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**THROUGH THE FUNNEL: A CRITICAL STUDY OF EDUCATIONAL
POLICY RELATING TO THE SCHOOL-TO-PRISON PIPELINE**

by

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DISSERTATION

Submitted in Partial Fulfillment of the
Requirements for the Degree of

**Doctor of Philosophy
Special Education**

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Dedication

The completion of this dissertation is dedicated to the hard work ethic my mother instilled in me. Channeling Gandhi, she also encouraged me to be the change that I want to see in the world. I am still humbly striving to live up to that challenge. I would like to thank my sisters for helping to make me a better person. Lastly, I would like to thank my wife for her patience with me as I completed this journey. She provides me with the motivation to continue to work towards understanding the unjust world I live in and to explore the possibilities that could exist for radical change.

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Through the funnel: A critical policy analysis of educational policy relating to the school-to-prison pipeline.

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B.A. Ed., Social Studies Education; M.A. Ed., Special Education

Degree to be awarded: PhD., Special Education

Abstract

The purpose of the present study involved analyzing the policies of the Trump administration to determine the ways it impacted the school-to-prison pipeline. The focus of the study included the Departments of Education and Justice. The findings revealed educational policies and deregulatory practices that maintained and intensified the school-to-prison pipeline.

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Chapter 1

The school-to-prison pipeline is more than a metaphor (Skiba et al., 2014), but a persistent problem that has plagued the United States for decades (Advancement Project, 2005). The pipeline epitomizes a social restructuring of social inequities after the fall of Jim Crow to maintain a segregated racial underclass (Alexander, 2012). The pipeline refers to school policies that have a strong tendency to push students out of school (Dancy, 2014) and prevent them from returning (Taylor et al., 2012). The American Civil Liberties Union (ACLU, 2008) defined the school-to-prison pipeline as “the policies and practices that push our nation’s school children, especially our most-at-risk children, out of classrooms and into the juvenile and criminal justice systems (p.1). In defining the pipeline Annamma (2015) explained that “through methods such as ticketing students for minor offenses, implementing disciplinary removal, and ‘securing the environment’ through means such as metal detectors and fencing, schools funneled children into prisons” (p. 293). Smith (2009) incorporated racial injustice in his definition when he posited that “the phrase ‘school-to-prison pipeline’ conceptually categorizes an ambiguous, yet seemingly systematic, process through which a wide range of education and criminal justice policies and practices collectively result in students of color being disparately pushed out of school and into prison” (p. 1012).

Based on the definitions provided, the pipeline is a broad term with many variables from zero tolerance policies to the overrepresentation of culturally and linguistically diverse groups in special education and from racially segregated neighborhoods to the problem of mass incarceration. The pipeline captures many instances of institutional racism from the decisions of federal judges that utilize a

colorblind ideology to the neoliberal practices that have expanded the percentages of working poor in the United States. These are all issues that I will examine in depth in later sections. Although the organization deemed poverty as the catalyst of the pipeline, the Children's Defense Fund (2007) also admitted that

Poor children of color are the canaries in America's deep mines of child neglect and racial and economic injustice. At critical points in their development from birth through adulthood, millions of these children confront a multitude of disadvantages and risks including poverty and its many stresses: single, teen or unstable families; no or poor health care; lack of early education and enrichment; child abuse and neglect; failing schools that don't teach them to read, write or compute; grade retention, suspension and expulsion; questionable special education placements or dropping out; unaddressed mental health problems; absent fathers or incarcerated parents; violent neighborhoods; and disproportionate involvement in the child welfare and juvenile justice systems. These accumulated and convergent risks form a Cradle to Prison Pipeline, trapping these children in a trajectory that leads to marginalized lives, imprisonment and often premature death (pp. 15-16).

The Children's Defense Fund, in their explanation got to the heart of the matter of everyday systemic racism and the way that it is presently practiced in multiple institutions, including the education system.

What follows is an examination of the school-to-prison pipeline in a way that couches the pipeline to the broader dehumanizing nature and construction of U.S. society. Through thorough review of pertinent and foundational literature on or related to the

topic of the pipeline, I hope to falsify the dominant understanding of education as the great social equalizer and other problematic ideological educational assumptions such as the premise that education is a tool of social advancement and that the organization of schools is based in any way on a rational or humanizing system of governance.

Background of the Problem

Far from being a social agency that promotes social uplift, schooling tends to act as a broader mechanism to exploit and dehumanize women, lesbian, gay, bisexual, transsexual, and/or queer (LGBTQ) groups, culturally and linguistically diverse groups and people with disabilities (Delgado & Stefancic, 2012; King Thorius & Tan, 2016). Educators who seek to work for social justice, then, must understand the impacts of colonization, genocide, slavery, and the myth of intellectual superiority upon diverse, nonwhite groups in the United States and their contribution to the present day school-to-prison pipeline. It is precisely these historical issues that shed light on ways that contemporary schooling ties into the phenomenon of mass incarceration in the United States. So, in the following paragraphs I will delve into these issues with the final paragraphs taking the historical considerations into the present day.

Legacy of Colonization

The Oxford Dictionary (n.d.) defined the verb colonize in a grammatically awkward manner, that leads one to question the underlying reasons for making the word difficult to comprehend: “(of a country or its citizens) send a group of settlers to (a place) and establish political control over.” In the second bulleted definition, the dictionary again rather awkwardly added “come to settle among and establish political control over (the indigenous people of an area).” A strong trait within critical theory includes the

tradition's ability to critique texts by exposing the ideology within the text itself, but also what the text omitted (Giroux, 1988; Morrow & Brown, 1994). For its part, the Oxford Dictionary's definition included key concepts of colonization such as when a country takes political control over an inhabited area abroad, which consists of indigenous peoples. Yet, the dictionary ignores unseemly topics that the authors could have added such as the techniques of colonization like the use of brute force and a wave of unsubsidizing, continuous violence on the body and mind.

Frantz Fanon, a world renowned scholar of colonialism, directly discussed the violence of colonialism (Fanon, 1963). He preached that "colonialism is not a machine capable of thinking, a body endowed with reason. It is naked violence and only gives in when confronted with greater violence" (p. 23). According to Fanon, the colonizing forces established a system that works to dehumanize the colonized at every juncture. Fanon added that the oppressors manage geopolitical spaces through rigid racial segregation. Fanon discussed that on the side of the colonizer sits beautiful buildings, fresh tarmac, plentiful food, and other infrastructural features that provide the space with its own ideological barrier of legitimacy. Fanon then argued that the colonized live in heavily populated, poor neighborhoods indicative of what hip hop artist Jay-Z (Carter & West, 2011) referred to metaphorically as "crabs in a barrel." Fanon went on to clarify that the apartheid, that the colonizers maintain through police force, exists as a Marxist superstructure as he explained: "You are rich because you are white, you are white because you are rich" (p. 5).

Fanon (1967) articulated that the force the colonizer uses involves much more than the police, but also requires other forms of Manicheanism, what Morgan (2011)

referred to as a battle of good versus evil, which Fanon argued is utilized to socialize hegemonic control over the oppressed. A predominant feature of this hegemonic control involves referring to the indigenous people in animalistic ways. This violent language serves to rip apart the social fabric of the indigenous people, their traditions, their morals, and their language. The dominant group utilizes an ideology that has successfully led the colonized to degrade their traditions, but also to yearn for the material benefits that the colonizers offer.

According to Fanon (1967), the language of the colonizer is powerful in that it enables the colonized to become more human, creating the illusion of a meritocracy. Meritocracy embodies the belief that in a capitalist system, an individual's success is based upon their talents (Singh, 2017). Fanon elaborated that the yearning to elevate one's status often accompanies having an inferiority complex with symptoms such as renouncing one's language, dialect, and culture to take on "the civilization" (loc. 154) of the White man. He argued that the abandonment of one's language and way of life has deep psychological significance: it perpetuates the dominance of the White person and allows a buy in method or a *carrot and stick* for the person of color. As the person of color compares himself or herself to the White person, they become *dislocated* (loc. 262) or *separated* (loc. 262) from their own way of thinking, knowing, being, and acting in the world.

An example of the education of colonialism is the history of education of Native American children in the 19th century. Education was an essential element to many treaties between Native American nations and the United States government (Rehner & Eder, 2004). These included agreements for indigenous nations to allow missionaries to

build schools or to provide government schools, both reliant on funds and grants from the U.S. government (Rehner & Eder, 2004). These schools pushed an assimilationist ideology that coerced Native Americans to give up their language, beliefs, clothing, and way of life for what U.S. leaders understood as the most civilized and rational existence (Rehner & Eder, 2004). These schools taught vocational curriculum that prepared boys for trades and girls for homemaking (Rehner & Eder, 2004).

Colonialism has deep roots that stretch back to the foundation of schooling in the United States (Rehner & Eder, 2004). Most concretely, the first colleges in the United States were teaching colleges with the mission of educating White people to be educators for indigenous peoples (Rehner & Eder, 2004). Secondly, schools in the United States, just like the broader society were founded upon the principles of White supremacy (see e.g., Bell, 1992; Leonardo, 2009; Taylor, 2006). From Native American missionary and boarding schools (Rehner & Eder, 2004) to 19th century vocational schools for African Americans (Watkins, 2001), the educational system inhabited the meaning making processes that discredited the intellect, culture, and language of these groups and other nonwhite groups. Colonialist practices were steeped in acts of genocide. This is what I will discuss in the next section.

Legacy of Genocide

According to the Oxford Dictionary (n.d.), genocide refers to “the deliberate killing of a large group of people, especially those of a particular ethnic group or nation.” The Oxford definition of genocide managed to include the mass murder of a group of people. But the definition did not cover everything about genocide. For instance, the definition does not discuss the reasons groups have committed genocide. More

importantly, the definition does not include the component of collective memory that the dominant class manipulates to determine which genocides deserve mentioning and which ones get ignored or simply not categorized as genocides to begin with.

For example, the Holocaust was about much more than extermination, but about a public shaming, a stigma (Goffman, 1963) that occurred partly as a result of the fortitude of the Jewish people as they continued to practice their marginalized views, values and beliefs. They were labeled with the Star of David (Longerich, 2010) and they were crammed into cattle cars as the Nazi regime stole their assets and valuables (Longerich, 2010). The Nazis forced Jewish people into slave camps and conducted horrible experiments that procured torture upon them (Nyiszli, 1993). They were starved to death and could be killed at any minute for any reason (Nyiszli, 1993). Many died by mustard gas (Longerich, 2010). Once dead, Jews were buried in mass graves or incinerated in ovens (Longerich, 2010).

