id.* at 327.
176. *Aboriginal Community Justice Programs*, Ministry of Att'y Gen. Ont., (Aug. 27, 2008) *https://news.ontario.ca/en/backgrounder/282/aboriginal-community-justice-programs* [https://perma.cc/68B6-LCYM]
177. Referring to the specific legal approach of the indigenous Anishinaabe people in Canada.
178. Shelley Trevethan & Eva Maxwell, *Crime Prevention in Indigenous Communities: An Examination of Culturally-Relevant Programs and Culturally-Competent Evaluation Approaches*, Pub. Safety Can. (Dec. 21, 2023), https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2023-r009/index-en.aspx?wbdisable=true.
179. *Id.*
180. Dorn Parameswaran et al., *supra* note 20, at 190.
181. R. Immarigeon & Kathleen Daly, *Restorative Justice: Origins, Practices, Contexts, and Challenges*, ICCA J. On Cmty. Corrections, 1, 6 (1997).
182. Dorothy Vaandering, *The Significance of Critical Theory for Restorative Justice in Education*, 32 Rev. Educ. Pedagogy, & Cultural Stud.,145, 146 2010).
183. Hewitt, *supra* note 198, at 329.
184. Immarigeon & Daly, *supra* note 206, at 2.

mistreatment of victims and offenders in criminal proceedings emerged.[185] More formal alternatives to incarceration and traditional criminal justice proceedings emerged in the 1970s and beyond, as principles of community responsibility and involvement have become more prominent.[186] Within the legal system, restorative justice became particularly prominent through the implementation of victim-offender mediation programs, providing an alternate pathway to retributive forms of criminal justice.[187] In this period, restorative practices emerged in a range of contexts, including prisoners' rights campaigns, community and neighborhood justice programs, victim-offender reconciliation programs, victim advocacy movements, and sentencing circles, to name a few.[188]

While restorative practices today may appear similar to indigenous traditions, Western alternatives to punishment do not necessarily fulfill the same values and purposes as traditional restorative practices.[189] Scholars describe restorative justice in indigenous contexts as a "location of decolonization in that Indigenous models of justice assist in revitalizing Indigenous laws."[190] Diversion programs[191] allow for reform and alternatives of the criminal justice system, while indigenous restorative justice efforts seek to reinvent criminal justice systems.[192] The distinction between Western restorative justice and traditional Indigenous practices may fuel barriers to implementing restorative practices in Western settings, given the colonial legacies of Western institutions.

C. *Restorative Justice as a Theory*

The term "restorative justice" did not emerge until the late 20th century, despite earlier roots within indigenous and non Western spaces far earlier.[193] In general, restorative justice is used as a broad umbrella term that includes practices, approaches, and methods of addressing harm in educational, environmental, political, social, community, and other contexts.[194] Under restorative justice theory, all people are thought to be connected by a web of relationships, so restorative processes should be used to reconnect people.[195] Restorative justice assumes that crime control rests first and foremost with the social system, rather than with police and court system.[196] The criminal justice system can only respond to conflict reactively, after it occurs, and therefore can only have

185. *Id.* at 2–3.
186. *Id.* at 3.
187. Trevor Reed, *Restorative Justice for Indigenous Culture*, 70 UCLA L. Rev. 516, 562 (2023).
188. Immarigeon & Daly, *supra* note 206, at 4–6.
189. Hewitt, *supra* note 198, at 316.
190. *Id.* at 317.
191. Diversion programs refer to court-approved alternatives to incarceration or other criminal penalties which may involve education, rehabilitation, counseling, or other non-carceral approaches.
192. *Id.*
193. Immarigeon & Daly, *supra* note 206, at 1.
194. Schiff, *supra* note 24, at 122–23.
195. Brown, *supra* note 26, at 3.
196. Francis J. Schweigert, *Learning the Common Good: Principles of Community-Based Moral Education in Restorative Justice*, 28 J. of Moral Educ. 163, 169 (1999).

a marginal impact on the level of crime, while communities are both harmed by offenses and responsible for controlling adverse behaviors.[197]

While the traditional criminal justice system focuses on guilt, perpetrator responsibility, and payment to atone for the harm caused, restorative justice focuses on relational balance and harm reparation, rather than punishment.[198] Rather than solely focusing on the perpetrator, restorative justice includes all members of the community, including those who experienced the harm, those responsible for the harm, and community members committed to ensuring the wrong is addressed and repaired.[199] Restorative justice provides the opportunity for survivors of harm to regain control and to restore trust within a community.[200] Similarly, restorative justice is understood as a reframing of harm as not as a breach confined between two parties but as a harm to a relationship that impacts the entire community.[201] Unlike traditional retributive theories of sentencing in the criminal justice system, pain is not intentionally inflicted in restorative justice practices but instead used to restore harmony and healing.[202]

Restorative justice theory is built upon the basic understanding that harm is violative of people and relationships, hurting both individuals and the community.[203] Vincent Anfara Jr. describes seven key principles that restorative justice efforts seek to address: meeting unmet needs; providing accountability and support; making things right; making conflict a learning opportunity; building healthy communities for learning; restoring relationships; and addressing power imbalances.[204] Restorative justice thus demands that school leaders shift how they view offenses, understanding conflicts not as violations of law or the state but instead violations against communities and relationships.[205]

The philosopher Francis Schweigert has recognized that the practice of restorative justice has led the theory of restorative justice.[206] Though restorative justice is interpreted and implemented in a number of ways, many practices within restorative justice share commonalities, such as a focus on individual behavior and conflicts. Dorn Parameswaran posits that school restorative justice includes the creation of just, equitable learning environments; nurturing healthy relationships and repairing harm and transforming conflicts.[207] Restorative practices in schools can account for the diverse needs of multiple

197. *Id.*
198. Lodi et al, *supra* note 50, at 2.
199. *Id.* at 2.
200. *Id.* at 2–3.
201. Knight & Wadhwa, *supra* note 36, at 15.
202. Hewitt, *supra* note 198, at 329.
203. David B. Wilson et al, *Effectiveness of Restorative Justice Principles in Juvenile Justice: A Meta-Analysis,* U.S Dep't of Justice Off. of Justice Programs, 1, 1 (June 2017).
204. Vincent A. Anfara Jr. et al, *Restorative Justice in Education: What We Know So Far*, 44 Middle Sch. J. 57, 58–60 (2013).
205. Andrea Goldblum, *Restorative Justice From Theory to Practice, in* Reframing Campus Conflict: Student Conflict Practice Through a Social Justice Lens 140, 141 (Jennifer Meyer Schrage & Nancy Geist Giacomini eds., 2009).
206. Schweigert, *supra* note 196 at 168.
207. Dorn Parameswaran et al, *supra* note 22 at 190.

actors within schools, as well as the multiple levels of harm that schools must manage following instances of violence.[208]

Values like fairness and accountability underlying restorative justice can prompt a shift away from viewing students as suspects or problems.[209] Gillean McCluskey argues that merely replacing the social institution of punishment in schools with restorative justice in a system historically tied to public shame may not be able to instill the cultural change needed to immediately shift school cultures.[210] While in theory, restorative justice methods may seem to well suited to address the problematic history of student discipline, restorative justice in practice requires school administrators, teachers, and communities broadly to interrogate the goals of these practices and what is being restored.[211] By implementing restorative justice practices in schools through a pedagogy of both inclusion and resistance, in which marginalized children have opportunities to learn in a safe and welcoming environment.[212]

D. *Beyond Restorative Justice*

Critical race theory ("CRT") and other related theories advanced by restorative justice scholars, may offer useful context on how our education systems rely upon the colonial othering of people viewed as subhuman to advance and reproduce legacies of structural violence.[213] Many scholars have called for the integration of race conscious approaches to restorative justice through a critical race lens, as many restorative practices employ a color blind approach.[214] These calls for race conscious responses to misbehavior in schools emerge from a phenomenon called "perceptual segregation," a recognition that Black and White people tend to perceive allegations of racial discrimination differently.[215] According to this theory, White people tend to ascribe to a "color-blindness perspective," viewing race consciousness as socially disruptive, while Black people view discrimination as commonplace under a "pervasive prejudice perspective."[216]

Critical race theory can provide a lens through which the underlying racist structure of school discipline, which parallels and is intertwined with the criminal justice system.[217] In many school settings, whiteness[218] is consciously or

208. Simson, *supra* note 43 at 554.
209. Gillean McCluskey et al, *'I Was Dead Restorative Today': From Restorative Justice to Restorative Approaches in School*, 38 Cambridge J. of Educ. 199, 212–213 (2008) (utilizing a more expansive, practice-driven interpretation of restorative justice).
210. *Id.*
211. *Id.*
212. Crystena A. H. Parker-Shandal, Restorative Justice in the Classroom: Liberating Students' Voices Through Relational Pedagogy 4 (Palgrave MacMillan 2022).
213. Arthur Romano & Rochelle Arms Almengor, *It's Deeper Than That!: Restorative Justice and the Challenge of Racial Reflexivity in White-led Schools*, 59 Urb. Educ. 182, 187 (2024).
214. *Id.* at 183.
215. Simson, *supra* note 43 at 557.
216. *Id.*
217. Dutil, *supra* note 71 at 173–74.
218. Whiteness here refers to a particular racial or ethnic identity, yielding social, cultural, political, and economic benefits to just the portion of the population occupying a white

unconsciously privileged and racism is normalized.[219] This can lead to phenomena like the school to prison pipeline, racially motivated discipline, and the racial achievement gap, disproportionately punishing students of color and even impeding their access to an education in some cases. As a result, employing CRT in analysis of restorative justice may offer a clearer picture of the power dynamics and history that shape the varied experiences of students of color.[220]

Critical race theorists argue that our education system is used as a tool for the oppression and social control of racial minorities to maintain White supremacy.[221] In the classroom setting, students face retributive and exclusionary discipline policies justified by interests in maintaining "order" and to "decrease violence," as well as drug-related offenses.[222] These policies are thought to deter unwanted behaviors, similar to how criminal penalties are thought to deter crime.[223] Thus, while often framed in terms of school safety or classroom management, punitive discipline—as well as restorative practices that fail to fully reject punitive discipline—can actually act as a form of social control, reinforcing racial disparities in the classroom.

