



*Zero Tolerance, High-Stakes  
Testing, and the School-to-Prison  
Pipeline*

By  
**Advancement Project**  
**FairTest**  
April 21, 2010

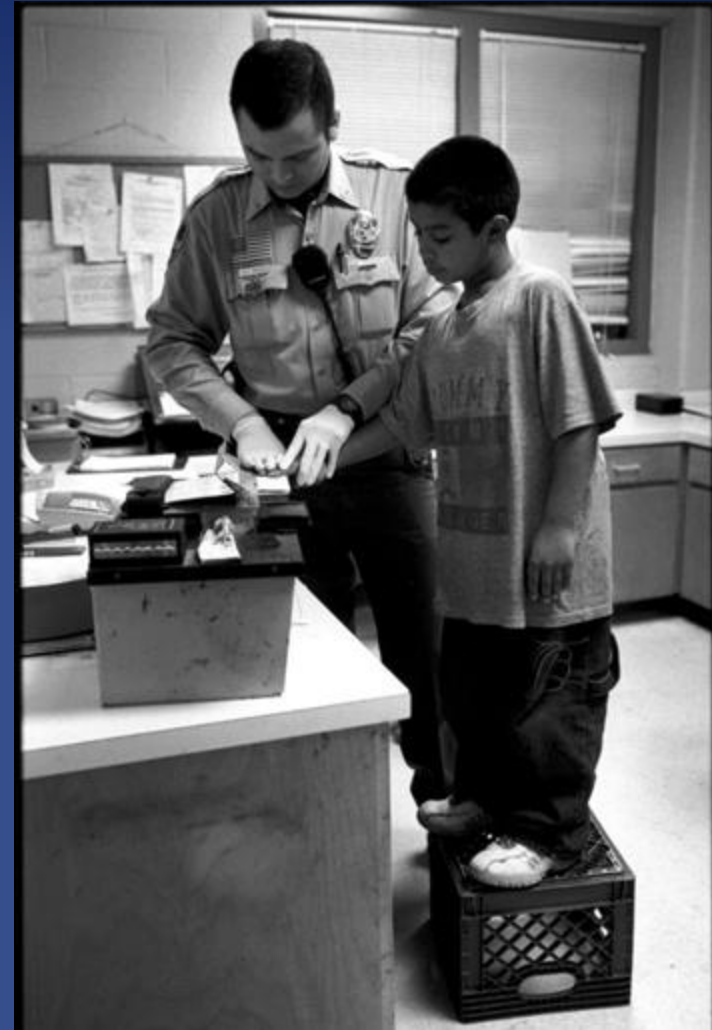
# About Us

- **Jim Freeman** is a Staff Attorney at Advancement Project, an innovative civil rights law, policy, and communications “action tank” in Washington, DC. He is the Director of the Ending the Schoolhouse to Jailhouse Track project and works with grassroots organizations from across the country on a variety of education reform efforts. Freeman is a graduate of the University of Notre Dame and Harvard Law School, where he was an editor on the Harvard Law Review. Following law school, he served as judicial law clerk for the Honorable James R. Browning on the Ninth Circuit U.S. Court of Appeals in San Francisco, California. Freeman is a recipient of the prestigious Skadden Fellowship, sits on the Board of Directors of the Resilience Advocacy Project in New York, and is Adjunct Professor of Law at Georgetown University Law Center.
- **Monty Neill** is Interim Executive Director of the National Center for Fair & Open Testing (FairTest) and Chair of the Forum on Educational Accountability (FEA). He has led FairTest's work on testing in the public schools since 1987. He has initiated national and state coalitions of education, civil rights, religious, disability, parent and other organizations to work toward fundamental change in the assessment of students and in accountability. Among many publications, he is co-author of *Failing Our Children*, a report analyzing NCLB and providing guidance toward helpful accountability systems. He has worked in prison reform, and in pre-school, high school and college. For his dissertation, he researched desegregation in Boston schools. He is a grandfather of three children in the public schools.
- **Lisa Guisbond** is a Policy Analyst at FairTest. After many years as a writer and editor, Guisbond became interested in education policy as a public school parent with an interest in special education. She is on the board of Citizens for Public Schools and is the principal author of the *Campaign for the Education of the Whole Child*. She co-authored *Failing Our Children: How 'No Child Left Behind' Undermines Quality and Equity in Education*. Her writing on education and assessment has appeared in a wide range of publications, including the Washington Post, the Atlanta Journal Constitution, USA Today, and the New York Times. She served on the MCAS and Assessment subcommittee of Massachusetts Governor Deval Patrick's Readiness Project.

# INTRODUCTION

# What is the School-to-Prison Pipeline?

- Over-emphasis on policies and practices that lead to the incarceration of youth
- De-emphasis on policies and practices that lead to high-quality educational opportunities for youth

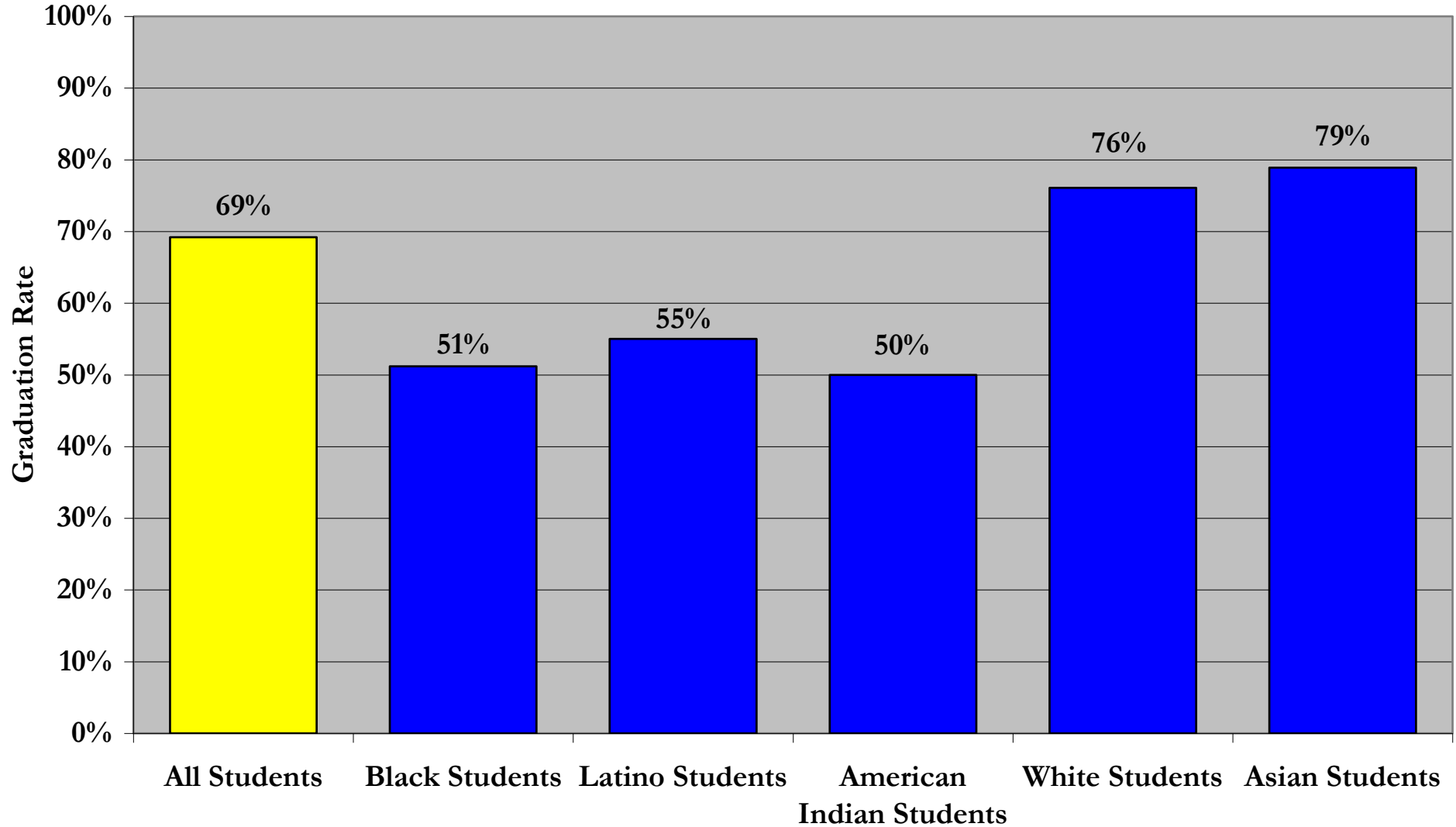


# What is the School-to-Prison Pipeline?

- Operates *directly* through the criminalization of youth for school-based incidents
- Operates *indirectly* through policies and practices that lead to students dropping out, making them far more likely to wind up being incarcerated
  - For example:
    - Out-of-school suspensions
    - Expulsions
    - Disciplinary referrals to alternative schools
    - High-stakes testing

