



# **Discipline in North Carolina's Charter Schools**

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# Acknowledgments

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## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
	<u>A.</u> Charter School Overview .....	1
	<u>B.</u> Discipline Trends .....	2
	<u>C.</u> Available Data & Sources .....	2
II.	LAWS IMPACTING CHARTER SCHOOL DISCIPLINE .....	3
	<u>A.</u> State Laws .....	3
	<u>B.</u> Federal Laws .....	4
III.	CHARTER SCHOOL DISCIPLINE DATA.....	5
	<u>A.</u> General Trends in Charter School Discipline Data.....	5
	<u>1.</u> Short-Term Suspensions (STS) .....	5
	<u>2.</u> Long-Term Suspensions (LTS) .....	9
	<u>B.</u> Race and Short-Term Suspension in Charter Schools .....	12
IV.	KEY FINDINGS .....	16
V.	RECOMMENDATIONS .....	16
VI.	CONCLUSION.....	18

## I. INTRODUCTION

In North Carolina, charter schools are “public schools of choice” that receive public funds, but operate under separate charter agreements authorized by the North Carolina State Board of Education.<sup>1</sup> Charter schools are granted greater flexibility in their operations than most traditional public schools, which allows the use of varying educational models and practices.<sup>2</sup> Nonetheless, charter schools are still bound to many of the same education laws as traditional public schools, including laws that impact student discipline such as federal anti-discrimination provisions and constitutional due process requirements.

Over the last decade, there has been increased attention on the use of exclusionary discipline in North Carolina’s public schools, including advocacy to reduce the use of unnecessary and harmful suspensions that disproportionately impact students of color and students with disabilities.<sup>3</sup> Most of the analysis and advocacy around public school discipline has focused on overall state trends or on traditional public school districts. Despite the growing number of students attending North Carolina charter schools, less attention has been given to the discipline trends among the state’s charter schools.

This report adds to the conversation on school discipline in North Carolina by focusing specifically on the discipline laws that apply to charter schools and the discipline data available for charter schools. From a review of publicly available information, this report will share key findings and make recommendations aimed at ensuring the state’s charter schools have discipline policies that are transparent, effective, and promote good student outcomes.

### A. Charter School Overview

First authorized in North Carolina in 1996, charter schools were intended to encourage innovation in teaching methods and increase educational opportunities for students.<sup>4</sup> Like regular public schools, charter schools receive taxpayer dollars according to the number of students enrolled.<sup>5</sup> However, charter schools are exempt from some rules, statutes, and regulations that apply to their traditional public school counterparts. For example, charter schools in North Carolina do not have to provide transportation or free and reduced-priced lunch to their students.<sup>6</sup>

Further, instead of being regulated by democratically elected local school boards, charter schools are each managed by a non-profit board of directors. This organizational structure gives charter schools more freedom in hiring teachers, determining class size, setting the academic calendar, designing curriculum, and allocating funds.<sup>7</sup> But charters still remain accountable to the State Board of Education,

which may close down a charter school that fails to meet state standards for financial responsibility and student achievement.<sup>8</sup>

Since 1996, charter schools have grown in popularity in North Carolina. North Carolina currently has 200 active charter schools serving 126,165 students, about 8.4 percent of all public school students in the state.<sup>9</sup>

### **B. Discipline Trends**

Beginning in the early 1990s, an increasing number of public schools began to adopt a “zero tolerance” approach to student discipline.<sup>10</sup> Under this discipline model, students are held strictly accountable for even minor infractions of the school code. As a result, the number of out-of-school suspensions and expulsions increased nationwide.<sup>11</sup>

Around the same time, the number of charter schools across the country also began to grow exponentially, especially charter schools serving highly urban, low-income areas.<sup>12</sup> Nationally, some charter schools became notorious for publicly embracing this zero-tolerance punitive discipline model, sometimes called “No Excuses” discipline, grounded in the notion that poverty is not an excuse for unsatisfactory academic performance.<sup>13</sup>

Over the past thirty years, a growing body of research has shown that zero-tolerance disciplinary practices are harmful to individual students and ineffective at improving overall school climate and academic outcomes.<sup>14</sup> These practices also disproportionately harm certain groups of students, including Black and Indigenous students and students with disabilities.<sup>15</sup> In response to research and advocacy, many public schools are making efforts to reduce the use of suspension and, instead, utilize alternative responses to student behavior such as positive behavioral interventions and supports and restorative justice practices.

To date, most of the analysis and advocacy around public school discipline in North Carolina has focused on overall state trends or on traditional public school districts. However, given the growing number of students attending charter schools, it is critical to also examine the discipline practices of North Carolina’s charter schools to ensure they reflect current research and best practice.

### **C. Available Data & Sources**

Each year, the North Carolina State Board of Education issues a report to the General Assembly on the use of suspension, expulsion, alternative learning program placements, disciplinary reassignments, and corporal punishment.<sup>16</sup> This annual report, required by law<sup>17</sup> and prepared by the Department of Public Instruction (DPI), contains selected discipline data on all public schools in North Carolina, including the state’s

charter schools, for the previous school year. Every report, starting from the 2007-2008 school year, is publicly available on DPI's website.<sup>18</sup>

Although DPI collects extensive discipline data from all public schools, most of the data published in the Annual Report is aggregated into statewide totals. There is very little data available for individual schools, districts, and charters. Further, because most charter schools have small student populations, much of the disaggregated discipline data related to student race and gender is not publicly available for individual charter schools as it is for traditional public school districts. As such, for some measures, this report must rely on aggregate data for all charter schools. However, it should be recognized that, like their traditional public school counterparts, individual charter schools are not a monolith and a wide range of discipline practices and trends are represented among charter schools.

This report looks at the available data on charter schools, highlighting some of the key takeaways from the data. Of note, because of the impact of the COVID-19 pandemic on schools during the 2019-2020 school year, this report excludes data from the most recent Annual Report (SY 2019-2020).<sup>19</sup>

## II. LAWS IMPACTING CHARTER SCHOOL DISCIPLINE

State law governing charter schools<sup>20</sup> requires that charters comply with the same state discipline laws<sup>21</sup> that govern traditional public schools except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its charter after due process.<sup>22</sup> Further, charter schools must comply with federal law governing school discipline. Listed below are several specific laws impacting school discipline that apply to North Carolina charter schools:

### A. State Laws

Some of the most important requirements from state discipline law are listed below:<sup>23</sup>

#### Short-Term Suspension<sup>24</sup>

State law requires charter schools, when imposing a short-term suspension (10 days or less), to provide the student with oral or written notice and opportunity for an informal hearing with the principal. The school must also provide notice to the student's parent about the reason for the suspension and a description of the alleged student conduct upon which the suspension is based.<sup>25</sup> During the suspension, the student should be provided the opportunity to receive missed assignments and take make-up exams<sup>26</sup>

