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THE RISE OF THE RESISTANCE: 
EVALUATING CALIFORNIA’S APPROACH TO RESTORATIVE 
JUSTICE PRACTICES IN 
PUBLIC EDUCATION

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INTRODUCTION

In 2018, a video of an Oakland Fremont High School student slapping a classmate went viral.\(^1\) Initially, the girls who debuted in the video wanted to fight the classmates responsible for posting the video.\(^2\) Instead, the girls left their classroom and visited their school’s Restorative Justice Facilitator’s office.\(^3\) In a school without a Restorative Justice Facilitator, the girls most likely would have lashed out and beaten those classmates, which would have led to a punitive suspension or even expulsion.\(^4\)

That same year, approximately 5% of United States public school students and 3.5% of California’s public school students were suspended at least once.\(^5\) While public school officials intend for suspensions to deter student misbehavior and increase school safety, research shows that suspensions fulfill neither purpose.\(^6\) Suspensions fail to address the underlying issues that cause student misbehavior and leave no room to address or resolve conflicts.\(^7\) Suspended students are more likely to be involved in the criminal justice system, suffer academically with lower test scores, and are less likely to graduate from high school and college.\(^8\) The “school-to-prison pipeline” is a disturbing and real trend where students funnel out of schools and directly into the criminal justice system.\(^9\)


\(^2\) Id.

\(^3\) Id.

\(^4\) Id.


\(^6\) Leung-Gagné, supra note 5.

\(^7\) Id.

\(^8\) Id.

The Oakland Fremont High School video posting event could have led those girls down the school-to-prison pipeline. Instead of continuing the pipeline, Oakland Fremont High School had recently changed its discipline approach from one that emphasized suspensions and expulsions to a restorative approach focused on reducing suspensions. To reduce suspensions and improve its overall climate, the school prioritized fixing relationships and addressing issues through preventative care. In this instance, Oakland Fremont High School’s shift to a preventative discipline approach worked and kept these students out of the school-to-prison pipeline.

One North Carolina study found that students in schools with higher suspension and expulsion rates are 1.7% more likely to drop out of school, 3.2% more likely to be arrested, and 2.5% more likely to be incarcerated as adults. Additionally, student suspensions result in an alarming discriminatory gap between minority and white students and disabled and non-disabled students.

A similar discriminatory gap is reflected in California’s schools. In 2022, California public schools suspended 7.9% of African American students, yet they suspended only 2.6% of white students. California public schools suspended 5.4% of disabled students that same year. Student suspensions result in lost instruction days, meaning that African American and disabled students miss more critical instruction days than their classmates.

In recent decades, many states have introduced alternative school discipline approaches, known generally as Restorative Justice, to:

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10. See Washburn & Willis, supra note 1.
11. Id.
12. Id.
13. Id.
15. Leung-Gagné, supra note 5.
16. CAL. DEP’T EDUC., supra note 5.
17. Id.
reduce suspensions and expulsions; (2) keep students in school; and (3) diminish this discriminatory discipline gap. Overall, Restorative Justice approaches have been proven to reduce office referrals, expulsions, suspensions, student absenteeism, and truancy. Studies illustrate how this alternative approach also improves student-teacher relationships, creates a positive school environment, and enhances social-emotional learning skills. Restorative practices minimize disproportionate discipline and keep students in the classroom, where they can learn without interruption.

Although Oakland Fremont High School successfully implemented Restorative Justice reforms in its schools, only a few California school districts support the shift to a Restorative Justice philosophy. A lack of statewide enthusiasm prevails for many reasons, including a lack of support, insufficient funding, and criticisms of how the implementation of Restorative Justice programs affects students and teachers.

This Comment proceeds in two Parts and focuses on California’s challenges implementing Restorative Justice in its public schools. This introduction reviews Restorative Justice’s critical importance in California public school classrooms to reduce the school-to-prison pipeline. Part I provides an overview and history of Restorative Justice, explains California’s implementation deficiencies, and focuses on recent California legislation aimed at Restorative Justice. Despite encouragement and supportive legislation, California’s efforts fail to fully implement Restorative Justice in public schools.

20. Id. at 45–47.
21. Id.
23. Washburn & Willis, supra note 1.
24. Id.
that California should, at minimum, mandate clear Restorative Justice legislation for California’s public schools, establish alternative learning centers and extracurricular activities, and fully fund Restorative Justice training for parents, teachers, and school administrators.

I. OVERVIEW


Although the benefits of Restorative Justice may initially seem far-reaching, the results across California have been tenuous at best. Unfortunately, Restorative Justice practices are simply not translating to the school level despite guidance from the California Department of


28. See Daniel J. Losen & Paul Martinez, *Is California Doing Enough to Close the School Discipline Gap*, UCLA: CIV. RTS. PROJECT (June 29, 2020), https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap/; see also Gonzalez, supra note 19, at 45 (discussing how non-punitive philosophies and practices gained attention from not only policymakers, but also educators, Black and Latino students and students with disabilities, reform advocates, and communities, as well.)

29. See Losen & Martinez, supra note 28.

Education. California fails to mandate a clear public school implementation plan, which results in insufficient funding, training, and buy-in from teachers, parents, and administrators. For example, one passionate California teacher shared that Restorative Justice is “not working . . . . Counseling is increasing . . . but the need is so much more.” Insufficient state support results in only partial implementation of Restorative Justice, leading to chaotic classroom environments and skeptical teachers.

A. Restorative Justice Defined

Scholars and the California Department of Education define Restorative Justice in two ways. On the one hand, Restorative Justice functions as a public education discipline approach that replaces a punitive discipline model with a caring one that encourages accountability. According to this definition, Restorative Justice acts as a type of alternative dispute resolution system that keeps students out of the school-to-prison pipeline. The second way defines Restorative Justice not as a disciplinary alternative but rather as a school-wide practice and cultural shift that emphasizes repairing and improving relationships within the school community.

31. See Garcia, supra note 26; Gabriela Torres, Comment to Addressing Disproportionate Discipline in Schools Webinar FACEBOOK (Mar. 2, 2023, 11:27 AM), https://www.facebook.com/CAEducation/videos/882967092970754 (“[T]his shift away from exclusionary discipline is welcomed. It is also echoed by guidance from the Department of Education shared in July 2022. However, in California, schools are consistently suspending and expelling disabled students for ‘behaviors.’ This shift is not translating at the school level and I am not sure why.”).

32. See CAL. EDUC. CODE § 49055 (2022) (effective Jan. 1, 2023); Washburn & Willis, supra note 1; Jones, supra note 25; Fronius, supra note 30, at 11.