# National Graduation Rates - 2006

Source: Education Week Research Center



# Why Must We Act Now?

- More opportunities for addressing these problems now than ever before, at the local, state, and national levels
- Grassroots momentum



# AGENDA

- Connection Between Zero Tolerance and High-Stakes Testing
- Brief Overview of Zero Tolerance
- Brief Overview of High-Stakes Testing
- Testing, Discipline, and Pushouts
- ESEA Reauthorization
- Solutions
- Q & A



# CONNECTION BETWEEN ZERO TOLERANCE AND HIGH-STAKES TESTING

# Common Origins

- Zero Tolerance

- School safety identified as crisis (1980s and 90s)
- Imported “get-tough” strategies
- Politically appealing narrative of accountability and personal responsibility
- Views students as a “disruptive” and “dangerous” adversaries or threats

- High Stakes Testing

- Failing schools identified as a crisis (1980s and 90s)
- Imported “get-tough” strategies
- Politically appealing narrative of accountability and personal responsibility
- Views students as products to be measured and assessed

# Zero Tolerance and High Stakes – Tough Love Minus the Love

- Identifies some real problems, but has punitive and damaging false solutions.
- Borrows from the corporate playbook, social Darwinism
- Get tough without meeting basic needs
- Competitive individualism, not community building
- Policies snatch autonomy and discretion from the people working with children for a remote control, idiot-proof environment

# BRIEF OVERVIEW OF ZERO TOLERANCE

# Zero Tolerance in 2010

- Absurd and Outrageous Punishments:
  - In February, 2010, a 12-year-old in New York City was arrested for doodling on her desk with an erasable marker
  - In November, 2009 a group of 25 students in a Chicago school were rounded up and arrested for getting into a food-fight in the cafeteria
  - In October, 2009 a six-year-old Cub Scout in Delaware was suspended for 45 days for bringing his new camping utensil into school
  - In November 2008, a 12-year old was arrested in school in Stuart, Florida. His crime? “Passing Gas.”

# Blurring the Lines Between Schools and the Justice System

- “Zero tolerance” policing began in 1980s
- Characterized by “War on Drugs” policies such as:
  - Mandatory minimum sentencing
  - Three-strikes laws
  - “Broken windows” policing

# Blurring the Lines Between Schools and the Justice System

- Results:
  - From 1987 to 2007, the national prison population nearly tripled
  - United States now has the most incarcerated persons, and the highest incarceration rate, of any country in the world

# Blurring the Lines Between Schools and the Justice System

- Same policies imported into schools
  - Mandatory minimum sentencing – schools mandate severe punishments for even minor student actions
  - Three-strikes laws – require permanent removal of students from school following three incidents, including minor incidents
  - “Broken windows” policing – schools attempting to “crack down” on all sorts of minor, “disruptive” behavior





## For example . . .

- In Detroit, district policy says that talking or making noise in class can result in out-of-school suspension of up to 20 days and removal from the school entirely.
- In St. Louis, district policy says that dress code violations and “physical displays of affection” can result in expulsion.
- In Florida and Toledo, Ohio, it is a criminal offense to disrupt a class.

# Zero Tolerance at Work

- Pennsylvania: out-of-school suspensions up 116% in seven years
- Texas: 128,175 referrals of students to disciplinary alternative schools in just one year
- New York City: long-term suspensions up 76% in five years
- North Carolina: long-term suspensions up 135% in eight years (average duration: 41 days with no educational services)

# Law Enforcement Goes to School

- 68% of students between ages 12 and 15 report the presence of security guards and/or assigned police officers in their schools
- North Carolina: number of school resource officers nearly doubled over the last decade
- Texas: 163 school districts now have their own police departments
- Los Angeles: has its own police department with a staff of 530 personnel, including detectives and canine patrols

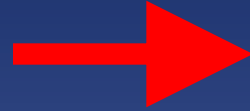
# Schools Resembling Prisons

- Metal detectors
- Pat-downs
- Surveillance cameras
- Drug-sniffing dogs
- SWAT teams
- Detective bureaus



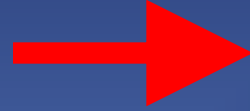
# Daily School Experience Becomes a Minefield of Potential Crimes

Pushing and shoving



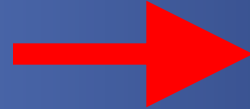
“Battery”

Swiping a classmate’s  
headphones



“Theft” or “Robbery”

Talking back to teacher  
or officer



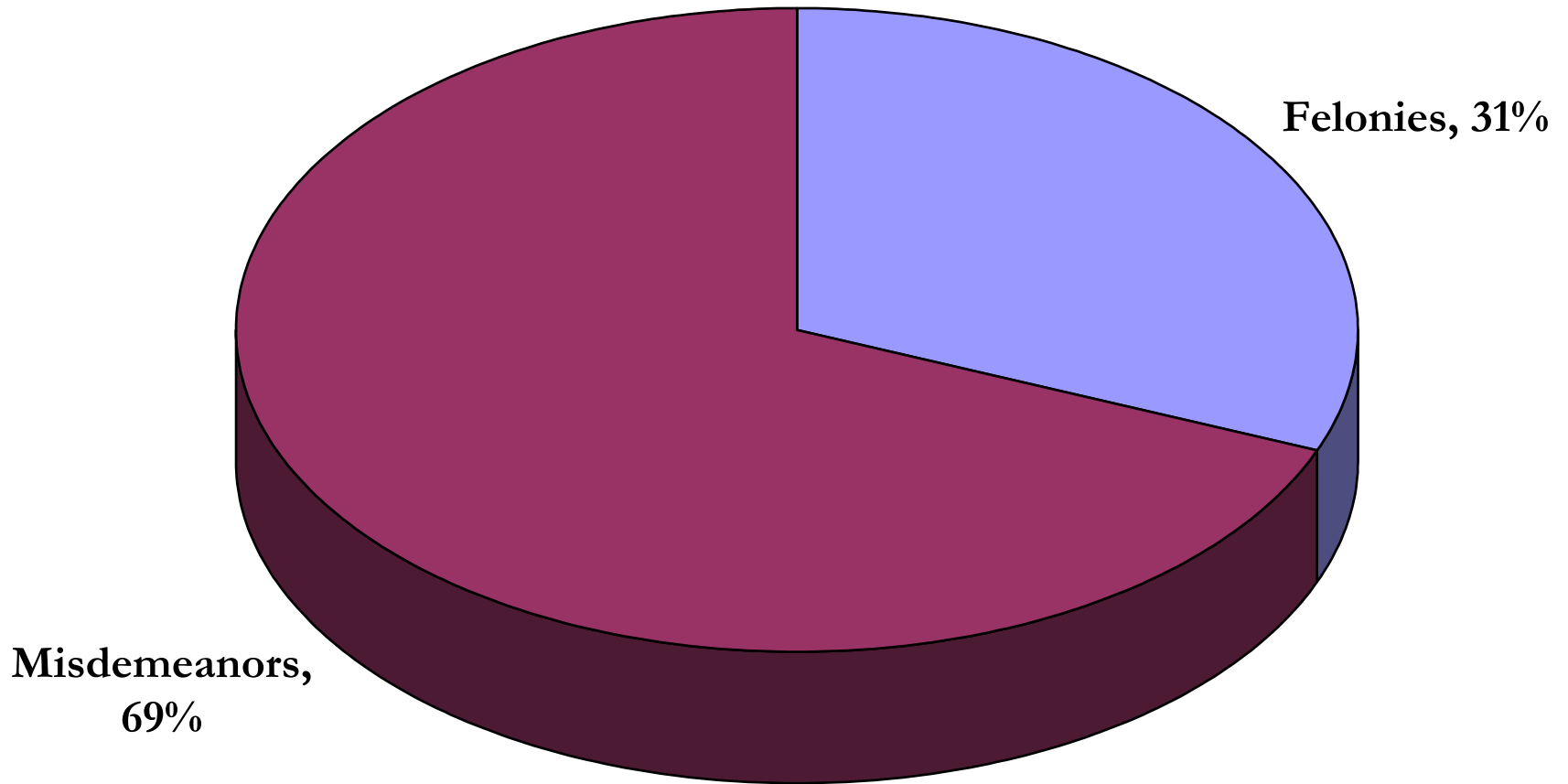
“Disorderly Conduct”