In response to the oppressive legacies of school discipline, some scholars argue for a hybrid approach to critical race theory and restorative justice called "critical restorative justice," which focuses not only on individual successes but on how systemic problems like institutionalized racism affect both individuals and the community.[224] In one study, a teacher conceptualized critical restorative justice as "restorative justice trying to critique the power system," connecting the personal to the political.[225] Ultimately, critical restorative justice offers a means of addressing the systemic racial injustices within schools as a result of their punitive discipline policies.

III. Restorative Justice in Action: Schools

This Part analyzes the implementation of restorative justice practices within the school setting, building upon the legal theories around restorative justice and the history of punitive discipline in schools previously discussed. This Part begins with discussion of the goals and purpose of restorative justice efforts in schools, followed by the value in implementing these methods for students and school communities broadly. By understanding the specific motivations and benefits of restorative practices within educational institutions, the unique challenges and opportunities tied to implementing restorative justice practices in schools in particular become more apparent.

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identity.

219. Romano, *supra* note 213 at 187.
220. *Id.*
221. Dutil, *supra* note 71 at 172.
222. *Id.*
223. *Id.*
224. Knight & Wadhwa, *supra* note 38 at 27.
225. Hilary Lustick, *Schoolwide Critical Restorative Justice*, J. of Peace Educ. 1, 14 (May 2022).

A. *The Aims of Restorative Justice in Schools*

Traditionally, the primary goal of restorative justice has been to heal all injured parties and to include victims within decisionmaking.[226] Restorative justice practices also focus on active accountability and the rebuilding of trust.[227] Legal scholars have described restorative justice as an opportunity to implement a key tenet of critical race theory, allowing educators to "look to the bottom" and understand student experiences of discrimination.[228]

Another predominant focus within school-based restorative justice efforts concerns the improvement of school culture. Restorative justice is meant to improve the overall culture of schools through "culturally responsive and relational pedagogies" that build relational trust across the whole school community.[229] In other words, schools often seek to use restorative justice to create safer and more supportive school environments, adopting values of relationship building and care for one another.[230] This can come in many forms, such as modeling prosocial behaviors, reinforcing values of trust and empathy, and caring for the whole student rather than just their academic performance.[231]

Historically, educational institutions have prioritized discipline and security over knowledge and intellectual development. Angela Davis has characterized this model of education as "prep schools for prison."[232] In schools that adopt a restorative justice oriented system, however, students have the opportunity to resolve issues and build relationships, instead of facing exclusion and punishment.[233] Restorative justice seeks to create community ownership and equalize detrimental power imbalances within schools, to empower students to express themselves and to be heard by educators.[234]

Schools may also seek to use restorative practices to reduce rates of exclusionary discipline and reintegrate students often seen as "problems" within the school community.[235] Rather than punishing students for misbehavior or conflicts in the classroom, restorative justice seeks to get to the root cause of harm in the community, centering principles of accountability, involvement of all parties, and community engagement.[236] Restorative practices are meant to "facilitate reparation and reestablish harmony between an offender and victim," mediating

226. Wiegand, *supra* note 165.
227. *Id.*
228. Simson, *supra* note 43 at 559.
229. Brown, *supra* note 28 at 5.
230. *Id.*
231. *Id.*
232. Cover, *supra* note 23 at 69, quoting Angela Y. Davis, *Are Prisons Obsolete?* 38–9 (Seven Stories Press ed., 2003).
233. *Id.* at 88.
234. *Id.*
235. Allison Ann Payne & Kelly Welch, *Restorative Justice in Schools: The Influence of Race on Restorative Discipline,* 47 Youth & Soc'y 539, 558 (2015).
236. Brooke Schultz, *Restorative Justice in Schools, Explained,* EducationWeek, (May 31, 2024), https://www.edweek.org/leadership/restorative-justice-in-schools-explained/2024/05 [https://perma.cc/N74W-6NFN].

conflicts within a community while also diverting students from the juvenile justice system.[237]

Restorative practices relate not only issues of conflict and discipline but also race and other social inequities. Within critical restorative justice theory, the aims of restorative justice are more often understood in terms of both resilience building and resistance to oppression.[238] Restorative justice is meant to address and prevent the ongoing harms and racial disparities borne out of punitive discipline and zero-tolerance policies, while improving student outcomes and school climates more generally.

B. *The Value of Restorative Justice in Schools*

Restorative justice within education does not just act as an alternative to traditional punitive discipline but also operates as an innovative teaching strategy for managing deviant behavior within the classroom.[239] Restorative approaches are seen by some scholars as an "opportunity pipeline," especially for vulnerable students with exposure to trauma.[240] While punitive discipline is traditionally reactionary, restorative justice efforts are largely proactive and forward looking, meant to build healthy relationships within the school community.[241]

Further, restorative practices support emotional development and community cohesion within schools. In fact, researchers have found that proactive talking circles and other restorative practices can produce group solidarity, rapport and emotional energy.[242] These practices offer socioemotional benefits not only for individual participants, but also the broader community.[243] Researchers have found that restorative practices in schools can improve both overall school outcomes and individual relationships.[244] Restorative justice practices allow for the development of prosocial behaviors such as the development of socioemotional and listening skills, as well as trust and strengthened interpersonal relationships.[245] Thus, restorative practices offers the chance to build school community and trust, even outside instances of conflict or misbehavior.

Restorative practices can also have positive impacts on students' academic outcomes. Scholars predict that using restorative justice as an alternative to exclusionary discipline like suspensions may improve the academic achievement of students who would otherwise be excluded from the classroom.[246]

237. Wilson et al, *supra* note 229 at 13.
238. Lustick, *supra* note 225, at 19.
239. Nidhir Ghosh & Shamim Ahmad, *Addressing Students' Deviant Behavior Through Healing Circles: Indispensable for Restorative Justice in Education,* 30 Educ. Admin.: Theory & Practice 3804, 3805 (2024).
240. Dorn Parameswaran et al, *supra* note 22 at 190.
241. Sarah Klevan, *Building a Positive School Climate Through Restorative Practices,* Learning Policy Inst., 1, 1 (Oct. 2021).
242. Marcucci, *supra* note 96 at 10.
243. *Id.*
244. Klevan, *supra* note 241 at 5.
245. Lodi et al, *supra* note 52 at 10.
246. Beth Glenn et al, *The Effects and Implementation of Restorative Practices for Discipline in New Orleans Schools*, Educ. Rsch. All. for New Orleans 1, 28–29

Restorative practices are also associated with a significant reduction in behavioral infractions within the classroom and improved attendance, allowing students to focus on learning rather than classroom conflicts.[247] Teachers who have adopted restorative justice practices in the classroom have also reported that students are allowed a second chance to realize the positive outcomes of the teaching and learning process.[248]

While many reflections on restorative justice's value center around academic outcomes and behavioral change, researchers have also found that restorative justice efforts—especially peer restorative justice,[249] is a significant predictor of positive health outcomes.[250] Specifically, restorative justice can reduce students' odds of missing school due to mental and physical health concerns, which may suggest that the implementation of restorative justice efforts could act as an effective public health intervention to improve the overall health of students.[251]

Schools that employ restorative justice practices "with fidelity" see not only reduced suspension rates and disciplinary infractions but also improved academic outcomes.[252] Defiance and other unwanted behaviors therefore tend to become less common, as students feel a greater sense of belonging and safety in the classroom.[253] One study found roughly a thirty five percent decline in student arrests in school and fifteen percent reduction in external, out of school arrests following the implementation of restorative justice.[254] Ultimately, commitment to true restorative justice is highly valuable for students and educators alike, including for emotional development, academic outcomes, health-related outcomes, and reduced punishment and criminalization.

IV. Improving the System: The Heart of Restorative Justice

A. *Common Models for Implementing Restorative Practices in Schools*

The restorative practices and models used in schools are wide ranging and look different from school to school. This Part offers a high level glimpse into common approaches to restorative justice, such as efforts at promoting the whole-school relationships and climate, centering of emotions and the self in conversations, opportunities for peer leadership and building student autonomy,

(Oct. 22, 2021).

247. Rideout et al, *supra* note 163 at 54.

248. *Id.* at 55.

249. Peer restorative justice is a particular tactic to restorative justice involving direct engagement with peers when conflict arises. This approach sometimes involves neutral third-party peers acting as mediators or facilitators to support individuals in conflict.

250. Todic et al, *supra* note 98 at 8.

251. *Id.* at 6.

252. Courtney, *supra* note 120.

253. *Id. See also* Tim Walker, *Do Restorative Practices Work?*, neaToday, (Nov. 8, 2023), https://www.nea.org/nea-today/all-news-articles/do-restorative-practices-work#:~:text=What%20they%20found%20was%20that,health%20and%20success%20of%20students [https://perma.cc/55RA-S54V].

254. Anjali Adukia et al, *From Retributive to Restorative: An Alternative Approach to Justice in Schools*, IZA Inst. of Lab. Econ. 1, 2 (Feb. 2025).

and the use of circles for community building and healing in cases of conflict. This analysis of widespread restorative practices sets up later discussion of potential obstacles and opportunities for more effective implementation of restorative justice in schools.