The extermination of Jewish people stemmed from the ideological underpinnings of eugenics, whose adherers sought for policies to achieve racial purity (Gould, 1996; Trent, 1994). The doctrine that yearned to eradicate so called *genetically defective stock* to improve *racial hygiene* began in the United States in the early 20th century (Gould, 1996; Trent, 1994). Eugenic experts in the United States assisted the Nazis in drafting Germany's race hygiene laws, policies that sanctified the creation and use of Nazi death camps (Irons, 2006). Prior to the enactment of what was termed the *Final Solution*, the Nazis first sought to eradicate people of color from the motherland before pursuing the genocide of those with perceived defects in the Aryan race through the extermination of LGBTQ groups and people with disabilities (Longerich, 2010). In the United States, the

principles of racial purity legitimized the exclusion of nonwhite people from society, and helped justify the severe immigration restrictions for non-Western European peoples, the solidification of Jim Crow in the Deep South and the lynching of African Americans in the fear that the supposed sexual nature of an African American male would lead to rampant miscegenation (Gould, 1996).

Just as the Holocaust was about more than extermination, so too the genocide against African American and Native American people in the United States was more than just about mass murder. The violence that occurred to these groups was done to exploit these groups for their labor and land (Mills, 1997). The discourse of power served to maintain or justify the genocidal practices occurring in the United States. According to educational philosopher Freire (1993), “violence is initiated by those who oppress, who exploit, who fail to recognize others as persons” (p. 37). According to philosopher Mills, the building of the global White supremacist social system involved the use of genocide by Europeans against indigenous groups through enslavement, the taking of ancestral lands, and many other forms of exploitation. So, where the Oxford definition included violence, it failed to address the processes of dehumanization that occurred that justify violence as normal or even as progress.

To Mills (1997), the United States populace does not exist based on a social contract, an arrangement that exists between a people and a government in the Lockean spirit (Locke, 1609/2011) where the governing class agrees to lead in the interests of the governed and to protect its property. As the U.S. government has expressly allowed the importation, distribution, and use of Black slaves, the social contract was systematically denied to them (Mills, 1997). According to Irons (2006), Chief Justice Roger B. Taney’s

decision in the 1857 *Dred Scott* decision held that Black people in the United States were never to become citizens with rights under the U.S. Constitution (Irons, 2006). And with regard to the issue of property rights, Native Americans had little, if any rights to their traditional lands that the White U.S. citizenry was required by its government to respect (Wilson, 1998). Over the course of its history, U.S. policy included the systematic extermination of Native American nations and forced removal of their lands (Wilson, 1998). Even the most diplomatic of measures, the treaty, was broken every time by the U.S. government and its White citizenry during the eighteenth and nineteenth centuries (Wilson, 1998). The U.S. White supremacist policies developed and maintained a hierarchical society based in part on the color of one's skin that exists to the present day.

To Mills (1997), the hierarchical structure of society centered on White supremacy maintained what he called a *herrenvolk* democracy through social control of the bodies of people of color. Mills elaborated by professing that the control of bodies was maintained by the control of images of people of color. The fixed images or stereotypes that pervade through the social landscape served to justify the genocidal actions and other violent behaviors of White people to maintain the White supremacist social system. Mills also added that cultural racism encouraged people of color to adopt White ways. One could argue that the forced assimilation of nonwhite people should be understood as a form of genocide, because it was an attempt to exterminate the cultural traditions of oppressed nonwhite groups. As Mills contended, "the general purpose of the Contract is always the differential privileging of the Whites as a group with respect to the nonwhites as a group, the exploitation of their bodies, land, and resources, and the denial of equal socioeconomic opportunities to them" (locs. 230-232). These policies, to Mills,

maintain nonwhite people living in the United States in a subhuman social status as their livelihood and social, political, economic, and educational development get stunted, ruined, and/or put to an end as a result of this brutal and horrific treatment.

In addition to assimilationist policies, the practices of residential segregation also exemplify a policy of genocide. This racial segregation has impacted education in notable ways. School districts with a majority of middle and upper class White families have a larger tax pool (Kozol, 1991; Wald & Losen, 2003). Meanwhile, African Americans and Latinx students tend to attend poorly funded schools with outdated technology and textbooks in rundown dilapidated buildings that bear a strong resemblance to prisons (Irons, 2002; Kozol, 1991; Orfield, 2001; Smith, 2009). The trends of African American suburbanization and white movement to urban centers have strong implications for both the disproportionate representation of minority groups in special education and the bias in zero tolerance policies. I will discuss both of these issues in later sections in this chapter.

A fundamental principle of genocide such as that committed upon Yazidi minority religious community by the Islamic State in Iraq (Arraf, 2018) encompasses the ridding of a group of people based on perceived flaws or incurable defects. These practices go hand in hand with the development of a colonial city (Fanon, 1963). The practice of segregation has a psychological impact, but also a physical impact as it targets the bodies of marginalized groups (Fanon, 1963). The practice of segregation is physical in the presence of police and the underfunded infrastructure and facilities of the ghetto (Fanon, 1963), which includes neighborhood schools. The practice of segregation leads to stunted development that is harmful and, combined with the authority of the police, is often deadly. Even when the interactions between the oppressed and police are not

deadly, they can lead to arrest and incarceration. The subject of mass incarceration will receive attention in a later section. The overincarceration of African Americans is an extension of the legacy of slavery, which I discuss next.

Legacy of Slavery

A definition of slavery is problematic when analyzed using the Kantian notion of the noumenon (Kant, 1797/2011). Kant (1797/2011) differentiated between noumena, things that exist independently of human perception, and phenomena, things that are apprehended through the senses, with language leading to an incomplete understanding of reality. Based on the foundations first developed by Kant, language in and of itself is the obstacle that humans cannot overcome. People could potentially improve upon language, but the tensions of Manicheanism means that language is used to perpetuate the consolidation of power to and through conflict through such methods as *divide and conquer* (Freire, 1993). Bourdieu (1992) coined the term symbolic violence to refer to the hegemonic processes of language. So, with regard to defining slavery, symbolic violence that has gotten ignored until only fairly recently (the 1960s as a result of the Civil Rights Movement according to Loewen, 1995) remains harmful as scholars knowingly or unconsciously water down and/or whitewash the legacy of slavery in the United States (Loewen, 1995). Although it fails to come close to providing an understanding of the horrors and brutality of slavery and may muddle the meaning of the term further, the Oxford Dictionary (n.d.), defined a slave as “a person who is the legal property of another and is forced to obey them.”

It should not be necessary to say (but it is not, unfortunately) that the United States continues to deal with its legacy of chattel slavery. I argue that an understanding of

slavery in the U.S. and a willingness to come to grips with the dehumanizing and destructive nature of the institution and the impact of slavery on today's society remains a focal reason for the country's numerous social, political, and economic inequalities. According to Myrdal (1944/1998), these social inequalities derive from the United States origination as a "white man's country" (p. 106). DuBois (1903/2003) posited that "the problem of the Twentieth Century is the problem of the color line" (p. 3). The problem that DuBois articulated did not get addressed in the 20th century so it continues well into the 21st century.

In the Antebellum period the Southern plantation, the epicenter of the slave system, fueled Northern factories, sparking the first wave of industrialism in the United States (Dodson et al., 2003). This brutal system was based on biological arguments that trickled down to the populace and justified the ranking of races based on a framework of the superior civility of the White intellectual and the inferior barbarism of the Black slave laborer (Gould, 1996). The slave system's brutality centered on the body as the White slave owner had complete control over the body of his slave leading to violent behavior, such as rape, mutilation, murder, and torture. This social system was maintained through symbolic violence, denigrating language and social customs that brutally forced Black people to comply with this system, in addition to actual physical violence. The Supreme Court added to the symbolic violence of the period in its 1857 decision of *Dred Scott v. Sandford*, in which Chief Justice Taney maintained that the Constitution of the United States never intended for Black people to have the rights of citizens (Irons, 2006).

In his study of capitalism, Marx (1867/1999) discussed U.S. race based slavery rather extensively in his argument that the capitalist utilized slave labor to maintain the

activity of money-commodity-money. Marx explained money-commodity-money as a tautology of a superstructure of capitalist relations that demonstrate the ways that the owners of the means of production seek a profit from the commodity they produce. The way that capitalists do this, according to Marx, was through developing a system based on surplus labor that lead the worker to be exploited. To Marx, the commodification of the worker has the greatest value to the capitalist. Indeed, until the early 20th century very few labor laws existed that limited the amount of time people worked in factories. There were no age restrictions, no minimum wages, no health codes, no worker's compensation, and no benefits; the 19th century White factory worker led a life of desperation, of agony that was pseudo-slave-like. Even well into the 20th century, W. E. B. DuBois (1995) wrote in 1933 that "the laborer in America owns little more than his ability to work" (p. 539).

So, if the surplus value of the laborer was of the greatest benefit to the capitalist, the slave trade then was a commodification of the laborer into property. The slave laborer, Marx (1867/1999) elaborated, was unpaid labor. It was exploitation of labor at the most extreme. Marx explained that it was in sugar or cotton plantations that owners could reap profits as large as the land and capital it took to produce them. According to Marx, the owners could bring in these profits without any regard to the livelihood of the slave. To Marx, the Black slave was *sacrificed* (p. 164) for the profit of the capitalist. DuBois (1933/1995) elaborated that during the 19th century "The extension of the world market by imperial expanding industry has established a world-wide new proletariat of colored workers, toiling under the worst conditions of 19th century capitalism, herded as slaves and serfs and furnishing by the lowest paid wage in modern history a mass of raw

material for industry” (p. 542). DuBois expanded upon Marx’s theory of capital in that he added the dynamic of the White bourgeoisie and labor unions who clung to their positions through keeping Black people on the bottom rung of the social ladder. This happened through such mechanisms as the conscious exclusion of people of color from labor unions, the refusal of unions to encourage the hiring of qualified Black applicants, and the denial of professional and/or educational opportunities to Black people.

These tactics of exclusion were arguably the least inhumane as after the Civil War, as the use of convict labor in the Deep South maintained the Southern plantation system (Bauer, 2018; Blackmon, 2008; Pollard, 2012). The methods of shackling inmates and the high death rates were, in some instances, worse than the control of Black bodies that existed during the Antebellum period (Bauer, 2018). Marx, along with DuBois, captured the inhumanity of the capitalist system and the way it developed directly from the slave system. Slaves provided the raw materials and factory workers made those materials into commodities, often at the expense of their lives.

After the end of Reconstruction in 1877, laws went into existence that sought to criminalize African Americans (Blackmon, 2008; Pollard, 2012). The film, *13th*, directed by Ava DuVernay (2016) established a premise that the Thirteenth Amendment to the Constitution contains a loophole that enables the legacy of slavery to continue for those convicted of crimes. With the phenomenon of criminalizing and incarcerating African Americans in discriminatory ways comes the notion that slavery has not ended, but simply evolved (Bauer, 2018). It has evolved into our present system of mass incarceration.

The phenomenon of mass incarceration is fundamentally linked to schooling in the United States. The premise that the United States provides higher funding for prisons than schools, even students attending Ivy League schools, indicates the priorities this country has of warehousing over educational pursuits and development (Resnick, 2011). Unfortunately, the warehousing does not begin in correctional facilities, but in educational facilities beginning in underfunded schools with undertrained staff in racially segregated, low income neighborhoods (Irons, 2002; Kozol, 1991). Having inhumane neighborhoods negates the ideological assumption that our society is meritocratic (Fanon, 1967). Yet, the myth that society rewards those predisposed with intellectual gifts remains in our collective consciousness (Fanon, 1967). The understanding of intellectual superiority will be discussed in the next section.

