



# Can equitable punishment be mandated? Estimating impacts of sentencing guidelines on disciplinary disparities



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## ABSTRACT

This study empirically investigates the potentially unintended effects of state laws that seek to improve safety in U.S. public school by mandating standardized student punishment. We estimate the effects of exogenous state-level variation in the quantity and type of such mandates on disciplinary disparities across students who commit serious offenses. Estimation results indicate that more severe punishments are imposed in schools with higher proportions of black or Hispanic students, but such disparities are significantly dampened in states that mandate a higher number of guidelines for serious offenses. However, more guidelines for less severe misconduct tend to increase race-based disciplinary disparities and increase the severity of punishments administered for serious offenses. These outcomes extend the existing sentencing guidelines literature and provide empirical implications for considering marginal deterrence effects when crafting future policies.

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## 1. Introduction

The 1994 *Goals 2000: Educate America Act* established a broad framework for reforming public education in the United States. One of the act's goals was to “ensure the rights of students to study in a safe and secure environment that is free of drugs, alcohol, and crime” (Goal 7(A)(ii)). The complementary 1994 *Gun-Free Schools Act* instituted a federally mandated one-year expulsion for any U.S. public school student who knowingly possesses or uses a firearm in a school zone. Between 1995 and 2002, many state governments independently introduced additional legislation that extended the scope of the federally mandated standards. These state-mandated punishments not only applied to a broader range of student offenses—including the use of drugs, alcohol, violence against other students or teachers, and less serious misdemeanors—but also authorized the use of other disciplinary methods.

In an effort to create a safer educational environment, the standardization of student discipline at both the federal and state levels may have also—although unintentionally—affected disciplinary disparities across schools; that is, it may have altered the systematically inconsistent use of punishments across groups of individuals based on demographic and socioeconomic differences. The outcomes of this unintended effect may parallel those of the 1984 *Sentencing Reform Act* (SRA), which was enacted explicitly to reduce inequitable sentencing decisions across judges in the federal justice system (Spohn, 1990; Fender et al., 2006; Abrams et al., 2013). The SRA instituted standardized punishment guidelines that separated sentencing decisions from judicial discretion and linked them more closely to the offense type, substantially reducing disciplinary disparities (Anderson et al., 1999; Mustard, 2001). The SRA's effectiveness in reducing punishment inconsistencies in the federal justice system suggests that disciplinary guidelines for public schools could also attenuate persistent disciplinary disparities.

This study's purpose is to empirically quantify the potential disparities across U.S. public high schools in their use of serious student misconduct and associated punishments, and then investigate the role of disciplinary mandates in affecting these disciplinary disparities. We focus on serious student misconducts because they occur relatively infrequently, typically result in a higher degree of disruption to the learning environment, and are often more

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aggressively disciplined by removing students from familiar educational surroundings for an extended period. Disciplinary disparities can lead to long-term, sustained educational and economic inequality for individuals who are more persistently and more severely punished. For example, [Bernburg and Krohn \(2003\)](#) show that discipline resulting in youth's exclusion from established daily activities can lead to more frequent delinquencies and [McCarthy \(2000\)](#) and [Finn \(1989\)](#) find that disciplinary action that limits access to school-related activities reduces educational attainment and is linked to increased dropout rates. An extensive literature has also shown that school attendance affects future educational attainment, labor market outcomes, individuals' well-being, and criminality (for example, see [Angrist and Krueger, 1991](#); [Acemoglu and Angrist, 2001](#); [Lleras-Muney, 2002](#); [Oreopoulos, 2009](#); [Machin et al., 2011](#)). Therefore, understanding whether standardized punishment mandates can dampen or eliminate disciplinary disparities across schools could offer important insights for improving equal access to education.

There are significant demographic and socioeconomic gradients in the United States and identifying heterogeneity in schools' responses to undesirable behavior by students from these gradients, and whether the heterogeneity can be reduced through policy, could be critical to minimizing educational outcome disparities. Identifying the effects of standardized disciplinary mandates using variation in state-level punishment guidelines is advantageous for several reasons. First, disciplinary mandates for public schools were enacted to ensure a safe educational environment, so their impacts on reducing punishment discrepancies are plausibly exogenous. Second, unlike federal mandates, state-level punishment guidelines do not apply uniformly across all educational agencies, resulting in substantial heterogeneity in the quantity and types of guidelines across states. Third, nearly all states have punishment standards that address two types of student offenses: serious student misconduct (such as the possession or use of firearms or non-firearm weapons, use and distribution of illegal drugs or alcohol, and assault and battery offenses) and less harmful behavior (including general misconduct, disobedience, or defiance of authority figures). Therefore, we are able to study the potential links among punishment mandates associated with different offense types. Lastly, [Kinsler \(2011\)](#) shows that punishment disparities within any particular school are minimal and race-based disciplinary inconsistencies that do exist are largely independent of principals' racial characteristics (see [Rocque, 2010](#), for similar evidence).<sup>2</sup> Consequently, disciplinary disparities are most likely to occur between schools, providing an opportunity to investigate how these disparities are affected by state-level guidelines and more clearly understanding factors that could aid in crafting policies that ensure more equitable access to educational opportunities.

