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AAJC

President and CEO
Maya Wiley

August 3, 2022

**Advance Safe, Healthy, and Inclusive School Climates: Invest in Evidence-
Based Programs through the Bipartisan Safer Communities Act**

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th St, SW
Washington, DC 20528

Dear Attorney General Garland, Secretary Becerra, Secretary Cardona, and Secretary
Mayorkas:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 35 undersigned organizations, we strongly urge you to invest in evidence-based programs that provide meaningful safe, healthy, and inclusive school climates through the implementation of the Bipartisan Safer Communities Act. In doing so, we also strongly urge you not to implement the law in such a way that funds programs and practices that contribute to school policing, perpetuate the school-to-prison pipeline, and criminalize our nation's youth, including threat assessments. Building positive school climates is essential to ensuring the health, safety, and well-being of everyone in the school building and on school grounds, and there is considerable evidence available on best practices for creating these learning environments. Leadership and action from the U.S. Department of Education (ED), the U.S. Department of Justice (DOJ), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Homeland Security (DHS) can, and must, advance policies that create real safety for communities without compounding the harms and discrimination of school hardening that already plague millions of students today.

Although the Bipartisan Safer Communities Act took a long-overdue step forward to address the public health emergency of gun violence that too often claims the lives of our most marginalized neighbors in their homes, schools, and communities, the law did not do enough

to ensure federal investments are made to promote student care over school hardening. Violence against children requires action and serious investments in evidence-based policies and practices that keep students and staff safe and do not directly undermine academic success and criminalize children. Marginalized children, particularly Black children, Native children, LGBTQI+ youth, immigrant children, and children with disabilities, are disproportionately impacted by policies and investments that harden schools and promote criminalization.^{1,2,3}

School policing and other school hardening practices not only create a negative and fearful learning environment but can also lead to the physical harm of children. In schools with predominantly Black and Brown youth — where school-based law enforcement are concentrated — children are often the victims of violent and unchecked attacks by school-based law enforcement.⁴ Students of color across the country are, by conservative estimates, assaulted by school police at a rate of about one assault per week.⁵ Troublesome disparities also exist for students with disabilities, where the data show they are nearly three times more likely to be arrested than students without disabilities.⁶ Furthermore, LGBTQI+ students have reported facing hostile interactions with and, in some instances, verbal assaults by school-based law enforcement officers who have been appointed to protect them.⁷

¹ For example, evidence shows that schools where at least half of the student population is comprised of non-white students are the schools with the highest percentages of law enforcement officers on campus. This finding also applied to schools where at least 75 percent of the student population was eligible for free or reduced-price lunches, or “high-poverty schools.” U.S. Comm’n on Civil Rights, *Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities* 45 (2019), <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>

² In 2018, the Center for American Progress found that “schools where the nonwhite population was greater than 50 percent of the school population were two to 18 times more likely to use a mix of metal detectors, school police and security guards, locked gates, and random sweeps than schools where the nonwhite population was less than 20 percent.” Bayliss Fiddiman et al., *Smart Investments for Safer Schools* 6 (2018), https://cdn.americanprogress.org/content/uploads/2018/12/18112919/121918_SchoolSafety-report.pdf

³ Learning environments that prioritize criminalization and surveillance over student care undermine the trust and relationships students need to thrive in school. When constantly surveilled and policed, students report feeling “tangible anxiety,” “powerless and stifled,” and reduced attachment to school and educational aspirations. Jen Weiss, *Scan This: Examining Student Resistance to School Surveillance*, in *SCHOOLS UNDER SURVEILLANCE* 213, 215 (Torin Monahan & Rodolfo D. Torres eds., 2010); Jason P. Nance, *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, 66 *Emory L.J.* 765, 788 (2017); See Emily K. Weisburst, *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-term Education Outcomes*, 38 *J. OF POL’Y ANALYSIS AND MANAGEMENT* 338 (2019).