Intellectual Superiority

The Oxford Dictionary (n.d.) defined intellect as “the faculty of reasoning and understanding objectively, especially with regard to abstract or academic matters.” The elaboratory bullet point under the main definition added that intellect refers to “the understanding or mental powers of a particular person” or “an intelligent or intellectual person.” There are many assumptions present within this definition of intellect, including assumptions about language, culture, and power. In addition, an intellectual is presented as an objective reference to the natural faculties that a person reportedly has as opposed to a social construction. A social constructionist notion of intelligence, derived from symbolic interactionism (Blumer, 1969) with a relativist epistemology, understands the idea of intelligence, competence, and/or rationality as a human invention that would not exist outside of the sphere of humanity (Hacking, 2000). Even across human societies,

cultural differences exist that problematize the notion of intelligence. An example where dominant notions of intelligence were contested comes from a study conducted by Rao (2006).

Rao (2006) conducted a qualitative study with mothers of children with intellectual disability in Bengali, India about their conceptions of their children's abilities and disabilities. These mothers provided a plethora of reasons to substantiate their arguments that their children were smart. Rao captured the way the mothers reported the intellectual gifts of their children with intellectual disability, including their high competence in performing familial duties. These responsibilities included assisting their mothers with everyday chores, being well behaved during religious observances, and making guests, friends, and family members feel welcome in the family home.

In the discussion of her findings, Rao (2006) discussed the parallel between the epistemologies of the mothers' and those of specialists and professionals in the field of working with children with special needs. These juxtaposing epistemologies suggested that in the professional context, these children were afflicted with an incurable condition, an irreducible flaw that rested within an individual or case. Meanwhile, the contention of the smartness of the children on behalf of the mothers embodied culturally and socially collectivist notions of duty, of polity, and of civility. As Rao herself asserted, "estimates of 'mental retardation' can increase or decrease in prevalency 'simply by redefining the concept of normality'" (p. 174). Among the concepts Rao discussed, Gardner's theory of multiple intelligences, posits that rather than having just one general intelligence in existence, eight intelligences could exist. The theory of multiple intelligences brings forth the notion that it is not if a person is smart or not, but in which ways they are smart.

Another concept Rao (2006) applied to her discussion included Derrida's methodology of deconstructionism. In her application of deconstruction, Rao encouraged us to study the construct of smartness. She prompted us by introducing us to the fragile foundations of the construct of intelligence, which contains at its origin notions of the intersectionality of sexism, racism, ableism, and xenophobia. So once one notices the shaky foundations that intelligence rests upon and the purposes the construct serves, one can begin to wonder if there is a better way to define the construct or if we should simply abandon the construct altogether. As notable overlaps exist between the notion of intelligence and the school-to-prison pipeline, the methodology of deconstruction is worthy of consideration. So too is the work of Foucault, which I will delve into next.

Derrida was but one of several philosophers during the second half of the 20th century to discuss the problems of the seemingly rational. Having intelligence coincides with having rationality as the thought experiment from Descartes lays bare (Rabinow, 1984). When Descartes proposed the idea of the cogito, Foucault (2006) noticed that Descartes rooted his idea of the thinking as existence by the claim that he was not a madman, but a rational, thinking person (Rabinow, 1984). Descartes grounded his sanity by stating that he did not display the characteristics of the insane (Rabinow, 1984). To Foucault (2006), the Cartesian cogito emphasized an important constitution of the West; "there can be no reason without madness" (p. xxxii).

Foucault's (1972) *archaeology of knowledge* concerning what he called madness and rationality (2006) centered on a normalizing discourse of power (1977) whereby reason could only be defined through madness (2006). The discourse of madness, to Foucault (2006), that was considered scientific in the time of its composition sought to

dissociate and segregate the so called normal from the so called abnormal. This segregation or confinement as Foucault (2006) called it served to justify the practice as a therapeutic form of treatment, but most knew better. Foucault posited that the confinement of the mad served as a warning to the normal. Thus, Foucault (1977) suggested the normal stayed normal by internalizing the notions of power ingrained by the medico-juridical establishment enforced by the government who ingrained the discourse within the populace to create a panopticonian form of surveillance. Therefore, being smart or intelligent, from a Foucauldian standpoint centers strongly on constructions of normality and the degree to which people have the willingness or ability to internalize power that perpetually colonizes their psyche and controls their agency. Those with perceived flaws or abnormalities often get pushed to peripheries of confinement (Foucault, 2006). The phenomenon of confinement is a serious issue as the United States incarcerates a higher percentage of its population, in fact more so than any other country on earth. I will discuss the very serious issue of mass incarceration that we presently practice in the next section.

Present Day Mass Incarceration

The present day policy of mass incarceration involves putting a rather large percentage of the population into spaces of containment or what Goffman (1961) called a *total institution*. Goffman did include prisons as *total institutions* (p. xiii), defining them as:

A place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life. (xiii)

Goffman's observations portray prisons as dehumanizing social spaces; places where prisoners unlearn normative functions of space and time while in a confined setting that generally operates in a way unnatural to human needs for social interaction. The dehumanizing space, Goffman observed, tends to perpetuate and intensify prisoner behavior that gets pathologized as abnormal. According to Goffman, the restrictions of confinement to one space where a person eats, works, sleeps, and participates in recreation, a restrictive setting where the inmate receives little to no privacy, creates a constant sense of paranoia for the inmate. Goffman elaborated on what amounted to methods of torture that served to deprive a prisoner of actions that enable them to maintain a sense of self as the prisoner is deprived of the artifacts that make them human; including personal hairstyles, clothing, jewelry, food choices, and the ability to be mobile; all essential components of a person's social identity.

The Bureau of Justice Statistics (Kaeble & Cowhig, 2018) lauded the decreasing prison population, which had declined since 2009. According to these Bureau statisticians, 1 in 38 adults were confined to prisons in 2016, which amounts to 2.6% of the total population of the United States. Although the population of inmates within prisons has declined, the table compiled by Kaeble and Cowhig also shows an increase of inmates supervised by the correctional system, including formerly institutionalized inmates in halfway houses and on probation, which stood at 6,613,500. Although the number of people in the justice system has decreased, the population of people under the surveillance of the U.S. Department of Corrections remains startling to say the least despite the recent declines of the past decade.

People of color are disproportionately incarcerated in prisons across the United States. According to Gramlich (2018) from the Pew Research Center, the population of Black people in the U.S. states encompassed 12% of the total population in 2016, but 33% of those incarcerated. In the same year, the Latinx population comprised 16% of the total population, but 23% of the prison population (Gramlich, 2018). So, Latinx people and African American people are overrepresented in the criminal justice system. In contrast, Whites are underrepresented in the prison system. In 2016, Whites consisted of 64% of the total U.S. population, but only 30% of the population confined to prisons (Gramlich, 2018). Even though prison rates are declining across demographics, African Americans and Latinx people continue to be imprisoned at much higher rates than White Americans.

The school-to-prison pipeline is part of a broader social phenomenon of mass incarceration (Alexander, 2012). According to the Children's Defense Fund (2007), "In 2006, the United States inmate population of 2,312,414 exceeded China's, whose population is more than four times as large" (p. 78). The percentage of inmates in our nation's prisons is comprised of predominantly African American and Latinx people (Alexander, 2012; Bonilla-Silva, 2014), many of whom have been convicted for nonviolent offenses (Alexander, 2012). Hip hop music in the 1990s brought police brutality and disproportionate representation to the consciousness of its listeners. Exemplifying this phenomenon was master of ceremony, Tupac Shakur (1998), who pronounced in the song "Changes" about the unchanging racist social system he endured, exclaiming that "the penitentiary is packed, and it's filled with blacks!" Shakur ended his song claiming in a similar manner to the thesis of the interest convergence principle of

Bell (1992) when he decried the permanence of racism that “some things will never change.” Alexander proposed that prisons acted as a social mechanism that created a *new Jim Crow*. She laid out a social system of apartheid in operation that prevents large percentages of African Americans from gainful employment, housing, healthcare, and the ability to cast a vote.

Alexander (2012) demonstrated the devastating impacts the U.S. criminal justice system has on African Americans. She examined the ways that the present system profits from the surveillance and incarceration of African Americans and posited that the harsh monitoring of African Americans begins at an early age. She documented the way the criminal justice system leads to high rates of recidivism, prevents those convicted of crimes from getting jobs (let alone good paying ones), takes away assets from families who had nothing to do with participating in the drug trade, and prevents young people from getting approved for student loans so they can attend colleges and universities. Alexander argued that the high incarceration rates of African Americans, many for nonviolent offenses, has created a permanent underclass and maintained a brutal system of disenfranchisement that parallels the Jim Crow system. Indeed, Alexander called this discriminatory occurrence *the New Jim Crow*. Alexander’s (2012) work highlights the dehumanizing conditions maintained by the criminal justice system.

Erevelles (2014) applied the notion of *coming out cripp* (p. 82) to analyze the issue of the school-to-prison pipeline to incorporate intersections of disability. Erevelles claimed that instead of studying incarceration through solely a racial lens, scholars can look at imprisonment through the intersectionality of race, disability, class, gender, and sexuality. For instance, she elaborated on the Jim Crow laws that targeted the body and

served to alienate and exclude and compared them with the so called *ugly laws* (p. 85) of the early 20th century that imprisoned people with unsightly features, mainly poor/working class White people for appearing in public. The maimed and mutilated people that this law targeted might have resulted from the unsafe working conditions working people at the turn of the century faced.

In the previous section I provided a brief historical and theoretical overview to contextualize the problems of the legacy of slavery, colonization, genocide, and derive from the present day realities of mass incarceration in the United States. These issues continue to pervade U.S. society as the government has made no attempt to reimburse or compensate these groups for the atrocities that have occurred over the course of the country's history. I argue that these issues provide the foundations for the present day social and educational problems that the nation faces.

Statement of Current Problem

Up to this point, I have examined the background of the school-to-prison pipeline. I hope I have demonstrated that the pipeline is a multifaceted problem with longstanding social, political, and economic forces of domination. For the next section, I will delve into zero tolerance policies, disparate rates of punishments, and disproportionate representation rates in special education to elaborate on educational issues that maintain the school-to-prison pipeline.

Zero Tolerance Policies

Zero tolerance policies play a significant role in the pipeline as the punishments schools administer to youth can work as an exclusionary practice and often accompany the involvement of the criminal justice system. Skiba et al. (2006) defined zero tolerance

policies as “disciplinary philosophies and policies that are intended to deter disruptive behavior through the application of severe and certain punishments” (p. 19). Zero tolerance policies have their origins in the adult criminal justice system, in which cities began utilizing the *broken windows theory* to policing in the 1980s (Nelson & Lind, 2015; Rausch & Skiba, 2006). Cities applied the *broken windows theory* based on the premise that severe punishments for smaller crimes would lead to a reduction in larger crimes (Nelson & Lind, 2015). Zero tolerance policies implemented these severe punishments based on the popular assumption that schools were becoming more violent (Skiba et al., 2009).

