

Testimony
Vermont Senate Committee on Judiciary
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Introductions

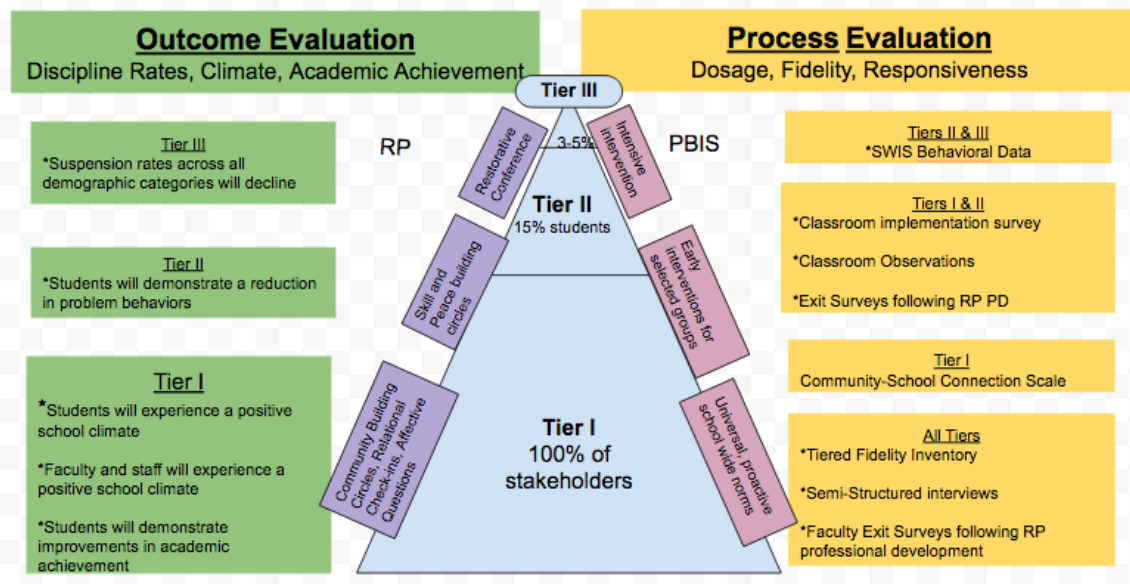
Good afternoon, my name is Bernice Garnett and I am an Associate Professor in the College of Education and Social Services at the University of Vermont. I have a masters and doctorate in public health, which is a discipline primary focused on primary prevention of deleterious outcomes through environmental and structural changes to systems, policies, procedures and programs. To date, most of my research has been on bullying, discrimination and youth harassment, school climate and obesity prevention. There is a great deal of energy federally and locally on the importance of school climate and redesign of school discipline policies in light of zero tolerance policy failure to prevent behaviors such as bullying, harassment and youth violence. In this lens, I became very interested in the utilization of restorative justice and restorative practices (RP) in K-12 schools as a means to not only address disruptive behaviors but to also repair harm, increase student agency, and most importantly, to promote a positive school climate.

Good morning, my name is Lance Smith and I am an Associate Professor in the College of Education and Social Services at the University of Vermont. I started my career in education as a 6th grade teacher, and then became a school counselor. Since earning my doctoral degree, I have engaged in research that focuses on implicit bias and social inequity. I've spent over decade empirically exploring how well-intended, beneficent, white, straight, cisgender counselors like myself, marginalize and even harm the very students that we care so much about, and more often students of color, LGBTQA students, and students with disabilities. In other words, what brings me here today, and what attracted me to Restorative Practices is a passion for equity in our schools, a passion that is informed by disquieting data that clearly indicates that our schools are not equal playing fields for kids of color, kids with disabilities and kids from low income households

Our remarks today are aligned with our disciplines of public health and counseling, our research interests in implicit bias and school climate. An important note on language, for the remainder of this testimony we will be using the term "Restorative Practices" instead of the term "Restorative Justice" for several reasons: 1) our partnering school district intentionally decided to utilize the term restorative practices to move away from connotations associated with the term "justice" and to also not retrigger families and students that may have previous relationships with the justice system, 2) we feel that the term restorative practices expands the mental frame and definitional assumptions about restorative justice by focusing on prevention.

Our remarks today are rooted in by our community engaged project with the Burlington School District to evaluate implementation and effectiveness of RP.