# School-Based Arrests and Referrals to Law Enforcement

- Florida – 21,289 (2007-08)
- North Carolina – 16,499 (2008-09)
- Colorado – 9,563 (2006-07)
- Pennsylvania – 12,918 (2006-07)

# Florida School-Based Delinquency Referrals - 2007-2008

Source: Florida Department of Juvenile Justice



# Zero Tolerance and Race

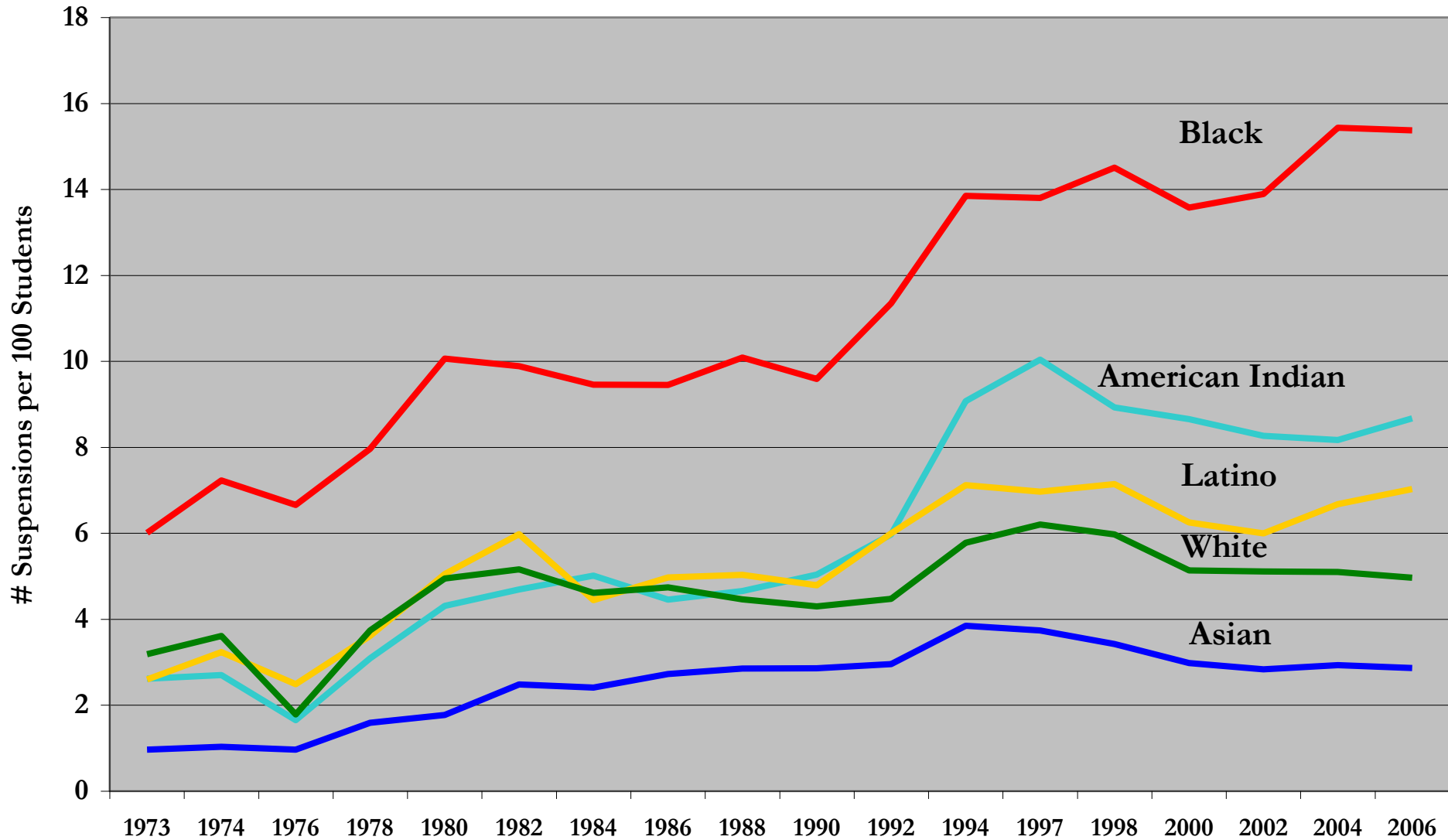
- Zero tolerance is affecting more young people and communities than ever before
- Yet students of color continue to bear the overwhelming brunt
- Racial disparities in school discipline are substantially worse now than they were when this data was first collected in 1973