⁴ Weisburst, E. (2019). *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-Term Education Outcomes* (A Sub-project of “Building Pathways to College Access and Beyond”). *Journal of Policy Analysis and Management*, 0(0), 1–28. (listing examples of officers: in South Carolina slamming a student to the ground; in Baltimore slapped, kicked, and yelled at a student while another officer watched; in Philadelphia punched a student and put him in a chokehold after the student tried to use the restroom without a pass; in Pittsburgh punching out a student’s tooth; and in Pinellas Park, Florida, using a stun gun on an unarmed student); See also, Advancement Project. We came to learn, *A Call to Action for Police-Free Schools*. <http://advancementproject.org/wp-content/uploads/WCTLweb/index.html#page=2>, (stating “[s]afety does not exist when Black and Brown young people are forced to interact with a system of policing that views them as a threat and not as students” and mapping over 60 instances of police brutality on students).

⁵ Advancement Project & Alliance for Educational Justice have tracked over 240 police assaults on students since 2015. The tracker is available at <https://policefreeschools.org/map>

⁶ American Civil Liberties Union. (2019). *Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*. https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf

⁷ Lambda Legal. (2015). *Protected and Served?* <https://www.lambdalegal.org/protected-and-served>

Evidence-based investments in positive school climates are needed to prevent further disenfranchisement of marginalized children, including children of color, Native children, children with disabilities, LGBTQI+ youth, immigrant children, other marginalized children, and children living at the intersections of these identities. In your leadership of the U.S. Departments of Health and Human Services, Justice, Education, and Homeland Security, we urge you to ensure implementation of this bill in a way that protects marginalized communities by investing in solutions and strategies to create positive school climates where there are meaningful improvements to school safety, including counselors, improved student engagement, and additional mental health support. It is critically important to avoid investments in practices and programs that perpetuate the school-to-prison pipeline and criminalize youth, such as school-based law enforcement, school hardening strategies, threat assessment processes, and surveillance, particularly as there is no conclusive evidence showing that school policing and hardening reduce school crime and prevent or reduce the severity of school shootings.⁸ Approaches such as those lack a robust evidence base regarding their effectiveness and have long posed a disproportionate harm to Black students and other students of color, students with disabilities, and all students, while undermining the learning community as a whole.

Right now, agency leaders have an opportunity to invest in evidence-based practices and programs that ensure children learn in safe, healthy, and inclusive environments. The civil rights community came together to develop and release “Civil Rights Principles for Safe, Healthy, and Inclusive School Climates,” a roadmap for policymakers concerned with the learning, well-being, and safety of all students in our nation’s schools.⁹ The executive branch has a responsibility and a statutory requirement under the Bipartisan Safer Communities Act to children and youth to end harmful policies and practices and, instead, invest in evidence-based policies and practices that keep children and staff safe, such as reserving federal funds for counselors, nurses, and those supportive adults who are specially trained to help build positive learning environments and support children’s success.

Our children deserve positive solutions to keep them safe in schools. The funding included in the Bipartisan Safer Communities Act should be used to implement only evidence-based, preventative, and proactive measures that build positive school cultures and alternatives to exclusionary discipline and criminalization. Supportive approaches to improving school climates — such as restorative and trauma-responsive practices; whole-school systems of emotional, social, and academic support such as positive behavioral interventions and supports; culturally responsive mental health care; and additional counselors, nurses, and social workers — have proven to be effective at producing a safe and supportive learning environment, including by helping students address the root causes of conflict and reducing school

⁸ Between 1999 and 2019, a study of 179 school shootings found no evidence that school resource officers (SROs) lessened the severity of school shooting incidents. Livingston, M. D., et al. (2019). A descriptive analysis of school and school shooter characteristics and the severity of school shootings in the United States, 1999–2018. *Journal of Adolescent Health*, 64, 797-799. See, e.g., Gottfredson, D.C., et al. (2020). Effects of school resource officers on school crime and responses to school crime. *Criminology & Public Policy*, 19, 905-940.