Parallel to national data and momentum, the Burlington School District identified restorative practices as an emerging approach to reduce exclusionary discipline and improve school climate. To support this work, the BSD invited us to join in their effort. Subsequently in the spring of 2017 BSD signed a comprehensive Memorandum of Understanding with our team from the UVM's College of Education and Social Services (CESS) that supports a multi-year collaborative research partnership to evaluate the efficacy of RP implementation. Figure 1 outlines depicts the conceptual framework for our ongoing community based participatory action research project on RP implementation and effectiveness with the Burlington School District.



Our position on H Bill 675 is in full support of the school wide implementation of restorative practices that focus on building a positive school climate, addressing implicit bias and the root causes of discipline disparities. Therefore, we do not support a bill that contains language that solely positions RP as a school discipline intervention. If RP is to be implemented with fidelity and sustained over time - it must be baked into the school culture. And the work must start with the adults. The literature supports, both from other models of whole school reform efforts, that RP needs to be integrated into the fabric of adult communication and relationships before being implemented in classrooms and student spaces. We are concerned that the language in this bill that solely connects RP to school discipline may further exacerbate assumptions and misperceptions about RP. Specifically, we are hearing eroding remarks and conversations from parents and other school community stakeholders that RP is a kum-ba yah, slap-on-the-wrist approach to discipline that doesn't hold disruptive students accountable, and may undermine school safety. This narrative of the ineffectiveness of RP is of course laced with implicit bias and racial discrimination as the students who are currently in hyper-contact with the school discipline system are student of color and students with a documented disability. If this bill is amended to speak to the full breadth of RP--the radical

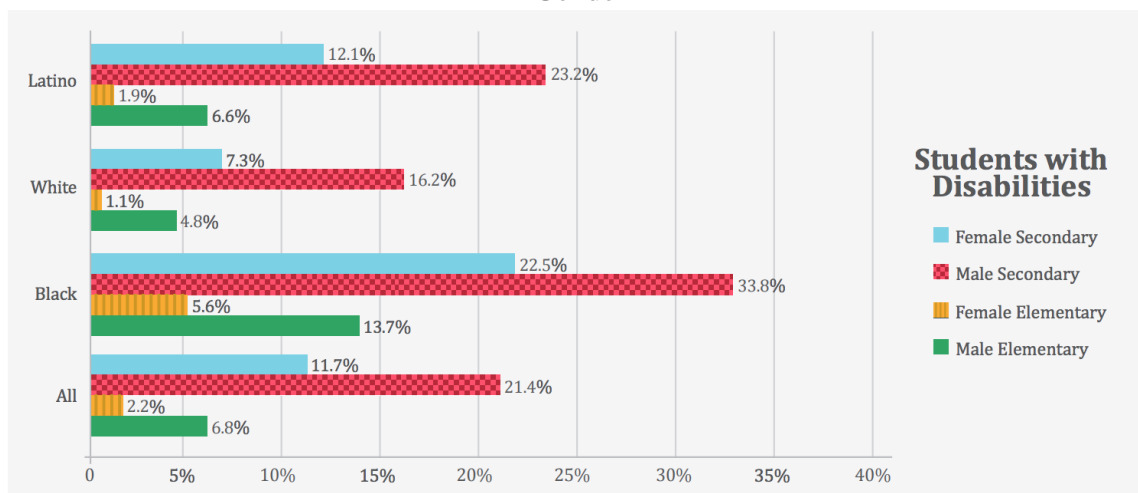
paradigm shift, the emphasis on positive school climate and prevention, an emphasis on beginning the work with adults--then we are in support. The promise of RP to mend Vermont's school discipline problems will only be realized if the paradigm shift of RP receives support from all members of a school community, and if there is explicit focus on prevention, relationship building and integration with existing school based initiatives.

Research on Inequity

Vermont, like much of the rest of the United States, is experiencing a social crisis. Nationally, black and brown children represent 17.1 percent of all public-school students, yet account for 37.4 percent of total suspensions (González, 2012). Paralleling these national statistics, in the state of Vermont, black and brown children are 3 times more likely to be suspended than white children (Diaz, 2015). To the point, the racial disparities in punitive discipline among students of color in Vermont, including new Americans with refugee stories, are as high or higher than the U.S. national average.

Also, while 7.4 percent of all students are suspended each year (Losen & Gillespie, 2012), students identified under the IDEA category of emotional disturbance experience suspension rates between 15 and 44 percent (Sullivan, Van Norman, & Klingbeil, 2014). In the state of Vermont, students with IEP's are nearly 3 times more likely to be suspended than students without IEP's (Diaz, 2015). When the national suspension rates for students with disabilities is further disaggregated by race, the disparities become even more alarming (see figure).