33. Washburn & Willis, supra note 1 (comment by one California educator, Lynn).

34. See Washburn & Willis, supra note 1; Jones, supra note 25.


37. Archerd, supra note 27, at 797–98.

38. Id. at 798–99.
The California Department of Education recognizes two Restorative Justice frameworks: a three-tiered approach and a categorical approach. The three-tiered approach focuses on the classroom community. The three tiers (1) strengthen community, (2) repair harm, and (3) re-integrate suspended, expelled, or incarcerated students who are returning to school. The first tier acts as a preventative measure that focuses on community building. For example, students gather in circle groups to talk, which creates community, increases empathy, and builds relationships. The second tier involves mediation between students when harm occurs. In the instance that harm occurs, the offending student meets with the affected parties, and, with mediator support, all parties discuss what happened and create a plan to repair the harm. The third tier supports students isolated from suspension, expulsion, or incarceration. Returning to school can be challenging, and many students in traditional school environments re-offend or drop out. The third tier acknowledges student challenges while promoting achievement and accountability.

The second categorical approach represents three main categories of Restorative Justice models: (1) proactive, (2) reactive, or (3) proactive and reactive combined. Proactive models focus on student development, social-emotional learning, community building, and youth empowerment. For example, a proactive model may involve building relationships inside the school community. Reactive models address

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41. Id.
42. What Teachers Need to Know About Restorative Justice, supra note 27.
44. What Teachers Need to Know About Restorative Justice, supra note 27.
45. Id.
46. Id.
47. Id.
48. Id.
49. Gonzalez, supra note 19, at 48.
50. Id.
repairing harm and restoring relationships. For example, a reactive model may focus on conferences that give students an opportunity to be heard after harm has occurred. Finally, proactive and reactive models combined create a whole-school model where Restorative Justice practices permeate the entire school community. A whole-school model creates a culture that holds students to high expectations and fully supports them in fulfilling those expectations. For example, a United Kingdom whole-school program included multiple components, including staff training, in-class circle groups, and peer mediation.

Restorative Justice focuses on keeping offending students in school, in contrast to zero-tolerance, punitive discipline approaches, where offending students are removed from their school environment. Under these harsher policies, suspended students are more likely to drop out, be arrested, and enter the school-to-prison pipeline. For example, one Florida research study found that students suspended once were twice as likely to drop out of school and twice as likely to be arrested when compared to students who had never been suspended. Restorative Justice, on the other hand, mandates a discussion process that encourages offenders to focus on how they have hurt others and how they can redress


52. Gonzalez, supra note 19, at 48. Specifically, this third type of Restorative Justice model uses a multilevel system of intervention to establish a “nonauthoritarian culture of high expectations with high levels of support that emphasizes doing things ‘with’ someone as opposed to doing things ‘for’ someone.” Id.

53. See What Teachers Need to Know About Restorative Justice, supra note 27; see also Johnson, supra note 51.

54. Gonzalez, supra note 19, at 48.

55. Id.


57. See Archerd, supra note 27, at 797–98; see also Akilah Weber, AB 2598 (Weber) Restorative Justice Practices, CAL. STATE ASSEMBLY, https://static1.squarespace.com/static/5f99f0f38f2e5d3e834fdeee7/t/62ae9db0cbe75b247a20e1/1655610806686/AB+2598%28Restorative+Justice%29+Fact+Sheet.pdf (Feb. 18, 2022) (“[Restorative Justice] practices also emphasize building strong relationships among students, staff, teachers, administrators, and parents while creating safe, productive learning environments for all.”).

58. Fronius, supra note 30, at 9.

59. Id.
that hurt.\textsuperscript{60} This discussion encourages the offending student to participate as they take responsibility for their conduct.\textsuperscript{61}

Restorative Justice requires engagement from all parties, and if the offending student refuses to participate or repair the harm, Restorative Justice cannot work.\textsuperscript{62} When students push back or refuse to participate, Restorative Justice Facilitators coach students and families through difficult conversations.\textsuperscript{63} Restorative Justice Facilitators operate as school staff tasked primarily with implementing Restorative Justice in schools.\textsuperscript{64} The Facilitator’s vital role supports staff because teachers do not always have the time or training to guide challenging students through Restorative conversations.\textsuperscript{65}

Restorative Justice provides a structured framework to develop a caring school community and to guide students through change. Without a relationship foundation, it is challenging for students to change.\textsuperscript{66} Students can bring their values to the classroom, creating an equitable environment where students feel a sense of belonging as they

\textsuperscript{60} See Archerd, \textit{supra} note 27, at 797–98; Weber, \textit{supra} note 57. ("There is growing data that shows exclusionary discipline such as suspensions and expulsions are used at extraordinary rates and disproportionately along lines of race, gender, and ability status. Further, exclusionary discipline has been strongly linked to student disengagement, drop out, and entanglement with the school-to-prison pipeline.").

\textsuperscript{61} Archerd, \textit{supra} note 27, at 797–98.

\textsuperscript{62} See \textit{What Teachers Need to Know About Restorative Justice, supra} note 27.


\textsuperscript{64} See \textit{OAKLAND UNIFIED SCH. DIST. HUM. RES. SERVS. & SUPPORT, School-Based Facilitator, Restorative Practices- Community Schools & Student Services, supra} note 63; \textit{WACO INDEP. SCH. DIST. Job Description, supra} note 64 (discussing the qualifications for a Restorative Justice Facilitator at the school, which include the ability to facilitate difficult conversation with both youth and adults); Interview with Christopher Garcia, \textit{supra} note 26.

\textsuperscript{65} See \textit{What Teachers Need to Know About Restorative Justice, supra} note 27.

\textsuperscript{66} See \textit{Oakland Unified School District Restorative Justice in Schools, supra} note 35.
share their experiences in a safe, structured environment.67 As a result, students are less likely to be disruptive.68

Restorative practices keep students in the classroom where they can learn without interruption, minimizing disproportionate discipline so that students can reach their full potential.69 Research studies in Pennsylvania, California, and Colorado illustrate that Restorative Justice practices are associated with decreased office referrals, expulsions, suspensions, student absenteeism, and truancy.70 These studies demonstrate how Restorative Justice practices improve student-teacher relationships, create a positive school environment, and enhance social-emotional learning skills.71 For example, one Oakland, California school staff survey found that 70% of respondents reported an improved school climate due to Restorative Justice.72 Oakland evaluators also discovered that graduation rates rose dramatically in schools that implemented Restorative Justice programs; specifically, graduation rates rose by 60%, as compared to a 7% increase in schools without Restorative Justice programs.73 In a survey of Pittsburgh public schools, two-thirds of surveyed staff in schools implementing Restorative Justice programs asserted that Restorative Justice improved their student relationships.74

B. The Rise of Restorative Justice: A Brief History

Restorative Justice first emerged in the United States in the 1970s through the criminal justice system.75 A 2005 census report by Bazemore