# Suspension Rates, By Race

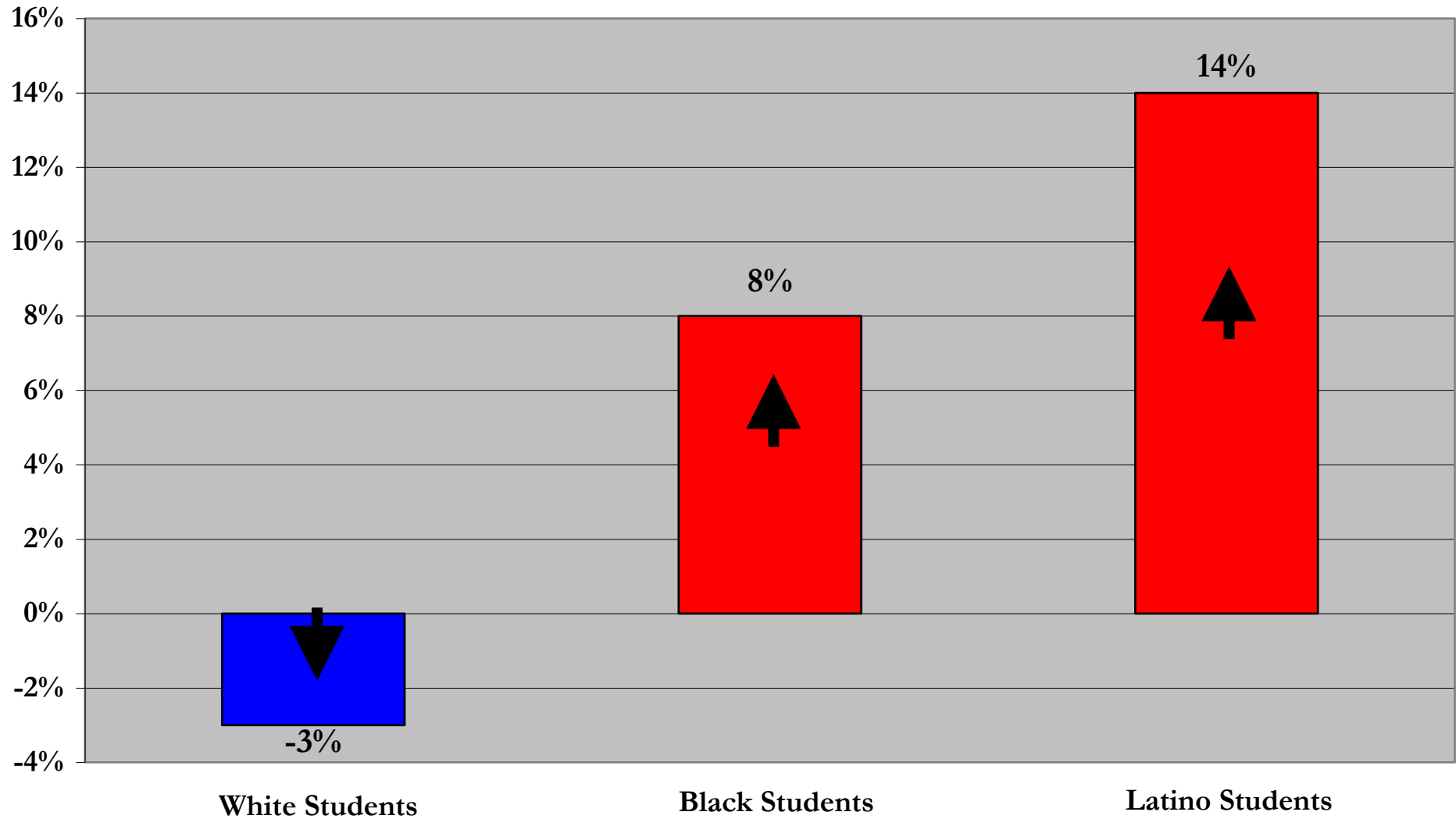
## 1973-2006

Source: United States Department of Education, Office of Civil Rights



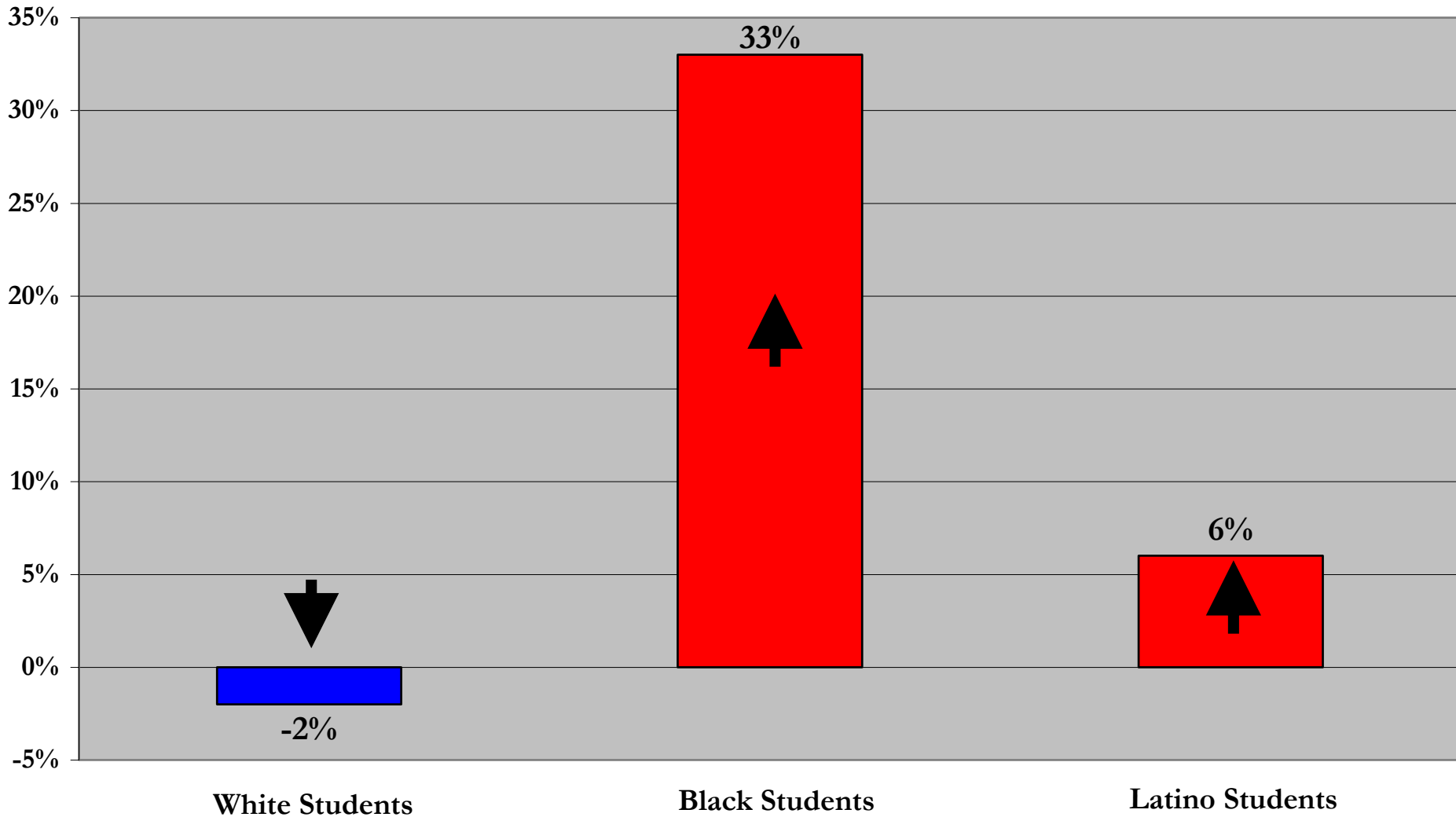
# Nationwide Change in Out-of-School Suspensions per Student 2002-03 to 2006-07

Source: U.S. Department of Education



# Nationwide Change in Expulsions per Student 2002-03 to 2006-07

Source: U.S. Department of Education

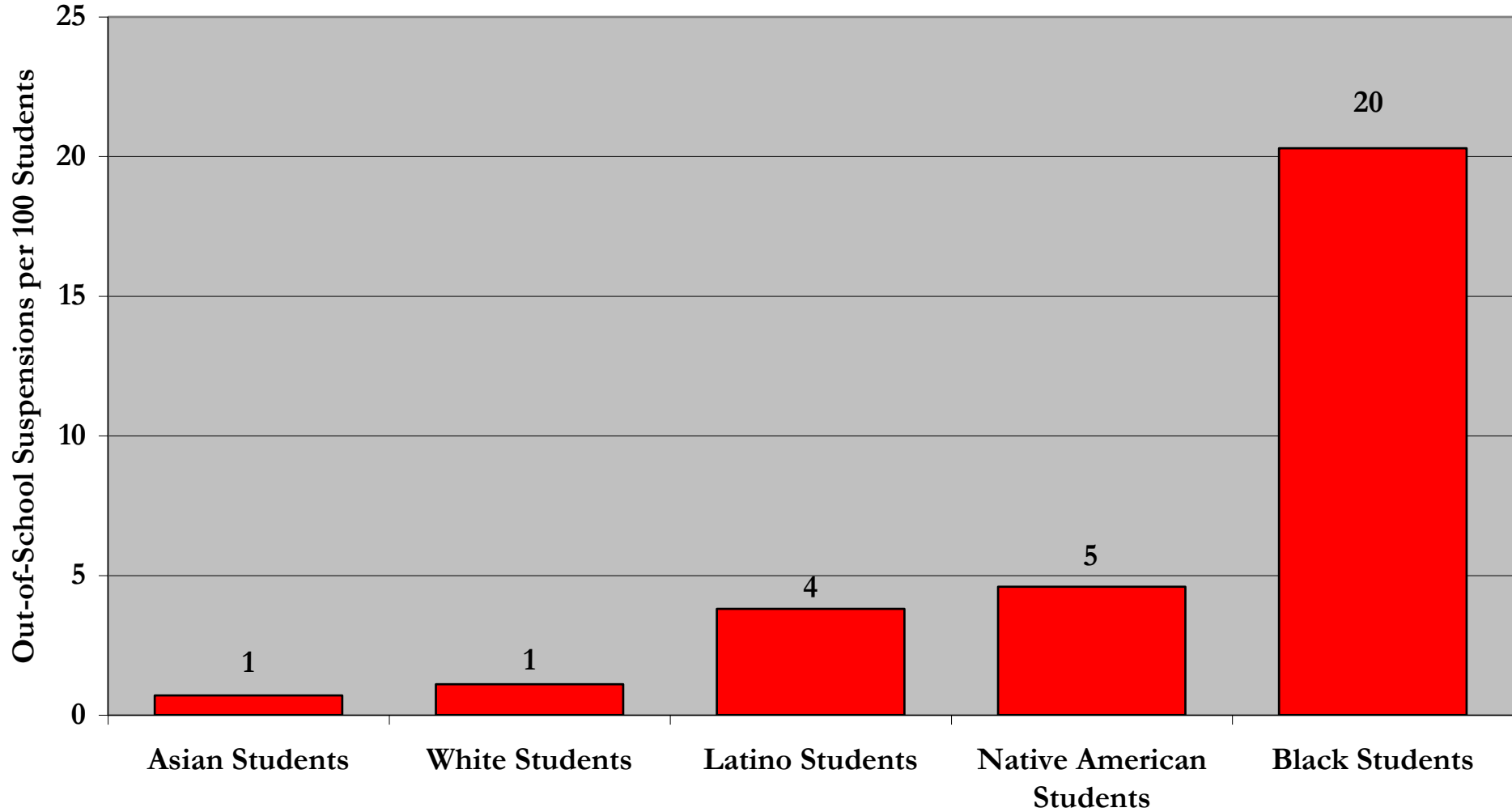


# Zero Tolerance and Race

- Disparities can't be explained by differences in student behavior
- Students of color are punished more severely for less serious or more subjective infractions
- Students of color also attend schools that rely more on exclusionary discipline than predominantly White schools
- Behavior that triggers little to no response for White students often results in severe consequences for students of color