Zero tolerance policies also followed the lead of the *three strikes and you're out* approach. Promoted by President Bill Clinton and passed by Congress in the 1990s, the *three strikes* rule mandated life sentences for people convicted of three felonies (Hoffman, 2014). The Gun Free Schools Act of 1994 mandated that schools expel students who bring guns on campus for a mandatory minimum of one year (Skiba et al., 2006). This law and the zero tolerance policies that followed were based on common assumptions that exaggerated youth crime (Tuzzolo & Hewitt, 2007). School districts adhered to the law and extended upon its principles to include other infractions. The *certain punishments* (p. 19) that Skiba et al. (2006) alluded to often include suspending or expelling students who fail to comply with school policies or codes of conduct. As I will explain in the paragraphs below, scholars have identified numerous flaws in the application of zero tolerance policies (see e.g., Curran, 2016; Skiba et al., 2006).

The key philosophical stance of zero tolerance policies involves treating minor offenses as serious offenses and thus directly applying the broken windows theory to

public schooling. The harsh treatment of offenses, both mild and severe in nature is based on the assumption that the punishment will send a message that the school will not tolerate the breaking of school rules (Advancement Project, 2005). The tactic of essentially scaring students straight would presumably create an appropriate learning environment by deterring problem behaviors before they would have the chance to spiral out of control (Nelson & Lind, 2015) as students who commit repeated offenses face expulsion, referral to the criminal justice system, and/ or banishment from school grounds either for a time or permanently.

The mass media have often seized upon instances where schools have suspended students for seemingly nonthreatening behaviors such as bringing scissors to school or when a student accidentally packs a butter knife with lunch (ACLU, 2008; Rausch & Skiba, 2006). According to Skiba et al. (2006), the focus of the stories on zero tolerance policies have tended to center upon *good* students caught up in the web of zero tolerance. While the news managed to stereotype African American males as *predatory*, the corporate media have rarely discussed the way zero tolerance policies harm children and adolescents of color (Skiba et al., 2006). In addition, the news media have rarely raised the issue of students with challenging behaviors or emotional behavioral issues or students who are considered low performing or underperforming (Skiba et al., 2006). These students embody those who Rausch and Skiba (2006) explained are impacted and indeed harmed more significantly for missed instructional opportunities. In addition, the media have, for the most part, overlooked the culture of fear that often results from punishing students for insignificant offenses or minor student conduct (Advancement Project, 2005). Rather than fostering a safe and accepting learning environment, schools

who administer exclusionary zero tolerance policies tend to create more hostile learning environments (Skiba et al., 2006).

The use of school suspension might be considered acceptable if it were an effective deterrent of student misbehavior and/or if the consequence reduced the risk that students will become engulfed in the criminal justice system. The opposite is often true. Losen (2011) explained that rather than deterring misbehavior, suspensions often predict further misbehavior. Raffaele Mendez (2003) asserted that “out-of-school suspension is ineffective because it fails to address issues that cause students to misbehave” (p. 25) According to a study conducted by Cuellar and Markowitz (2015), students stand at a higher risk of breaking the law during their periods of suspension, time which they claimed the students in the study lacked adult supervision from either school staff or from working parents. The American Academy of Pediatrics (2003) relayed the concern that students who break school rules might be victims of abuse or neglect and/or might be experiencing mental illness or drug addiction. Their recommendation included encouraging schools to adopt alternative disciplinary policies as they argued that zero tolerance policies are neither developmentally appropriate nor focused on getting students the support they need to be successful. According to Rausch and Skiba (2006)

Longitudinal investigations of school discipline have found that out-of-school suspension appears to be associated, not with a reduction in future misbehavior, but with an increased rate of individual transgressions over time for those students who have been suspended. (p. 48)

These scholars have, to a large extent, falsified the premises which uphold the justification of the use of zero tolerance policies in schools in the United States.

Zero tolerance policies with their focus on surveillance and exclusionary punishments have been found to reduce educational opportunity for students, many of whom come from poor and/or oppressed cultural, linguistic, and racial backgrounds (Rausch & Skiba, 2006). Rather than deter problem behavior, Skiba et al. (2014) claimed that school suspensions are “likely to be associated with negative academic and behavioral outcomes” (p. 553). They pointed out that suspensions are a significant predictor of dropping out of high school. Inner city schools with higher percentages of poor nonwhite groups have been referred to as *dropout factories* (Castillo, 2014, p. 49). Students who have dropped out of high school face an increasing likelihood of incarceration (Skiba et al., 2014). These problems come at a time when society requires workers with advanced training (AEA, 2007; Castillo, 2014). According to Smith (2009):

Statistics demonstrate that as a person’s level of education increases, her chances of becoming incarcerated decrease. For instance, sixty-nine percent of all incarcerated adults never finish high school, seventy-five percent of juveniles in adult prisons fail to complete tenth grade, and thirty-three percent of all incarcerated juveniles do not have a fourth-grade reading level (p. 1016).

The school dropout phenomenon exacerbated by zero tolerance policies has, like the criminal justice system, created a permanent underclass (Alexander, 2012) with very few outlets for social mobility and advancement. The prominent punisher of zero tolerance policies, suspensions, disparately impacts oppressed groups. This is the topic of the upcoming sections.

The Disparate Application of Punishers

The faulty logic of zero tolerance policies also rests upon the assumption that these policies would be administered by schools in a neutral fashion where a particular offense would receive a uniform consequence (Skiba et al., 2006). This is not happening (Skiba et al., 2006). Numerous studies have falsified the claim that schools objectively administer zero tolerance policies (Skiba et al., 2002; Vincent et al., 2012). Instead, these studies provide evidence that zero tolerance initiatives disparately impact historically marginalized and disenfranchised groups including African Americans, Latinx students, and students with disabilities (Skiba et al., 2002; Vincent et al., 2012). In fact, studies have shown that schools suspend and expel these groups in a trending manner that far exceeds their general, overall demographics (Skiba et al., 2002; Vincent et al., 2012). This phenomenon of suspending oppressed groups coincides with the way the prison population presently consists predominantly of people of color, many of whom have dropped out of high school and may also struggle with literacy (Skiba et al., 2014; Wald & Losen, 2003).

The Disparate Punishment of African American Male Students. The disparate application of punishers on oppressed groups may have to do with the longstanding use of racial profiling in the United States, which continues to play a pivotal role in the dehumanization of people of color (Alexander, 2012; Bonilla-Silva, 2014; Dancy, 2014). According to Allen and White-Smith (2014) “School policies and practices often play a significant role in the systemic failure of black males and their consequential placement in the school-to-prison pipeline” (p. 446). Allen and White-Smith used counter storytelling to expel the biases that teachers, counselors, and administrators often have toward African American students and the way those biases exclude African American

students from having equal educational outcomes. Alexander mentioned a study conducted in an inner city Chicago neighborhood where the sociologist witnessed African Americans *assuming the position*, which consisted of putting their hands up and spreading their legs so that police could frisk them. In doing so, these African Americans attempted to prevent themselves from the police brutality that have cost countless African American lives. Giroux (2003) stated that, “we are a society that faces the problem of losing a generation of young people, especially young people of color, to a system of increasing repression, moral indifference, and racism” (p. 556). According to Dancy (2014), racial profiling stems from long standing stereotypes of African American men as hypersexualized, prone to violence, both delusions which tend to put White people in a state of fear. He went on to explain that racial profiling is a tool of Foucauldian normalization, which criminalizes the behavior of African American males and, in addition, serves to under educate them and abolish them to segregated communities and prison.

The monitoring of school suspensions by race began in 1975 with the research of The Children’s Defense Fund who noticed the exceedingly high rates of suspension African American students received (Advancement Project, 2005; Skiba et al., 2002). The disparate rates of suspensions of African Americans have held constant well into the 21st century (Skiba et al., 2002; Skiba et al., 2006; Dancy, 2014; National Association for the Advancement of Colored People, 2005). According to a Skiba et al. (2000) study, boys tend to receive higher suspension rates than girls. The trend from the highest rates of suspension to the lowest rates of suspension proceeds in the following order: African American male students, White male students, African American female students, and

White female students. A conclusion that Skiba et al. (2002) made involved the following observation:

What is especially clear is that neither this nor any previously published research studying differential discipline and rates of behavior by race (McCarthy & Hoge, 1987; McFadden et al., 1992; Shaw & Braden, 1990) has found any evidence that higher rates of discipline received by African American students are due to more serious or more disruptive behavior (p. 335).

In addition to receiving higher rates of suspension historically, studies have shown that African American students continue to receive harsher consequences for infractions, including the use of long term suspension, expulsion, and corporal punishment in states where it is still legal (Skiba et al., 2002). Skiba et al. (2009) explained that schools suspend Black students at a 250% higher rate than White students. According to Skiba et al. (2002), lower socioeconomic status (SES) increases the likelihood of school suspension. Sharing similarities to their findings on disproportionate representation in special education and disproportionate access to the least restrictive environment of the general education setting, however, Skiba et al.'s findings indicate that poverty and race remain independent variables (see also Skiba et al., 2009).

Students of color have reported that they are often treated unfairly in schools. Wald and Kurlaender (2003) conducted a study that uncovered student reports of teacher fairness and attempts to connect with high school students in Seattle, Washington. Through analyzing responses to survey questions, the authors found that although 40% of students reported fair treatment by teachers African American and Latinx students reported higher rates of being treated unfairly. In addition, Wald and Kurlaender also

found a potential link between a lack of fairness and personal connections teachers in the study made with students.

While it remains of significant importance that the above studies highlighted the overuse of suspension of oppressed groups, these studies also revealed the disparate under use of suspension on White students, especially those who come from higher income backgrounds (Wald & Losen, 2003). In a large study conducted by Vincent et al. (2012) of students in the Pacific Northwest they found that White students “were considerably underrepresented in all disciplinary actions” (p. 591). According to Dancy (2014), while 1 in 6 African American students was suspended, only 1 in 20 White students was suspended. By studying discipline referrals at a Midwestern school district Skiba et al. (2002) found that while White students received referrals for more objective reasons such as smoking and vandalism, African American students received referrals for subjective reasons such as disrespect or classroom disruption. Skiba et al. (2002) reported that:

white students were significantly more likely than black students to be referred to the office for smoking, leaving without permission, vandalism, and obscene language. Black students were more likely to be referred for disrespect, excessive noise, threat, and loitering (p. 332).

The findings of Skiba et al. allude to the institutional privileging of White students who receive consequences for specific, measurable, and observable rule infractions and receive the benefit of the doubt on other infractions. This finding supports Bourdieu’s (1986) notion that dominant groups have cultural capital that privileges their language,

tastes, actions, and experiences over oppressed groups whose characteristics get marginalized and ostracized.