1. Whole School Relationships and Community Building

While restorative justice in the educational context often centers around conflict, scholars argue that it is important to acknowledge that the restorative project should extend beyond conflict resolution.[255] Restorative justice should also focus on how to build and maintain relationships within smaller micro communities, as well as the larger school community.[256] Beyond this, scholars explain that true restorative justice requires a fundamental paradigm shift addressing the entire school climate.[257] Restorative practices that involve more community members, rather than solely the perpetrator and victim, offer a relational, systemic approach that can benefit the entire school community.[258]

Restorative practices have been especially successful where efforts are embraced as a schoolwide ethos, instead of a targeted disciplinary strategy.[259] For instance, Alliance Charter School, adopted a whole-school model of restorative justice not only to address incidents of aggression and harm but to strengthen all relationships within the school.[260] Beyond talking circles and conflict resolution, Alliance's whole school model required the implementation of practices for addressing administrator interactions with students and staff, the ways in which policy decisions are made, the pedagogy and curriculum used by teachers, and the types of professional and institutional development offered.[261]

Alliance centered its practices around the belief that adults should not be seen as experts of restorative approaches, but that students should be included in leadership roles to facilitate community building, mentorship, and the repairing of harm.[262] This student led approach helped build shared school values while also allowing students to exercise autonomy and feel socially, emotionally, and physically safe.[263] At the same time, the whole school lens, coupled with practical methods for addressing the role of administrators and staff in

255. Schiff, *supra* note 26 at 123.
256. *Id.*
257. Payne & Welch, *supra* note 234 at 556–57.
258. Lodi et al, *supra* note 51 at 15.
259. Talia Sandwick et al, *Fostering Community, Sharing Power: Lessons for Building Restorative Justice School Cultures*, 27 Educ. Policy Analysis Archives, 1, 1 (2019).
260. *See* Gonzalez et al, *supra* note 106 at 210 –214, 218 (describing the case study of Alliance, a charter high school in Milwaukee where administrators opted to address educational challenges associated with the trauma and victimization experienced by most of its student body by employing restorative approaches. The school prioritized the development of "healthy and trusting relationships within the school . . . [and] school connectedness." Restorative practices included student and staff codeveloping restorative interventions through talking circles and a curriculum for courses in advanced restorative practices. Staff education was another key aspect of the restorative efforts at Alliance).
261. *Id.* at 218.
262. *Id.* at 217.
263. *Id.*

building supportive, non oppositional relationships, shifted the focus away from individual conflicts and toward the broader community.[264]

This shift in focus to the whole school, rather than individuals engaged in conflict or other undesirable behaviors, could produce significant benefits for the school community. A school wide implementation of a communal restorative philosophy could lead students to become more bonded to the school.[265] Researchers generally view flexible, schoolwide approaches are more effective than incident driven restorative justice models at engaging students and staff to transform the school community more broadly.[266] The prevalence of adults (whether teachers, administrators, or staff) within schools who can offer positive relationships and life affirming connections to support healthy development demonstrates how restorative practices can embody values of community and connection.[267]

2. Circles

Schools shifting away from punitive discipline often use circles as a key restorative approach, including both "talking" circles aimed at conversation and community building and "healing" or "peacemaking" circles focused upon addressing interpersonal conflicts.[268] Some restorative justice experts also convene "learning" circles in schools for educational purposes.[269] Circles are generative in nature, allowing for collective responses and healing in response to moments of rupture or conflict, as well as strengthening of community relationships.[270] These restorative and even transformative circle processes also allow individuals within a community to understand one another's perspectives and reasons for behaving in particular ways.[271]

The nonhierarchical structure of circles is meant to both promote greater equity amongst students and between students and adults, and to build capacity to manage conflict in school settings.[272] In some instances, circles focus on racism, forms of oppression, and the school to prison pipeline, connecting individual experiences to broader societal experiences.[273] Circles can act as sanctuaries amidst harmful zero tolerance policies, offering youth spaces of respect, refuge, and supportive and caring relationships with others in the school community.[274] Experts like Stella Connell Levy label circles as "democratic spaces" that are both "safe and nonjudgmental," offering opportunities for reconciliation, collaboration, and accountability instead of punishment, blame,

264. *Id.*
265. Payne & Welch, *supra* note 234 at 555.
266. Sandwick et al, *supra* note 258 at 4–5.
267. Dorn Parameswaran, *supra* note 21 at 189.
268. Knight & Wadhwa, *supra* note 37 at 15.
269. Emily Wilson, *Restorative Justice Seeks to End the School-to-Prison Pipeline*, CFT, (March 1, 2016), https://www.cft.org/california-teacher/restorative-justice-seeks-end-school-prison-pipeline [https://perma.cc/SE7C-TZQT].
270. Autrey & Ho, *supra* note 205.
271. *Id.*
272. Knight & Wadhwa, *supra* note 37 at 15.
273. *Id.* at 27.
274. *Id.* at 27–28.

and anger.[275] Thus, circles provide opportunities to shift away from punitive discipline and hierarchical dynamics within the classroom to better address misbehavior, conflict, systemic oppression, and even to build community.

Healing (or peacemaking) circles are commonly used in education as a means of repairing harm and relationships through listening, communication, and collective efforts to find solutions.[276] Traditionally, healing circles involve convening both students responsible for unwanted or harmful behaviors and students affected by those behaviors and employing mediation tactics to address conflicts.[277] These peacemaking-focused circles typically focus on (1) identifying the harm that has happened, (2) asking community members how they were impacted by the harm, and (3) determining concrete ways for the person responsible for the harm to repair it.[278] In classes where healing circles are implemented, students have opportunities to express themselves outside of the traditional linear classroom model where there is only a narrow path to a single correct answer and academic success.[279]

Circles can also be employed outside of contexts centered around conflict in schools. For instance, circles are sometimes used after the loss of a community member to support students through grief and loss.[280] In talking circles focused on bereavement, students can process trauma in a structured space alongside their peers.[281] Meanwhile, celebration circles can be used to share and affirm good news and accomplishments of individuals and groups of students within the classroom.[282] Schools also sometimes employ proactive community-building restorative circles, meant to teach social-emotional learning skills before any conflict even arises.[283] Community building circles positively impact student attendance and school climate, reduce student suspensions and other discipline incidents.[284] Other circles within the school setting may include staff circles for educators in professional development sessions, parent and community member circles, and even reentry circles for students for students who have been subjected to exclusionary discipline.[285] Healing circles can also deal with issues of examination malpractice, truancy, bullying, tardiness, stealing, substance abuse, sex offenses, absenteeism, and other deviant behaviors

275. Wilson, *supra* note 268 .
276. Ghosh & Ahmad, *supra* note 238 at 3805.
277. *Id.*
278. Knight & Wadhwa, *supra* note 37 at 15–16.
279. Rachel Dahill-Fuchel & Kevin Dahill-Fuchel, *Circling Toward Healing and Learning*, 76 ASCD 1, (Sept. 1, 2018), https://www.ascd.org/el/articles/circling-toward-healing-and-learning [https://perma.cc/R38A-8P7Z].
280. Oriana Ides, *Holding Circles in Schools After Loss: Honest Reflections from an Educator About Holding Circles After Loss*, Sch. Crisis Recovery & Renewal, (Nov. 22, 2021), https://schoolcrisishealing.org/holding-circles-in-schools-after-loss-honest-reflections-from-an-educator-about-holding-circles-after-loss/ [https://perma.cc/V8YX-9LGQ].
281. *Id.*
282. Embrace RJ Collective, *Circles*, Chicago Pub. Sch., 63, 65.
283. *Community-Building Restorative Circles*, Inst. of Educ. Scis., 1, 1 (2025).
284. *Id.*
285. Embrace RJ Collective, *supra* note 281 at 65.

and difficult situations that arise in schools.[286] The breadth of approaches and issues covered in restorative circles allows for the strengthening of student relationships and support for student wellbeing in school environments.

The specific structure of different talking and peacemaking circles may vary slightly, but many approaches employ similar methods.[287] Typically, circles begin with opening, introductions, and a check-in, then continue on to a discussion about the topic, conflict, or situation at hand before ending with a closing and checkout.[288] Participants are generally seated in a circular, nonhierarchical arrangement meant to foster the egalitarian structure of the program.[289] Often, a talking piece is used to designate who is permitted to speak, while all other parties listen—creating more space for self expression and discussion.[290] Though circles were initially advanced by indigenous peoples, non Native people can adapt these practices to different situations and cultures to promote mindful communication in the school setting.[291] Ultimately, restorative circles constitute one of many diverse approaches to restorative justice within the school setting, working interconnectedly with efforts at building strong school wide relationships and positive climates, centering the self and emotions, and promoting student autonomy and leadership.

B. *Critiquing the Implementation of Restorative Practices in Schools*

In this Part, I consider major critiques of current efforts to implement restorative justice in educational environments. There is currently limited research regarding the efficacy of restorative justice practices, with few qualitative studies and almost no quantitative ones.[292] This is partially due to the fact that few schools have ever implemented a true restorative justice model.[293] Scholars recognize that models for implementing restorative justice are scarce, reflecting the fact that buy-in, participant responsiveness, quality of services, and training availability can all impact the efficacy of restorative justice practices in school settings.[294]

Here, this Article seeks to identify and analyze common obstacles to employing true restorative justice approaches in schools, such as the limited efficacy of top down enforcement, educator judgments and assumptions regarding the causes of misbehavior, ongoing disparities based on race, and the colonization of restorative justice in Western environments. Through all this, one may be able to imagine a more effective and transformative path forward for approaching discipline and behavioral management in school environments.

286. Ghosh & Ahmad, *supra* note 238 at 3805.
287. Autrey & Ho, *supra* note 205.
288. *Id.*
289. *Id.*
290. *Id.*
291. *Practices of a Restorative School*, Minn. Dep. of Educ., 1, 5 (Jan. 2020).
292. Schultz, *supra* note 235 .
293. *Id.*
294. Joseph-McCatty & Hnilica, *supra* note 162 at 2 .

1. Shortcomings of Top Down Enforcement

Though restorative justice policies are often adopted from administrators and high level leadership at schools, administrator directives alone cannot eradicate traditional punitive discipline attitudes and approaches within the school community.[295] Crystena Parker-Shandal describes top down enforcement of restorative justice as a form of structural violence, which may create unsafe conditions for students and teachers.[296] Not every teacher within a school will approach restorative practices in their classroom in precisely the same way—nor will all staff have the same attitude toward restorative justice as a whole. Thus, top down directives cannot guarantee that the full benefits of restorative justice will be enjoyed without full community commitment to restorative practices and values. At the same time, the financial costs of hiring staff to implement restorative justice programming in schools may be cost prohibitive for some schools, demonstrating the importance of schoolwide buy in and teacher adaptability.[297]

Successful advancement of restorative justice values around interpersonal relationships and broader community-level change requires teacher commitment.[298] In fact, experts argue that restorative justice requires a complete cultural shift within schools, requiring buy in at all levels, from teachers, administrators, security staff, and students alike.[299] Outside of administrators and teaching staff, it is imperative that security staff also are willing to adopt restorative practices in schools.[300] Researchers have found that security staff have been the most skeptical of restorative practices, preferring punitive discipline as the primary approach to misbehavior.[301] Beyond this, buy-in from school staff may vary based on differences in age and experience, as older teachers and staff may prefer traditional hierarchical relationships between students and educators.[302]