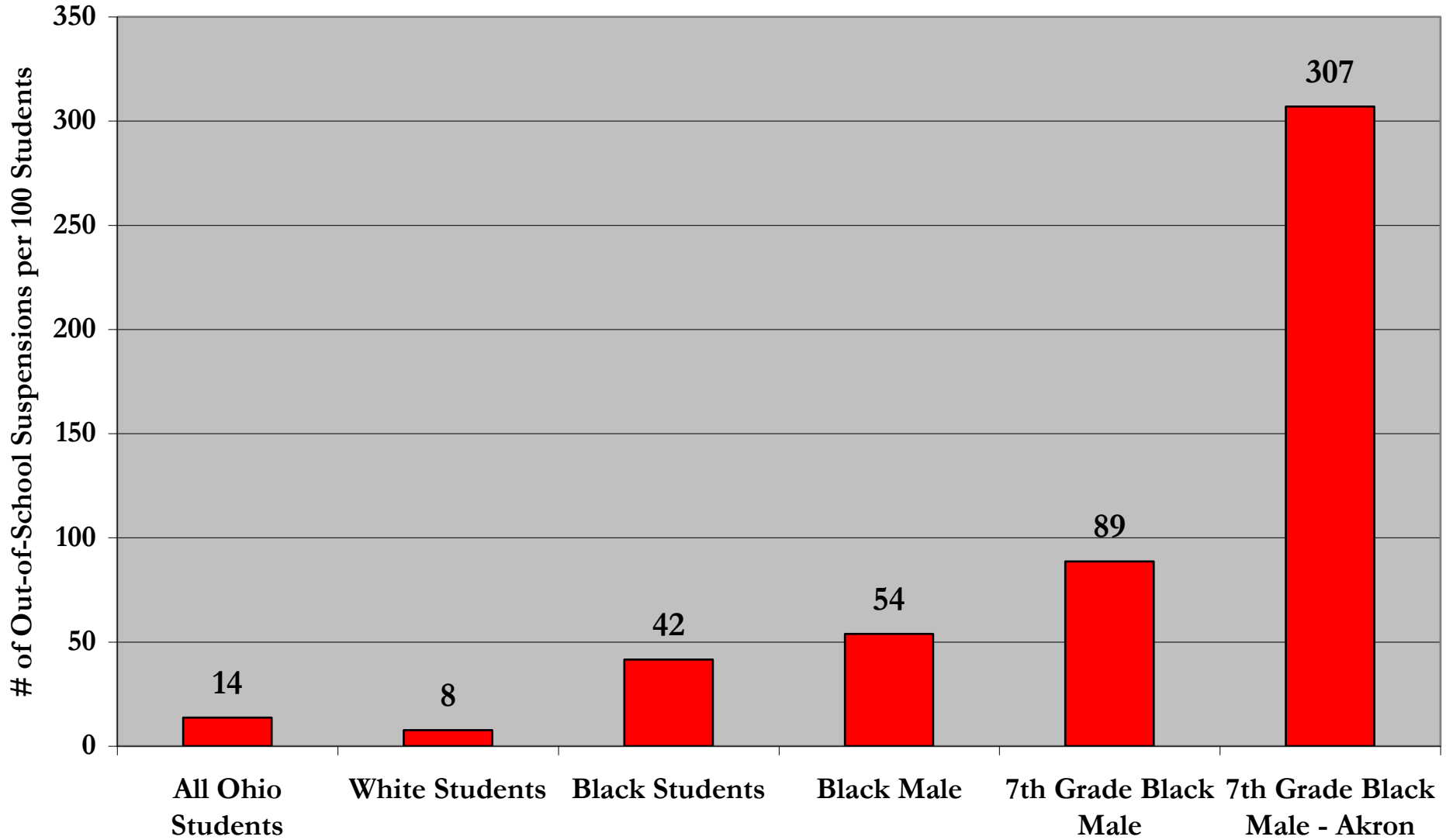
# Wisconsin Out-of-School Suspension Rates Elementary Students - 2007-2008

Source: Wisconsin Department of Public Instruction



# Ohio Out-of-School Suspension Rates - 2007-2008

Source: Ohio Department of Education



**15 States with the Worst Racial Disparities in  
Out-of-School Suspensions in 2006-07 - Black  
Students Compared to White Students**

Source: U.S. Department of Education

<b>State</b>	<b>Number of Suspensions per Black Student for Every One Suspension of a White Student</b>
Wisconsin	7.27
Minnesota	5.95
Nebraska	4.91
Iowa	4.70
Pennsylvania	4.54
Missouri	4.41
Texas	4.39
Connecticut	4.28
Illinois	3.85
Kansas	3.82
South Dakota	3.68
North Dakota	3.38
New Jersey	3.37
Ohio	3.20
Utah	3.19

**15 States with the Worst Racial Disparities in  
Out-of-School Suspensions in 2006-07 - Latino  
Students Compared to White Students**

Source: U.S. Department of Education

<b>State</b>	<b>Number of Suspensions per Latino Student for Every One Suspension of a White Student</b>
Connecticut	2.84
Massachusetts	2.83
Wisconsin	2.77
Utah	2.74
New Hampshire	2.26
Maryland	2.24
South Dakota	2.23
Minnesota	2.20
North Dakota	2.12
Pennsylvania	2.09
Texas	1.98
Nebraska	1.97
Rhode Island	1.89
New Jersey	1.88
Colorado	1.79

# What the Research Says

- Zero tolerance fails to (1) make schools safer; (2) improve student behavior; or (3) promote academic success
- Zero tolerance linked with higher dropout rates and higher likelihood of entering the juvenile and criminal justice systems



# BRIEF OVERVIEW OF HIGH-STAKES TESTING

# High Stakes Testing in 2010

- More testing and higher stakes than ever, thanks to NCLB mandates and sanctions tied to test scores
- Though less than half the states have exit exams, 74% of U.S. students of color attend school in those states
- States report higher scores, but academic gains are illusory, as shown by NAEP results



# NCLB in a Nutshell

- Every child proficient by 2014
- Math and English tests each year in grades 3-8 and once in high school
- Schools must make AYP or face sanctions, including transfers, tutoring, state takeover or shutdown
- By 2008, 40% needed improvement, 50% faced sanctions
- Experts say 75% to 100% of schools will fail to meet AYP

# What NAEP Shows

- Rate of improvement has slowed substantially since NCLB took effect across most subjects and grade levels
- For example, reading scores for 9-year-olds rose 7 points from 1999 to 2004 (more than 1.5 points/year), pre-NCLB, but went up only 4 points from 2004 to 2008

# Achievement Gaps

- NAEP shows some gaps have closed, but at a slower rate than before NCLB
- Reading scores for 17-year-olds show widening gaps between Blacks and Whites and Latinos and Whites
- Math scores for 9-year-olds show a wider gap between Black and White students

# Consequences for Education

- Loss of non-tested subjects like social studies, art, music, phys ed, recess
- Tested subjects reduced to narrow test preparation
- Test prep curriculum leads to student boredom and disengagement
- Students are not prepared to succeed



# Who Suffers the Most?

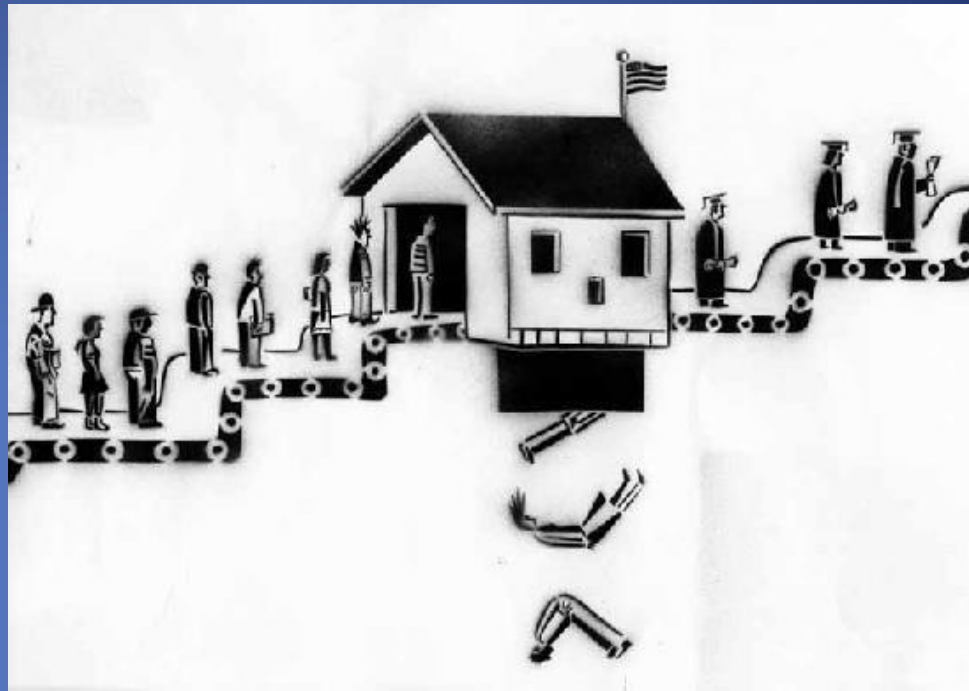
- As with zero tolerance, the negative consequences fall hardest on:
  - Low-income students
  - Students of color
  - English language learners
  - Students with disabilities