67. Id.
68. Id.
69. Webinar: Addressing Disproportionate Discipline in Schools Webinar, supra note 22.
72. Gregory & Evans, supra note 70.
73. Id.
74. Id.
and Schiff revealed evidence of Restorative Justice’s effectiveness in the juvenile criminal justice system.76 After conducting their census, justice and education systems began collaborating to address the powers of suspension and expulsion in fueling the school-to-prison pipeline.77 The collaboration accelerated Restorative Justice implementation in United States public schools as an alternative discipline approach, unwittingly resulting in implementation challenges.78

1. A Resistance Abroad: Restorative Justice Around the World

Restorative Justice practices have long been recognized and practiced around the globe.79 Pre-modern native cultures in the South Pacific and Americas constructed Restorative Justice as an approach to conflict.80 Restorative Justice, specifically in public education, originated in Australia in the 1990s when a Queensland high school implemented Restorative Justice in response to violence at a school-sanctioned event.81 Australia’s government initiated Restorative Justice funding, expanding Restorative practices into over 100 schools.82 Initial pilot studies from this era suggest that students, staff, and teachers felt satisfied with Restorative Justice and sensed that it was fair.83 Following the Queensland expansion, other

76. Fronius, supra note 30, at 7. The report consisted of a census on Restorative Justice practices in the U.S. justice system. The report identified 773 programs throughout the country and found that practices such as restorative dialogue, offender mediation, and conferring were potentially effective approaches to engaging stakeholders and community members and to repairing harm.

77. Id.


80. Fronius, supra note 30, at 5.

81. See Fronius, supra note 30, at 7 (“It is commonly believed that Australia pioneered the use of [restorative justice] in school settings.”); Gonzalez, supra note 26, at 284.

82. Fronius, supra note 30, at 7.

83. Id.
Australian states, New Zealand, the United Kingdom, some European nations, Canada, and the United States began adopting Restorative Justice practices.84

2. A Resistance at Home: Restorative Justice in the United States

United States Restorative Justice originated in the criminal justice system in the 1970s, and due to its effectiveness, the criminal justice system broadened its use into the juvenile justice system.85 Due to strong parallels between Restorative Justice in the juvenile justice system and in schools, United States public schools began implementing Restorative Justice policies and practices in the 1990s.86 Early-adopting states included California, Colorado, Illinois, Minnesota, and Pennsylvania.87

Despite these early success stories, most U.S. states have only recently begun incorporating Restorative Justice into their education laws.88 For example, West Coast states such as California, Nevada, Washington, and Idaho now have school-based Restorative Justice laws incorporated into their education laws.89 On the east coast, states such as Maryland, Massachusetts, and Maine now also have school-based Restorative Justice laws incorporated into their state education laws.90 Midwest and southern states, including Texas, Florida, New Mexico, and Nebraska, have also incorporated school-based Restorative Justice laws.91

Before the rise of Restorative Justice in the United States public school system, zero-tolerance policies permeated school discipline.92 In the 1980s, federal drug enforcement agencies implemented “war on drugs” policies,
leading to a “safe-schools” movement and zero-tolerance policies.93 The “war on drugs” resulted in longer jail sentences and mandatory crime sentencing schemes, culminating in two pivotal pieces of legislation: the Gun-Free Schools Act of 1994 and the Safe and Drug-Free Schools and Communities Act of 1994.94 These two legislative pieces mirrored a strong desire for school safety and security.95 The legislation and rise in mass-shooting incidences in the 1990s and 2000s resulted in overly punitive, zero-tolerance discipline policies toward student misbehavior.96

The states that began implementing Restorative Justice practices in the 1990s incorporated the practices for multiple critical reasons, but with one specific goal: allowing schools to consider alternatives before implementing exclusionary discipline practices such as suspension or expulsion.97 Unlike exclusionary policies, Restorative Justice practices created healthier learning environments, increased safety in schools, and prevented students from entering the juvenile justice system.98 For example, Oakland Unified School District data demonstrates that high schools implementing Restorative Justice had 56% fewer dropouts from 2010-2013 compared to 17% for non-Restorative Justice schools.99

Although Restorative Justice has noble purposes and good intentions, little research exists on Restorative Justice’s effects on individuals or schools because most research has focused on American criminal law.100 However, existing studies and research regarding Restorative Justice’s benefits are promising.101 One Pennsylvania study found that student misbehavior recidivism rates decreased.102 Discipline referrals declined by 57%, in-school suspensions decreased by 35%, out-of-school suspensions diminished by 77%, and student expulsion dropped to only one student for the entire year.103

93. Id.
94. Id.
95. See Archerd, supra note 27, at 765.
96. See Archerd, supra note 27, at 765, 767; Johnson & Naughton, supra note 92, at 71.
97. See Gonzalez, supra note 19, at 54.
98. Id. at 54–55.
100. Gonzalez, supra note 19, at 50.
101. See Fronius, supra note 56, at 20–21.
102. Id.
103. Id. at 21.
3. A State-Wide Resistance: Restorative Justice in California

While the benefits of successfully-implemented Restorative Justice programs are extensive, most California schools appear to address student discipline ineffectively, thus falling short of the potential for schoolwide change that Restorative Justice offers. California has not mandated a clear implementation plan for public schools, resulting in insufficient funding, training, and buy-in from teachers, parents, and administrators. California schools have only partially implemented Restorative Justice, leading to chaotic classroom environments and some skeptical teachers.

i. A History

California’s school system began incorporating Restorative Justice practices in 2006 when the Oakland Unified School District piloted Restorative Justice in its schools. By 2007, one Oakland Unified middle school adopted a whole-school approach and witnessed suspension rates decrease significantly. Before 2007, the middle school averaged fifty suspensions per 100 students. After 2007, the rate fell to six suspensions per 100 students.

104. See Gonzalez, supra note 19, at 63; Fronius, supra note 30, at 20; Interview with Christopher Garcia, supra note 26; Torres, supra note 31 (collectively providing support and examples showing ineffective implementation of discipline in schools).

105. See CAL. EDUC. CODE § 49055 (2022); Washburn & Willis, supra note 1; Jones, supra note 25; Fronius, supra note 30, at 11.

106. See Washburn & Willis, supra note 1. Contra Carolyn Jones, L.A. Unified’s Ban on Willful Defiance Suspensions- Six Years Later, EdSOURCE (Dec. 13, 2019), https://edsource.org/2019/how-l-a-unifieds-ban-on-willful-defiance-suspensions-turned-out-six-years-later/620949#:~:text=Newsom%20signed%20Senate%20Bill%20419,for%20kindergarten%20through%203rd%20grade ("Despite some initial pushback, teachers say they’ve come to appreciate the change in discipline policy. Staff training, an increase in counselors and input from teachers has made the difference . . . . Because of the investment in discipline alternatives, teachers say they have more options when trying to help students with behavior problems . . . .”).