Research suggests that many educators believe they need to "handle" or "deal with" student trauma, rather than treating trauma as a systemic problem that offers opportunities for healing and growth.[303] In fact, some teachers view restorative justice as insufficient for addressing student behavior, as restorative practices do not resolve the underlying conflicts and trauma behind interpersonal conflicts or teach more appropriate behaviors.[304] Perceiving trauma as something to be addressed or fixed can cause teachers to view students as

295. Russell & Crocker, *supra* note 35 at 209.
296. Parker-Shandal, *supra* note 211 at 90.
297. Schultz, *supra* note 235 .
298. *Id.*
299. Remy Stewart & Jerel M. Ezell, *Understanding Perceptions, Barriers, and Opportunities around Restorative Justice in Urban High Schools*, 59 Urb. Educ., 2619, 2637 (2024).
300. Stewart & Ezell, *supra* note 299 at 2638.
301. *Id.*
302. *Id.* at 2639.
303. Miller & Flint-Stipp, *supra* note 6 at 423–33.
304. Stewart & Ezell, *supra* note 229 at 2638.

lacking something—taking a deficits based viewpoint.[305] Such a perspective may frame young people and their families as broken or needy, which restorative justice experts seek to avo*id*.[306]

Educators may expect restorative practices to "fix" problem behaviors and to decrease the number of suspensions at the whole-school level.[307] However, if restorative practices are administered without restructuring of power dynamics, the relationships within schools will continue to rely upon discipline and control instead of promoting justice, equity, and inclusion across the broader school community.[308] Thus, punitive values of social control and compliance may persist within schools even where restorative justice efforts are implemented, replicating traditional behavioral management practices.[309] Scholars characterize these surface level restorative practices as merely a "kinder, gentler way to punish students."[310] Truly restorative practices require full adoption of transformative values and an educator willingness to prioritize community and relation building over control of student behavior.[311] Educators must unlearn predominant societal approaches to discipline and accountability, which may prove to be difficult at a larger, school wide scale.[312]

Some educators reject restorative practices due to practical concerns. For instance, educators have rejected the use of circles and other restorative practices because of difficulty with implementation due to large classroom sizes and concerns about loss of instructional time.[313] Meanwhile, other opponents of restorative justice may view the goals of restorative justice to heal and build community as incompatible with their narrow views of the purpose of schools.[314] Educators may fear that reducing punitive discipline will lead to increases in disruption in the classroom that may negatively impact learning and academic outcomes, yet there remains no conclusive evidence supporting this concern.[315] Given the wide ranging and diverse viewpoints and attitudes towards restorative justice amongst educators, top down, administrative directives may not be enough to ensure there is the whole school buy in needed to truly embody restorative justice in practice.

2. Judgment and Assumptions About Misbehavior

The literature often frames restorative justice as a reactive process that responds to misbehavior, assuming students who do not misbehave must

305. *See* Miller & Flint-Stipp, *supra* note 6 at 435 (describing the limitations of a deficits-based perspective of students, as opposed to a strength-based perspective focused on student resilience).
306. Dorn Parameswaran, *supra note* 22 at 188.
307. Brown, *supra* note 28 at 6.
308. *Id.*
309. *Id.*
310. *Id.*
311. *Id.*
312. Klevan, *supra* note 241, at 2.
313. Joseph-McCatty & Hnilica, *supra* note 163, at 8.
314. Parameswaran et al., *supra* note 22, at 187.
315. Adukia et al., *supra* note 254, at 3.

already have strong relationships with instructors.[316] This process has the effect of excluding some students from restorative approaches, instead focusing only on repairing relationships tied to individual instances of unwanted or harmful behaviors.[317] Focusing on misbehavior within restorative practices ignores the benefits that all community members within a school may receive from a broader reaching, whole-school approach. Given the widespread impacts that trauma, marginalization, and other systemic social issues have on students and teachers alike, restorative practices that merely address misbehavior may be too narrow in scope to yield community wide benefits.

School educators continued focus on addressing misbehavior within the school setting—as well as ongoing dependence on exclusionary discipline—can undermine the mission of restorative justice. Even if restorative practices are implemented at a given school, researchers have found that persistent use of discipline can uphold punitive mentalities.[318] In fact, studies suggested that the school to prison pipeline has largely persisted even at schools where restorative justice programs were implemented, with comparable numbers of student arrests at both treatment and control schools.[319] Teachers' own implicit biases about the capabilities of marginalized and racialized students can reinforce top-down hierarchies and prescriptive education.[320] Thus, a truly restorative approach in schools may require educators to rethink their priorities and biases, releasing the desire to control behavior in favor of building community, healing relationships, and taking a trauma informed approach to support students.

Oftentimes, behavioral concerns in the classroom are labeled in terms of defiance, disruptiveness, disrespect, and other arbitrary, hard to categorize offenses. Terms like "disrespect" or "disruptiveness" are subjective terms defined by those with the most power—and what Dutil calls the "dominant White view" acts as the lens through which student behavior is judged by authority figures.[321] Judgments about whether students are "too loud" or "too aggressive" are often accompanied by cultural bias and expectations that students communicate in ways that mirror the volume and temperaments of usually White adults.[322] As a result, the cultural differences between White, relatively mature adult teachers and students from marginalized backgrounds (especially students of color) may account for the disproportionate rates of punitive discipline for Black students in schools.[323] Thus, a focus on perceived misbehavior—combined with a disregard for how certain behaviors may be

316. Richard O. Welsh & Shafiqua Little, *The School Discipline Dilemma: A Comprehensive Review of Disparities and Alternative Approaches*, 88 Rev. of Educ. Rsch. 752, 783 (2018).
317. *Id.*
318. Lustick, *supra* note 250 at 19.
319. Jill Barshay, *The Promise of 'Restorative Justice' Starts to Falter Under Rigorous Research*, The Hechinger Report (May 6, 2019), *https://hechingerreport.org/the-promise-of-restorative-justice-starts-to-falter-under-rigorous-research/* [https://perma.cc/92N8-RGNE*]*.
320. Parker-Shandal, *supra* note 212, at 64.
321. Dutil, *supra* note 71, at 174.
322. *Id.*
323. *Id.*

affected by trauma, cultural background, other experiences, or even the educator's own biases—may especially disadvantage students of color and from other marginalized backgrounds.

3. Inequitable Outcomes Based on Race

While restorative justice has meaningful aims, scholars have suggested that restorative practices tend not to reduce punishment equally for all students.[324] Studies have found that schools with greater percentages of Black students are less likely to engage in restorative responses to misbehavior.[325] When restorative justice is employed, students of color at urban schools tend to face consistent rates of suspension, while suspension rates decline for White students.[326] Students of color also face disproportionate rates of restorative discipline compared with White peers.[327] Based on this, restorative practices may actually replicate the surveillance and isolation that students of color face within traditional discipline regimes.[328]

Studies also suggest that though restorative justice is sometimes targeted at reducing violence, restorative justice practices as currently implemented are not clearly capable of curbing such incidents.[329] Even so, restorative justice is thought to have potential benefits unrelated to crime, ranging from increased community connectedness and improved academic achievement to divergence from the school to prison pipeline.[330] Restorative practices in schools can also reduce the financial costs tied to punitive discipline, as incarceration of children engaged in misbehavior is ultimately far more costly than educating them.[331]

Scholars like Romano and Arms Almengor acknowledge that schools can implement restorative justice practices while avoiding deeper questions or systemic changes needed to address racialized forms of long-term discrimination.[332] However, despite potential decreases in detentions, suspensions, and expulsions, such limited restorative practices "will not likely address causes of racial disproportionality in school discipline . . . that interfere with learning and have other negative impacts on both students and educators."[333] For instance, schools like Oakland Unified school district in California have seen that despite decreased suspensions overall, the suspensions that persisted in their schools remained racially disproportionate.[334]

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324. Lustick, *supra* note 94, at 1270.
325. Payne & Welch, *supra* note 263, at 557.
326. Lustick, *supra* note 94, at 1270.
327. *Id.*
328. *Id.*
329. Chunghyeon Seo & Nathan E. Kruis, *The Impact of School's Security and Restorative Justice Measures on School Violence*, 132 Child. & Youth Servs. Rev. 1, 7 (2022).
330. *Id.*
331. Wilson, *supra* note 269. (By one estimate, the cost to incarcerate an individual for a year is equivalent to about $50,000 a year, compared with just $8,000 per year to educate an individual student).
332. Romano & Arms Almengor, *supra* note 213, at 202.
333. *Id.*
334. Schultz, *supra* note 236.

However, the dominance of Whiteness within teacher education leaves educators largely unprepared to address the impacts of racial disparities within the classroom.[335] In fact, case studies indicate that even in classrooms with primarily students of color, teachers are often primarily White women, creating racial and gender dynamics that influence pedagogical decisionmaking.[336] Predominant perspectives of colorblindness, neutrality, and meritocracy fail to address how White privilege and power are advanced within teacher training paradigms.[337] Many teacher education programs merely involve one or two courses on diversity, which are oftentimes the only courses that address counter experiences outside the mainstream White worldview.[338] Even in schools that adopt restorative justice tactics, students of color may continue to face exclusion and lack of understanding from educators, reinforcing the exclusionary and oppressive legacies of Western institutions. Thus, educators ought to carefully consider the historical oppression and marginalization of students of various cultural backgrounds.[339]

4. Colonization of Traditional Restorative Justice

Traditional, indigenous approaches to restorative justice were designed to work within indigenous communities and systems, not Western institutions in which they have been employed.[340] Based on this, scholars argue that restorative justice has been colonized through the use of such practices within the colonial contexts of punishment and power imbalances within institutions like schools.[341] In other words, modern applications of restorative justice in Western, colonial institutions are not reflective of the indigenous values that shaped its development.[342]

In fact, there are several differences in practice when it comes to traditional indigenous peacemaking approaches and Westernized restorative justice.[343] In Western applications of restorative justice, facilitators or mediators tend to be neutral third parties with no vested interest in the conflict, whereas in many indigenous justice systems, the peacemaker is a community member empowered to speak up and state their opinions.[344] Indigenous peacemaking practices—particularly within the Navajo Nation—also tend to incorporate more community members, including family, friends, mentors,