# TESTING, DISCIPLINE, AND PUSHOUTS



# What are “Pushouts”?

- Discussion of the “dropout” crisis implies that youth are choosing to give up on themselves and drop out of school.
- In reality, young people are more frequently “pushed” out of school by policies and practices that alienate and exclude them



# How High-Stakes Testing Sets the Stage for Student Pushouts

- NCLB's focus on increasing % of students scoring "proficient" turns education into a numbers game
- Teachers and administrators see they can't win this game by taking time to help each student reach his or her potential

# Winning the Numbers Game, Losing Struggling Students

- Identify students close to proficiency, the “bubble kids”
- Weed out struggling students who are seen as unlikely to attain proficiency, try to get the “good” students over the bar
- Don’t “waste” time investigating the cause or cure for academic and behavioral problems

# What's the Link?

High-stakes testing:

- Transforms classrooms and schools into test prep centers rather than offering rich, engaging, well-rounded instruction
- Turns students off to learning by treating them as little more than test scores
- Decreases graduation rates and increases dropouts

# Tests and Zero Tolerance Are Mutually Reinforcing

- Low scores become incentive for suspension and expulsion to boost scores
- Test prep culture pits teachers vs. kids, damages school climate, reduces school engagement
- These in turn foster behaviors countered with zero tolerance

# Zero Tolerance Helps Weed Out “Troublemakers,” Increase Scores

Strategies include:

- Withdrawing students from rolls
- Sending them to alternative schools, GED programs
- Suspensions
- Expulsions

# Combined Effect: More Students Entering the Pipeline

- Suspended or expelled students less likely to stay on track in school, more likely to fall into more trouble
- Students are discouraged and ashamed by low test scores and act out in school until they are removed
- As a result of their standardized test scores, students are retained in grade, more likely to drop out
- Bored students disrupt class and are removed from school
- Students are denied a diploma because of an exit exam

# Research Confirms Link Between High Stakes Testing and Dropouts/Pushouts

- One study found graduation rates for low-achieving minority students and girls fell 20 percentage points since California implemented high school exit exams (Reardon, 2009)
- Another found Texas's system depressed graduation rates most severely for blacks, Latinos, and English Language Learners (Rice, et al., 2008)
- In response to high-stakes testing pressures, Florida schools suspended low-scoring students to exclude them from high-stakes testing and thereby improve test results (Figlio, 2006)

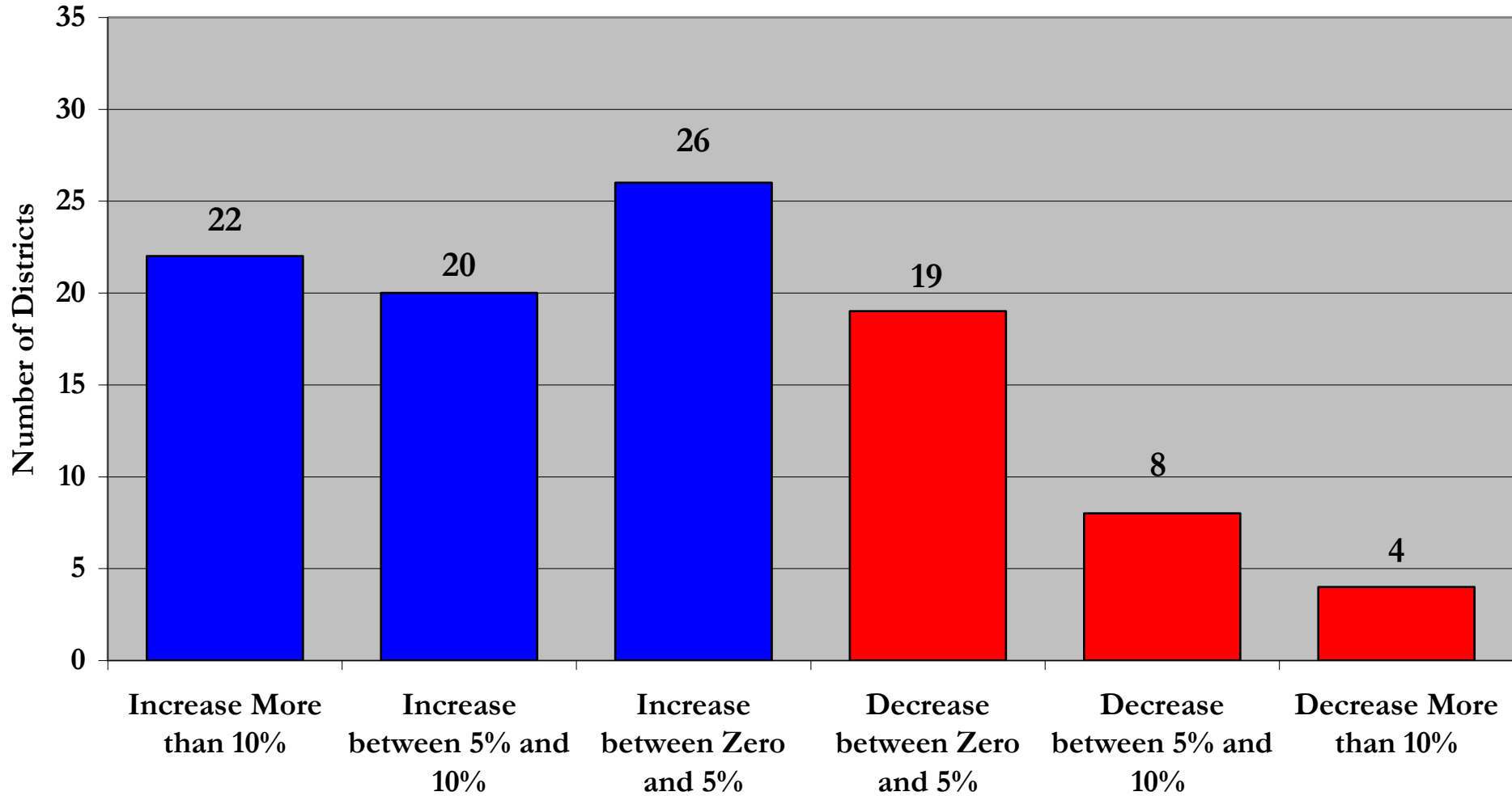


# More Research

- An important, long-term national study concluded that exit exams—and particularly the more difficult exams—reduced high school completion rates by about 2.1 percentage points (Warren, Jenkins and Kulik, 2006)
- Negative effects were larger in states with more poverty and with more racially and ethnically diverse student populations. This reinforces results from other studies indicating that test score results and passing rates vary substantially by race, ethnicity, and income