⁹ The Leadership Conference on Civil and Human Rights. Civil Rights Principles for Safe, Healthy, and Inclusive School Climates. <http://civilrightsdocs.info/pdf/education/School-Climate-Principles.pdf>

infractions.¹⁰ Federal funding must invest in evidence-based practices, identified in collaboration with directly impacted communities, for maintaining school safety, inclusion, and support to ensure child well-being. For too long, exorbitant investments in school-based law enforcement¹¹ have proven ineffective¹² and come at the expense of personnel and services that create safe, healthy, and inclusive school climates¹³ — while posing a real harm to students’ well-being.¹⁴ School safety funding should support school counselors, mental health professionals, nurses, supportive professionals, restorative programs, ongoing anti-bias training, and other evidence-based practices that build positive learning environments and support students’ success.

The most effective methods for improving school climate engage students and teachers in pro-social activities that build positive, trusting relationships, promote cultural competency, confront bias, celebrate diversity, are trauma-informed, and instill a sense of community throughout the school. This includes comprehensive professional development opportunities for educators; supporting the retention and professional development of diverse educators and school administrators; development of culturally responsive and sustaining curricula; hiring counselors, nurses, and social workers; and employing culturally responsive practices, restorative justice, mental health supports, and a multi-tiered system of supports.

Trained educators and health professionals — including counselors, school psychologists, and social workers — caregivers, and communities are best suited to ensure that students are supported in their journeys through school. These stakeholders, as well as guidance counselors, social workers, health

¹⁰ Nance, J. (2016). Dismantling the School-to-Prison Pipeline. *Arizona State Law Journal*, 48. (citing Johnson, D., Allensworth, E., and Steinberg, M. (May 2011). *Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization*. Consortium on Chicago School Research at the University of Chicago Urban Education Institute. <https://consortium.uchicago.edu/sites/default/files/2018-10/SAFETY%20IN%20CPS.pdf>)

¹¹ Nat’l Women’s Law Ctr., *Stop Flushing Money Down the Pipeline: A Call to Divert Federal Money from Cops to Counseling in Schools* (2021), <https://nwlc.org/wp-content/uploads/2021/11/Stop-Flushing-Money-Down-the-Pipeline-Fact-Sheet-SRO-Funding-6.27.22.pdf>

¹² Am. Civil Liberties Union Pennsylvania, *Research on the Impact of School Policing* (2022), <https://www.endzerotolerance.org/impact-of-school-policing>; see also Am. Civil Liberties Union Pennsylvania, *Fast Facts on School Safety: The Research* (2022), <https://www.endzerotolerance.org/fast-facts-on-school-safety>

¹³ For example, millions of students across the country attend schools that employ law enforcement officers but not school counselors (over 1.7 million students), nurses (over 3 million students), school psychologists (over 6 million students), or social workers (over 10 million students). American Civil Liberties Union, *Cops and No Counselors: How the Lack of School Mental Health Staff Is Harming Students* 18 (2019), https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf

¹⁴ “Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students.” American Civil Liberties Union. 2019. https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf (listing 25 most common behaviors that lead to school arrest and criminal charges. The number one criminal charge is “disrupting school” for “spraying perfume, fake burping, fake fart spray, refusing to change a t-shirt, and criticizing an officer”); Advancement Project, et al. (Mar. 2018 re-release). “Police In Schools Are Not The Answer To The Newtown Shooting.” <http://dignityinschools.org/wp-content/uploads/2018/03/Police-In-Schools-2018-FINAL.pdf> ; Nance, Jason P. “Students, Police, and the School-to-Prison Pipeline.” *University of Washington Law Review*. 2016. 93(919). <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1782&context=facultypub> ; Theriot, Matthew T. “School Resource Officers and the Criminalization of Student Behavior.” *Journal of Criminal Justice*. 2009. 37, 280–287. <https://www.sciencedirect.com/science/article/abs/pii/S0047235209000464> ; “Which Students Are Arrested the Most?” *Education Week*. 2017. <https://www.edweek.org/ew/projects/2017/policingamericas-schools/student-arrests.html#/overview>