335. Dutil, *supra* note 71, at 174.
336. Christina Parker & Kathy Bickmore, *Classroom Peace Circles: Teachers' Professional Learning and Implementation of Restorative Dialogue*, 95 Teaching & Tchr. Educ., 1, 9 (2020).
337. Dutil, *supra* note 71, at 174.
338. *Id.*
339. Parker & Bickmore, *supra* note 336, at 6.
340. Hamza Said, *Restorative Justice: Decolonizing the White-Washed Monster Within*, *in* Decolonization and Restorative Justice: An Introductory Overview (Muhammad Asadullah ed., 2022) https://www.saskoer.ca/decolonizingjustice/chapter/decolonization-and-restorative-justice/ [https://perma.cc/LJX6-SRU3].
341. *Id.*
342. *Id.*
343. Wiegand, *supra* note 164.
344. *Id.*

counselors, and other connected to both the victim and offender.[345] Traditional peacemaking also tends to incorporate cultural tools and deemphasize guilt, unlike more colonial, adversarial approaches.[346]

Within the school setting, restorative justice may have the effect of stabilizing and even legitimizing systems known for legacies of racism and harm.[347] As discussed throughout this Article, schools have historically been—and continue to be—sources of violence and trauma for students of color, particularly for the Black and Indigenous People of Color excluded from schools through segregation, corporal punishment, and exclusionary discipline.[348] Implementing restorative approaches without dismantling oppressive systems of surveillance and punishment may have adverse effects on students, forcing assimilation and compliance under the guise of restorative justice while reproducing the harms of exclusionary discipline.[349]

Many scholars and practitioners look to restorative justice as a solution for centuries of oppression within schools, but others like Parker-Shandal, recognize that restorative practices alone cannot transform our educational system.[350] While restorative practices may be part of a transformative and liberatory education, this alone cannot overwrite the colonial roots of American education, which traditionally focused upon domestication and control.[351]

C. *Transforming the Implementation of Restorative Practices Within Schools*

Restorative justice in schools as currently implemented evidently has many shortcomings and opportunities for increased efficacy. This subpart outlines a few opportunities for transformational change within the implementation of restorative practices, which may allow schools to address the root causes of misbehavior, classroom discussion, and adverse school climates. In particular, this subpart includes discussion of the opportunities associated with holistic and proactive community focused practices meant to prevent future harm and conflict, as well as full rejection of punitive disciplinary policies in schools and strong bottom up, classroom level interventions. While many other transformational opportunities for improvement likely exist, these approaches demonstrate the potential for schools to initiate systemic change to address harmful and persistent racial disparities in educational discipline.

1. Holistic, Proactive Restorative Practices

To achieve goals of strengthening school community and interpersonal relationships, research suggests restorative justice may be most successful when

345. *Id.*
346. *Id.*
347. Sia Henry, *Restorative Justice Is Used to Legitimize Oppressive Systems,* Youth Today (March 23, 2021), https://youthtoday.org/2021/03/restorative-justice-is-used-to-legitimize-oppressive-systems/ [https://perma.cc/WK7R-A8DR].
348. *Id.*
349. *Id.*
350. Parker-Shandal, *supra* note 212, at 64.
351. *Id.*

applied in multiple angles and approaches.[352] For instance, widespread staff led harm circles traditionally associated with restorative justice practices may be well supported by student led mediations, reentry programming, and ongoing student counseling.[353] Schools may also consider implementing community building efforts and deescalation trainings to strengthen the overall school community, rather than focusing solely on specific incidents of misbehavior.[354]

Further, while punitive discipline often focuses on reactive responses to community harm, restorative practices can encompass proactive measures to build community in addition to repairing harm.[355] Schools that are fully engaged in restorative practices may not only directly address conflicts within the relational ecology of the school (whether tied to individual or collective trauma or other forms of oppression) but also rituals and practices like community building circles and one on one meetings.[356] Schools may also engage in multitiered whole school interventions, affective statements and questions, and proactive circles to build relationships across the school, as well as socioemotional skills.[357]

Exclusionary discipline is often justified by a desire to hold students accountable for misbehavior and classroom disruption.[358] However, traditional punishment does not actually hold misbehaving students accountable to their peers and teachers and fails to develop children's sense of responsibility.[359] Students may feel remorse for their actions, but have no adult guidance on how to express their emotions and experiences, nor do students subject to exclusionary punishment receive skills to handle the root causes of their behaviors.[360] Holistic, proactive restorative practices provide an opportunity to not only respond to conflict and misbehavior in developmentally appropriate ways, but also to provide students with the support needed to prevent future harms from happening in the first place. According to Evans and Lester, when teachers view student behavior as an opportunity to teach students how to resolve conflicts and act more appropriately, educators can both address concerning behaviors and also equip students with helpful tools to manage the root causes of their misbehavior.[361] While restorative practices do not guarantee that students will never again misbehave, nonpunitive approaches offer students the unique opportunity to restore their standing in the school community.[362]

352. Sandwick et al., *supra* note 258, at 4.
353. *Id.*
354. *Id.*
355. Marcucci, *supra* note 96 at 2.
356. Parameswaran et al., *supra* note 22, at 197.
357. Joseph-McCatty & Hnilica, *supra* note 163, at 8.
358. Jeffrey Benson, *An Alternative to Punitive Discipline That Really Holds Students Accountable,* Edutopia (March 29, 2024), https://www.edutopia.org/article/building-accountability-restorative-practices/ [https://perma.cc/47MF-7TFY].
359. *Id.*
360. *Id.*
361. Evans & Lester, *supra* note 18, at 109.
362. Benson, *supra* note 357.

2. Full Rejection of Punishment and Judgment

While restorative justice practices have been widely adopted in schools across the country, school leaders tend to be resistant to release the power to exclude and punish students under the traditional disciplinary model.[363] Social control has in many ways become a core goal of punitive discipline, emerging out of political and ideological forces which shape schools.[364] Critics of restorative justice sometimes argue that these practices are too soft on children engaged in unwanted behaviors.[365] Without fully disavowing their prior focus on social control, schools will likely continue to observe the residual effects of punitive discipline and corporal punishment in the classroom, as students continue to face threats of exclusion and punishment.

At the same time, effective enforcement of restorative practices requires rejection of judgments about misbehavior or other qualities of those involved. For instance, at a Boston school, circles were used to support students who had failed at least one grade, were on the verge of dropping out, or were otherwise struggling academically.[366] In these circles, students' past failures and criminal behaviors were set aside in favor of creating personal relationships with peers and school staff.[367] Students were granted flexible scheduling to recover credit and to accommodate regular talking circles for community building, as well as healing circles when conflicts arose.[368] Not all schools are prepared to fully reject centuries old institutions and policies that have historically been baked into educational systems.[369]

While opponents have labeled restorative justice as acting as a reward for misbehavior, proponents of restorative practices emphasize the dangers of the "broken windows policing" approach, an educational philosophy which suggests that all instances of disorder must be addressed—replacing all "broken windows," no matter how small.[370] Under the broken windows approach, it is expected that punishing all disorder will prevent increasingly disruptive disorder, driving deviancy down.[371] It was this uniformly punitive approach that led to harmful tactics like stop and frisk, zero-tolerance arrests, and over

363. *See* Russell & Crocker, *supra* note 35, at 198.
364. *See* Marcucci, *supra* note 162, at 1.
365. Schultz, *supra* note 235.
366. Knight & Wadhwa, *supra* note 37, at 16.
367. *Id.*
368. *Id.*
369. Schultz, *supra* note 235.
370. *See* Elizabeth Grace Matthew, *The Predictable Failure of 'Restorative Justice' in Schools*, Hill (Sep . 1, 2023, at 13:00 ET), https://thehill.com/opinion/education/4181444-the-predictable-failure-of-restorative-justice-in-schools/ [https://perma.cc/32TN-P8Y9] (arguing that students are rewarded by time in "decompression rooms" and provided with snacks when they act out in classrooms running restorative justice programs. The author insists that without punishment in schools, students lose the self-control needed to act in pro-social ways); *s ee also* Daniel Buck, *The Abolition of School Discipline*, Nat'l Aff s. (Winter 2023), https://www.nationalaffairs.com/publications/detail/the-abolition-of-school-discipline [https://perma.cc/ZQ4D-JS4D].
371. Buck, *supra* note 370.

incarceration of students of color.[372] While exclusion based responses may still be necessary in rare cases where a student poses an immediate safety threat, restorative practices may be more effective in changing—rather than punishing—behavior.[373] Without discharging the need to control students through the threat of discipline, school leaders may struggle to achieve the merits of a truly restorative approach to misbehavior.

3. Bottom Up Approaches

School staff and leadership may have opportunities to promote schools' climate and resilience, as well as student development, through the implementation of bottom-up restorative practices. Knight and Wadhwa argue that school staff—including teachers, paraprofessionals, facilities staff, and administrators—"are the school," as schools are not just buildings but also human resources, relationships, and experiences.[374] Adults within school communities often play a protective role in the lives of at-risk and marginalized children, whether based on race, immigrant status, academic success, gender and sexuality, or other aspects of identity.[375]

The use of restorative responses to misbehavior and discipline requires teacher and staff buy-in, not just administrator directives.[376] Buy in from teachers, administrators, and security staff varies greatly depending on age and race, with older White educators being more likely to prioritize disciplinary policies rooted in racial discrimination.[377] At the same time, educators may need amenable working conditions and administrative support to be able to successfully implement restorative, trauma informed approaches into their classrooms.[378] Without consistent application of restorative practices by all educators in a community, students may fail to trust circles and other restorative practices, inhibiting the creation of real cultural change in schools.[379]

Educators often face the brunt of student hostility, disrespect, and other forms of misbehavior at school.[380] Learning about students' experiences with trauma and managing disruptive behavior can take a toll on educators, causing secondary traumatic stress.[381] Secondhand traumatic stress can manifest in emotions like numbness or powerlessness, as well as physical health impacts like sleep disturbances, altered eating habits, addiction, or hypervigilance.[382] In this way, educators simultaneously must manage a classroom, teach a lesson,

372. *See id.*
373. *See* Sravya Tadepalli, *Abolishing School Suspensions May Help Alleviate Discrimination*, Prism (Mar. 3, 2021), https://prismreports.org/2021/03/03/abolishing-school-suspensions-may-help-alleviate-discrimination/ [https://perma.cc/V7PL-HAWD].
374. Knight & Wadhwa, *supra* note 38, at 14.
375. *See id.*
376. *See* Russell & Crocker, *supra* note 36, at 209.
377. Stewart & Ezell, *supra* note 299, at 2628, 2638.
378. *See* Koslouski et al., *supra* note 21, at 6.
379. *See* Joseph-McCatty & Hnilica, *supra* note 162, at 8.
380. *See* Koslouski et al., *supra* note 19, at 6.
381. *Id.*
382. *Id.*

and provide emotional support to students. As a result, staff turnover poses a considerable barrier to restorative justice, as it takes time to fully train and onboard teachers and administrators into restorative educational systems.[383]