The Disparate Punishment of Students with Disabilities and its Intersection with Racism. Like African American students, students with disabilities, especially those from oppressed groups deal with disparate rates of suspension (Skiba & Peterson, 2000). Citing the American Bar Association, Castillo (2014) claimed that “zero tolerance policies do not distinguish between serious and nonserious offenses and they fail at adequately separating intentional troublemakers from those with behavioral disorders” (p. 46). Skiba and Peterson (2000) argued that when schools implement zero tolerance policies, they often neglect to implement effective behavioral interventions such as conflict resolution, restorative justice, and positive behavioral interventions and supports.

Zero tolerance policies have serious consequences for proponents of inclusion. Skiba and Peterson (2000) claimed that the exclusionary policies school classrooms adhere to can deter the inclusion of students with disabilities in general education classrooms as general education teachers tend to rid those they consider as having problem behaviors from their classes. Rather than using innovative, state of the art interventions as they are often advertised as doing, charter schools have been found to rely on school suspension and expulsion more so than traditional schools (Losen et al., 2016). In their study Losen et al. (2016) found that “235 charter schools suspended more than 50% of their enrolled students with disabilities” (p. 6). Rather than teaching its students appropriate behavior and providing supports for difficulties and challenges, schools, including charter schools have resorted to the ineffective intervention of suspending students with disabilities (Skiba & Peterson, 2000).

The National Council on Disability (2015) claimed that twenty seven percent of African American boys with disabilities “received at least one out-of-school suspension in 2011-2012” (p.11). In their study on discipline in the Pacific Northwest, Vincent et al. (2012) found that White students with disabilities were underrepresented in disciplinary exclusionary interventions such as in school and out of school suspensions while Latinx, African American, and American Indian students with disabilities were overrepresented in these exclusion rates. According to Wald and Losen (2003), African American students with disabilities “are three times as likely as Whites to be suspended and four times as likely as Whites to be educated in a correctional facility” (p. 3).

Regarding the issue of socioeconomic status, Skiba et al. (2005) observed an independent relationship between race, class, and disability. Yet, there does appear to be certain contexts where these variables intersect. In his examination of poor communities of color, Bonilla-Silva (2014) reported that many poor communities of color deal with mental health concerns due to the stressors of poverty, violence, surveillance, and lack of healthcare and nutrition. The National Association for the Advancement of Colored People (NAACP) (2005) argued that inner city schools in low income communities suspend students as they lack the resources to address the complex issues they face. The National Council on Disability (2015) claimed that “many students with disabilities, including students of color, go through general education with unidentified and unaddressed academic, behavioral, or mental health needs” (p. 5). According to the Children’s Defense Fund (2007), “A Congressional study found 15,000 children in juvenile detention facilities, some as young as 7 years old, solely because community mental health services were unavailable” (p. 53). Many schools, especially those located

in low income neighborhoods, lack the resources to adequately address the needs of students in attendance.

The predominant zero tolerance policy of suspension rests upon the assumption that suspending a student from classes is an effective intervention (Skiba et al., 2006). This is not the case, especially for culturally and linguistically diverse students and students with disabilities (Raffaele Mendez, 2003). In their investigation of the likelihood of students committing criminal offenses, Cuellar and Markowitz (2015) found that suspensions increased the likelihood that diverse students committed criminal offenses, because this punisher removes students who require adult supervision and structured activities to their community setting where at work parents cannot monitor them. According to the National Council on Disability (2015), students who qualify for special education services represent 12% of the overall school population, but a quarter “of students subjected to a school-related arrest” (p. 11). The figure increases for African American students with disabilities as they represent 18.7% of students who qualify for special education services and 49.9 % of students in correctional facilities (National Council on Disability, 2015). Annamma (2015) explained that students with disabilities represent between 33% and 37% of all incarcerated youth. The percentages increase when discussing specific disability labels, particularly emotional disturbance (ED) (Annamma, 2015). Youth with ED labels represent 50% of incarcerated youth (Annamma, 2015). African American students with ED graduate at a rate of 27.5% compared to White students with ED who had a graduation rate of 48% (Annamma, 2015). According to the National Council on Disability, incarcerated students are denied

the right to a free and appropriate public education in the least restrictive environment and thus epitomizes an illegal denial of essential rights of students with disabilities.

The Disparate Punishment of Women of Color. The National Council on Disability (2015) suggested that the Individuals with Disabilities Education Act could help with stopping the pipeline, but also argued that most districts fail to implement the law effectively. A surprising finding by the council was the rising trend of young women of color syphoned into the pipeline (National Council on Disability, 2015). Annamma (2014; 2015, 2015a) contended that even though the instances of overrepresentation of young women of color are much less pronounced, they get suspended at much higher rates than do young White women. According to the Children's Defense Fund (2007), "Boys are five times as likely to be incarcerated as girls. But in 2003 almost 15,000 girls were incarcerated, 1 of every 7 juveniles in residential placement" (p. 69).

Concluding Thoughts on Zero Tolerance Policies. In her critical discourse analysis of educational law and policy, Roth (2017) claimed that these policies, from the passage of the Bilingual and Multicultural Education and the Education for Elementary and Secondary Education acts to the Education for All Handicapped Children Act, epitomized a discourse of inclusivity. While undoubtedly an inclusivity mired in the atrocities of the Vietnam War, these acts epitomized genuine attempts at equity and integration. Roth went on to explain that *A Nation at Risk* represented a shift of discourse at exclusion and segregation. The exposes such as the one by Blatt and Kaplan (Trent, 1994) and hard won court cases for disability rights in the 1960s had led to deinstitutionalization, the rise of community supports, and free appropriate public education (FAPE) for people with disabilities (Trent, 1994). Zero tolerance policies, as

pointed out earlier have, to a large extent, hindered the inclusion of students with disabilities in general education settings (Skiba & Peterson, 2000). The study's findings determined that students identified with disabilities all too often receive an education in a restrictive, segregated educational setting. Often, the teachers within these restrictive classrooms lack the experiences and credentials to manage a classroom of students with complex and varied behaviors (Annamma, 2014). I argue that segregated settings are an exclusionary tactic that is inextricably linked to the school-to-prison pipeline, because even though students with disabilities are not yet incarcerated, they are placed in a setting where they face daunting odds of learning the necessary literacy, numeracy, functional, and social tools for surviving in this late capitalist model of society. These are important points to consider for the next section on the topic of disproportionate representation in special education.

Disproportionate Representation in Special Education

Disproportionate representation continues to linger within special education over fifty years after it was first identified (Sullivan, 2011) and after two national committees by the National Research Council on this issue (Donovan & Cross, 2002; Heller et al., 1982). Artiles et al. (2005) defined disproportionate representation as the “extent to which membership in a given group affects the probability of being placed in a specific special education disability category” (p. 288). de Valenzuela et al. (2006) explained that disproportionality refers to either a “higher or lower percentage of students from a particular ethnic group in special education than is found in the general population and has been documented as both a historical and continuing concern” (p. 426). When applying a historical context to the matter, the overidentification of many individuals of

predominantly non White, oppressed groups as in need of special education services appears as a continuation of containment or confinement of these groups within the United States. Historically, standardized tests, such as the Stanford-Binet Intelligence Scales, have been used to justify the hierarchical structure of society and as a means to sort students based on their perceived ability as measured by the assessment (Gould, 1996; Trent, 1994). Whereas the disparate use of punishments for students of color is based on the criminalization of their behavior, disproportionate representation is based on pathologizing the perceived abilities of these diverse groups (Artiles, 1998).

A Brief History of Disproportionality. Among the first studies on disproportionate representation was one conducted by the Office of Civil Rights in 1968. This report examined district data from various school districts in the United States and found that African Americans had a notably higher percentage of school age students attending classes for students who were labeled as *educable mentally retarded* compared to their overall population percentage in the district. (Donovan & Cross, 2002). This study documented that the segregated classes the African American students labeled with *educable mental retardation* attended had lower academic expectations than segregated students from the rest of the school (National Research Council, 2002). The Office of Civil Rights had a vital stake in this issue, because the process of separating students who were considered *disabled* from students considered *normal* caused serious Type I errors for African American students, leading to policies of discrimination and was a potential violation of the equal protection clause of the Fourteenth Amendment, sharing similarities to the appellant argument in *Brown v. Board of Education* (Martin, 1998).

There were respected members of academia during the time when members of the Office of Civil Rights became alerted to the issue of disproportionality who continued to argue for the objectivity of standardized measures of intelligence (Gould, 1996). A number continued the argument vigorously discussed during the early to mid 1900s that such tests demonstrated the inherent intellectual inferiority of certain culturally and linguistically diverse groups, and the poor (Gould, 1996; Trent, 1994). In 1994 Hernstein and Murray returned to this hereditarian argument in their work, *The Bell Curve*, which received much debate in the popular media and has been used to justify the hierarchical structure of U.S. society. The hereditarian argument within Hernstein and Murray's *Bell Curve* was the latest of a long history of American biologists and psychologists who used scientific induction to argue for the intellectual inferiority of culturally and linguistically diverse groups such as Arabs, Chinese, African American, and American Indians and thus justify and argue for policies that stratified U.S. society (Gould, 1996).

Jane Mercer, a sociologist who was foundational in the study of the overrepresentation of African Americans in special education in Riverside, California in the early 1970s, provided other potential justifications for disproportionality in addition to test battery bias, namely a critique of the way White children received their eligibility compared to African American children (Mercer, 1971). While White children tended to receive their diagnoses from a doctor, Mercer argued that African American families received their diagnoses largely from schools. Mercer observed the way that the schools created a self-fulfilling prophecy for African American children, playing the part of the *educable retardate* at school while functioning well in their homes and communities (Trent, 1994). Referencing a phrase from a study completed by the President's Council on

Mental Retardation in 1966, Mercer (1972) called this phenomenon the *six hour retarded child* in her popular article in *Psychology Today*, a mainstream magazine read by millions.

Larry P. v. Riles (1979) was a groundbreaking 9th Circuit court decision that emphasized the problem of bias and disproportional representation of African American students as having intellectual disability and their placement in remedial settings and disallowed the administration of intelligence tests with African American students for use in special education placement decisions. Following this decision, the National Research Council formed the first of two committees to study issues of minority representation in special education in 1982. The report from this committee (Heller et al., 1982) brought the issue to the forefront of institutions of higher learning for educational researchers who wanted to continue to develop a sociological framework for special education and disability and was followed by a second in 2002 (Donovan & Cross, 2002). Many of the studies done in the last five decades have used increasingly complex statistical analyses to examine patterns of disproportionate representation. To me, the quantitative methods the research on disproportionate representation is used to counteract the historical use of statistical interpretations from scholars such as Frederick L. Hoffman who used statistics to demonstrate the inherent criminality of African Americans (Gibran Muhammad, 2010). They also reaffirm the tradition of Ida B. Wells-Barnett (1895/1998) who campaigned against inequity and used statistics on the lynching of African Americans to reaffirm the second class citizenship of African Americans.