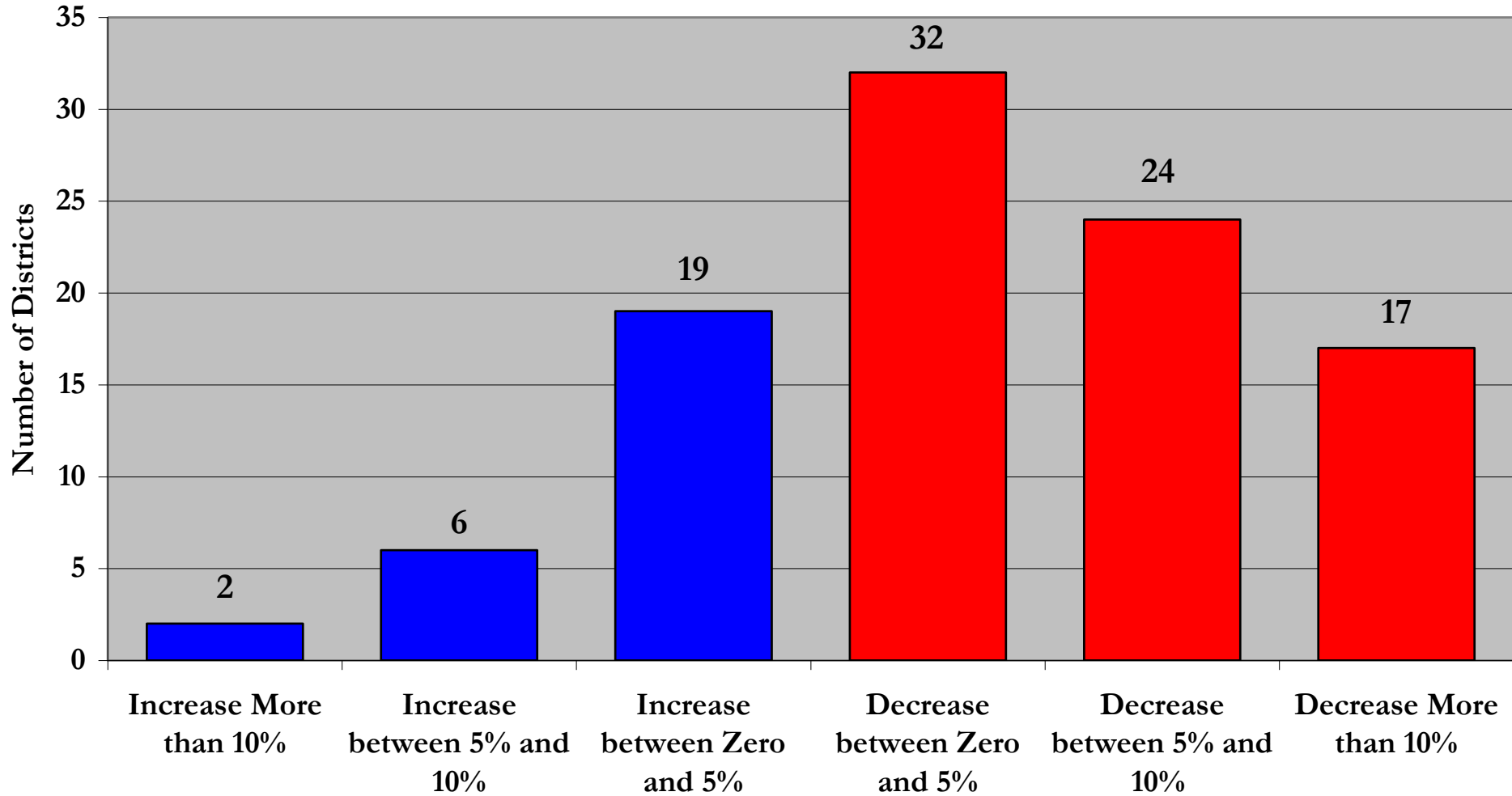
# 100 Largest School Districts - Change in Graduation Rate 1996 to 2002

Source: Education Week Research Center



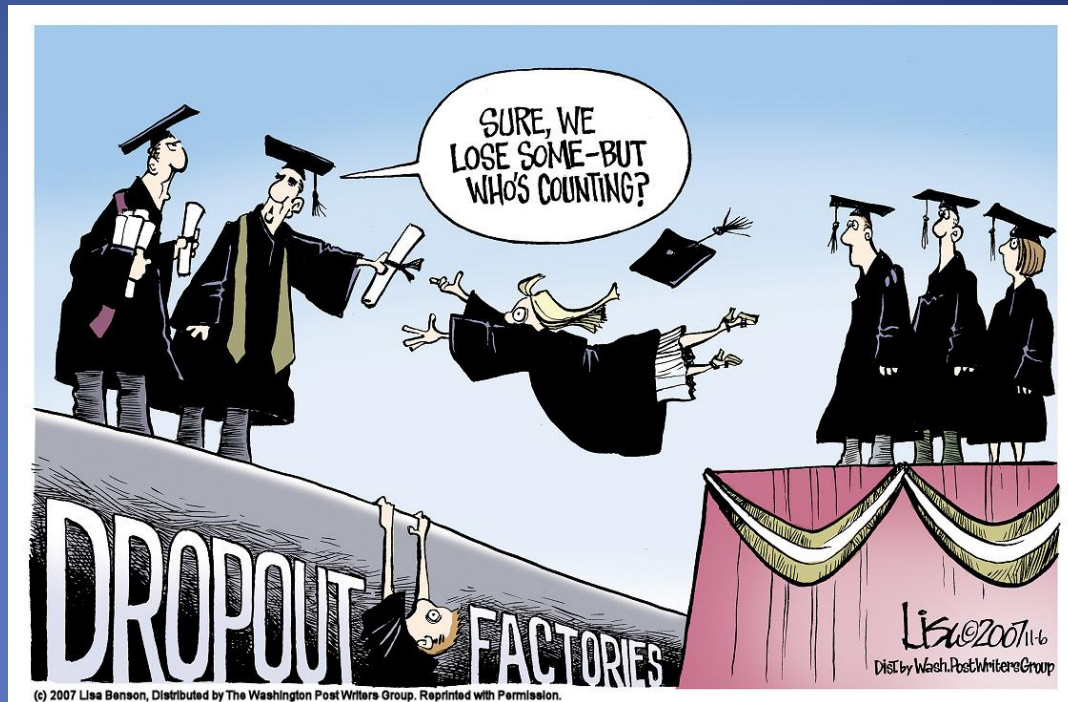
# 100 Largest School Districts - Change in Graduation Rate 2002 to 2006

Source: Education Week Research Center



# What's Missing?

- The relentless focus on raising test scores--or else--discourages teachers from taking time to meet the real needs of individual students
- The effect: alienation of both teachers and students