A whole school approach to adopting restorative practices may allow administrators to support educators in managing both the effects of secondhand traumatic stress and disruptive behaviors in the classroom. By ensuring educators have sustainable working conditions, school leadership can support staff to more consistently meet students with care rather than discipline when unwanted behaviors manifest in the classroom.[384] Administrators may consider auditing class sizes, caseloads, and contractual time for collaboration and instructional planning to prevent burnout and emotional exhaustion in teachers.[385] At the same time, school leaders ought to be prepared to model restorative practices and to offer feedback for educators.[386] Ultimately, educators may be best supported in implementing restorative justice when surrounded by school administrators and student leaders invested in school wide change.[387]

School social workers may also be able to play an important role in preparing school staff to deal with challenging behaviors, training educators in topics within their expertise like child development, behavioral indicators of trauma, and socioemotional health.[388] Social workers may also be able to intervene in school practices that reproduce traumatic circumstances and reinforce unwanted behaviors.[389] Schools may also consider hiring consultants to completely overhaul the school's existing policies and practices, as full adoption of restorative practices requires a dramatic overhaul of traditional disciplinary approaches to behavioral concerns and conflict.[390]

Educators too have a responsibility to respond appropriately to students when they disrupt class or act with disrespect.[391] Oftentimes, conduct seen as 'misbehavior' may reflect distress, fear, or other emotions that arise from external factors and systemic inequities such as poverty, trauma, and familial instability.[392] By responding consistently, empathetically, and predictably, educators can individually instill restorative practices in their classrooms beyond formal mechanisms like talking circles, building more trust within the school community.[393] And by viewing themselves as "brokers" or "guideposts" within a school's opportunity pipeline, school staff can help students to navigate challenges and conflicts they face on a daily basis.[394] Ultimately, caring, nonjudgmental, and affirming student-teacher relationships built upon trust and

383. *See* Schultz, *supra* note 236.
384. *See* Koslouski et al., *supra note 21, at 6.*
385. *Id.*
386. Klevan, *supra* note 241, at 7.
387. Joseph-McCatty & Hnilica, *supra* note 163, at 8.
388. Dutil, *supra* note 70, at 174.
389. *See id.*
390. Schultz, *supra* note 236.
391. *See* Koslouski et al., *supra* note 21, at 6.
392. *See id.*
393. *See id.*
394. Knight & Wadhwa, *supra* note 38, at 14.

whole person based relationship building are cornerstones of healing school communities.[395]

In order to address and prevalent conflict and misbehavior in a community where students who have experienced trauma, harm, or other forms of marginalization, educators must build and maintain trusting and predictable relationships with students.[396] At the same time, it is important to cultivate a classroom culture that rejects bullying and disrupts systems of oppression.[397] Addressing both individual student-teacher relationships and whole class community within specific classrooms may provide opportunities to enhance the emotional, physical, and psychological safety of students.[398]

V. Case Study: Los Angeles

A. *Adoption of Restorative Justice Efforts at Los Angeles Unified School District*

Los Angeles Unified School District ("LAUSD") offers one example of the shift from punitive discipline to restorative justice practices in schools. LAUSD has historically spent more of its annual budget on school police than restorative justice programming.[399] In fact, the district spent over $67 million on school police and less than $11 million on restorative justice during the 2016–17 school year.[400] LAUSD also has its own police force, called the Los Angeles School Police Department, which included over 410 sworn police officers and 101 non-sworn officers as of 2017, making it the largest independent school police force nationally.[401]

In 2020, the school board voted to cut $25 million from the LAUSD's $70 million budget for its police department and to remove officers from over 1,000 schools, reducing the police force by a third.[402] In April 2024, LAUSD announced plans to eliminate 50 vacant Los Angeles School Police positions and spend nearly $4 million on restorative justice efforts.[403] However, in May 2024, LAUSD Superintendent Alberto Carvalho sought to reinstate officers on 20 campuses after two students brought semiautomatic handguns onto a LAUSD campus and another student was fatally shot at a LAUSD high school.[404]

395. Dorn Parameswaran et al ., *supra* note 22, at 195.
396. *See id* at 198.
397. *Id.*
398. *See id.*
399. Journalism for Soc. Change, *Counselors, Not Cops: Advocates Urge LAUSD to Increase Restorative Justice Funding*, Imprint (Feb. 21, 2017, at 3:00 PT), https://imprintnews.org/news-2/counselors-not-cops-advocates-urge-lausd-increase-restorative-justice-funding/26955.
400. *Id.*
401. *Id.*
402. *See* Monica Behnken, *Op-Ed: Why School Police Officers May Not Be The Most Effective Way To Prevent Violence*, Witness LA (Nov. 25, 2024), https://witnessla.com/op-ed-why-school-police-officers-may-not-be-the-most-effective-way-to-prevent-violence/ [https://perma.cc/45WH-57MV].
403. *Id.*
404. *Id.*

LAUSD adopted a district wide School Climate Bill of Rights in 2013 and committed to implement restorative justice efforts in schools by 2020.[405] The restorative justice paradigm centers around building community and intervening in offending behaviors, as well as reintegrating students into the school community.[406] The district also banned suspensions for "willful defiance" in 2013, that same year.[407] However, as of 2017, LAUSD remained far from its goal of implementing restorative justice in all schools in the district by 2020 as a result of funding deficits.[408]

More recently, LAUSD has spent more money on restorative practices, budgeting over $300 million for school climate personnel such as school climate advocates, restorative justice teachers, support advocates, psychiatric social workers, aides, and mental health coordinators in 2024.[409] Still, there were only 120 restorative justice teachers in the district as of 2024, which has over 1,000 schools, and only about a third of schools have a school climate advocate.[410] However, California's state budget allocates relatively little for restorative justice, with just $7 million in funding toward restorative justice—only enough for about 70 of California's more than 1,000 districts to receive funding for restorative justice at all.[411] Even then, this funding only partially covers the needs of a given school district.[412]

B. *Restorative Justice Approaches at LAUSD*

LAUSD's School Bill of Rights provides for the Positive Behavior Interventions and Supports and Restorative Practices ("PBIS/RP") program—a trauma informed, multitiered framework to support the socioemotional well-being of students—as well as alternatives to suspensions, a task force, and discipline related data.[413] The PBIS/RP department at LAUSD collaborates with local schools, school teams, families, and community partners to ensure the wellbeing of the "whole child" and "whole school."[414]

405. *Restorative Justice*, Los Angeles Unified Sch. Dist., https://ccla.lausd.org/apps/pages/index.jsp?uREC_ID=4356872&type=d&pREC_ID=2552233#:~:text=LAUSD%20RESTORATIVE%20JUSTICE&text=Restorative%20Justice%20emphasizes%20community%20building,improve%20within%20the%20school%20community [https://perma.cc/YZY5-X8WT] (last visited Apr. 6, 2026).
406. *Id.*
407. Gail Cornwall, *One School District Stopped Suspending Kids for Minor Misbehavior. Here's What Happened*, USA Today (Apr. 11 , 2024, at 15:00 ET), https://www.usatoday.com/story/news/nation/2024/04/04/la-schools-stop-suspending-students-for-minor-misbehavior-what-now/72950786007/ [https://perma.cc/NMK3–7L37].
408. Journalism for Soc. Change, *supra* note 399 .
409. Cornwall, *supra* note 40 7.
410. *Id.*
411. *Id.*
412. *Id.*
413. *School Climate Bill of Rights*, Los Angeles Unified Sch. Dist. (Nov. 21, 2022), https://pbisrp.lausd.org/apps/pages/index.jsp?uREC_ID=4410414&type=d&pREC_ID=2640381 [https://perma.cc/N7P6–8V2Q] (choose "District Policies & Procedures"; then choose "Attachment A – School Climate Bill of Rights 2022").
414. *Positive Behavior Interventions and Supports and Restorative Practices (PBIS/RP)*, Los Angeles Unified Sch. Dist., https://pbisrp.lausd.org/ [https://perma.cc/

The PBIS/RP program involves a three tier continuum of supports and strategies.[415] The first tier is called "Universal Prevention Supports and Strategies," which involves the explicit delineation and teaching of expected behaviors, as well as community circles and socioemotional learning in the classroom.[416] The second tier is known as "Selected Supports and Strategies," describing restorative conferences, targeted small group/individual interventions, repairing harm circles, and more targeting socioemotional learning.[417] The third tier is called "Intensive Supports and Strategies," which involves individual supports, reentry circles, behavior response plans, multidisciplinary team support, and intensive socioemotional learning.[418] With each tier, the supports and interventions provided become increasingly more individualized, with earlier tiers focused more on the whole school community.

One of LAUSD's goals is to reduce suspensions and expulsions by teaching, modeling, and recognizing expected behavior in the classroom, as well as engaging in trauma-informed practices.[419] In order to reduce suspensions, LAUSD created an Adult Self-Awareness checklist with questions to interrogate one's own biases and emotions when intervening in undesired classroom behaviors.[420] As part of the checklist, adult educators and staff are also prompted to consider whether students are safe at home, have access to basic needs, and what might be behind a given behavior.[421] Alternatives to suspension raised within LAUSD guidance include behavior contracts and monitoring, reflection spaces, counseling, educational projects, minicourses related to the challenging behavior, peer mediation, harm reparation circles, restorative questions think-slip, and community service, among others.[422]

One of the restorative approaches adopted by schools in Los Angeles Unified School District is the "Restorative Question Think Slip," which allows for self-reflection through questions that focus on motivations, perspectives, and possible solutions, seeking to prompt students to acknowledge how their behavior impacts themselves or others.[423] LAUSD encourages its member schools to edit questions in the form to be personalized to their own school areas and expectations, and emphasizes the importance of providing follow up support following completion of the form.[424]

L766-N5WN] (last visited Apr. 6, 2026).