Since 1968, nearly a thousand studies have provided evidence that the disproportionate representation of culturally and linguistically diverse groups continues to be a problem in the U.S. education system (Donovan & Cross, 2002; Heller et al.,

1982; Coutinho & Oswald, 2000; Waitoller et al., 2010). Despite organizations, such as the National Research Council, the Office of Civil Rights, and the National Association of School Psychologists, disproportionality continues to persist with no end in sight (Carter et al., 2017; Waitoller et al., 2010). No longer in the public spotlight as it was during Mercer's article in *Psychology Today*, most people who do not practice education know very little, if anything, about disproportional representation in special education. In addition, the United States continues to remain as segregated as it had been in 1954 (Irons, 2002) despite all of the possibilities the country has for creating heterogeneous groupings (Brown v. Board of Education, 1954) The United States remains a country with deeply embedded racist institutional practices that marginalizes culturally and linguistically diverse groups and privileges White Americans.

The Logic of Disproportionality. My reading in the area of disproportionate representation in special education has led me to question the epistemology and logic of the research of disproportionate representation. The study of disproportionality is postpositivist. Therefore, the underlying principle on the nature of knowledge of disproportionate representation is that processes of verification do not exist, only those of falsification (Morrow & Brown, 1994). I would argue that disproportionate representation research falsifies the Aristotelian law of identity as it applies to oppressed groups in the U.S.

Aristotle's law of identity puts forth the notion that $A=A$ (Novack, 1971). In applying the law of identity to representation in special education, the proposition of Aristotle's theory would hypothesize that a group's representation in special education would be in proportion to its representation in the general population. This assumption

has held for special education eligibilities such as visual impairment/blindness, hearing impairment/ deafness, traumatic brain injury, and physical/multiple disabilities. However, educational researchers of disproportionate representation have found evidence that this assumption fails to hold true when it comes to disability categories such as learning disabilities, intellectual disability, and emotional disturbance.

The postpositivist research in the area of disproportionate representation has sought to falsify Aristotle's law of identity as it relates to the placement of oppressed groups in special education. Most scholarship in the area of disproportionate representation has falsified the Aristotelian assumption under what the eligibilities of intellectual disability, learning disability, and emotional disturbance. Through this falsification, scholars in the field have utilized statistical methods and analyses to render the results and the discussion of those results. Although scholars in the field use other methods such as analyses of variation and correlation coefficients, educational researchers have traditionally analyzed disproportionality in either of two ways: through the composition index and relative risk ratio.

The Principal Methods of Disproportionate Representation Research. The first method I will discuss is the composition index. According to Skiba et al. (2008), the composition index "compares the proportion of those served in special education represented by a given ethnic group with the proportion that group represents in the population of school enrollment" (p. 266). National aggregated data from the U.S. Department of Education Office of Civil Rights or the Office of Special Education Programs is often utilized for studies using a composition index. Skiba et al (2008) provided the example that African American students represent 17% of the overall

student population in the United States, but 33% of students labeled as having an intellectual disability. The preceding composition index indicates clear evidence of disproportionate representation of African American learners in special education. However, there is some argument as to how much a difference identified using the composition index constitutes disproportionality.

Many researchers consider that any variance in representation in special education that is above or below 10% of an ethnic or racial group's general population in the state is a red flag for disproportionate representation (Artiles et al., 2005). As federal courts have struck down racial desegregation mandates (Orfield, 2001), many urban inner city schools have a nonwhite population of over 91% (Skiba et al., 2008). Skiba et al. (2005) explained that the 10% marker can pose a problem at schools whose demographics exceed a 91% nonwhite population. Skiba et al. explained that problems with composition index included a poor confidence interval. Therefore, some researchers (e.g., de Valenzuela, 2006) have used chi square tests (with a p value of less than 0.05 or 0.01 to indicate statistical significance) rather than a 10% variance as the criterion for identification of disproportionate representation.

The risk index is another means of identifying disproportionate representation in special education. Skiba et al. (2008) defined the risk index as "the proportion of a given group served in a given category and represents the best estimate of the risk for that outcome for that group" (p. 267). A risk index of 1.0 demonstrates proportional representation (Skiba et al., 2005; Skiba et al., 2008). White students are often the group used as a point of comparison (Skiba et al., 2008). Skiba et al. (2008) noted that:

Comparing African American risk for MR identification (2.64%) with the risk index of 1.18% of White students for that disability category yields a ratio of 2.24 (2.64/1.18), suggesting that African Americans are more than two times more likely to be served in the category mental retardation than White students (p. 267).

Some researchers often utilize chi square calculations to account for school enrollment numbers of a given group (Skiba et al., 2008). Despite using this method to determine significance of the differences observed, Skiba et al. (2008) claimed that the risk index still lacked an understanding of the severity of the disparities between groups depending upon the population percentage.

In falsifying the Aristotelian law of identity as it relates to the identification of students in need of special education high incidence categories, the majority of research in the area of disproportionate representation has its stake in providing continued evidence that African Americans, Native Americans, and Latinx students are disproportionately identified as in need of special education services. The problem of disproportionate representation in this literature has led those in the tradition to advocate for changes to address educational inequities. Students labeled with disabilities drop out at higher levels than the general education student population (Thurlow et al., 2002). As I will argue throughout this section, their removal to a restrictive setting, special education has been a tool of confinement that disproportionately impacts students of color and poor students. Thus, special education has its place as a removal policy within the funnel of the school-to-prison pipeline. The researchers who have documented disproportionate representation within this tradition to be a problem if, as Waitoller et al. (2010) suggested, disproportionate representation prevents students receiving special education

services from receiving instruction of a higher quality, is due to low quality instruction in general education, and if the eligibility prevents them from receiving instruction in general education settings.

Up to this point, the introduction has mainly been focused upon the prominent logic and methods utilized in the literature of disproportionate representation. I have laid out these issues to make the argument that the essential educational research on disproportionate representation has an overarching theoretical framework that emphasizes social inequities and seeks to eliminate the problem of the overrepresentation of oppressed groups in restrictive settings in special education. The focus will now turn to assumptions held within education practices and policy that most of the research seeks to criticize. Citing Minow (1990) and Heath (1995), Artiles (1998) reasoned that educationalists have long assumed that culturally and linguistically diverse groups are different in comparison to the norm established by White people. Past differences have confined African Americans to slavery or Native American groups to reservations. The continuity of present and past that Artiles emphasized stems from an understanding of differences as deficits or worse, defects. He explained that “the deficit view of minority people might often mediate White people’s cognitive, emotional, and behavioral reactions to minority individuals’ phenotypes, interactive styles, language proficiency, and worldviews” (p. 33). DuBois (1903/2003) termed this phenomenon double consciousness in which African Americans were forced to adapt to certain contexts within the White cultural sphere through thoroughly observing White people. Then, once in their own context, African Americans could relax and be themselves.

Artiles (1998) also claimed that research in disproportionality can often “suffer” (p. 34) from a case of what he called “invisible person syndrome” (p. 34). He explained that White people conduct the majority of education research and, thus, research on disproportionate representation has had a tendency to lack the necessary reflexivity on the part of the researcher to understand their own intellectual history, social position, and lens. Artiles also articulated that the lack of reflexivity in disproportionality research is a problem as the unreflective researcher lacks an understanding of their assumptions on the participants of the study. He explained that “sociological perception research suggests that little change has been observed in the last 30 years in Anglo adults’ views of minority people: “They continue to be perceived as less intelligent, lazy, and of lower moral character’ (Garcia, 1993, p. 52)” (p. 33). In addition to race, the research literature suggests that gender and socioeconomic status plays a determining factor in special education placement. I will now turn to elaborating on all these issues in the space that follows.

The Overrepresentation of African American Students in Special Education.

The first studies on disproportionate representation emphasized the overrepresentation of African American students in special education (Dunn, 1968; Mercer, 1971). The disproportionate representation of African American students in special education persists. Bal et al. (2014) attempted to rectify the problem through participatory action research. They examined data from the state of Wisconsin using risk indices and found that “among students with disabilities, risk was highest for those who were African American, American Indian, receiving FRL [free and reduced lunch] and male” (p. 8). They also reported that African American students were “2 to 3 times as likely as White

students to be identified for SLD, ID, and ED” (p. 8). The researchers then applied methods of participatory action research to their work with district leaders, which consisted of posing the problem of disproportionality, then dialoguing with the leadership team solutions to the problem to promote systems change. Many more studies have reached similar results for their studies.

The problem of overrepresentation is a national phenomenon with local nuances for researchers who look at data from states prior to their aggregation into national data. de Valenzuela et al. (2006) analyzed disaggregated district data from a large and diverse Southwestern school district. They found that African Americans were overrepresented in the categories of ED, SLD, and special education in general. However, de Valenzuela et al. also found African American underrepresentation in gifted education. In addition to the designation of gifted, Morrier et al. (2008) discovered that African American students are underrepresented in another eligibility; autism. Also, African American students identified with disabilities have a higher likelihood of receiving an education in a restrictive educational setting in comparison to White students (de Valenzuela et al., 2006). De Valenzuela et al. (2006) suggested that African American students were more likely to have more identified secondary and tertiary disabilities than their White counterparts. Their finding that schools had identified culturally and linguistically diverse students with more secondary and tertiary disabilities also provides evidence that overrepresentation is even more pronounced than what other research had previously reported.

Within the literature on disproportionate representation is a nuanced debate on the relationship between race and class or socioeconomic status. Coutinho et al. (2002)

examined the relationship between race and class using data from the Office of Civil Rights. Their results suggested that coming from a low SES background increased the likelihood of special education identification for many culturally and linguistically diverse students, including African American students. In their study of 230 third to fifth grade students identified as having a learning disability in four school districts in Delaware, Hosp and Reschly (2002) found that “African Americans with larger discrepancies spend less time outside of the general education classroom than do Caucasians with similar differences” (p. 230). In addition, they reported that factors such as perceived lack of independence, anger management, and parent nonattendance at the most recent IEP often led to a more restrictive setting for African American learners in comparison to their White counterparts. Because many of the more than one hundred variables they analyzed were similar between White students and African American students, Hosp and Reschly argued that their results suggested that poverty could play a factor in educational placement.

Other studies cast disproportional representation as a complex problem, but also argue that it is steeped in practices of racial discrimination, casting race and class as independent variables. Skiba et al. (2006) conducted a study on the placement of students with disabilities in Indiana. Their findings suggested that, when compared with other students, African American students had a higher risk of receiving an education within a restrictive educational placement as opposed to an inclusive setting. They also found race and class to be independent variables. In another study, class and race had connections to special education diagnosis and placement. For instance, in a subsequent study, Hosp and Reschly (2004) used data from the Office of Civil Rights, the Common Core of Data, and

district level achievement data to determine predictors related to SES, academic, and race/ethnicity. Their findings suggested that economic, academic, and environmental factors increased the likelihood that African Americans would receive a special education designation in a high incidence disability category.