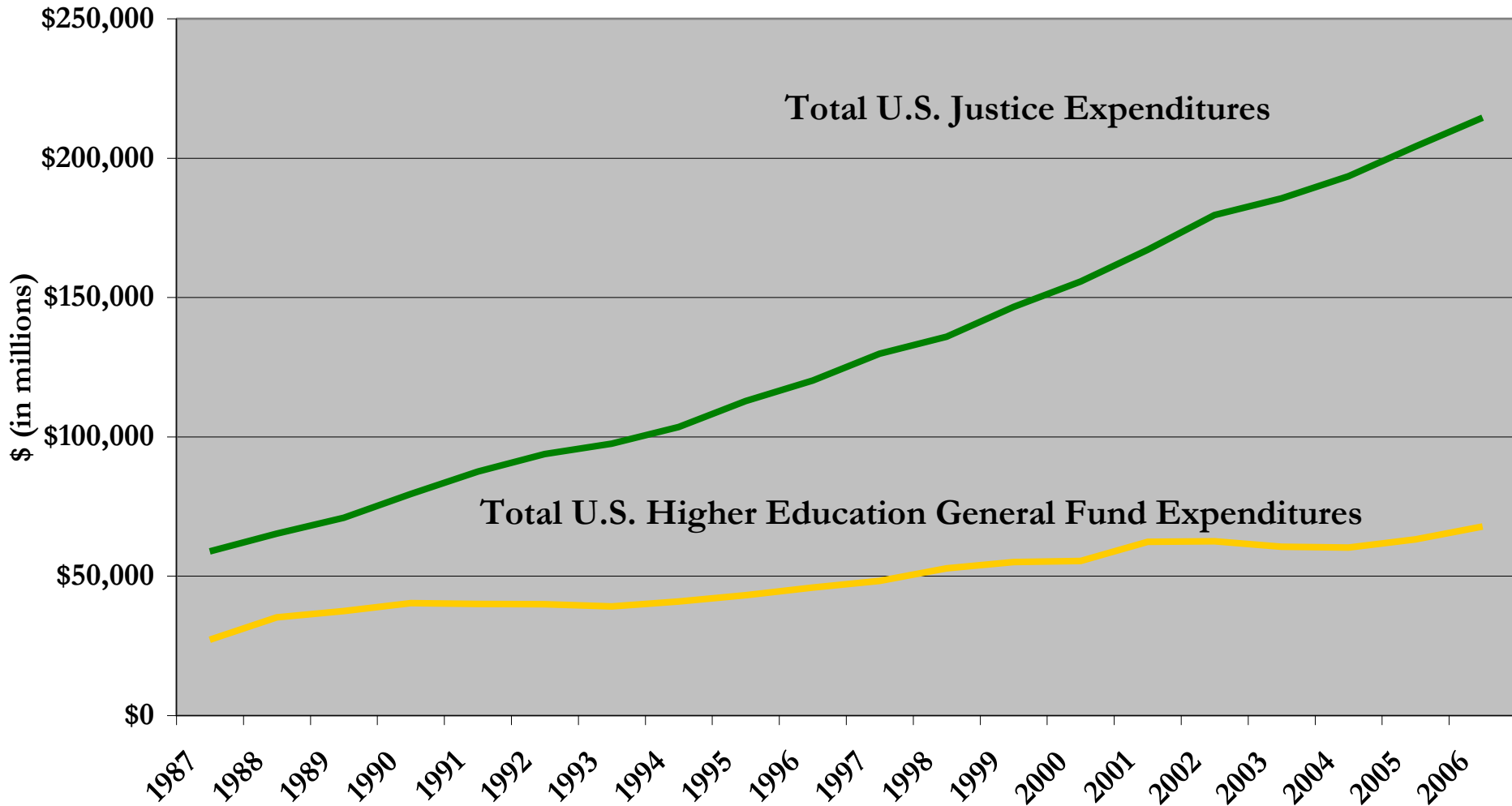


# Unsustainability

- Not only are many of these practices morally indefensible, unjust, and educationally unsound, they also represent poor economic policy:
  - Very expensive to implement zero tolerance and extensive high-stakes testing systems
  - More broadly, when young people are pushed out, it is taxpayers who are left with the unseen costs of supporting them

# Justice Expenditures vs. Higher Education Expenditures 1987-2006

Sources: Bureau of Justice Statistics; National Association of State Budget Officers



# Visioning

- If the trends toward more punitive discipline and assessment policies continue, what will the effects be on:
  - Students?
  - Families?
  - Communities?
  - Juvenile and criminal justice systems?
  - Relationships between students, parents, and schools?
  - Relationships between communities and law enforcement?

# ESEA REAUTHORIZATION



# ESEA Reauthorization Prospects

- Reauthorization a long shot this year
- Congress knows there is a lot of anger
- Congress very divided in and across parties
- Divided responses over Administration plans

# Administration “Blueprint” – Assessment

- Retains test-and-punish approach
- As many or more tests
- ‘Growth’ measures could double the testing
- Tests may not be much better than current ones
- Teachers and principals judged in large part on student test scores; will cause more teaching to the test

# Administration “Blueprint” - Accountability

- Shifts accountability from schools to teachers and principals
- Fewer sanctions for most schools
- Very high stakes for lowest-scoring schools – mostly urban and poor rural
- ‘Turnaround’ plan lacks evidence it will help – promotes privatization, competitiveness among teachers and schools

# Administration “Blueprint” – Discipline

- It appears that the Administration wants to collect and report more information on school discipline and school climate
- Yet there is not enough being done to address the causes or effects of the School-to-Prison Pipeline

# SOLUTIONS

# First Things First

- Advocates for discipline reform need to become advocates for assessment reform
- Advocates for assessment reform need to become advocates for discipline reform
- Advocates for addressing the achievement gap and dropout crisis need to become advocates for both assessment and discipline reform

# Over-Arching, Long-Term Priority

- Making a high-quality education the civil or human right of every child
  - Ensuring that every student is provided a high-quality pre-K-12 education that includes a full and equal opportunity to fulfill their potential, achieve their goals, improve the quality of their lives, become thoughtful and engaged democratic citizens, and become life-long learners

# Zero Tolerance Solutions - Local

- Multi-stakeholder models, aimed at changing:
  - School discipline policies
  - Memoranda of understanding between police and schools
  - Cooperative agreements between juvenile courts, police, and schools
  - Local ordinances
- Build on the momentum generated by successful efforts in places like Denver, Los Angeles, Baltimore, Clayton County, and Birmingham



# Zero Tolerance Solutions - State

- Numerous potential hooks, e.g.:
  - Better data collection
  - Building discipline into school accountability structure
  - Limitations on the use of zero tolerance
  - Promotion of alternatives to zero tolerance
  - Limitations on the role of law enforcement in schools
- Build on the momentum generated by successful legislative efforts in places like Florida and Indiana

# Zero Tolerance Solutions - Federal

- Dignity in Schools Coalition - ESEA Action Items:
  - Annual reporting of school discipline data
  - Discipline should be included in the school accountability structure, and schools that struggle should get support and assistance
  - Fund community-based initiatives to reduce the number of youth entering the justice system and improve graduation rates

# Solutions to High-Stakes Testing

- Overhaul ESEA to reduce testing, reduce test-based accountability, improve assessments
- Reject administration blueprint proposals for more testing and higher stakes
- Organize to end state graduation and grade-promotion testing
- Block overuse and misuse of testing locally
- Support fair uses of high-quality assessment

# High-Stakes Testing – Models Worthy of Imitation

- New York Performance Standards Consortium uses performance assessment tasks, which are more challenging than the NY State Regents exams. In fact, tasks such as the literary essay, the original science experiment and the research paper not only meet, but exceed state standards.

# What Should Be Done?

- Groups like **FairTest**, the **Forum on Educational Accountability (FEA)**, The **Forum on Education and Democracy**, and the **Broader, Bolder Approach to Education** have all offered proposals for NCLB reform that focus on ensuring adequate resources, scaling back standardized testing, using higher quality assessments, supporting the development of teachers, promoting parent involvement

# How You Can Help

- Visit these groups' web sites, use them as resources to educate yourself and others
- Join their Facebook pages
- Tell Congress that ESEA/NCLB needs overhaul
- Gather members and allies and arrange meetings with U.S. representatives and senators to urge specific changes to ESEA/NCLB
- Stay in touch with us and help us find others who want to work on these issues

# More Things To Do

- We are talking about setting up a national database that you could sign on to receive occasional updates, useful short materials, and action alerts. Stay tuned.

# CONCLUSION

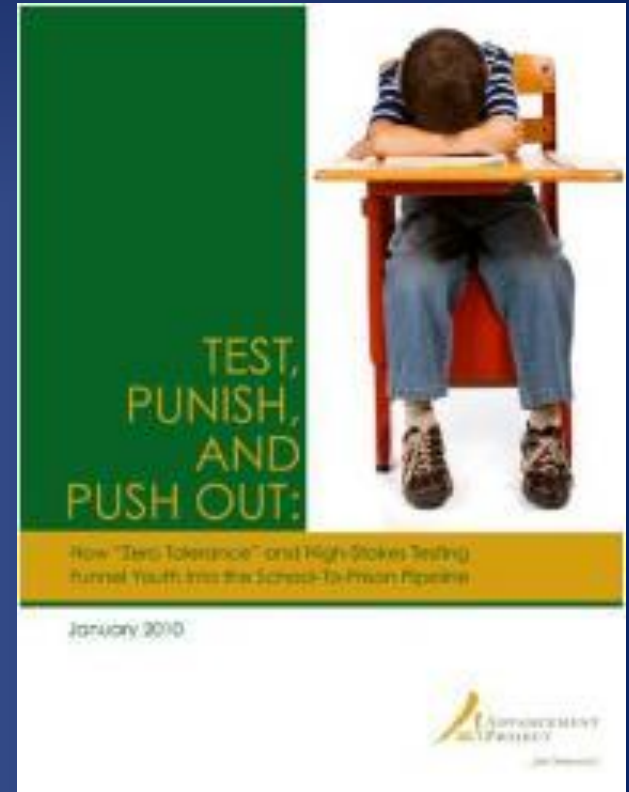


# Opportunity Knocks

- NCLB reauthorization under way
- Now is the time to expose the school-to-prison pipeline and the link to high-stakes testing
- Now is the time to educate, organize, send a focused message about the need for change
- Successful grassroots effort in Florida to kill destructive Senate bill 6 shows it can be done!

# For More Information . . .

- Go to:
  - [www.fairtest.org](http://www.fairtest.org)
  - [www.advancementproject.org](http://www.advancementproject.org)
  - [www.stopschoolstojails.org](http://www.stopschoolstojails.org)
- Contact info:
  - [monty@fairtest.org](mailto:monty@fairtest.org)
  - [lisa.guisbond@verizon.net](mailto:lisa.guisbond@verizon.net)
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Q & A