107. Gonzalez, supra note 26, at 305.

108. Id. at 105–06.

109. Id. at 306.
In 2014, the second-largest school district in the nation, Los Angeles Unified, began implementing Restorative Justice practices in 150 district schools, specifically, schools with high numbers of African American and disabled students. By 2015, the Los Angeles Unified School District ended suspensions for K-12th grade students. In 2014, the San Francisco Unified School District school board also began incorporating Restorative Justice practices in all its schools.

As California school districts began implementing Restorative Justice practices in their schools, California educators and policymakers launched legislation and public school discipline reform. In 2019, California enacted California Education Code section 48901.1, a statute prohibiting California schools from suspending students in first through fifth grades for disrupting school activities or willfully defying school authority. The statute included a subdivision set to expire on July 1, 2025, prohibiting similar suspensions for sixth through eighth grade students. California policymakers took further steps using discipline rates as an official school climate indicator. The California School Climate indicator provides school communities with an in-depth analysis of their strengths, weaknesses, and student, staff, and family perceptions. If school districts do not meet a school climate standard, they must work

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115. CAL. EDUC. CODE § 48901.1(a)-(b) (2019) (“A pupil enrolled in a charter school in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended on the basis of having disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.”).
116. *Id.*
to amend their shortcomings, such as by working directly with county
superintendents and the Department of Education.119

California’s efforts to fix school discipline and reduce suspensions and
expulsions have resulted in fewer student suspensions since
2012.120 School administrators suspended 5.5 per 100 students in 2012
for willful defiance and, by 2019, only suspended one per 100 students
for willful defiance.121 California’s expulsion rate remained at 0.1%
between 2017 and 2022, except for an expulsion drop to zero during the
2020-2021 school year.122

ii. Current Problems Implementing Restorative Justice in California’s
Public Schools

Laws affecting the budgeting process for California school districts
lead to the uneven and ineffective implementation of Restorative
Justice programs.123 Proposition 4 requires the California government
to reimburse local governments for any costs related to state
mandates.124 Consequently, California legislators avoid state mandates
to circumvent the reimbursement requirements for associated costs.125
A phenomenon results where important legislation flows through
California Legislature committees, and committees remove the
mandating language through the legislative process.126 This financial

119. See Losen & Martinez, supra note 28; see also California’s System of
   Support, CAL. DEPT. OF EDUC., https://www.cde.ca.gov/sp/sw/t1/csss.asp (last

120. Losen & Martinez, supra note 28.

121. Id. at 15–16.

122. Id. March 2020 marked the beginning of one year of California’s public-
   school students learning online due to the COVID-19 pandemic. Dana Amihere,
   et al., One Year Later: Covid’s Impact on California Education, EdSOURCE,
   /650855 (last visited Aug. 23, 2023).

123. See School Districts: In Charge of Most Local Schools, ED100,
   https://ed100.org/lessons/state (last updated Aug. 2017); see also Interview with
   Christopher Garcia, supra note 26.

124. School Districts: In Charge of Most Local Schools, supra note 123.

125. Id.

126. See Assembly Committee on Education, STATE OF CAL. 1, 1, 10 (Apr. 18,
   CAL. EDUC. CODE § 49055 (2022).
scheme results in non-mandated legislation, and non-mandated legislation results in ineffective restorative Justice implementation.\textsuperscript{127} Other financial incentives, such as funding based on enrollment numbers, discourage honest reporting and create a system where money comes before students.\textsuperscript{128} California leadership’s insufficient support and Restorative Justice’s ambiguous definition and procedural guidelines create a public school system filled with teachers, administrators, and parents skeptical of Restorative Justice’s effectiveness.\textsuperscript{129}

iii. Financial Incentives and Mandate Problems

California gives school districts the authority to govern themselves.\textsuperscript{130} For example, California allows school districts to decide on and implement rules on disciplinary proceedings,\textsuperscript{131} which results in district leaders crafting “vague rules that provide little due process.”\textsuperscript{132} Highly punitive, discriminatory, and intrusive discipline practices disproportionately target students by race, disability status, and socio-economic status.\textsuperscript{133} This highly punitive and discriminatory system destroys students’ futures.\textsuperscript{134}

\begin{itemize}
\item \textsuperscript{127} See School Districts: In Charge of Most Local Schools, supra note 124; Interview with Christopher Garcia, supra note 26.
\item \textsuperscript{128} See Tonja Jacobi & Riley Clafton, The Law of Disposable Children: Discipline in Schools, SSRN, 1, 25 (2022) (discussing the “push-out” process, whereby students are encouraged to leave schools voluntarily or told that they are being transferred to an alternative school, so as to not reflect in the school’s official expulsion numbers).
\item \textsuperscript{129} See Fronius, supra note 30, at 11; Lydia Nussbaum, supra note 26 at 623 (“Indeed if there were one thing about which the restorative justice field could agree it would be that there is no agreed-upon definition or model of ‘restorative justice.’’’); Amy Tang-Paterno, 2023-24 Governor’s Education Budget Overview, STATE OF CAL. DEP’T OF EDUC., https://www.cde.ca.gov/fg/fr/eb/documents/govsedbudgetoverview2324.pdf (last visited Jan. 30, 2023); Carolyn Jones, supra note 25.
\item \textsuperscript{130} The State: The Buck Stops Here, Ed100, https://ed100.org/leessons/state (last updated Aug. 2017).
\item \textsuperscript{131} Jacobi & Clafton, supra note 128, at 1.
\item \textsuperscript{132} See id.
\item \textsuperscript{133} Id.
\item \textsuperscript{134} Id.
\end{itemize}
California schools’ broad discretion and authority notwithstanding, the California State Government controls its schools’ funding. California exerts its control through laws and regulations, reflected in California’s Education Code. California administers and enforces state and federal education laws and supports school districts with technical assistance and data collection.

In 1979, California voters passed Proposition 4, which created a constitutional obligation for California to reimburse local government entities, such as school districts, for costs associated with implementing state mandates. California must pay for state-imposed mandates on public school districts, resulting in constant tension and litigation. Consequently, the California legislature avoids requiring or mandating school districts to do anything that requires funding. For example, California cannot make school districts collect data or provide students with access to feminine hygiene products without incurring significant reimbursement costs.

The California Governor and Legislature create the state budget through a democratic, back-and-forth process. The budget directs the Department of Education on how to spend state education funds. Local school boards prepare the school districts’ budgets, partly guided by Proposition 98, which sets minimum funding levels for K-12 schools.