Research also suggests that disproportionate representation has its roots in undermining policies of racial integration. Using a sociological perspective, Eitle (2002) incorporated many types of longitudinal studies and interpreted the relative risk ratios using a theoretical framework that emphasizes the long standing racist structure of the United States. Her findings suggest that African Americans were overrepresented in the category of intellectual disability, they were more likely to receive an education in a segregated setting away from their neighborhood school, and the risk for labeling intensified for African American students in suburban, majority White school districts, indicative of a resegregation of African American students to restrictive settings of special education. The practice shows the continuation of the separate but unequal policies that states put in place prior to *Brown v. Board of Education* (1954).

The literature overwhelmingly indicates that African American students are overrepresented in the eligibility categories that include being identified as having intellectual disability, emotional disturbance, and/or a learning disability (Bal et al., 2014; Dunn, 1968; Eitle, 2002; de Valenzuela, 2006). The literature also suggests that in certain localities, African Americans are under identified as having giftedness (de Valenzuela et al., 2006) and with autism (Morrier et al., 2008). A variety of confounding factors from not attending IEPs to a perceived lack of student independence can have an impact on the restrictiveness of the setting African American students get educated in (Coutinho et al.,

2002). Although one research team found that race and class were independent of one another (Skiba et al, 2006), another team of researchers found that class increased the probability of special education placement (Hosp & Reschly, 2004). The identification and placement of African American students in restrictive educational settings also had a relationship with enrollment in a majority White school district (Eitle, 2002). These are just a few of the pertinent issues of the problem of African American student representation in special education. I will now turn to the issue of the Latinx and English Learner representation in special education.

Latinx and EL Representation in Special Education. Of growing concern over the past two decades of research in the area involves the nuanced issue of the representation of Latinx and English Learners in special education. It is a nuanced issue in that studies have found overrepresentation (Artiles et al., 2005; de Valenzuela et al., 2006; Sullivan, 2011), while other studies have found underrepresentation (Bal et al., 2014). In their study of Wisconsin school districts, for instance, the findings of Bal et al. (2014) found that Latinx students fluent in English and Latinx students with limited English proficiency were underrepresented in high incidence disability categories. More research in this area is needed to explore contextual variables that might contribute to differing findings.

A prominent issue in the literature on the disproportionality of English learners (EL) has to do with the first and second language development of students. The assessment of EL students along with instruction that adequately utilizes students' first language to enable them to develop their second are important factors to consider. Artiles et al. (2005) gathered data from 11 urban California school districts, including data from

the home language survey and scores on language proficiency assessments. Using a composition index, a risk index, and an odds ratio, the researchers examined the restrictiveness of the educational setting. In analyzing data for grades K-12, Artiles et al. explained that although the school districts accurately reported proportional representation, the researchers noticed overrepresentation of ELs with limited first and second language proficiency as having a learning disability (LD) at the elementary level. Artiles et al. reported that while students with higher levels of language proficiency had proportional rates of special education placement, students with lower language proficiency levels showed overrepresentation, which increased as students got closer to high school.

With their attention to detail and through the purpose of falsifying this understanding of a monolithic EL category, Artiles et al.'s (2005) findings also revealed that EL students with limited first and second language were educated in more restrictive settings than their White counterparts. They also reported a noticeable increase after the passage of Proposition 227, which restricted access to bilingual education in California. In addition to finding overrepresentation of African American learners with emotional disturbance (ED) and LD in the Southwestern school district they studied, de Valenzuela et al. (2006) reported Latinx student overrepresentation in the area of LD and underrepresentation in the categories of ED, other health impairment (OHI), speech language impairment (SLI,) and special education in general. They also reported that when they compared ELs with non-ELs, ELs were overrepresented in ED, intellectual disability (ID), LD, SLI, and special education in general and were underrepresented as having developmental delays or giftedness. Sullivan (2011) used aggregated data from a

southwestern state to focus on ELs to focus on the group's representation in ID, SLD, SLI, and ED special education categories. Her findings suggest that ELs "were increasingly overrepresented" (p. 324) in these categories. Sullivan added that when compared to White students, English learners were more likely to be placed in restrictive educational settings, such as resource rooms. Similar to Artiles et al. (2005), Sullivan attributed the growing problem of EL overidentification to the enactment of English Only educational legislation in the state under study.

The research that assists in an understanding of Latinx and EL representation in special education requires looking at the heterogeneity of these categories that actually represent a range of learners that come from a range of geographies (Artiles, 2005). Even within the Spanish speaking EL category, there exists a heterogeneity both by region and first and second language proficiency (Artiles, 2005). The enactment of xenophobic laws has increased the trend of overidentification of ELs (Artiles, 2005; Sullivan, 2011). The next topic will address Native American representation in special education. Much like the previous discussions on African American and Latinx students, the research literature has found disproportionate representation of Native American students as requiring special education services.

Native American Representation in Special Education. Numerous studies have found notable instances of the disproportionate representation of Native Americans or American Indians as requiring special education services (Bal et al., 2014; Coutinho et al., 2002; Coutinho et al., 2002, de Valenzuela et al., 2006). In their study on Wisconsin school districts, Bal et al. (2014) reported that Native American students were more likely to be over identified, as compared with White students, as having a high incidence

disability (e.g., learning disability). They also found these students were slightly more than four times as likely to be diagnosed with an emotional disturbance. Using data from the Office of Civil Rights, Coutinho et al. (2002) found that Native American male students have a higher risk of ED identification in comparison to White students, and this risk increases as the population of White students within a school increase. With regard to the representation of Native American students in the district they studied, de Valenzuela et al. (2006) reported that Native American students were overrepresented in the category of LD but underrepresented in the categories of giftedness and OHI. In the interpretation of their analysis, they also stressed the following:

Examination of the relative proportion of students within each ethnic group in each of these settings . . . indicated that the majority of African American (52.0%), Hispanic (49.8%), and Native American students (54.9% were placed in the most segregated setting (setting 3), as compared to White (32.9%), Asian (21.6%), and Other (35.6%) students. Most ELLs (57.1%) were placed in setting 3, as compared to 38.1% of non-ELLs. (p. 432).

In their study, Coutinho et al. (2002) determined that Native American male students were overrepresented as having LD and suggested that higher rates of poverty were positively associated with lower rates of LD identification while lower rates of poverty and attending school with White peers actually increased LD identification.

The representation of racial and ethnic groups may vary due to a variety of factors that include the date of study. For instance, Harry (1994) found that the percentage of Native Americans in special education to be largely proportional, although issues of disproportionality were apparent in states with high Native American populations, such

as Alaska. Harry conducted this study in the mid 1990s. The studies conducted in the 21st century do show overrepresentation of Native American students in the high incidence categories of LD and ED in many states with sizeable indigenous populations, such as Wisconsin (Bal et al., 2014) and the Southwestern United States (de Valenzuela et al., 2006). As Skiba et al. (2006) determined, poverty is an inconsistent determining factor of special education placement. The studies I analyzed for this particular overview showed positive associations between poverty and Native American identification as requiring special education (Coutinho et al., 2002; Coutinho et al., 2002). Following the recommendations of Artiles (1998), historical, cultural, and language factors must be considered when interpreting the results of all of these ethnic groups, including Native Americans. Next, I will turn to Asian American representation in special education. This section differs from the previous section in that it deals with being under identified in high incidence categories and overidentified as requiring gifted instruction.

Asian American Representation in Special Education. According to Schaeffer (2002), Asian Americans have often lived with the perception of being the *model minority*, as opposed to African Americans, Latinx people, and Native Americans who are often not given such a distinction. The numbers on Asian American representation in special education exposes the dominant notion of the *model minority*. Bal et al. (2014) reported that Asian students were “underrepresented in all disability categories” (p. 6) in the state of Wisconsin. Using data collected from the Office of Civil Rights Coutinho et al. (2002) found that although being Asian reduced disability identification, as poverty increased, the identification of Asian students as having a learning disability increased. Coutinho et al. (2002) found that Asian American identification of ED stood at .07%, far

below their population percentage. According to de Valenzuela et al. (2006), Asian American students were over identified as gifted and with SLI, but underrepresented in other special education eligibilities. Zhang et al. (2012) suggested that Asian Americans are the most underrepresented group in special education. Next, I will address poverty and special education, which is an issue where the research literature has yet to come into agreement about the role that poverty plays in special education identification and placement.

The Relationship of Poverty and Special Education. Another nuanced issue in special education representation deals with the role poverty plays in representation and the degree to which poverty intersects with other variables, especially race and ethnicity. In one study, Coutinho et al. (2002) suggested that poverty increased the likelihood that African American students would receive special education services. According to Bal et al. (2014), students who received a free and reduced lunch had a higher likelihood of being identified as having a disability. Hosp and Reschly (2004) suggested that class was a strong predictor of disproportionate representation, but cautioned future researchers from assuming that race is a proxy of class. Although Eitle's (2002) findings indicated that the relative risk ratio for African American children to be categorized with intellectual disability stood at 1.86, the relative risk ratio was actually lower for students who lived in high poverty districts. According to Coutinho et al. (2002) "ED identification increases markedly as poverty increases" (p. 119) for African American male students. They further explained that "disproportionality for students of color increases as poverty increases, indicating that the differential effect of poverty across

gender/ethnicity groups is greater in districts with relatively higher poverty rates” (p. 120).

However, other research suggests that poverty is not a strong predictor of special education placement. For example, Skiba et al. (2005) examined the correlation between race and poverty as it pertained to disproportional representation, seeking to falsify the assumption that race is a proxy of poverty. With data from 295 school districts in a Midwestern state, including general education and special education enrollment, race, district resources, and SES, Skiba et al. utilized regression analyses to determine representation in special education and logistic regression to analyze the independent variables of race, poverty, and district resources. They asserted that “poverty was found to be a weak and inconsistent predictor of disproportionality” (p. 135). While the researchers indicated that poverty was an inconsistent indicator of special education proportionality, Skiba et al.’s findings suggest that student race and ethnicity share a consistent positive association with special education identification and placement. They also found school suspensions to have a positive association with special education representation, a substantive finding as minority groups experience disparate rates of punishment as previously discussed. In their discussion, Skiba et al. reiterated that poverty is not a proxy of race. Both are independent variables and influence special education identification in different ways.

The relationship between poverty and race is a point of contention in the literature on disproportionate representation. Wiley et al. (2013) also sought to study the association between poverty and race. Using Child Find data from the Office of Special Education Programs, they examined the relationship between poverty and ED

identification in Latinx, African American, and White students. They found that while Latinx students were underrepresented in ED, African Americans were twice as likely to be labeled ED as compared with their White counterparts. Using bivariate correlations, Wiley et al. found that poverty had a negative association with Latinx students and White students. In contrast, they reported that “the percent of African Americans identified as having ED was significantly *positively* correlated with the child poverty risk ratio for African American children” (emphasis in original, p. 38). The findings of Wiley et al. are poignant as the state child poverty rate for African Americans stood at nearly 38% at the time of the study. Wiley’s findings also suggest that minority representation in ED was negatively correlated in conservative states.