415. *Id.*
416. *Id.*
417. *Id.*
418. *Id.*
419. *Alternatives to Out of School Suspensions*, Los Angeles Unified Sch. Dist. Policy Bull ., Nov. 22, 2022 , at 1.
420. *Id.*
421. *Id.*
422. *Id.*
423. *What is a Restorative Questions Think Slip?*, Los Angeles Unified Sch. Dist., https://pbisrp.lausd.org/ [https://perma.cc/3SNS-PAXZ] (choose "What is a Restorative Questions Think Slip?"; then choose "Overview What is a Restorative Questions Think Slip (pictorial version)") (last visited April 6, 2026).
424. *Id.*

Another process that LAUSD has outlined for member schools is called "Restorative Rounds," which involves students expressing how they feel, acknowledging other students' emotions and needs, and setting out steps for how they will act in the future.[425] The activity involves imagined rings in which students metaphorically take steps toward one another through rings of a "Restorative Rainbow."[426] This provides the opportunity for students to acknowledge one another's perspectives and express themselves, repairing relationships within the school community. LAUSD guidelines also outline a process for community building circles, which involve activities aimed at allowing students to get to know one another better.[427]

Also part of the PBIS/RP program, LAUSD's Repairing the Harm Circle process is another voluntary restorative approach to resolving conflict without traditional punitive discipline.[428] The Repairing the Harm Circle process is an intervention meant to prevent escalation by allowing students the opportunity to address harms experienced by all involved.[429] Repairing the Harm Circles should not be implemented unless students want to participate and should only begin when all parties are ready to gather in the circle.[430] During the discernment period, LAUSD guidance indicates that any person who caused harm must accept responsibility for their role in the harm in order to be part of the circle.[431] Before the circle convenes, a circle keeper should hold individual restorative conferences to gain a broader understanding of the perspectives of all individuals involved.[432] Once the circle begins, participants should have the opportunity to get acquainted with one another and build trust before addressing the harm, taking accountability, and designing a plan to resolve the harm.[433] Following the circle, there should be regular check-ins to monitor progress and convene further dialogue as needed.[434]

LAUSD also implemented measures to provide staffing to implement restorative practices in schools. The district hired school climate advocates to train employees and parents in restorative practices to respond to misbehavior, as well as psychiatric social workers and mental health coordinators.[435] In

425. *Elementary Restorative Rainbow Procedures*, Los Angeles Unified Sch. Dist., https://pbisrp.lausd.org/ [https://perma.cc/3SNS-PAXZ] (choose "Restorative Practices"; then choose "Elementary Restorative Rainbow Procedures") (last visited April 6, 2026).
426. *Id.*
427. *Community Building Circles 101*, Los Angeles Unified Sch. Dist., https://pbisrp.lausd.org/ [https://perma.cc/3SNS-PAXZ] (choose "Community Building"; then choose "Community Building Circles 101") (last visited April 6, 2026).
428. *Repairing the Harm Circles*, Los Angeles Unified Sch. Dist., https://pbisrp.lausd.org/ [https://perma.cc/3SNS-PAXZ] (choose "Repairing the Harm Circles"; then choose "Repairing the Harm Circles 2-Page Guide") (last visited April 6, 2026).
429. *Id.*
430. *Id.*
431. *Id.*
432. *Id.*
433. *Id.*
434. *Id.*
435. Cornwall, *supra note* 40 6.

2024, LAUSD allocated more than $300 million in school climate personnel.[436] Thus, alongside its policy changes, Los Angeles Unified School District sought to staff its district with leaders capable of administer restorative justice efforts in its schools.

C. *Challenges with Implementing Restorative Justice Efforts at LAUSD*

LAUSD has faced several barriers to implementing restorative justice over the past decade, including funding, teacher discontent, and parental push-back. For a long time, the district opted to fund school police officers far more robustly than their nonpunitive alternative.[437] In the 2016–17 school year, for instance, over $67 million of LAUSD's $13.5 billion budget went to police, while only just over $10 million went toward restorative justice.[438] While in summer 2020, the LAUSD Board of Education opted to cut the school police budget by 35 percent to fund support for Black students including through counseling and restorative justice, some advocates argue the district has failed to implement sufficient resources in a timely manner.[439] After a 45 percent increase in behavioral incidents between the 2017–18 and 2022–23 school years, school leaders discussed reintroducing police to LAUSD campuses, which would again cause a redirection of funds away from restorative justice and toward student criminalization.[440]

Of course, funding and other administrative shortcomings pose a clear barrier to the full implementation of restorative practices within LAUSD, but the district has also faced common challenges tied to teacher attitudes.[441] For instance, some teachers reportedly viewed the banning of suspensions for willful defiance as "hippie-dippie baloney," while others questioned if the bans stemmed from district leaders' financial interests in increasing school funding by encouraging better attendance.[442] Educators within LAUSD also have expressed concern about a lack of accountability within LAUSD's new approach.[443] However, LAUSD's new policies do not ban punitive discipline outright. Under LAUSD's restorative justice policies, teachers can still suspend

436. *Id.*
437. Journalism for Soc. Change, *supra* note 398.
438. *Id.*
439. Clara Harter, *Critics Say LAUSD is Too Slow in Spending Funds Aimed at Black Students*, Los Angeles Daily News , March 10, 2023 , https://www.dailynews.com/2023/03/09/critics-say-lausd-is-too-slow-in-spending-funds-aimed-at-black-students/ [https://perma.cc/4S3A-CPH4].
440. Mallika Seshadri, *LAUSD Safety Concerns Are Growing. Here's What the Board Members Have to Say*, EdSource, June 27, 2024 , https://edsource.org/2024/lausd-safety-concerns-are-growing-heres-what-the-board-members-have-to-say/714824 [https://perma.cc/4Y7Q-U392].
441. Cornwall, *supra note* 40 6.
442. *Id.*
443. David Washburn & Daniel J. Willis, *The Rise of Restorative Justice in California Schools Brings Promise, Controversy*, EdSource , May 13, 2018 , *https://edsource.org/2018/the-rise-of-restorative-justice-in-california-schools-brings-promise-controversy/597393* [*https://perma.cc/K5E7-JESV*].

students for a wide range of reasons, including imposing physical harm on others and the possession of weapons or drugs on campus.[444]

These dismissive attitudes from LAUSD educators may be tied to a lack of support in implementing restorative justice programming. Teachers reported feeling unprepared to manage willful defiance in the classroom without exclusionary discipline.[445] This may be partly due to the fact that LAUSD's current trainings for teachers are optional, ad hoc, and sometimes only available by request.[446] As a result, between 2021 and 2023, only about a third of all the district's employees have completed restorative justice trainings.[447] Teachers unions officials have also criticized the district's "aggressive implementation plan" for failing to consider its effects on teachers and students, indicating that inadequate support for implementing restorative justice may prompt resentment in teachers.[448] Without robust restorative justice training and structural support from administrators, LAUSD may face barriers in receiving buy in from staff.

Parental pushback represents another challenge LAUSD has faced amidst the adoption of restorative justice practices.[449] Some parents argue that a lack of suspensions leads to schools becoming "out of control" with a "rampant lack of discipline."[450] However, while some argue that the new restorative disciplinary approaches employed by educators caused the poor behavior, others argue the isolation caused by the COVID-19 pandemic prompted increased behavioral incidents in schools.[451] Therefore, parental pushback poses an additional barrier in LAUSD's efforts to reject punitive discipline and adopt further restorative practices in schools.

While the full barriers and challenges of implementing a restorative justice initiative in one of the nation's largest school districts remains to be seen, it is already clear that restorative justice efforts face pushback and criticism from many of the district's biggest stakeholders: namely teachers, parents, and administrators. Future studies should more directly consider the wide ranging challenges posed to implementing restorative justice within such a large and influential district—ideally supported by interviews and quantitative data to get a full picture as to the implementation process and ongoing effects.

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444. Mallika Seshadri, *LAUSD Celebrates 10 Years of Restorative Justice, But Progress Remains Uneven*, EdSource , Aug. 2, 2023 , *https://edsource.org/2023/lausd-celebrates-10-years-of-restorative-justice-but-progress-remains-uneven/692985* [https://perma.cc/729G-BKXB].
445. Nadra Nittle, *As Student Citations Drop in Los Angeles, Questions About 'Ghost Suspensions' Rise*, The Imprint , Nov. 10, 2015 , https://imprintnews.org/featured/truancy-citations-drop-los-angeles-questions-ghost-suspensions-rise/14301[*https://perma.cc/7US5–3K4U*].
446. Seshadri, *LAUSD Celebrates 10 Years of Restorative Justice, supra* note 44 3.
447. *Id.*
448. Washburn & Willis, *supra* note 44 2.
449. Cornwall, *supra* note 40 6.
450. *Id.*
451. *Id.*

D. *Results of Restorative Justice in Los Angeles and Beyond*

Despite the challenges faced in implementing restorative practices at LAUSD, there have been many promising signs as a result of the district's new approach. Over the course of a decade, LAUSD saw suspensions fall by more than 90 percent overall and to nearly zero suspensions for willful defiance by the 2021–22 school year.[452] Fewer students reported feeling unsafe, and district wide academic performance saw no clear declines over that same time period.[453] The district also saw a 92 percent decline in the number of days lost to suspensions following the implementation of its restorative justice program, from nearly 75 thousand days lost in the 2007–08 school year to less than seven thousand in 2014–15.[454] These statistics indicate that LAUSD's commitment to restorative justice has allowed students to attend more school and be more included in the classroom without losing significant quality of education. Still, the full benefits of restorative justice have yet to be realized, with the potential of improving student outcomes and decreasing incarceration rates years after they graduate from high school.

In response to the promising restorative justice efforts in LAUSD, California lawmakers banned willful defiance suspensions for kindergarten through third grade in 2015. Lawmakers extended the ban through the eighth grade in 2020 and to high schoolers in July 2024.[455] At the state level, the adoption of restorative justice practices led to a drastic decrease in the proportion of students suspended from school between 2012 and 2016, with Hispanic students facing the largest decline.[456] Consequently, restorative justice programs in California have built a more inclusive environment for some students of color, though there is still more work to be done.