136. *Id.* See generally CAL. EDUC. CODE.
138. *School Districts: In Charge of Most Local Schools*, supra note 123.
139. *Id.*
140. *Id.*
141. *Id.*
143. *Id.*
144. *Id.*
California provides a majority of K-12 school funding. Since 1990, California has financed between 54% and 61% of school funds, and the typical local funding varies between 32% and 36%. California’s share of public school funding typically declines more than that of other states during recessions but rises faster during periods of economic recovery. From 2020-2021, California’s share was lower than it has been in 30 years, at 51%. Between 2020 and 2022, California invested over $5 billion in one-time pandemic recovery funds. Although California has provided record funding following the COVID-19 pandemic, fiscal challenges remain due to falling birth rates and post-pandemic enrollment drops. Additionally, California’s per-student spending is higher than the national average and ranks 19th in spending per student among states. However, when adjusting for labor-cost differences across states, California’s rank drops to 35th.

One critical problem exists where certain state and federal financial incentives discourage transparency and curb prioritization of children. School district federal funding depends on student enrollment numbers, which means that school districts have a contrary incentive to maintain high enrollment numbers. However, student enrollment for federal funding purposes does not measure end-of-the-year student presence. Since funding is largely unaffected by end-of-year drops in student enrollment, some schools directly push students out of school via referrals. Rather than expel students, school administrators may refer students to other schools. School districts must report expulsion

146. Id.
147. Id.
148. Id.
149. Id.
150. Id.
151. Id.
152. Id.
154. Id.
155. Id.
156. Id.
numbers to California, and financial incentives encourage schools to underreport expulsions.\textsuperscript{157} If the school exceeds a certain number of expulsions, California can put the school on a “corrective action plan,” which significantly limits the school’s discretion.\textsuperscript{158}

Other financial incentives exist that encourage school districts to put children first by rewarding Restorative Justice implementation.\textsuperscript{159} Incentives include a “carrot” and a “stick” component.\textsuperscript{160} The “carrot” of grant money is available to school districts implementing Restorative Justice practices.\textsuperscript{161} When these schools suspend or expel students, thus exhibiting a decrease in their attendance numbers, the schools receive the “stick” of decreased funding.\textsuperscript{162} Some states require that schools return money for students who drop out or are expelled, resulting in a strong financial incentive to keep students in schools and out of the juvenile justice system.\textsuperscript{163}

One crucial problem exists when school districts begin implementing Restorative Justice practices but available funding is insufficient.\textsuperscript{164} Many school administrators are reluctant to introduce Restorative Justice practices when the school is “overstuffed” with unfunded mandates.\textsuperscript{165} Restorative Justice implementation requires significant resources.\textsuperscript{166} For example, Restorative Justice requires hiring Restorative Justice coordinators, facilitators, and counselors and paying for staff training.\textsuperscript{167} Insufficient funding is a significant obstacle to Restorative Justice implementation in California, and many school districts discontinue their administration of these programs due to a lack of financial support.\textsuperscript{168}

\begin{itemize}
  \item 157. \textit{Id.} at 25.
  \item 158. \textit{Id.}
  \item 159. \textit{See Archerd, supra} note 27, at 798–99.
  \item 160. \textit{Id.}
  \item 161. \textit{Id.}
  \item 162. \textit{Id.}
  \item 163. \textit{Id.}
  \item 164. \textit{See id.}
  \item 165. \textit{Id.}
  \item 166. \textit{See Fronius, supra} note 30, at 12; Interview with Christopher Garcia, \textit{supra} note 26.
  \item 167. \textit{See Fronius, supra} note 30, at 12; Interview with Christopher Garcia, \textit{supra} note 26.
  \item 168. Gonzalez, \textit{supra} note 26, at 320–321 (“Despite quantitative and qualitative evidence of the positive impacts of school-based restorative justice programs, many
iv. Partial Implementation Complications

California’s public education system lacks fully-implemented Restorative Justice practices because the Restorative Justice framework is ambiguous, and California’s leadership fails to support full implementation, resulting in skeptical teachers and insufficient training.169

Restorative Justice is hard to define and confuses teachers, administrators, staff, and parents.170 School districts do not adhere to a universal definition of Restorative Justice.171 Individual schools implementing Restorative Justice practices uniquely interpret Restorative Justice.172 Restorative Justice represents one option among many discipline alternatives, giving school staff and administrators authority to dilute Restorative Justice practices.173 School administrators choose whether to use Restorative Justice practices on students, which increases the risk that implicit or explicit bias and discrimination may prevent some students from access to Restorative Justice.174 One Arkansas study illustrated that uneven compliance results when schools have the discretion to implement Restorative Justice.175 Furthermore, schools with relatively more students of color are less likely to comply with Restorative Justice implementation.176

169. See Fronius, supra note 30, at 11 (“[S]ome educators and other stakeholders are resistant to RJ because it is sometimes perceived as being ‘too soft’ on student offenses.”); Nussbaum, supra note 26, at 586–623; Tang-Paterno, supra note 130.


171. Gonzalez, supra note 19, at 58–60.

172. Id.

173. Id. at 61 (“There are no studies indicating that individual decision-making is devoid of bias in the context of restorative practice.”).

174. Id. at 60–61.


176. Id.
California public schools do not fully implement Restorative Justice practices because many California teachers and administrators view Restorative Justice practices as a “trend” or a “social experiment.” One California study found that school staff continued to unlawfully issue suspensions for willful defiance of school rules and policies, even though the staff was trained in Restorative Justice and de-escalation practices. One Oakland public school district study assessed the varying Restorative Justice implementation and training levels among its schools. Researchers in that study noticed that schools without Restorative Justice, or those launching Restorative Justice programs with few practices in place, encountered a widened Black-White discipline gap. The study illustrates the ineffectiveness of partially-implemented Restorative Justice programs. In contrast, other studies indicate that proactive, whole-school approaches to Restorative Justice are the most effective in improving student outcomes.

As of 2023, California’s Governor does not appear to advocate for public education reform through state legislation. The Governor’s budget for 2023-2024 did not propose making changes to any existing educator programs. The Governor’s budget is merely “committ[ed] to the thoughtful implementation of existing educator programs in the coming year.” The present top-down complacency reflects California’s low prioritization for Restorative Justice implementation in its public education system. For example, the San Francisco Unified School District placed Restorative Justice implementation as one of its top thirteen initiatives in 2012.

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177. Interview with Christopher Garcia, supra note 26.
178. Craigie, supra note 175, at 8.
179. Fronius, supra note 30, at 20.
180. Id.
181. See id.
182. Gonzalez, supra note 19, at 62.
183. See Tang-Paterno, supra note 129.
184. Id.
185. Id.
186. See also Gonzalez, supra note 26, at 307.
A significant lack of state support results in insufficient teacher, school staff, and administrator training. A 2016 California Teachers Association survey stated that 90% of surveyed teachers commented that they need more training and support to successfully depart from zero-tolerance discipline practices. Forty percent of the nearly 3,500 surveyed teachers and school staff declared that they received little or no alternative discipline training. The California Teachers Association president emphasized this great need for support and training:

[N]ot all districts are using these alternative discipline techniques, which leaves teachers to deal with disruptive students without the support of alternative discipline programs . . . . When done properly, Restorative Justice [does] work. But we need to make sure all districts have the support to offer these programs.