### Long-Term Suspension<sup>27</sup>

State law requires charter schools, when imposing a long-term suspension (more than 10 days), to provide opportunity for a formal hearing to the student and written notice for the hearing to the parent. The student has several important rights at the hearing, including the right to be represented by an attorney, to review evidence against them prior to the hearing, to question witnesses at the hearing, and present evidence on their own behalf.<sup>28</sup>

### Alternative Education Services<sup>29</sup>

State law requires that students who are long-term suspended be offered alternative education services unless the charter school provides a significant or important reason for declining to offer such services.<sup>30</sup>

### Minimizing Use of Suspension and Expulsion

State law encourages all schools to minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious.<sup>31</sup> Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury.<sup>32</sup>

## **B. Federal Laws**

In exchange for receiving federal funds, charter schools must follow several federal laws that impact school discipline. These include anti-discrimination laws such as Title VI of the Civil Rights Act of 1964<sup>33</sup> (prohibiting discrimination based on race, color, or national origin) and Section 504 of the Rehabilitation Act of 1973<sup>34</sup> (prohibiting discrimination based on disability). These anti-discrimination requirements apply to disciplinary policies or practices that have a discriminatory intent or impact.

Charter schools also have to follow the federal Individuals with Disabilities Education Act (IDEA) that requires public schools to provide a free appropriate public education to eligible children with disabilities.<sup>35</sup> Further, the IDEA provides enhanced rights and protections for students with disabilities who have behaviors that impede their learning or that of others.<sup>36</sup>

Additionally, like traditional public schools, charter schools are considered a state actor and, as such, must follow federal constitutional requirements when imposing discipline on students.<sup>37</sup> This includes the requirement that charter schools notify students of conduct for which they may be suspended or expelled and provide notice and hearing opportunities to students being recommended for school exclusion.<sup>38</sup>

### III. CHARTER SCHOOL DISCIPLINE DATA

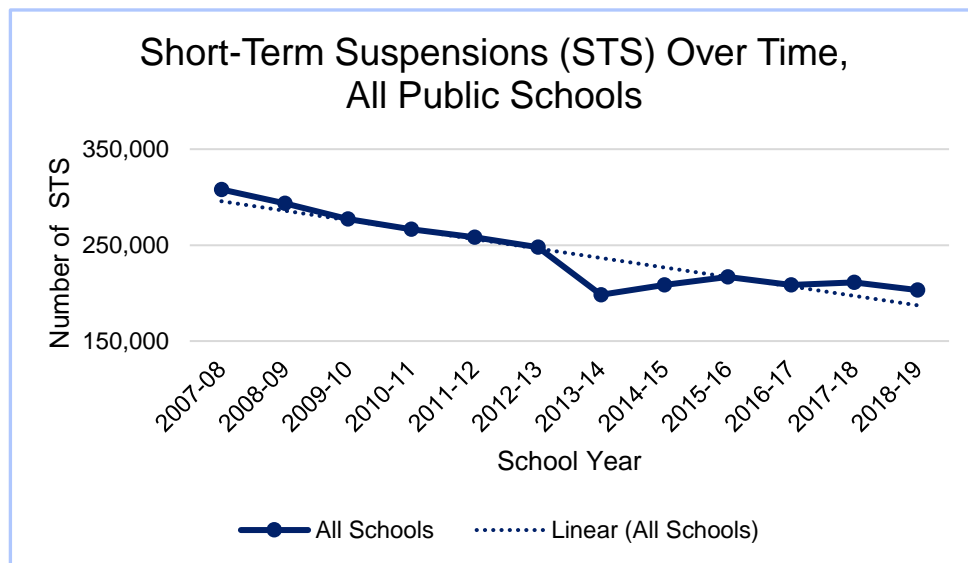
Under law, charter schools are required to collect and report data to the North Carolina Department of Public Instruction each year on several measures relating to school discipline, including suspension, expulsion, alternative learning program placements, disciplinary reassignments, and corporal punishment.<sup>39</sup>

Although not all data collected by charter schools is publicly available, the data that is released can be helpful in identifying overall trends in charter school discipline. Analyzing the available data also exposes gaps, where more data collection and oversight is needed to ensure charter schools are utilizing best practices in student discipline. This section looks at the available data on charter schools, highlighting some of the key takeaways from the data.<sup>40</sup>

#### A. General Trends in Charter School Discipline Data

##### 1. Short-Term Suspensions (STS)

Over the past decade, North Carolina's public schools have made progress in decreasing their use of suspension and, instead, utilizing alternatives that keep students in the classroom and on track towards graduation.<sup>41</sup> This progress is seen in the substantial overall decrease in short-term suspensions (10 days or less) in North Carolina between 2007-2008 and 2018-2019.



The chart above looks at the number of short-term suspensions imposed by all public schools, including traditional public schools and charter schools. The table below separates out the number of short-term suspensions imposed by traditional public schools and charter schools for comparison.<sup>42</sup>

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

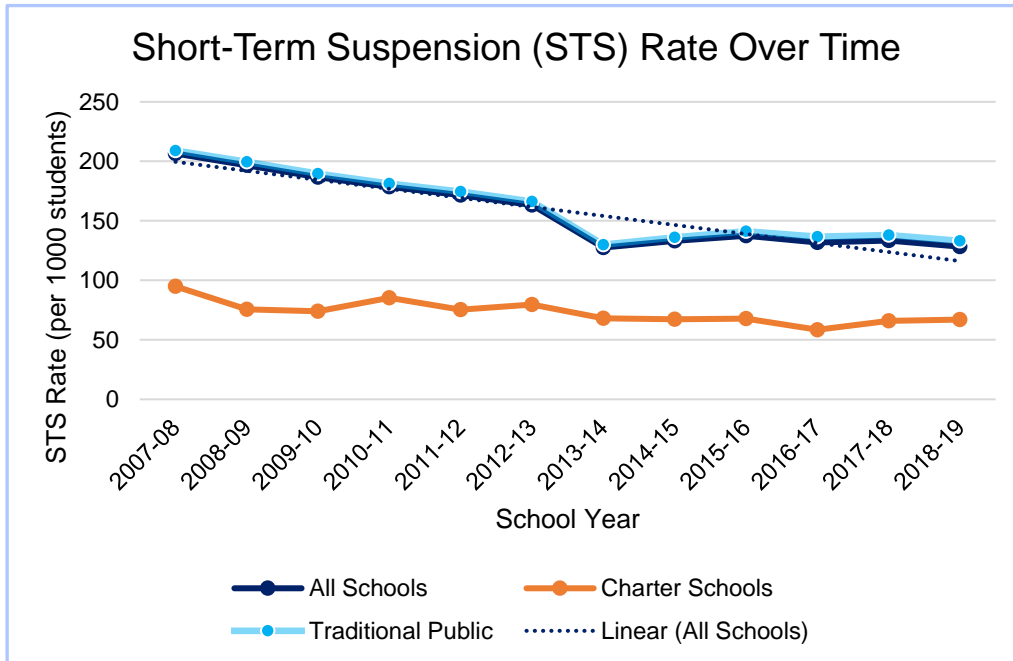
<b>Number of Short-Term Suspensions by School Year</b>			
<i>School Year</i>	<i>All Public Schools</i>	<i>Traditional Public Schools</i>	<i>Charter Schools</i>
2007-08	308,010	304,879	3,131
2008-09	293,453	290,705	2,748
2009-10	277,206	274,307	2,899
2010-11	266,488	262,858	3,630
2011-12	258,197	254,739	3,458
2012-13	247,919	243,902	4,017
2013-14	198,254	194,179	4,075
2014-15	208,650	204,021	4,629
2015-16	216,895	211,117	5,778
2016-17	208,539	202,983	5,556
2017-18	211,118	204,289	6,829
2018-19	203,298	195,655	7,643