The empirical analysis uses a unique set of school-level responses from the 2003–2010 School Surveys on Crime and Safety (SSOCS). The responses include detailed information on student misconduct and disciplinary decisions, student body and school attributes, and school administrators' self-reported measures of crime prevention limitations and misconduct management and prevention programs. These data, along with community characteristics and state and time fixed effects that help capture state-level punishment consistencies between schools, are used to model between-school variation in student misconduct and associated disciplinary actions. Results from an empirical exploratory regression analysis offer evidence of significant between-school race-based disciplinary disparities, indicating that administrators

in schools with greater proportions of black or Hispanic students impose a greater number and more severe punishments. Furthermore, we find that for firearm offenses, for which discipline is federally mandated by the 1994 *Gun-Free Schools Act*, between-school inconsistencies were not statistically significant, suggesting that disciplinary mandates could be effective in reducing or eliminating punishment disparities.

We then examine the degree to which disciplinary disparities vary with the quantity and type of state-level discipline mandates. The empirical analysis indicates that in states with a below average number of standardized punishment guidelines for serious offenses, race-based inconsistencies across schools' disciplinary rates exist for the most severe punishments. In states with an above average number of such guidelines, such disparities are significantly lower and these reductions occur without contemporaneous increases in overall punishment rates. This suggests that disciplinary equity could be achieved by reducing the use of severe punishment in schools with higher proportions of black or Hispanic students rather than increasing its use in schools with a larger white student body. However, there is also evidence that schools in these states may be shifting toward using less severe punishments. Punishment guidelines for less harmful behaviors, however, are not associated with similar reductions in race-based disciplinary inequity. Rather, in all states with guidelines for less serious offenses, there are higher rates of severe punishment use for serious student offenses in schools with higher proportions of black or Hispanic students, and the disparities are twice as large across schools in states with an above average number of these punishment mandates.

These results offer important implications about the design of sentencing guidelines. They suggest that while guidelines targeting more serious offenses can reduce systematic race-based disciplinary disparities, it may not be possible to easily generalize these effects to extending punishment guidelines for other offense types. This may especially be the case when guidelines mandate similarly severe punishments for both serious and less harmful misconduct, thus reducing marginal deterrence effects in disciplinary disparity. Such guideline design may result in a shift toward the more frequent use of more severe discipline, which could potentially exacerbate inequitable sentencing and contribute to adverse long-run impacts for affected individuals. Consequently, the consideration of specific objectives and possible dependencies among guidelines for different offense types is critical in crafting and implementing effective standardized disciplinary policies.

## 2. Data description and preliminary insights

This research empirically investigates factors that contribute to the variation in school-level punishments of serious student offenses. The main data for this research are responses to the biennial, repeated cross-section School Survey on Crime and Safety (SSOCS) conducted by the National Center for Education Statistics (NCES). The restricted-access data collected during the 2003–04, 2005–06, 2007–08, and 2009–10 school years for 3200 U.S. public high schools contain school-level information describing the number of reported student offenses and associated disciplinary actions.<sup>3</sup> We measure schools' disciplinary outcomes as the ratio of the total number of punishments to the total number of misconduct instances for particular categories of punishment and misconduct.<sup>4</sup>

<sup>2</sup> In the federal justice system, sentencing discrepancies have also been shown to exist mostly across judges, rather than across decisions made by any particular judge for similar cases (for example, see [Ashenfelter et al., 1995](#); [Schanzenbach, 2005](#); [Iyengar, 2011](#)).

<sup>3</sup> We limit the responses to those from non-alternative high schools. The exclusion of alternative high schools reduces the sample by less than 5%. Observation counts are rounded to the nearest 10s to comply with data license restrictions.

<sup>4</sup> Using a ratio alleviates the need to directly model the endogenous relationship between misconducts and disciplinary outcomes. However, this approach could also

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