

Advocates for Children  
of New York



Protecting every child's right to learn



### MEMORANDUM OF OPPOSITION: S.1040-A

**Advocates for Children of New York, Bronx Defenders, Children's Defense Fund-NY, Citizens Committee for Children of New York, Committee for Hispanic Children and Families, Community Health Worker Network of Buffalo, Community Network for Engagement Connection and Transformation, Families Together in New York State, Girls for Gender Equity, Kite's Nest, Make the Road NY, the New York Civil Liberties Union, New York State Psychological Association, New Settlement Parent Action Committee, the Urban Youth Collaborative, Westchester Children's Association and Western New York Law Center. We urge you to oppose the amended version of the Solutions not Suspensions Bill, S.1040-A. The proposed bill fails to make necessary changes to current law to reduce the disparate impact of punitive school discipline policies upon students of color and it will not provide appropriate protection for students across the state.**

Over the past eight years, we have collaborated to create a bill that would address the severe and disproportionate punishments that Black and Brown students, low-income students, students with disabilities, students in foster care, and LGBTQ+ and gender-nonconforming students experience at their schools. Unfortunately, the Senate version of this bill has been amended so that it no longer serves the needs of students, and in fact, could cause more harm.

Senate bill 1040-A includes vague and subjective language and substantial loopholes that undermine the intent of the original bill, and removes critical language that would uphold the central tenets of the bill. We urge you to vote no on 1040-A.

Specifically, the amended version:

- Fails to explicitly include charter schools in the bill, enabling them to continue avoiding the same accountability as all other public schools for harmful punitive practices and exposes students to continued punitive, exclusionary discipline and lack of adequate due process.
- Fails to limit suspensions to 20 days in most circumstances, allowing the continued use of harmful, ineffective suspensions up to 180 days – a full academic year.
- Fails to adequately curtail the suspension of students in grades Pre-K through Grade 3, our youngest learners.
- Relies on subjective language such as, “disruptive, insubordinate, or rowdy behavior” and “conduct which causes a serious disruption,” which opens the door for discriminatory treatment of students based on bias, as it has historically.

These amendments erode the core aspects of the original Solutions Not Suspensions bill (S.1040) and cut against the New York State Education Department’s own recent [task force recommendations](#) on school discipline and how to reduce disparities. Permitting discretionary exceptions to the limit on the number of days a student can be suspended, the reasons a student can be suspended, and the prohibition on suspending our youngest students means tens of thousands of youth each year would continue to experience the trauma of suspension, punishment, and potential involvement of law enforcement. Furthermore, charter schools would not be explicitly held accountable under this version of the bill, meaning 170,000 students in charter schools would not be protected.<sup>1</sup>

Schools are meant to be safe havens of learning, exploration and growth. This amended version of the bill will continue to allow students to be suspended at alarming rates for up to 180 days, which is a full school year. It is time New York shifted from punitive measures to restorative processes that keep students in the classroom and help students learn from their behavior and build relationships.

Finally, the original language in the Solutions Not Suspensions bill (S. 1040) aligns with federal guidance released in May by the U.S. Department of Education.<sup>2</sup> The Resource reiterates how school discipline can be discriminatory, stating “Significant disparities by race– beginning as early as preschool – have persisted in the application of student discipline in schools.” The Resource further explains how the US DOE will enforce civil rights protections against districts that discriminate.

**We therefore urge you to vote no on this amended version to enable youth, parents, and advocates to advance a version of SNS next year that will fully protect students in the state.**

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<sup>1</sup> <https://www.nysed.gov/charter-schools/about-us>

<sup>2</sup> US Department of Education Office for Civil Rights, *Resource on Confronting Racial Discrimination in Student Discipline*, May 2023, <https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>.