Suspension Rates for Students with Disabilities, Disaggregated by Race/Ethnicity and Gender

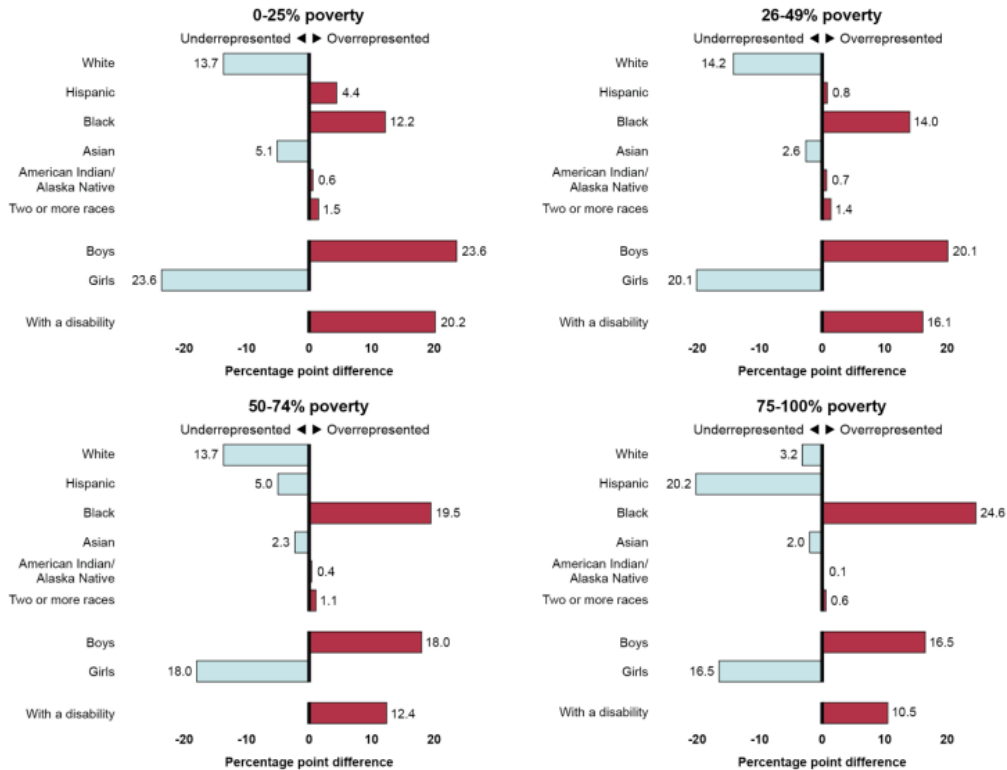


A recently released report from the United States Government Accountability Office ([GAO, April 2018](#)), illustrates that regardless of school poverty level, black students, boys, and students with a disability were suspended from school at higher rates than their peers (see Figure below). This data adds an important dimension that challenges pervasive assumptions that school discipline problems that target students of color and students with disabilities are issues for “poor schools.” Moreover, this report forces

critical examination of the root causes of these disparities in exclusionary discipline that emerge in preschool - calling into question the explicit and implicit bias of the US school system and current school discipline ethos.

Figure 6: Representation of Students Suspended Out-of-School Compared to Student Population, by Level of School Poverty, School Year 2013-14

This chart shows whether each group of students was underrepresented or overrepresented among students suspended out of school based on the poverty level of the school. For example, boys were overrepresented among students suspended out of low-poverty schools by about 24 percentage points, as shown in the chart, because they made up about 51% of all students in those schools, but 75% of the students suspended out of school.



Source: GAO analysis of Department of Education, Civil Rights Data Collection and Common Core of Data. | GAO-18-258

Note: School poverty level is measured by the percentage of students eligible for free or reduced-price lunch. Disparities in student discipline such as those presented in this figure may support a finding of discrimination, but taken alone, do not establish whether unlawful discrimination has occurred.

Research on Restorative Practices

Schools and practitioners are rapidly ahead of the research literature as they are implementing RP through a variety of models across the country. There is emerging, yet under-developed empirical evidence that suggests RP may be effective in improving school climate, reducing academic achievement gaps and reducing exclusionary discipline. At the same time, there is limited evidence and implementation guidance on school based factors that impede or sustain RP implementation, while there is a vacuum of standardized assessment tools to measure RP implementation and fidelity.