When looking only at charter school short-term suspension, charter schools appear to be moving in the opposite direction as traditional public schools. The overall number of short-term suspensions in North Carolina charter schools has been steadily increasing from 3,131 in 2007-2008 to 7,643 in 2018-2019. However, the upward trend is attributable to the growing population of charter school students in North Carolina. Similarly, the larger number of short-term suspensions given by traditional public schools when compared to charter schools is explained by the greater number of students who attend traditional public schools.

The table below compares the rate of short-term suspensions per one thousand students enrolled<sup>43</sup> (short-term suspension rate) for each school year in the state's charter schools, traditional public schools, and all public schools (includes both charter schools and traditional public schools).<sup>44</sup> When controlling for population by looking at the short-term suspension rate, the use of short-term suspension in charter schools and traditional public schools appears to have decreased over the past decade, although traditional public schools have seen a sharper decrease (36.3% decrease from 2007-2008 to 2018-2019 compared to 29.4% decrease for charters).



## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS



<b>Short-Term Suspension Rate by School Year (per 1000 students)</b>			
<i>School Year</i>	<i>All Public Schools</i>	<i>Traditional Public Schools</i>	<i>Charter Schools</i>
2007-2008	206.56	209.09	94.92
2008-2009	196.56	199.58	75.48
2009-2010	186.57	189.62	74.08
2010-2011	178.49	181.23	85.19
2011-2012	171.62	174.65	75.30
2012-2013	163.34	166.23	79.51
2013-2014	127.58	129.97	67.99
2014-2015	133.12	136.14	67.31
2015-2016	137.36	141.33	67.80
2016-2017	131.87	136.56	58.49
2017-2018	133.31	138.03	65.87
2018-2019	128.40	133.17	67.01

Notably, traditional public schools have a consistently higher rate of short-term suspension compared to charter schools. One possible explanation for this is that discipline practices and policies in traditional public schools are more punitive and rely more heavily on exclusionary discipline such as short-term suspension.

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

Another contributing factor may be that charter schools serve a different population of students than traditional public schools. Overall, charter schools in North Carolina serve fewer students from vulnerable groups that often present with more behavioral challenges, including students with disabilities and economically disadvantaged students.

In 2020, students with disabilities made up 10.2% of charter school students compared to 12.3% of traditional public school students.<sup>45</sup> Similarly, economically disadvantaged students made up only 22.5% of charter school students compared to 43.2% of traditional public school students.<sup>46</sup> Further, compared to traditional public schools, charter schools serve a higher percentage of White students, a student group that, due to individual and institutional racial bias, is not as likely to experience out-of-school suspension.<sup>47</sup>

Ultimately, more research is needed to determine *why* the short-term suspension rate is higher overall in traditional public schools as compared to charter schools. It is also important to note that these numbers represent aggregate data from all traditional public schools (115 districts) and all charter schools (200 schools). It should be recognized that individual schools, both traditional and charter, are not a monolith and a wide range of discipline practices and trends are represented.

For that reason, the table below shows the schools (charter or laboratory) and districts that had the highest short-term suspension rate in 2018-19.

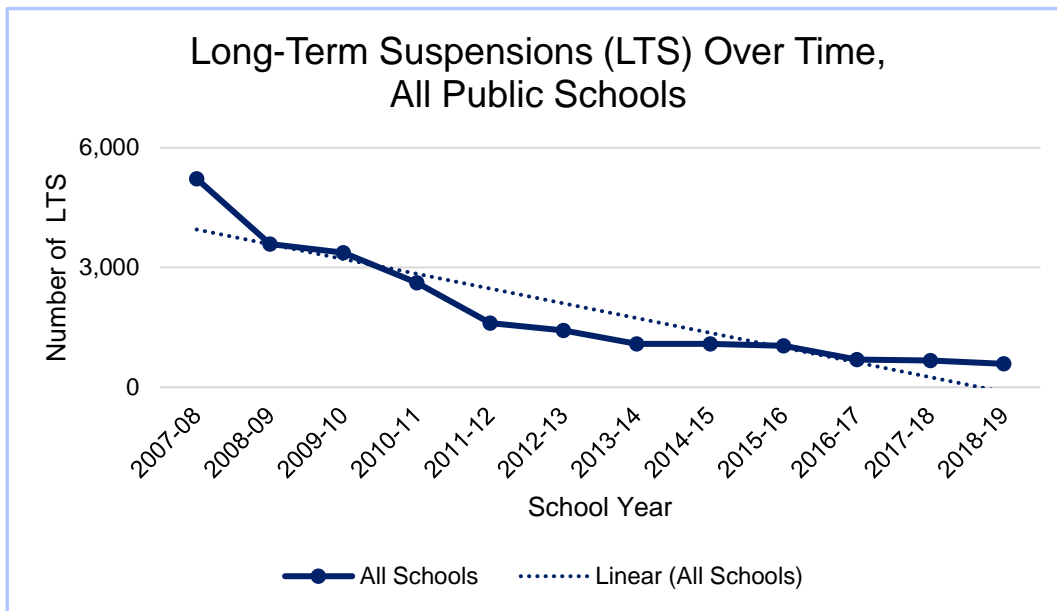
## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

<b>Schools/Districts with Highest Short-Term Suspension Rate (SY 2018-2019)</b>			
<b>School or District Name</b>	<b>Type of School</b>	<b>Grades Served</b>	<b>STS Rate (per 1000)</b>
UpROAR Leadership Academy	Charter	5-11	1230.00
Grandfather Academy*	Charter	K-12	724.14
Northampton County Schools	District	K-12	612.39
East Carolina Laboratory School	UNC Lab School**	K-5	567.90
Anson County Schools	District	K-12	565.12
Bertie County Schools	District	K-12	502.89
Weldon City Schools	District	K-12	499.37
Ignite Innovation Academy – Pitt***	Charter	K-8	487.18
Children's Village Academy	Charter	K-8	454.55
KIPP Durham College Preparatory	Charter	4-8	434.91
KIPP: Charlotte	Charter	K-8	389.33
Warren County Schools	District	K-12	383.71
Vance County Schools	District	K-12	377.69
Washington Montessori	Charter	K-12	359.34
Wilson County Schools	District	K-12	342.34
D.C. Virgo Preparatory Academy**	UNC Lab School**	K-8	331.84
Pitt County Schools	District	K-12	325.30
Halifax County Schools	District	K-12	318.28
The Capitol Encore Academy	Charter	K-8	314.23
Hertford County Schools	District	K-12	312.83
<p><i>* Grandfather Academy is a specialty charter school established to provide special educational opportunities for students who have been estranged by emotional, sexual or other abuse.</i></p> <p><i>** UNC Lab Schools are established under state law and managed by the UNC system.<sup>48</sup></i></p> <p><i>*** Ignite Innovation Academy – Pitt is no longer in operation.</i></p>			

### 2. Long-Term Suspensions (LTS)<sup>49</sup>

Similar to the short-term suspension trends detailed above, the overall number of long-term suspensions (more than 10 days) reported by North Carolina public schools has been steadily decreasing.