Restorative Justice implementation requires time, training, buy-in, and school resources. For example, teachers must attend Restorative Justice training, conduct circles during classroom instruction, and spend more time talking with individual students. Restorative Justice training and classroom integration are additional duties outside a teacher’s traditional job description. The perception that Restorative Justice is too soft on student discipline further hinders buy-in from teachers, administrators, and parents. In addition to funding requirements for support staff and training, Restorative Justice requires a school-wide attitude shift away from punishment. A shift such as this could take three to five years, even with fully-funded Restorative Justice programs.

can cause initiative fatigue. “When the [initiative] changes are all occurring at the same time, many educators feel that they cannot keep up. They go with the changes from the top because those are the ones that come with more pressure and are often tied to funding. When this happens, teachers feel the need to let go of the changes they want to make because there is only so much time in the day.”).

188. See Jones, supra note 25.
189. Id.
190. Id.
191. Id.
192. Fronius, supra note 30, at 11.
193. Id.
194. Id.
195. Id.
196. Id.
197. Fronius, supra note 30, at 11.
Research studies illustrate additional problems with Restorative Justice implementation. In one Pittsburgh study, teachers’ classroom management deteriorated when using Restorative Justice practices, and students became less respectful and supportive of each other. Teachers reported bullying and more instructional time lost to disruption. Busy, untrained teachers rarely have time to facilitate Restorative practices effectively, leading to significant classroom disruption. A recent survey by the American Psychological Association revealed an increase in violent incidents against teachers. Sixty percent of the nearly 15,000 surveyed school staff stated that they felt victimized in some way at work following their school’s implementation of Restorative Justice practices.

v. California Law

California legislators and district leaders have addressed school suspensions and expulsions in many areas. Legislators and district leaders promote Restorative Justice, invest financially into Restorative Justice programs, require districts to address suspensions and expulsions in their Local Control Funding Formula, collect and publish school data, and hold districts accountable through public reporting. California has also conducted or funded voluntary Restorative Justice training. Unfortunately, fewer teachers attend voluntary training.

200. Id. (“[S]tudents did not feel that restorative justice made them safer.”).
201. See What Teachers Need to Know About Restorative Justice, supra note 27 (“[B]usy teachers are understandably leery of trying yet another program that’s supposed to solve all their problems.”); Izumi, supra note 199.
203. Id. (The studies did not report whether the schools implemented a school wide or partial Restorative Justice policy.).
204. Jones, supra note 25.
205. Id.
206. See Jones, supra note 25; Interview with Christopher Garcia, supra note 26; Steven Reiner, Legal Update Memo No. 22-2022 - Mandatory Employee Trainings (K-12), SCLS (Sept. 30, 2022), https://sclscal.org/legal-update-memo-
In 2012, California signed a bill that authorized a school district superintendent or principal to use age-appropriate alternatives to suspension or expulsion. In 2015, California Assembly members drafted a bill that would have required public schools to implement Restorative Justice programs. However, the bill died in Assembly Appropriations. In 2019, California enacted a statute prohibiting California schools from suspending students in first through fifth grade for disrupting school activities or willfully defying supervisor, teacher, administrator, or school staff authority. The statute included a subdivision set to expire on July 1, 2025, prohibiting similar suspensions for grades six through eight.

In 2022, the California Legislature enacted a new law, California Education Code section 49055, that requires the California Department of Education to create evidence-based best practices for Restorative Justice implementation on school campuses. Evidence-based best practices must be available on the Department of Education’s website by June 1, 2024, and are part of a larger effort to improve campus culture and climate. The statute directs the Department of Education to consult with school-based Restorative Justice practitioners, educators, students, community partners and members, and nonprofit and public entities. The statute further encourages the Department of Education to consider identified best practices and resources from other programs.

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207. Weber, supra note 57.
208. Id.
209. Id.
211. Id.
212. CAL. EDUC. CODE § 49055 (2022).
213. Id.
214. Id.
215. Id. (“When developing best practices . . . the department [of Education] is encouraged to, to the extent feasible, take into account resources and best practices that have been identified or developed as part of aligned efforts, including, but not limited to, the Scaling Up MTSS Statewide (SUMS) Initiative, the California...
California Assembly members introduced the statute’s initial draft to the California Legislature in February 2022.\textsuperscript{216} The initial draft included language requiring school districts to implement Restorative Justice practices as a state-mandated local program.\textsuperscript{217} Further, the bill instructed California to reimburse school districts for Restorative Justice implementation costs.\textsuperscript{218} The California Legislature later amended the bill, removing language mandating Restorative Justice practices.\textsuperscript{219} The California Legislature also removed language requiring school district reimbursement for Restorative Justice implementation costs.\textsuperscript{220} The statute’s final version contained language that guided, directed, and encouraged, rather than mandated, Restorative Justice in public schools.\textsuperscript{221}

\textbf{II. DISCUSSION}

California fails to mandate public school Restorative Justice, which means that California school districts cannot expect state reimbursement for their expenditures on Restorative Justice programs.\textsuperscript{222} As a consequence of California’s failure to fully fund Restorative Justice in public schools, many of these programs fail.\textsuperscript{223} California must pass a statute mandating Restorative Justice practices and fully fund Restorative Justice implementation. State funding would resolve many issues of partial Restorative Justice implementation.\textsuperscript{224} A clear California statute mandating public school Restorative Justice will

\textsuperscript{217} Id.
\textsuperscript{218} Id. (“This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to [reimbursement provisions in the California Constitution].”).
\textsuperscript{220} Id.
\textsuperscript{221} See § 49055.
\textsuperscript{222} See Gonzalez, supra note 26, at 320; Washburn & Willis, supra note 1.
\textsuperscript{223} See Gonzalez, supra note 26, at 320; Washburn & Willis, supra note 1.
\textsuperscript{224} See Washburn & Willis, supra note 1.
guide school districts, provide needed funds for public schools to enact their Restorative Justice programs, and encourage parent, teacher, and student buy-in.225

A. Mandatory and Clear Legislation for Restorative Justice Classroom Implementation

Mandatory legislation is the primary solution for Restorative Justice classroom-implementation. Currently, California law encourages school districts to incorporate Restorative Justice practices, but does not require it.226 California only mandates educational and Local Control and Accountability Plan (“LCAP”) requirements.227 LCAP is a local educational agency tool to plan actions, set goals, and allocate resources to meet those goals.228 If California mandated Restorative Justice in public schools, California teachers would implement Restorative Justice without much resistance.229 California teachers usually support district initiatives championed by California teachers’ unions, and California teachers’ unions generally promote state-mandated initiatives.230

When California mandates Restorative Justice practices, the legislation must be clear.231 Many public schools have faced challenges implementing Restorative Justice practices due to procedural ambiguity, and school boards, administrators, and teachers all require clear guidance for effective disciplinary procedures.232 School administrators and staff are only likely to implement whole-school Restorative Justice approaches with clear legislation.233 Unclear

225. See Washburn & Willis, supra note 1; School Districts: In Charge of Most Local Schools, supra note 124; Interview with Christopher Garcia, supra note 26.