The emergent, though scant literature, suggests that schools practicing RP faithfully experience a 44% to 87% reduction in out-of-school suspensions. This suggests that RP significantly disrupts the school-to-prison pipeline for communities of color ([Gonzalez, 2012](#)). Furthermore, the nascent literature on RP also suggests that this

comprehensive framework improves school climate for students and staff ([Gregory, Clawson, Davis, & Gerewitz, 2016](#); [Ortega, Lyubansky, Nettles, & Espelage, 2016](#)).

RP can perhaps be best described as an umbrella of tools that school staff, faculty and students can use to create a culture of care, to establish positive relationships that prevent conflict and misbehavior, and to repair relations that have been damaged by conflict and harm (Kline, 2016; Sprague & Tobin, 2017). RP is most effective when schools take up “whole-school integrated approach” ([Fronius, Persson, Guckenburger, Hurley, & Petrosino, 2016](#)) by utilizing the principles of restorative practices within all contexts of the school. Buy-in by all stakeholders prior to implementation is critical (Kline, 2016). Bottom-up implementation rather than top-down has been more successful. Taking an entire year to integrate RP into school faculty and staff relationships, prior to rolling it out with students boosts success rates (Thorsborne & Blood, 2013).

Recommendations Related to Supporting Sustained State level Support for Restorative Practices Implementation in Schools as Means to Promote Equitable School Climates and Reduce Exclusionary Discipline

- We do not support a bill that solely connects restorative practices to school discipline.
- The current language in House Bill 675 3 positions the Vermont Agency of Education as an integral stakeholder in ensuring that restorative practices are implemented statewide and that school boards should adopt a policy on the use of restorative principles for responding to student discipline problems. In order to support these efforts of the Vermont AOE, there needs to be financial and personnel support to increase the capacity of the AOE to carry out such stated initiatives. To be clear, if the state legislature is going to pass a bill that required school discipline overhaul to implementation RP, the Vermont Agency of Education needs to receive additional state funding earmarked towards RP implementation and professional development.
- Furthermore, while we appreciate the explicit goals of the bill to require that all school boards and independent schools adopt restorative justice principles for responding to student behavior problem, we are cautionary in the implementation of yet another unfunded mandate for Vermont schools. The implementation of restorative practices is a commitment to a long-term cultural shift – a radical paradigm change – that requires sustained investment by the school community. This commitment will require ongoing professional development and coaching that can be resourced through existing instructional coaching federal and state mechanisms, e.g, Title 1 funds that support math or language arts instructional coaches.
- Schools are experiencing initiative overload. We are asking much of our school leaders and classroom teachers without appropriate support,

resources and organizational prioritization. The implementation of school wide restorative practices, as a philosophical umbrella, needs to be initiated in analogy and fully integrated with current school based tiered systems of support for academics and behavior, like Positive Behavior Interventions and Supports (PBIS), Multi-tiered systems of Support (MTSS), Social Emotional Learning (SEL), and other trauma informed practices. The implementation of RP should not usurp current initiatives. State leaders and technical assistance providers of PBIS are encouraging schools to be explicit about the ways in which PBIS and RP implementation support common goals. In our own research with the Burlington School District, we are interested in understanding the on-the-ground realities of implementing RP along side long standing school wide initiatives and commitments to SEL, arts integration, PBIS etc. We are explicitly trying to understand the key ingredients of RP implementation – structural and leadership support, data infrastructure needs and professional development strategies to support scalable models of RP that are intentionally embedded with existing school reform efforts.

- More specifically to the language in the bill regarding “adopt a policy on the use of restorative justice principles for responding to school discipline problems”, we would recommend expanding and modifying this language to be focused on *primary prevention*. Restorative practices and restorative justice is too often narrowly viewed as an initiative to address problematic student behavior and student discipline, and not as an initiative to promote a positive school climate, for both student and adults. Restorative practices, are most powerful when universal strategies such as talking circles are normalized as “just the way things are done here.” Such strategies foster student and adult empathy, strengthen relationships and establish a space for active accountability of both students and adults when harm arises. The restorative process uses conflict as an opportunity to strengthen positive relationships.
- Vermont is uniquely positioned to lead school climate and discipline policy reform efforts by formally validating and whole heartedly resourcing a culture of restorative practices in Vermont schools.

We are grateful for this opportunity to be here today and thank you for the consideration of our remarks.

Note: Our testimony is based on our professional experiences, research, and teaching. However, we appear before the Committee as private citizens and parents of children in Vermont’s schools. Accordingly, the opinions and the materials shared with the Committee are do not represent organizations or individuals with whom we are, or have been, affiliated.