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

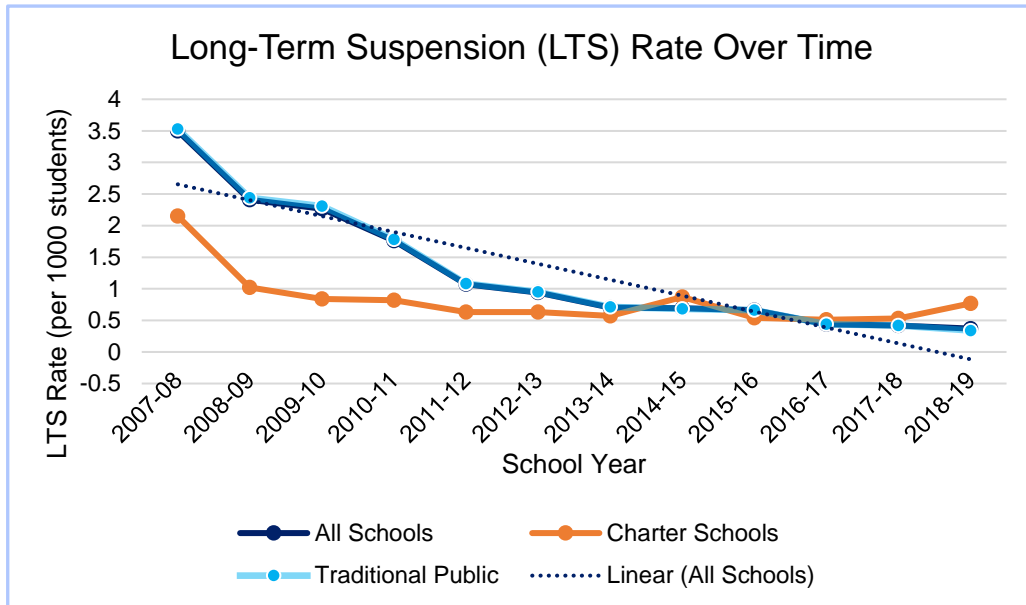


The chart above looks at the number of long-term suspensions imposed by all public schools, including traditional public schools and charter schools. The table below separates out the number of long-term suspensions imposed by traditional public schools and charter schools for comparison.

Number of Long-Term Suspension by School Year			
<i>School Year</i>	<i>All Public Schools</i>	<i>Traditional Public Schools</i>	<i>Charter Schools</i>
2007-08	5,225	5,154	71
2008-09	3,592	3,555	37
2009-10	3,368	3,335	33
2010-11	2,621	2,586	35
2011-12	1,609	1,580	29
2012-13	1,423	1,391	32
2013-14	1,088	1,054	34
2014-15	1,085	1,025	60
2015-16	1,036	990	46
2016-17	695	647	48
2017-18	673	618	55
2018-19	587	499	88

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

As discussed above, it is important to control for population differences when comparing traditional public schools and charter schools. The following chart and table compare the rate of long-term suspensions per one thousand students enrolled (long-term suspension rate) for each school year in North Carolina's charter schools, traditional public schools, and public schools overall.<sup>50</sup>



Long-Term Suspension Rate by School Year (per 1000 students)			
School Year	All Public Schools	Traditional Public Schools	Charter Schools
2007-2008	3.50	3.53	2.15
2008-2009	2.41	2.44	1.02
2009-2010	2.27	2.31	0.84
2010-2011	1.76	1.78	0.82
2011-2012	1.07	1.08	0.63
2012-2013	0.94	0.95	0.63
2013-2014	0.70	0.71	0.57
2014-2015	0.69	0.68	0.87
2015-2016	0.66	0.66	0.54
2016-2017	0.44	0.44	0.51
2017-2018	0.42	0.42	0.53
2018-2019	0.37	0.34	0.77

While both traditional and charter schools have seen a decrease in the rate of long-term suspension over the past ten years, charter schools have had a higher rate of long-term suspension for the past three years. Further, while traditional public schools have seen a consistent decline in the long-term suspension rate, the decline in charter schools has been less consistent with several spikes (e.g. 2014-15; 2018-2019).

One possible explanation for this is that traditional public schools are relying less heavily on long-term suspension as a disciplinary tool. There is some evidence that instead of utilizing long-term suspension, traditional public schools are increasing their use of disciplinary reassignment, in which a student is transferred to the district's alternative school or program in response to a disciplinary incident.<sup>51</sup> Every traditional school district is required to have an alternative learning school or program, but charter schools are not.<sup>52</sup> Therefore, charter schools do not have the option of utilizing disciplinary reassignment in lieu of long-term suspension.

Some advocates report that charter schools may be underreporting long-term suspension numbers and instead, in response to disciplinary incidents, giving students the choice to either voluntarily withdraw or face long-term suspension. If the student withdraws, they can attend the traditional public school district where they reside, which is not an option if a long-term suspension is imposed.<sup>53</sup> Anecdotally, these "withdrawal in lieu of long-term suspension" appear to be a common tool utilized by charter schools. However, they are not captured in the long-term suspension data or any other data metric and essentially operate as an "off the books" exclusion.

As with short-term suspension, more research is needed to determine *why* the long-term suspension rate is higher overall in charter schools as compared to traditional public schools. Additionally, more data is needed to understand how widespread the practice of "withdrawal in lieu of long-term suspension" is among charters.

### **B. Race and Short-Term Suspension in Charter Schools**

Overall, in North Carolina's public schools, Black students and American Indian students are disproportionately suspended when compared to their White peers.<sup>54</sup> Furthermore, when looking at the short-term suspension data by race for the state's 115 traditional school districts, it has been shown that almost all districts disproportionately suspend Black students compared to White students.<sup>55</sup> Research suggests that these racial disparities are not explained by more frequent or more serious misbehavior by students of color.<sup>56</sup>

Given this overall trend, it is important to analyze whether a similar trend affects charter school discipline practices. However, it is difficult to perform an individualized analysis of each charter school, as has been done for traditional school districts, because much

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

of the data is not publicly available due to the small number of students served by most individual charter schools.

