

April 30, 2014

Dear Superintendent Dorn, Mr. Mendoza, Ms. Pauley, Ms. Lewis, and Mr. Meierbachtol,

On behalf of the undersigned organizations and our diverse constituencies, please accept this letter as jointly endorsed comments in response to the proposed rules regarding school discipline and the implementation of RCW 34.05.320 (part 3 of ESSB 5946). Like the legislators who worked to pass this law, we see the dire need to transform school discipline. According to data reported to OSPI, nearly 60,000 Washington students were suspended or expelled during the last school year and over 130,000 days of school were missed due to these interventions.¹ Data also shows that these exclusions were plagued by persistent disproportionality: African American students were nearly 3 times more likely to be excluded than their white peers and special education students were more than 2.5 times as likely to be excluded as their non-special-education peers.²

We appreciate the positive steps OSPI has taken in the proposed rules and we are supportive of many elements, especially the emphasis on corrective action over punishment, the clarity in putting an end date on indefinite exclusions, and the strengthening of appeal rights in emergency expulsions. **However, we believe that the rules fall short in several critical areas and could be strengthened to fully capture the legislative intent of ESSB 5946: “to minimize the use of out-of-school suspension and expulsion and its impact on student achievement by reducing the number of days that students are excluded from school due to disciplinary action. Student behavior should not result in the permanent loss of educational opportunity in the public school system.”**³

We believe that substantive changes in four key areas will provide critical direction to districts, better align the rules with the legislative intent, and improve outcomes for students:

Ensure that the law applies to all students. Like the legislature, we believe that student behavior should not result in permanent loss of educational opportunities. However, as currently written, the proposed rules leave many students out of the protective umbrella of the law. We request that the rules make clear that the law and the rules apply to all students, including:

Students suspended or expelled prior to the effective date of ESSB 5946 on September 30, 2013. Despite the framework of the new law, our experience finds that many students who were suspended or expelled prior to the effective date are still out of school indefinitely and without a clear path back to the classroom. Final rules must make clear that any suspension or expulsion originating prior to the implementation date must be assigned an end date no later than one year from the enactment of the new law, with exclusions terminating no later September 30, 2014, unless a petition for extension has been granted. In addition, if a student was emergency expelled prior to the effective date, the school or district has 10 school days to convert or end the emergency expulsion. All students must be provided written notice of their right to a reengagement meeting and a reengagement plan to bring them back into the education system.

Certain student populations. Student groups previously protected from discrimination under Student Rights (WAC 392.400.215), such as pregnant students, those previously incarcerated or

¹ Office of Superintendent of Public Instruction. (2013). *Student File, Discipline File*. Provided in response to public records request from Washington Appleseed.

² Office of Superintendent of Public Instruction. (2013). *CEDARS Student Discipline Data Student Discipline Task Force* [Power Point Presentation]. Retrieved from <http://www.k12.wa.us/safetycenter/Discipline/TaskForceMeetings/2013Nov/MaterialsNovember25-2013.pdf>

³ Washington State Legislature. (2013). *ESSB 5946 as Passed by the Legislature*. Retrieved from <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Senate%20Passed%20Legislature/5946-S.PL.pdf>

arrested, or students with certain economic status or marital status have been struck from the proposed rules. Final rules must reinstate protections for these vulnerable student populations.

Require reengagement meetings for all excluded students. Reengagement meetings are critical tools for schools, parents, advocates, and students to establish the parameters of reengagement plans and to outline pathways back to the classroom that return students to school as soon as possible. In accordance with legislative intent, the final rules must make clear that that reengagement meetings are required and that they must take place within 20 days of the disciplinary incident or no more than 5 days prior to a student’s scheduled return to the classroom, whichever is earlier.

Provide clear guidance to schools. In order to provide the clearest guidance to schools and districts, we request that the final rules include more explicit definitions and criteria in the following categories:

Petitions for health or safety extensions. We request that OSPI provide a clear definition of what warrants a health or safety concern appropriate to extending the limit on a suspension or expulsion past one calendar year. The rules must make clear that rarely should a student be removed from school for more than one year.

Supports for reengagement meetings. We request that OSPI provide more specific guidance to districts regarding notice of a reengagement meeting and access to student information prior to the meeting. Students and parents must be given written notice of the reengagement meeting in the predominant language of the student and parents/guardians, with an explanation of the purpose of the meeting, and propose a meeting date that is mutually agreeable regarding time and place. Final rules must also provide parents and students with access to behavioral and academic records before the reengagement meeting and make clear that more than one meeting can take place. We believe these elements are critical to ensure that reengagement meetings are meaningful and will lead to a successful reengagement plan.

Encourage reduced reliance on exclusionary discipline. In light of substantial evidence of harm caused by suspensions and expulsions⁴ and recent federal guidance on school discipline⁵ that establishes new emphasis on alternatives to out-of-school suspensions and expulsions, the final rules should also encourage, and where possible, require, schools and districts to use positive supports and restorative practices to address student behavior and improve school climate. We also encourage the inclusion of social and emotional learning skills within basic education to help ensure students proactively develop the skills needed to fully engage and be successful in their learning environment.

With these changes enacted, RCW 34.05.320 will rise to meet the hopes and intentions of Washington lawmakers and, most importantly, best serve Washington students. Thank you for your consideration and your action on this important issue.

Sincerely,

Organization 1
Organization 2
Etc.

⁴ Washington Appleseed. (2012). *Reclaiming Students: the educational and economic costs of exclusionary discipline in Washington State*. Retrieved from http://media.wix.com/ugd/4569ed_e44ccb42cff21777ea479f4125d347df.pdf

⁵ United States Department of Education. (2014). *Dear Colleague Letter and Guiding Principles*. Retrieved from <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>

CC: Ken Kanikeberg, Chief of Staff
Alan Burke, Deputy Superintendent