professionals, and other trained professionals with support from state education agencies and the federal government, are best positioned to implement evidence-based strategies that keep schools safe and allow students to thrive. For example, we know from federal data sources that school counselors play a central role in the lives of students and positively contribute to decreasing school dropout rates.¹⁵

The federal government's role in ensuring schools are free from discrimination has been articulated and affirmed by the U.S. Supreme Court, Congress, and implementing guidance and regulation.¹⁶ As is the case with all federal funds, agency leaders must make clear that recipients of these funds may not discriminate on the basis of race, color, national origin, sex (including sexual orientation, gender identity, sex characteristics, and sex stereotypes), and disability as prohibited by the Civil Rights Act of 1964, the Education Amendments of 1972, the Americans with Disabilities Act, and the Rehabilitation Act of 1973.

The federal government should invest in solutions and strategies to create positive school climates where there are meaningful improvements to school safety, including a positive learning environment, improved student engagement, and healthy interpersonal relationships. We urge you to join in the call for safe, inclusive, and healthy schools by investing in evidence-based programs that produce a safe and supportive learning environment through the implementation of the Bipartisan Safer Communities Act. We are grateful for your leadership and look forward to hearing your plans to ensure your agency is doing everything possible to advance safe, healthy, and inclusive school climates without compounding harm or increasing discrimination against marginalized students. If you have any questions, please contact Steven Almazán, k12 education senior program manager at The Leadership Conference on Civil and Human Rights, at almazan@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
Advancement Project National Office
American Association of Colleges for Teacher Education
American Association of University Women
American Atheists

¹⁵ Carey, J., & Dimmitt, C. (2012). School counseling and student outcomes: Summary of six statewide studies. *Professional School Counseling*, 16 (2), 146-153.

https://www.researchgate.net/publication/269832965_School_Counseling_and_Student_Outcomes_Summary_of_Six_Statewide_Studies ; Lapan, R. T., Gysbers, N. C., Bragg, S., & Pierce, M. E. (2012). Missouri professional school counselors: Ratios matter, especially in high-poverty schools. *Professional School Counseling*, 16 (2), 108-116.

<https://journals.sagepub.com/doi/abs/10.1177/2156759X0001600207> ; Lapan, R. T., Whitcomb, S. A., & Aleman, N. M. (2012). Connecticut professional school counselors: College and career counseling services and smaller ratios benefit students. *Professional School Counseling*, 16 (2), 117-124. <https://journals.sagepub.com/doi/abs/10.1177/2156759X0001600206>

¹⁶ See: Brown v. Board of Education (1954); Lau v. Nichols (1974); Plyler v. Doe (1982); Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Individuals with Disabilities Education Act (IDEA); Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act (ADA) of 1990; Age Discrimination Act of 1975.

American Humanist Association
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Association of University Centers on Disabilities
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Learner Equity
Children's Defense Fund
Committee for Children
Council of Parent Attorneys and Advocates
Disability Rights Education & Defense Fund
GLSEN
Hispanic Federation
Human Rights Campaign
Japanese American Citizens League
NAACP Legal Defense and Educational Fund, Inc. (LDF)
National Action Network Washington Bureau
National Alliance for Partnerships in Equity
National Association of Councils on Developmental Disabilities
National Association of School Nurses
National Black Justice Coalition
National Center for Learning Disabilities
National Center for Transgender Equality
National Council of Asian Pacific Americans (NCAPA)
National Council of Jewish Women
National Disability Rights Network (NDRN)
National Education Association
National Women's Law Center
The Arc of the United States
The Education Trust
YWCA USA