Where data is available, a similar trend exists in the charter school sector. For example, the table below shows the charter schools with the highest short-term suspension rates in 2018-19 and compares the rate of suspension for Black students with the rate of suspension for White students. For every school where both measures were available, Black students were more likely to receive a short-term suspension than their White peers. This represents a disturbing trend that needs further study and intervention.

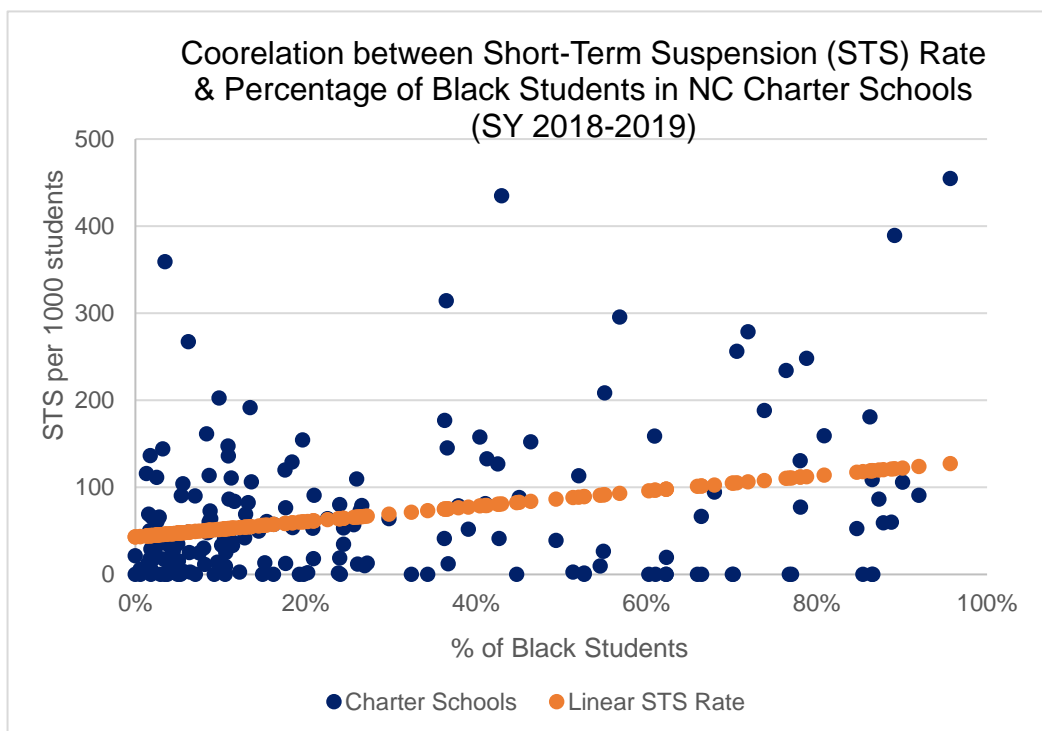
<b>Charter Schools with Highest Short-Term Suspension Rate (SY 2018-2019)</b>					
School Name	Total Students	Grades Served	Overall STS Rate (per 1000)	STS Rate (Black)	STS Rate (White)
UpROAR Leadership Academy	113	5-11	1230	1188.9	0
Grandfather Academy**	26	K-12	724.1	*	*
Ignite Innovation Academy – Pitt***	208	K-8	487.2	544.8	411.8
The Children's Village Academy	185	K-8	454.6	395.5	0
KIPP Durham College Preparatory	351	4-8	434.9	774.8	0
KIPP Charlotte	829	K-8	389.3	376.2	0
Washington Montessori Public Charter School	430	K-12	359.3	*	340.5
The Capitol Encore Academy	485	K-8	314.2	333.3	280
Sallie B Howard School for the Arts and Education	1034	K-10	295.5	399.7	136.4
PAVE Southeast Raleigh Charter	385	K-6	278.7	328.5	0
Pioneer Springs Community School	322	K-9	267.3	350	155.2
PreEminent Charter School	626	K-8	256.5	287.3	0
Charlotte Learning Academy***	262	6-12	249	228.7	0
Rocky Mount Preparatory School	1242	K-12	248.1	256.4	178.9
Eastside STREAM Academy	106	K-8	234	197.5	0
Healthy Start Academy	412	K-8	208.6	343.6	0
Arapahoe Charter School	569	K-12	202.6	571.4	147.4
River Mill Academy	825	K-12	191.7	333.3	157.5
Gate City Charter Academy	669	K-8	188.3	208.5	216.2
KIPP Halifax College Preparatory	466	K-8	180.8	179.1	66.7
* Data not available.					
** Grandfather Academy is a specialty charter school established to provide special educational opportunities for students who have been estranged by emotional, sexual or other abuse.					
*** No longer in operation.					

## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

While analysis of racial disproportionately in individual charter school discipline practices is unfeasible in this report due to lack of public data, there are other methods of analysis available. The analysis below looks at the publicly available short-term suspension data and demographic data of NC charter schools<sup>57</sup> from school years 2016-17 to 2018-19 to determine if any correlation exists between the suspension rate and racial demographics of charter schools.<sup>58</sup>

A regression analysis was completed, which generates regression statistics and graphs to demonstrate and explain the correlation between two variables.<sup>59</sup> In the graph below, every blue dot represents an individual charter school, and the orange line indicates the general trend of the correlation between X (% of Black students enrolled in the school) and Y (STS Rate per 1000 students at the school). The findings are based on reading these regression statistics and graphs.