Similarly, truancy rates have overall declined since the adoption of restorative justice at LAUSD.[457] In the past, because LAUSD had a policy in which students who were late could face citation for truancy by the police, students would skip school rather than arriving to campus late.[458] The tickets for truancy cost as much as a few hundred dollars and then double or triple after the first offense, which disproportionately impacted low income students who faced transportation barriers and were more likely to be tardy.[459] Since 2014, however, LAUSD students no longer face citation for infractions like fighting, vandalism, marijuana possession, trespassing, or truancy.[460] During the 2014–15 school year, over 460 diversions of students who otherwise would

452. *Id.*
453. *Id.*
454. Mike Szymanski, *Restorative Justice Program Drastically Lowers Days Lost to Suspensions in LAUSD*, La Sch. Report , March 24, 2016 , *https://www.laschoolreport.com/restorative-justice-program-drastically-lowers-days-lost-to-suspensions-in-lausd/* [*https://perma.cc/B68S-AQUB*].
455. *Id.*
456. Romano & Arms Almengor, *supra note* 212 at 183.
457. Nittle, *supra* note 44 4.
458. *Id.*
459. *Id.*
460. *Id.*

face citation or arrest were made by LAUSD, with over 90 percent of cases diverted to a school intervention program.[461] LAUSD's commitment to restorative justice has evidently also supported the decriminalization of conflict and other common occurrences associated with students going to school.

Despite major challenges with implementing a truly restorative, non-punitive system across such a large school district, Los Angeles Unified School District has shown that it is possible to move beyond the traditional modes of discipline that isolate and alienate students. While LAUSD is especially well resourced, with billions of dollars in annual funding, these efforts have demonstrated that even the largest school districts can take steps to reject legacies of punitive discipline, the school to prison pipeline, and zero tolerance.[462]

E. *Opportunities for Further Growth at LAUSD and Beyond*

Los Angeles Unified School District, as an urban school district serving diverse populations of students, is particularly well situated to advance the use of restorative justice as a primary means of addressing misbehavior and to build community. Dorn Parameswaran recognizes how urban schools specifically tend to be under resourced and overburdened, facing "concentrated poverty, violence, and other racialized legacies" associated with the history of American cities.[463] In fact, urban schools may be both affected by and involved in systems that perpetrate ongoing harm to young people—particularly students of marginalized identities.[464]

As a result, it is imperative that LAUSD staff at all levels work to understand how the district has been and continues to be tangibly implicated in systems of harm that marginalize, criminalize, and isolate students—especially students of color, disabled students, members of the LGBTQ+ community, and low income students. This requires both deliberate, thoughtful research and district-wide action to educate teachers, staff, administrators, and communities about the ways that schools as institutions can traumatize, ostracize, and exclude students. Most importantly, LAUSD leaders and educators must take steps to avoid perpetuation of these oppressive systems in modern contexts, especially in light of ongoing police violence against Black community members, mass deportations without due process for immigrant families, stripping of protections for disabled, transgender, and nonbinary students, and other harms that directly affect students from marginalized backgrounds.[465]

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461. *Id.*
462. Journalism for Soc. Change, *supra* note 398.
463. Dorn Parameswaran et al, *supra note* 21 at 187.
464. *Id.*
465. Mariana Dale & Ross Brenneman, *Feds at LAUSD Schools*, Laist, Apr. 10, 2025, *https://laist.com/brief/news/education/homeland-security-immigration-lausd-schools-trump-administration* [*https://perma.cc/KQ6P-VHUG*]; Miguel A. Gonzalez, *Linda McMahon is unwilling to protect students and public schools*, Nea, Feb. 13, 2025, *https://www.nea.org/about-nea/media-center/press-releases/linda-mcmahon-unwilling-protect-students-and-public-schools* [https://perma.cc/298K-KDKX]; Zane McNeill, *Disability Advocates Alarmed by HHS Removal of Gender Dysphoria* Protections, Truthout, Apr. 15, 2025, *https://truthout.org/articles/disability-advocates-alarmed-by-hhs-removal-of-gender-dysphoria-protections/* [*https://perma.*

While LAUSD has implemented infrastructure and resources to support restorative justice in schools, it appears that the district's culture around restorative justice still has a way to go. Full buy-in to restorative justice policies is an imperative step towards a truly restorative school climate—beginning with administrators and educators but also amongst school staff, families, students, and communities as a whole. The opportunities and benefits seen so far are promising within LAUSD, with decreased suspensions and levels of missed school. However, a whole-school approach to restorative justice, built upon strengthening community and not just conflict resolution, could turn restorative justice from just an alternative to punitive discipline into a transformative and inclusive process for the whole community.

Next Steps

A. *Recommendations for LAUSD and Beyond*

Today, schools across the country are uniquely positioned with the opportunity to reformulate the relational ecologies of their institutions following the COVID-19 pandemic.[466] Meanwhile, the current administration's attacks on both students of marginalized backgrounds (including immigrants, students of color, and LGBTQ+ youth) and on diversity, equity, and inclusion programs reinforces the need for transformational cultural shifts toward inclusion and care within schools.[467] Our current political moment necessitates urgent, deliberate, prudent restorative practices from school leadership moving forward.

As a leader within California school districts and districts nationally, Los Angeles Unified School District has the potential to demonstrate truly transformational restorative justice and to permanently reject exclusionary practices within schools. LAUSD—and other similarly situated school districts—should consider urgently taking the following steps to strengthen existing restorative justice programming efforts to address the ongoing exclusion and marginalization of students that have experienced trauma and systemic oppression:

- **Provide ongoing, routine trainings for educators, administrators, and staff** on how school discipline, referrals to the juvenile justice system, and disparate academic outcomes by race are connected—and what can be done to better support students.[468] Providing resources alone without prudent, ongoing training may perpetuate existing

cc/N8FQ-AD6U]; Eesha Pendharkar, *Students of Color Disproportionately Suffer From Police Assaults at School, Says Report*, Educ. Week , Jan. 13, 2023 , *https://www.edweek.org/leadership/students-of-color-disproportionately-suffer-from-police-assaults-at-school-says-report/2023/01* [*https://perma.cc/9HL6-WVQ7*].

466. Brown, *supra* note 27 at 1.

467. Jonaki Mehta, *Education Dept. Warns Schools: Eliminate DEI Programs or Lose Funding*, NPR, (Apr. 3, 2025), *https://www.npr.org/2025/04/03/nx-s1–5350978/trump-administration-warns-schools-about-dei-programs* [https://perma.cc/A4VA-XZA9] . *See also* Sham Habteselasse & Sam LaFrance, *What Students Lose When School Becomes a Political Battleground*, ACLU, (Feb. 20, 2025), https://www.aclu.org/news/free-speech/what-students-lose-when-school-becomes-a-political-battleground [https://perma.cc/5DLA-6925].

468. Dutil, *supra* note 70 at 171.

barriers related to lack of teacher buy-in and dismissiveness of restorative justice.

- **Funding should be deliberately allocated for professional development and restorative justice training** to support all staff in learning about implementing restorative practices in the classroom.[469] Given that educators have indicated feeling unsupported and unprepared to implement restorative justice, LAUSD must provide all staff with trainings and strategies needed to manage difficult behaviors without exclusionary discipline.[470] This may include smaller, more manageable class sizes, additional staff, the creation of behavioral intervention plans, and other supports.
- **Restorative practices should be adopted more broadly, not only as a response to disciplinary infractions.**[471] This includes proactive efforts at building community, strengthening relationships, and creating trust between students and peers, staff, administrators, and educators. Staff should also be expected to center empathy and patience in interactions with students, rather than relying upon hierarchical power dynamics to enforce classroom compliance.
- **Expand bans on suspensions and expulsions beyond willful defiance.** Despite limited bans on exclusionary discipline within California schools, students of color and disabled students continue to face disproportionate risk of punitive discipline.
- **Teachers and administrators should consider how trauma, shame, fear, and disgust may impact students exposed to oppression and injustice**—and how these experiences may manifest within the classroom.[472] Appropriate, thorough, and ongoing training in this area should be organized by administrators.[473]
- Beyond conflict focused practices, **districts should implement inclusive practices in all areas within the school**, including racial and social justice courses and programming, as well as systematic integration of social and emotional learning practices.[474]
- **Set a goal of 100 percent staff participation in a whole school change restorative practices model**, focused on improving cooperation and academic outcomes, as well as reduced misbehavior and discipline.[475]
- **All public and public charter schools should have a restorative lead** to ensure that schools are adequately supported in fully implementing restorative justice programming.[476] At present, lack of sufficient staffing—and the fact that current staff are expected to

469. Courtney, *supra* note 119.
470. Nittle, *supra* note 444.
471. Romano & Arms Almengor, *supra* note 239 at 183.
472. Dutil, *supra* note 70 at 174–75.
473. *Id.*
474. Klevan, *supra* note 240 at 9.
475. Joseph-McCatty & Hnilica, *supra* note 162 at 8.
476. Courtney, *supra* note 119.

juggle multiple responsibilities, often at multiple schools within the district—poses a barrier to the effective adoption of restorative justice programming at LAUSD.

- **Schools should acknowledge and work to undo the colonial legacies of punitive discipline and systemic violence within schools.** This goes beyond trainings, professional development, and public statements. Decolonizing restorative justice and school discipline requires mindful, ongoing, and consistent commitment across the whole school community and ongoing interrogation of the potential harm associated with school leaders' own priorities and actions.

B. *Limitations and Opportunities for Future Research*

This Article represents a multidisciplinary review of the implementation of restorative justice in schools, with particular focus on how restorative justice developed out of ongoing efforts by school leaders and educators to control student behavior. While primarily rooted in legal theory and history, this paper recognizes the need for a thorough understanding of not only legal theory and policy but also contexts in psychology, biology and child development, criminology, history, ethnography and sociology, and other relevant fields. This approach seeks to both build up the potential and opportunities tied to restorative justice, while also warily recognizing the oppressive legacies and ongoing racial disparities tied to institutions like schools, in hopes of avoiding the reproduction of trauma and violence in schools.

This research had its limitations. In future research, it would be useful to directly interview educators, administrators, and students about their perspectives on restorative justice systems. In particular, analysis of data on recidivism, later academic outcomes and involvement or lack thereof in the criminal justice system, and school climate could provide fruitful information as to the efficacy of restorative justice. Looking beyond the macrolevel statistics at specific student outcomes and perspectives could also meaningfully inform future recommendations for restorative justice efforts in schools. Given the currently limited analysis of restorative justice efforts as a result of the lack of "true" restorative justice programs in the United States, full recommendations and analysis will require future analysis.