226. See § 49055.

227. See Interview with Christopher Garcia, supra note 26; Local Control and Accountability Plan, CAL. DEPT. OF EDUC., https://www.cde.ca.gov/re/lc/ (last updated Mar. 20, 2023).

228. Local Control and Accountability Plan, supra note 230.

229. Interview with Christopher Garcia, supra note 26.

230. Id.

231. See Nussbaum, supra note 26, at 587.

232. See Id.

233. Id.
legislation gives school districts inordinate discretion to interpret vague concepts of Restorative Justice, which leads to confusion.\textsuperscript{234}

In 2019, Maryland legislated Restorative Justice practices and identified specific practices with clear language.\textsuperscript{235} For example, the statute defined and plainly explained public school Restorative Justice.\textsuperscript{236} Further, Maryland’s statute mandated Restorative Justice implementation in public schools.\textsuperscript{237} Maryland’s mandate resulted in Restorative Justice whole-school models, where Restorative Justice practices were integrated throughout the entire school.\textsuperscript{238} Following Maryland’s mandate, Baltimore City Schools’ suspensions dropped by 44\% in one year, 64\% of school staff reported improved student respect for staff, and 72\% of staff reported an improved school climate.\textsuperscript{239} Maryland funds Restorative Justice through grants and requires Restorative Justice implementation and program quality data.\textsuperscript{240} California must model its Restorative Justice statutes after Maryland’s successful, mandatory legislation. Although California’s recent statute requires the Department of Education to present Restorative Justice best

\begin{footnotesize}
234. Id.
236. Id. (“In this section, ‘restorative approaches’ means a relationship-focused student discipline model that: (i) [i]s preventative and proactive; (ii) [e]mphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community; (iii) ... focuses on accountability for any harm done by [] problem behavior; (iv) [a]ddresses ways to repair the relationships affected by [] problem behavior with the voluntary participation of an individual that was harmed.”). Part (b) of Section 7-306 also includes a variety of examples of restorative approaches, including mediation, trauma-informed care, and rehabilitation.
237. See id. (mandating the State Board to provide “educational and behavioral interventions, restorative approaches, counseling,” student-parent conferencing, and alternative programs, including certain disciplinary measures).
\end{footnotesize}
practices and give clear guidance to public school administrators and staff, this legislation is meaningless if not mandatory.241

Clear, mandated legislation will facilitate the effective implementation of Restorative Justice practice into public education.242 Economics and financial requirements, however, are major hurdles to mandating these practices.243 The California government controls the public education purse.244 Proposition 4 constitutionally obliges the State to reimburse school districts that implement State mandates.245 Consequently, the California Legislature tends to refrain from requiring school districts to implement anything that costs money.246 Insufficient funding prevents many school districts from implementing Restorative Justice practices effectively, and without funding, many Restorative Justice programs fail.247 Thus, to yield successful Restorative Justice programs, California must not only mandate Restorative Justice in public schools, but it must also fund the programs.248

California should, like Maryland, mandate a “whole-school approach” to see Restorative Justice’s positive effects.249 A “whole-school approach” encompasses preventative and reactive interventions.250 The preventative component to a “whole-school approach” employs a conflict-resolution-based curriculum and classroom-management techniques.251 The reactive component to this approach responds to student misbehavior and fixes harm.252 A “whole school approach” also creates a school climate that sustains relationships between every school

241. See § 49055; Nussbaum, supra note 26, at 587.
242. See Nussbaum, supra note 26, at 587; see also § 7-306.
243. See Archerd, supra note 27, at 806–807.
244. The State: The Buck Stops Here, supra note 131 (“Although California vests most authority in school districts, the state government still exerts considerable power over education directly because, well, it controls the money.”).
245. School Districts: In Charge of Most Local Schools, supra note 124.
246. Id.
247. Gonzalez, supra note 26, at 320.
248. See School Districts: In Charge of Most Local Schools, supra note 124.
249. See Nussbaum, supra note 26, at 640; School-Based Restorative Justice Legislation, supra note 241, at 2.
250. Nussbaum, supra note 26, at 640.
251. Id.
252. Id.
community member. This approach requires a full-time Restorative Justice coordinator within the school community, training for the entire school community, and practical, realistic goals. California should promote a comprehensive, “whole-school approach” and mandate short, medium, and long-term implementation goals to effectively implement Restorative Justice.

B. Beyond Restorative Justice: Necessary Integration Techniques and Practices

In addition to beginning Restorative Justice programs, California public schools should implement additional practices and solutions to alter school climates, keep students in school, and diminish the discriminatory discipline gap. California should implement the following solutions to further improve its schools’ climates and move toward Restorative Justice: (1) establish alternative learning centers, (2) add extracurricular activities, (3) train parents, teachers, and administrators in Restorative Justice, and (4) mandate student discipline data measurements.

First, alternative learning centers eliminate exclusionary practices by providing community and support without exclusion to particularly troublesome students. These centers support students who exhaust all Restorative Justice remedies and surpass the suspension or expulsion line. Additionally, these learning centers provide troublesome students with an alternative learning community and aim to reduce student exclusion and prioritize academic achievement. For example, Maryland adopted an alternative learning center approach for

254. Id.
255. See Nussbaum, supra note 26, at 640; see Gonzalez, supra note 26, at 328–29.
256. See Princess Cramer-Drazkowski, Analyzing Alternative Learning Centers: Challenges and Opportunities for Maintaining Students, MSW CLINICAL RSCH. PAPER 1, 1–2 (2013) (discussing how alternative learning centers usually have extended hours, so students can incorporate their own hours to the school day, and weekly check-in options for students that cannot come to campus every day of the week); see MD. CODE ANN., EDUC. § 4-319 (LexisNexis 2023).
257. See § 4-319.
258. See Cramer-Drazkowski, supra note 256, at 1–2; see § 4-319.
students who assaulted school staff, carried a deadly weapon, or committed other criminal acts.259

Second, California should require public schools to add or increase extracurricular activities on campus. One Los Angeles public school recently added extensive extracurricular activities and implemented Restorative Justice practices with staggering results.260 The school dealt with fewer behavior problems and had zero expulsions.261 The results of the program showed that when students want to be part of an activity or opportunity, they become more engaged and involved, and are thus more likely to attend and enjoy school.262 In one 1992 study of public high school seniors, 50% of seniors involved in extracurricular activities reported no unexcused school absences, compared to 36.2% of non-involved students.263 Around 50.7% of involved students never skipped classes, whereas 42.3% of all students never skipped.264 Furthermore, approximately 29.8% of involved students emerged in the top quartile of math and reading levels, as compared to only 14.2% of non-involved students who earned top math and reading levels.265