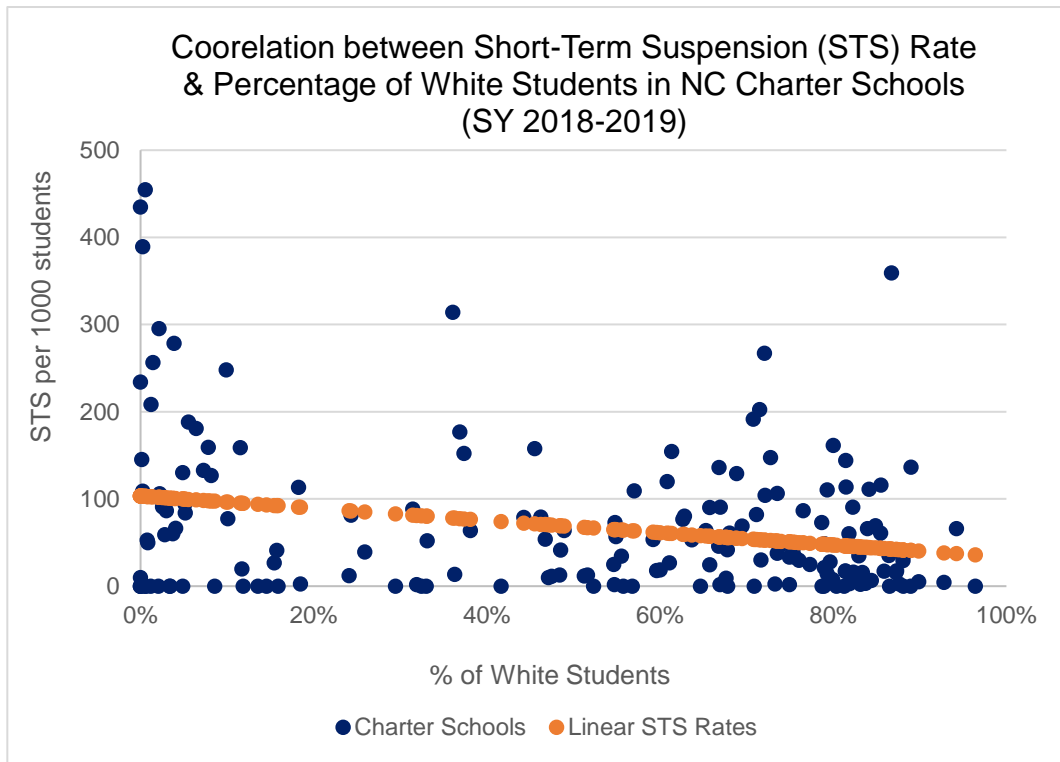
For school year 2018-2019, the short-term suspension rate and the percentage of Black students are positively correlated among NC charter schools; however, they are not perfectly correlated. This trend was true for the past three school years (2016-2017; 2017-2018; 2018-2019). In other words, the percentage of Black students is one of the factors that may affect a charter school's suspension-rate, but not the only reason. As the percentage of Black students at a charter school increases, the short-term suspension of that school would also likely increase.





## DISCIPLINE IN NORTH CAROLINA'S CHARTER SCHOOLS

Additionally, using a similar methodology described above, correlations between the short-term suspension rate and the percentage of White students in North Carolina charter schools was analyzed. This time, the regression results consistently show a negative correlation between the short-term suspension rate and the percentage of White students. To avoid repetition, only the regression graphs of 2018-19 are presented since the results are consistent over 2016-2019.



Ultimately, more research is needed to determine *why* this correlation between race and the use of short-term suspension exists in the state's charter school sector and whether a similar trend exists among the state's traditional public school. It is also important to note that these graphs represent a general trend, but there are outliers. Additional analysis of individual charter schools suspension data, broken down by race, should be done by the entities that have access to that data in order to fully understand these trends and identify potentially discriminatory discipline practices.

## IV. KEY FINDINGS

Based on the available discipline data for North Carolina charter schools, the following observations can be made:

### General Trends

- 1) The use of short-term suspension in charter schools is declining, replicating the trend seen in traditional public schools.
- 2) Overall, charter schools utilize short-term suspension less than traditional public schools. However, there is wide variance among individual charter schools; for example, in 2018-19, of the 20 schools or districts with the highest rate of short-term suspension, 8 were charter schools.
- 3) Charter schools have had a higher rate of long-term suspension than traditional public schools for the most recent three school years analyzed.
- 4) Overall, both traditional public and charter schools have seen a decrease in the use of long-term suspension over the past ten years. However, while traditional public schools have seen a consistent decline in the long-term suspension rate, the decline in charter schools has been less consistent with several spikes (e.g. 2014-15; 2018-2019).

### Race and Suspension

- 5) For the individual charter schools with the highest rates of short-term suspension in 2018-2019, Black students were more likely to be suspended than White students. This represents a similar trend to the racially disproportionate discipline seen in traditional public school districts.
- 6) For the past three years, the short-term suspension rate and the percentage of Black students have been positively correlated among NC charter schools. This means that as the percentage of Black students at a charter school increases, the use of short-term suspension at the school would also likely increase.
- 7) For the past three years, the short-term suspension rate and the percentage of White students have been negatively correlated among NC charter schools. This means that as the percentage of White students at a charter school increases, the use of short-term suspension at the school would likely decrease.

## V. RECOMMENDATIONS

The findings above offer some helpful insights on charter school discipline in North Carolina. However, it is just a start. There is a critical need for more data collection, publication, and analysis to fully understand the discipline practices among charter schools. Notably, more data analysis and research is needed to understand:

- Why are short-term suspension rates lower among charter schools than traditional public schools?
- Can the contributing factors that lead to lower short-term suspension rates among charters be replicated in traditional public schools and charter schools with high rates of short-term suspension?
- Why are long-term suspension rates higher among charter schools than traditional public schools?
- Can measures be implemented to decrease the use of long-term suspension among charters?
- In which charter schools are suspensions being imposed disproportionately on Black students and how can this be addressed?
- Why is there a correlation between the racial make-up of charter schools and the use of short-term suspension? Is the same correlation seen in traditional public schools?

Additionally, while the discipline data currently released by the Department of Public Instruction is an important tool for tracking disciplinary trends, the data on charter schools is neither comprehensive nor easily accessible. This makes it difficult for the public to fully understand the differences in discipline practices between traditional public schools and charter schools, as well as the differences among individual charter schools. Therefore, the NC Department of Public Instruction (DPI) should consider the following recommendations:

- 1. For each measure included in its Annual Report on school discipline, DPI should include a breakdown of how charter schools and traditional public schools compare.** This will aid the public in understanding any similarities or differences among discipline practices in charters and traditional public schools.
- 2. DPI should release disaggregated discipline data by school, charter, and district for all measures in the Annual Report.** Currently, the only disaggregated data released for individual schools is suspension and expulsion data. By releasing disaggregated data for other forms of exclusionary and punitive discipline (alternative learning program placements, disciplinary reassignments, and corporal punishment), the public would have a better understanding of individual school discipline practices and trends.
- 3. Collect and publish “withdrawal” data for charter schools, including a breakdown of reason for withdraw and student demographics.** As described above, there is evidence to suggest that some charter schools are allowing students to “withdraw in lieu of long-term suspension.” This practice is not captured in the long-term suspension data and essentially operates as an “off the books” exclusion. Thus, there is currently no data available to validate how

widespread this practice is. Withdrawal data would be useful in understanding which schools are utilizing this practice and which students may be most affected.

**4. Create a more transparent monitoring system to ensure charter schools are not engaging in excessively punitive disciplinary practices or utilizing suspension in a way that discriminates against certain groups of students.**

There are many charter schools that still have extremely high rates of short-term suspension despite a growing body of research that shows these practices are ineffective and harmful to students. Given the nature of charter schools' organizational structure (run by a non-elected board of directors instead of a democratically elected Board of Education) and the lack of publicly available data, there are limited ways that students, families, and communities can identify and change harmful disciplinary practices at charter schools. Given these factors, there is a need for the NC Department of Public Instruction to play a bigger role in monitoring discipline among the state's charter schools to ensure students are protected.

## VI. CONCLUSION

As the number of students attending North Carolina's charter schools continues to grow, it is imperative to understand the range of disciplinary practices among charter schools and how those practices impact students. Many charter schools have already significantly reduced or eliminated the use of school exclusion, while other charters maintain consistently high and potentially discriminatory rates of suspension. This report reveals some general observations from the available data. However, more data collection and analysis is needed to ensure that the state's charter schools have discipline policies that are transparent, effective, and promote good student outcomes.

- <sup>1</sup> NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION, <https://www.dpi.nc.gov/students-families/innovative-school-options/charter-schools> (last visited July 13, 2021).
- <sup>2</sup> Kerrin Wolf, Mary Kate Kalinich, Susan L. DeJarnatt, *Charting School Discipline*, 48 URB. LAW. 1, 2 (2016).
- <sup>3</sup> See, e.g., *Racial Equity Report Cards*, SOUTHERN COALITION <https://rerc.southerncoalition.org/> (last visited July 13, 2021) (providing Racial Equity Report cards to track the school-to-prison pipeline with a focus on discriminatory disciplinary measures); Devna Bose, *Black CMS Students Suspended Much More Often Than White Classmates, Data Finds*, CHARLOTTE OBSERVER (July 13, 2021 02:13 PM), <https://www.charlotteobserver.com/news/local/education/article250061424.html> (addressing racial disparities in school suspension data).
- <sup>4</sup> H.R. 955, 1995 Gen. Assemb., Reg. Sess. (N.C. 1995), available at <https://www.ncleg.gov/Sessions/1995/Bills/House/PDF/H955v4.pdf>. The initial authorizing legislation capped the number of charter schools at 100, but the cap was lifted in 2011. PUBLIC SCHOOLS OF NORTH CAROLINA, *Report to the North Carolina General Assembly: Charter Schools Annual Report* at 4, (Feb. 15, 2019), available at <https://www.huntersville.org/DocumentCenter/View/3710/Charter-Schools-Annual-Report-2019>.
- <sup>5</sup> Thomas A. Kelley III, *North Carolina Charter Schools' (Non-?) Compliance with State and Federal Nonprofit Law*, 93 N.C. L. REV. 1757, 1767 (2015).
- <sup>6</sup> PUBLIC SCHOOLS FIRST NC, *The Facts on Charter Schools* (March 2019), <https://www.publicschoolsfirstnc.org/resources/fact-sheets/quick-facts-on-charter-schools/>. (last visited July 19, 2021).
- <sup>7</sup> PUBLIC SCHOOLS OF NORTH CAROLINA, *Office of Charter Schools*, <http://www.ncpublicschools.org/charterschools/> (last visited July 19, 2021).
- <sup>8</sup> *Id.*
- <sup>9</sup> Greg Childress, *Monday Numbers: A Closer Look at Charter Schools in North Carolina*, NC POLICY WATCH (April 19, 2021) <https://www.ncpolicywatch.com/2021/04/19/monday-numbers-a-closer-look-at-charter-schools-in-north-carolina/> (last visited July 19, 2021); See also PUBLIC SCHOOLS OF NORTH CAROLINA, *Report to the North Carolina General Assembly: 2020 Annual Charter Schools Report*, (Jun. 15, 2021), available at <https://simbli.eboardsolutions.com/Meetings/Attachment.aspx?S=10399&AID=258951&MID=9029>.
- <sup>10</sup> American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, AM. PSYCHOL. 2008 Dec; 63(9):852-62. (2008), available at <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.
- <sup>11</sup> *Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities*, U.S. Commission On Civil Rights, 3 (July 2019), available at <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.
- <sup>12</sup> Johanna F. Roberts, *No Excuses for Charter Schools: How Disproportionate Discipline of Students with Disabilities Violates Federal Law*, 70 OKLA. L. REV. 729, 734 (2018).
- <sup>13</sup> *Id.* at 734.
- <sup>14</sup> See Daniel J. Losen et al., *Charter Schools, Civil Rights and School Discipline: A Comprehensive Review*, CTR. FOR CIV. RTS. REMEDIES AT THE CIV. RTS. PROJECT 2, 7 (“[T]here is a wealth of research indicating that the frequent use of suspensions is harmful to all students, as it contributes to chronic absenteeism, is correlated with lower achievement, and predicts lower graduation rates, heightened risk for grade retention, delinquent behavior, and costly involvement in the juvenile justice system.”) (2016), available at <https://escholarship.org/uc/item/65x5j31h>; Roberts, *supra* note 12, at 732 (referencing reports from the American Psychological Association indicating that the success of the “No Excuses” model is largely unbacked by data).
- <sup>15</sup> Roberts, *supra* note 12, at 756.
- <sup>16</sup> N.C. GEN STAT. § 115C–12(27) (2019) available at <https://www.ncleg.net/enactedlegislation/statutes/html/bysection/>

Chapter\_115c/g\_s\_115c-12.html.

<sup>17</sup> *Id.*

<sup>18</sup> *Consolidated Data Reports*, Dropout and Discipline Annual Reports, North Carolina Department of Public Instruction (April 2021), *available at* <https://www.dpi.nc.gov/data-reports/dropout-and-discipline-data/discipline-alp-and-dropout-annual-reports>.

<sup>19</sup> *Id.* After the March 16, 2020 school closure, there were significant reductions in the number of incidents of Crime and Violence, Suspensions, Alternative Learning Placements and withdraw dates for verified dropouts when compared to the same timeframe in the prior school years.

<sup>20</sup> N.C. GEN STAT. § 115C-218 (containing the Combined Text of House Bill 955 ratified on June 21, 1996, and all subsequent amendments) (2019), *available at* [https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_115c/Article\\_14A.pdf](https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_115c/Article_14A.pdf).

<sup>21</sup> N.C. GEN STAT. § 115C-390 (2019), *available at* [https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_115C/Article\\_27.html](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_115C/Article_27.html).

<sup>22</sup> N.C. GEN STAT. § 115C-218(60) (2019).

<sup>23</sup> A brief description of North Carolina charter school regulations can be found at: <http://ecs.force.com/mbdata/mbstprofile?Rep=CSP20&st=North%20Carolina>.

<sup>24</sup> N.C. GEN STAT. § § 115C-390.1 (stating that short-term suspension is the “exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action”) (2019).

<sup>25</sup> N.C. GEN STAT. § 115C-390.6 (2019).

<sup>26</sup> *Id.* at 115C-390.5(c) (2019).

<sup>27</sup> *Id.* at § 115C-390.1(b)(7) (Long-term suspension is “the exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action”) (2019).

<sup>28</sup> *Id.* at § 115C-390.8(e).

<sup>29</sup> *Id.* at § 115C-390.9.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at §115C-390.2(f).

<sup>32</sup> *Id.*

<sup>33</sup> 42 U.S.C. § 2000d.

<sup>34</sup> 29 U.S.C. § 794.

<sup>35</sup> 34 C.F.R. § 300.101 (2006).

<sup>36</sup> 34 C.F.R. §§ 300.530 – 300.537 (2006).