Third, effective Restorative Justice implementation requires education and training for parents, teachers, and administrators.266 A Restorative Justice climate of respect and responsibility rooted in community relationships must perfuse the entire school body, from the

259. See § 4-319; Gonzalez, supra note 26, at 311 (“The Community Conferencing center, a nonprofit community-based organization, has worked in the Baltimore County School District since 1998 to provide alternatives to suspension and arrest.”).
261. Id.
262. Id.
264. Id.
265. Id. (“Although it cannot be known from these data whether the relationship between participation in extracurricular activities and success in school is causal, and although degree or intensity of participation is not measured, it is clear that participation and success are strongly associated as evidenced by participant’s better attendance, higher levels of achievement, and aspirations to higher levels of education.”).
266. Nussbaum, supra note 26, at 605–06.
classroom to extracurricular activities and faculty meetings. Restorative Justice requires support and buy-in from the entire school community, including students, parents, teachers, and administrators.

In 2019, many Los Angeles Unified School District teachers expressed appreciation for Restorative Justice implementation, despite some initial skepticism. Teachers’ skepticism turned to appreciation when the school district offered them Restorative Justice training. The school district also added counselors and invited student input. Classroom chaos results from a lack of training, so teacher training is critical. Restorative Justice training educates teachers on student misbehavior management. Parents, teachers, and administrators require training because training demonstrates the reasoning behind Restorative Justice, without which, a school community’s vision for a better future is often lost.

One Colorado middle school teacher shared how their school tried implementing Restorative Justice without training, funding, or resources with disastrous results. Teachers could not meet student needs, and severe misbehavior threatened school safety. To avoid failures such as the one described by the Colorado middle school teacher, California must implement Restorative Justice training for its teachers, parents, and staff.

267. Id. ("These principles must permeate the whole school—classroom teaching, extra-curricular programs, faculty and staff meetings, engagement with parents and the wider community, as well as school administrative operations.").
268. Jones, supra note 106.
269. Id.
270. Id.
271. Id.
272. See Gobir, supra note 198; Washburn & Willis, supra note 1.
273. See Gobir, supra note 198; Washburn & Willis, supra note 1.
274. See Fronius, supra note 30, at 13.
275. Allison Fried, If You Don’t Do Restorative Justice Right, Don’t Do It, EDUC. WEEK (June 13, 2019), https://www.edweek.org/leadership/opinion-if-you-wont-do-restorative-justice-right-dont-do-it/2019/06 (describing how a failed implementation of a restorative justice program in the school system, due to lack of funding and a non-uniform approach across the district, led to at least four documented assaults on teachers).
276. Id.
School administrators carry a higher burden than other staff because, in addition to needing training, they must demonstrate buy-in to teachers and school staff. Additionally, school administrators must make time for staff and teacher training. School staff training may resemble teachers and administrators sitting on chairs in a circle to discuss Restorative Justice practices and implementation in a safe, structured environment.

Effective training results in parents, teachers, and administrators understanding and supporting Restorative Justice efforts. One study suggested giving parents easy-to-read materials that explain Restorative Justice. The study further suggested holding parent conferences to explain Restorative Justice and how it differs from traditional discipline approaches. A Restorative Justice “whole school approach” requires training to sustain and ultimately requires patience from school administrators, parents, and teachers because it may take years to bear fruit.

Fourth, California can alter school climates and keep students in school by requiring schools to report disciplinary data and incorporate that data into accountability rubrics. The California Department of Education does not currently require data other than what specific discipline a student receives; it fails to account for other, perhaps more important, information. For example, the data fails to indicate whether school districts provide students with alternative schooling, and consequently cannot measure positive or negative school-community relationships.

278. Id.
279. Id.
280. See Fronius, supra note 30, at 14–15; see Jones, supra note 106.
282. Id.
283. Id.
286. See Jacobi & Clafton, supra note 128, at 21; see also Gonzalez, supra note 26, at 334 (discussing positive outcomes demonstrated with respect to school discipline, measured by data, by a program at North High School. For example, of the students who participated in the restorative justice program, 44% demonstrated a
Current data collection practices fail to measure student disciplinary referrals. Referrals may be supplanting suspensions in California schools due to financial incentives to keep suspension and expulsion numbers low. A state-mandated teacher-referral measurement would track and measure student discipline, detect possible teacher discrimination, and allow for deeper, more profound measuring of school-community relationships.

Restorative Justice funding requires evidence and real numbers; clear data collection provides these necessary numbers. Additionally, data measurements support effective state legislation. A California data collection mandate similar to Maryland’s mandate would generate evidence to encourage desirable practices and provide policymakers, advocates, families, and educators effective practice data. The data would give legislators accurate numbers and allow policymakers to effectively promote educational equity and justice.

CONCLUSION

As of 2023, many California public schools require more funding, training, and support from the State to effectively implement Restorative Justice programs. Although California policymakers and legislators have supported past initiatives to promote Restorative Justice in schools, current results demand improvement. In the absence of a clear mandate, California schools implement Restorative Justice practices with few resources, resulting in chaos.

reduction in school absences, 49% improved their timely school arrival, and expulsions from the school program were reduced by 85% in one year).

287. Interview with Christopher Garcia,
supra note 26.
288. See Losen & Martinez,
supra note 28; Jacobi & Clafton,
supra note 128, at 25.
289. Interview with Christopher Garcia,
supra note 26.
290. Gobir, supra note 198.
291. See Gonzalez,
supra note 19, at 57–58.
292. Id.
293. Id.
294. Washburn & Willis,
supra note 1.
295. See Jones,
296. See Washburn & Willis,
supra note 1.
Mandating Restorative Justice should be of paramount importance to California because its students’ futures are on the line. To successfully implement the changes that will alter school climates, keep students in school, and diminish the discriminatory discipline gap, California schools require clear, mandated legislation. Only an express mandate will resolve the issues discussed herein. Additionally, California should fund alternative learning centers, extracurricular activities, and Restorative Justice training. The State must also mandate disciplinary procedure data collection. Student-discipline data provides legislators and policymakers with reliable evidence to promote Restorative Justice in California’s public schools.

Restorative Justice implementation is a highly complex issue with many variables and participants. The stakes may be high, but so is the cost. Politicians and constituents must take steps to promote and pass effective legislation, which is a difficult but worthwhile task. While challenges certainly lie ahead, Restorative Justice mandates will prevail if the dire need for discipline change results in a bipartisan effort to protect student futures.

Laurel Garcia*

298. Interview with Christopher Garcia, supra note 26.
299. Gonzalez, supra note 19, at 57–58.
300. See Fronius, supra note 30, at 57–58.
301. See id. at 12.

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