<sup>37</sup> See *Charter Schools*, N.C. DEPT. OF PUB. INSTRUCTION, <https://www.dpi.nc.gov/students-families/innovative-school-options/charter-schools> (“Charter schools are public schools . . . .”)

<sup>38</sup> In the landmark case of *Goss v. Lopez*, 419 US 565 (1975), the U.S. Supreme Court established that suspending students from school without first providing them with notice and an opportunity to be heard violated the Due Process Clause of the 14th Amendment of the Constitution. While the Court was addressing suspensions of ten days or less, the Court also noted that longer suspensions or expulsions may require more formal due process procedures. Since there are no federal statutes or regulations that govern the process of suspending students, the *Goss* decision is the federal guidepost for minimum due process requirements for student suspensions.

<sup>39</sup> N.C. Gen. Stat. § 115C-12(27) (2019).

<sup>40</sup> Of note, because of the impact of the COVID-19 pandemic on schools during the 2019-2020 school year, this report excludes data from the most recent Annual Report. After the March 16, 2020 school closure, there were significant reductions in the number of incidents of Crime and Violence, Suspensions, Alternative Learning Placements and withdraw dates for verified dropouts when compared to the same time frame in the prior school years.

<sup>41</sup> Peggy Nicholson, *The State of Discipline in NC Schools*, Youth Justice Project of the Southern Coalition for Social Justice (2018), <https://southerncoalition.org/sodreport2018>.

<sup>42</sup> The charter school numbers include both traditional charter schools (operating under a charter agreement authorized by the State Board of Education) and the 8 laboratory schools operating under the UNC System Lab School Initiative (managed by the UNC Board of Governors). While lab schools are distinct from charters and operate in partnership with local school districts, they operate much like a charter school and are managed by a collaborating university rather than an elected Board of Education. They can employ experimental teaching methods and are afforded more flexibility in designing and implementing their curriculum. However, funding for child nutrition and transportation is provided by local districts. Their data is also reported separate from the partnering school district. See UNC System Laboratory Schools, THE UNIV. OF N.C. SYSTEM, <https://www.northcarolina.edu/unc-laboratory-schools/>.

<sup>43</sup> This report utilizes enrollment data published by the N.C. Department of Public Instruction (DPI). According to DPI, "Once a pupil is initially counted in the enrollment figure, he/she remains in that count throughout the school year. Students transferring to the North Carolina public school system from another state or from non-public schools are added to enrollment. Enrollment is not reduced by transfers, withdrawals, deaths, or midyear graduations. The end of the year enrollment thus shows a higher count than the actual number of students in school. Final enrollment, therefore, should not be compared to first month enrollment." See Student Accounting Data, N.C. DEP'T OF PUB. INSTRUCTION, <https://www.dpi.nc.gov/districts-schools/district-operations/financial-and-business-services/demographics-and-finances/student-accounting-data>.

<sup>44</sup> In calculating short-term suspension rates by year per 1000 students, this report divides each school year's short-term suspension number by its corresponding school year's enrollment number, then multiplying the amount by one thousand (i.e.,  $\left(\frac{\text{Enrollment \#}}{\text{Total \# of STS}}\right)_{\text{Year}} \times 1000$ ).

<sup>45</sup> *Rep. to the N.C. Gen. Assembly*, PUB. SCHS. OF N.C. (June 15, 2021), <https://ncleg.gov/documents/sites/committees/JLEOC/Reports%20Received/2021%20Reports%20Received/Annual%20Charter%20Schools%20Report.pdf>.

<sup>46</sup> *Id.* It is important to note that economically disadvantaged (ED) student data is self-reported by charter schools based on self-reported income information from families. For charter schools that do not participate in the National School Lunch Program, families have no incentive to report accurate income information and the true ED population at the school may be underreported.

<sup>47</sup> *Id.*

<sup>48</sup> See UNC System Laboratory Schools, THE UNIV. OF N.C. SYSTEM, <https://www.northcarolina.edu/unc-laboratory-schools/>.

<sup>49</sup> In North Carolina, students age 14 and older can be expelled from school permanently if their continued presence in school is found to constitute a clear threat to the safety of other students or school staff. N.C. Gen. Stat. 115C-390.11. Due to the small number of students expelled each year, this report does not include an analysis of expulsion.

<sup>50</sup> Similar to calculating short-term suspension rates, this report calculates long-term suspension rates using the following formula:  $\left(\frac{\text{Enrollment \#}}{\text{Total \# of LTS}}\right)_{\text{Year}} \times 1000$ .

<sup>51</sup> *Discipline, ALP and Dropout Annual Reports*, N.C. DEPT. OF PUB. INSTRUCTION, <https://www.dpi.nc.gov/data-reports/dropout-and-discipline-data/discipline-alp-and-dropout-annual-reports>. As long-term suspensions declined statewide between 2013-14 and 2017-2018, there was a corresponding increase in disciplinary reassignments.

<sup>52</sup> N.C. Gen. Stat. 115C-47(32a) (2019).

<sup>53</sup> *Id.* at 115C-366(a5).

<sup>54</sup> *2019-2020 Racial Equity Report Cards*, <https://rerc.southerncoalition.org/page/report-cards-by-year?var=stateAbbreviation:NC&var=reportCardStartYear:2019> (last visited July 20, 2021).

<sup>55</sup> *Id.*

<sup>56</sup> See generally Michael Rocque & Raymond Paternoster, *Understanding the Antecedents of the "School-to-Jail" Link: The Relationship Between Race and School Discipline*, 101 J. Crim. L. & Criminology 633 (2011); Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 Sch. Psychol. Rev 85 (2011); T. Fabelo, M.D. Thompson, M. Plotkin, D. Carmichael, M.P. Marchbanks & E.A. Booth, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (Council of State Governments Justice Center, 2011); A. Gregory & A.R. Thompson, *African American High School Students and Variability in Behavior Across Classrooms*, 38 J. Community Psychol. 386 (2010); R.J. Skiba, R.S. Michael, A.C. Nardo & R.L. Peterson, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 Urban Rev. 317 (2002); Michael Rocque, *Office Discipline and Student Behavior: Does Race Matter?* 116 Am. J. Educ. 557 (2010).

<sup>57</sup> This analysis does not include the 8 laboratory schools managed by the UNC Board of Governors. Further, a small number of charter schools were omitted due to lack of data or inactive status.

<sup>58</sup> Statistical Profile Online, Table 37 (Membership by Race and Sex), School Years 2016-2019, N.C. DEP'T OF PUB. INSTRUCTION, available at <http://apps.schools.nc.gov/ords/f?p=145:1> (last visited May 16, 2021).

<sup>59</sup> In the regression analysis, the "Short-Term-Suspension (STS) per 1000 Students" is the dependent variable (Y) and the "Percentage of Black Students" is the independent variable (X). The ranges of both input X and Y are set as all charter schools that have valid data, even if the short-term-suspension data is "0."