Although the literature has not found poverty to be a consistent predictor of special education identification and placement (Skiba et al., 2005), numerous studies have analyzed and discussed positive associations between these variables (Hosp & Reschly, 2004). Regardless, poverty remains a significant problem in the United States (Kochhar et al., 2011), particularly for communities of color. The wealth disparities between White people and people of color in the United States indicate that communities of color are more likely to struggle with basic necessities, including nutrition, housing, employment, and healthcare (Fasching Varner et al., 2007). Living in such oppressive conditions would obviously impact a child’s education. These students who often require more resources to meet their needs also often receive an education in schools with inadequate resources (National Association for the Advancement of Colored People, 2005). Students require experienced and well educated teachers who reflect their culture

and experiences, yet students of color all too often have White teachers who lack the educational experiences and teaching credentials to adequately meet their needs.

White Representation in Special Education. When discussing White representation in special education, it is important to consider that they are often the comparison group. Eitle (2002) utilized data from the Office of Civil Rights that the relative risk ratio (RRR) of African American Students of being identified as having intellectual disability stood at 1.86, meaning that African American students were 86% more likely to have the designation of intellectual disability compared to White students. Eitle's findings also suggest that when African American students attended schools with a higher population percentage of African Americans, the RRR dropped, meaning that African American students and White students have a trend of not getting educated together.

Bal et al. (2014) found that African American students, American Indian students, low income students, and male students stood at the highest risk for special education identification. Even though White males stood at a higher risk for being categorized as having a disability, oppressed groups remained at a much higher risk, which intensified when students were low income or male. Even within White representation in special education, males have been documented to have higher rates of representation than females (Coutinho et al., 2002). According to Coutinho et al. (2002) "White males were 2.3 times as likely as White females to be identified as having LD" (p. 53).

Other studies have found that White students often receive eligibilities that carry less stigma. De Valenzuela et al. (2006) found that White students were overrepresented in the categories of ED, GI, OHI, SLI, and special education in general. It is interesting

that with the exception of ED these eligibilities carry less stigma. Indeed, gifted education often carries positive connotations. Even if these students received a designation, de Valenzuela et al.'s findings suggest that White students are more likely to be educated in inclusive settings and receive less disability labels. According to Skiba et al. (2006), poverty is a weak and inconsistent predictor of special education placement. They also concluded that race is a strong predictor of special education designation and placement. I take this to mean that White students have a lower chance of being placed in special education, because they represent what philosopher Mills (1997) called the *somatic norm* (loc. 826). Any deviation from this norm is understood as a deficit, including language. Therefore, the status of English in the United States is a predictor of special education placement, which impacts English learners and students who speak different dialects of English. This ties into the cultural argument of Artiles as White students come from the dominant culture. They are the point of comparison. This is the problem the research in this tradition has highlighted. This problem perpetuates the hierarchical social system that privileges certain groups and attempts to dehumanize others. Therefore, education is an important tool in this dehumanization.

Recent Challenges to Disproportionate Representation Research. As a point of contrast to the scholarly postpositivist quantitative studies that have found overidentification of African American, Latinx, and Native American students, and English learners, relatively recent investigations from a research group at Pennsylvania State University utilized different methods of analysis and found that these groups were actually underrepresented as in need of special education. According to Morgan et al. (2012), the longitudinal data that most researchers utilized lacked control groups, which

is why they used the National Early Intervention and Longitudinal Study and the Pre-Elementary Educational Study. They also claimed that the previous studies on disproportionate representation that have spanned decades did not include methods that “statistically controlled for confounding factors” (p. 340). Morgan et al. attributed the purpose of their study to determine the risk minority children have for gaining literacy and numeracy using a “nationally representative” (p. 341) data sample. They also wanted to use this data set to determine if minority children are overrepresented or underrepresented in special education.

Morgan et al. (2012) utilized the Early Intervention/Early Childhood Longitudinal Program data, which consisted of interviews of parents of 48 month old children who participated in this study conducted by the National Center for Educational Statistics. The data set they used included a variety of demographic variables, such as gender, ethnicity, age, and socioeconomic status. They analyzed the data using “two sets of logistic regression models” (p. 343). The first model analyzed children who performed poorly on literacy and numeracy while the second model added each family’s sociodemographic characteristics. According to Morgan et al.:

Children in EI/ECSE were more likely to be male, to be White, to be born to mothers who engaged in behavioral risks during pregnancy, to be born very preterm and/or with moderate or very low birth weight and/or congenital anomalies, to display lower numeracy and/or receptive language knowledge, and to engage in externalizing problem behaviors. These children were less likely to be Black, Hispanic, or Asian or to primarily speak a language other than English in their households (p. 344).

For their discussion, Morgan et al. criticized the lack of generalizability of the large body of research on disproportionate representation. Morgan et al. explained that their data set was more generalizable, because it contained a control group. They contended that their results contained “important policy implications” (p. 348) that included the “corrective action” (p. 348) amendments in the reauthorization of IDEA in 2004 that required diagnosis and placement in special education, because they argued these amendments were made on the assumption of overrepresentation of children of color in special education.

Utilizing similar arguments in a later study, Morgan et al. (2015) added that previous “explanations and evidence of disproportionate representation” of the previous literature is contradictory, both in the theoretical frameworks used and in the results. Morgan et al. juxtaposed the research of overrepresentation and its focus on pointing out cultural bias within the field of education with the research tradition that the research team developed. Morgan et al.’s stance tends to favor a lack of willingness of culturally and linguistically diverse families for special education identification due to their primary causal explanation in which they attribute to socioeconomic status.

Morgan et al. (2015) used hazard modeling to analyze longitudinal data that consisted of teacher answers to surveys that identified students with one of five eligibilities. Those eligibilities consisted of LD, SLI, OHI, and ED. They analyzed four racial/ethnic categories that included Hispanic, non-Hispanic African American, non-Hispanic White, and other race. Through this modeling, Morgan et al. found that culturally and linguistically diverse groups are underrepresented in special education, particularly in comparison with White children. In their discussion, they again criticized

the IDEA amendments that call for sociodemographic monitoring of special education identification as their study “failed to find any evidence that racial-, ethnic-, or language-minority children in the United States are being disproportionately overrepresented in special education” (p. 285).

In response, Skiba et al. (2016) critiqued many of Morgan et al.’s (2015) methods and interpretations and described the more than five decades of educational research that has found disproportionate representation to be a problem within education. Among the flaws that Skiba et al. identified was the limited sample size that Morgan et al. used and their reliance on the ECSLA survey, rather than state or district data. They also emphasized that several recent studies (e.g., Oswald et al., 2001; Skiba et al., 2005; Sullivan & Bal, 2013) “relying upon a direct count of special education enrollment have found that race remained a significant predictor of special education service regardless of the inclusion of variables representing poverty” (p. 223). Skiba et al. ultimately concluded that Morgan et al. oversimplified disproportionate representation, overgeneralized the discussion of their results by questioning the collection of disproportionate representation data called for by IDEA 2004, and lacked an explicit theoretical framework where the researchers could shed light on their reflexive capacities.

Concluding Thoughts on Disproportionality. The research on disproportionate representation is not without its problems. Artiles (2009) noted some of the flaws of this research, which includes methods that overly rely upon the macro and often fail to focus on the micro. Another flaw the research community has made, according to Artiles, is that it has “mathematized the disproportionality problem” (p. 25). Artiles called upon research in disproportional representation to situate itself theoretically, to address

structural racism, the role of culture in schools, testing bias, and the history of segregation of culturally and linguistically diverse students. Other researchers agree with Artiles on the significance of historical factors on disproportionate representation, among whom are Skiba et al. (2008) and Patton (1998). Patton who, in investigating testing bias noted that “the sociopolitical and historical roots predate the field of special education, with origins as early as 1619” (p. 25) referred to the first instances of the use of slavery in colonial Virginia. In Patton’s critical perspective, the positivist nature of special education placement “represents a form of epistemological racism” (p. 28). Rather than using a frame of reference that attempts at understanding difference, Patton argued that special education’s emphasis on pathologizing differences from oppressed groups into deficits thus serves as an unethical and highly problematic tool of dehumanization. Shealey and Lue (2006) commented that the social construction of race and disability have led to stereotypes based upon distinctions of perceived inferiority by White people. They elaborated that this process of othering stigmatizes African Americans and people with disabilities and negatively impacts the education they receive and the geography in which they receive it.

Within this chapter, I have outlined the historical issues of slavery, genocide, colonialism, and the present day issue of mass incarceration in the U.S. that I hope provided the background to the problem of the school-to-prison pipeline. I have just discussed some of the significant issues within education that underscore education’s place in perpetuating and maintaining the pipeline. These issues include the administration of zero tolerance policies and the disparate impact zero tolerance policies have on students of color and students with disabilities. Within education, the

disproportionate rates of people of color within high incidence categories of disabilities is also indicative of exclusionary policies that have had the negative impact of pushing marginalized groups out of the education system where they stand a higher chance of entering the criminal justice system. While the literature reviewed above demonstrated the long history of these issues, the Departments of Education and Justice under the Trump administration largely ignored the problems and deregulated policy that sought to address them. I will discuss this further in Chapter 4. For the next section I will address the purpose of the present study and will include the research questions that I addressed.

Purpose of the Study

The purpose of the present study was to understand the policies of the Trump administration and its stance or stances on the pursuit of educational equity in U.S. schools. The present study aimed to situate the policies of the U.S. Department Education and Department of Justice within the context of the school-to-prison pipeline, which included the operation of these bureaucratic institutions to address problems within the U.S. education system, such as the disproportionate representation of culturally and linguistically diverse groups in special education, the administration of zero tolerance policies that disparately punish CLD students and students with disabilities, the symbiotic relationship between the education system and the criminal justice system, the high dropout rates of CLD students and students with disabilities in the U.S. education system, and residential segregation that has divided the country on the lines of race and class. These educational policies included but were by no means limited to the Department of Education's major revision of the manual for the Office of Civil Rights that enabled the agency to deny complaints to *frequent fliers* in order to *preserve resources*. The manual

was also changed so that the Office of Civil Rights could no longer deem that the widespread denial of Civil Rights is systemic within a given school district in the United States. Other policies included the push to expand a voucher system that promotes school choice and to expand the use of charter schools in school districts around the country. The last ideological policy making that deserves mentioning involved deregulation of federal guidelines and policy. These issues deserved careful study to understand them in an intersectional way that addresses race, class, class, gender, sexuality, and disability to determine the degree to which they are inclusive policies predicated upon Civil Rights law.

Questions Addressed

1. How does the Trump administration address issues related to the school-to-prison pipeline within the bureaus of the Department of Education and the Department of Justice?
2. What do these policies reveal about the educational stance and ideology of the present administration?

Theoretical Framework

In the paragraphs that follow, I will detail my theoretical framework, which is critical theory informed by critical race theory and its tenets, the principle of interest convergence, colorblind racism, and intersectionality. I will provide examples of intersectionality as they relate to social Darwinism and eugenics I will also elaborate on my researcher stance, which is the way I justify my interests in equity as a White man living in the United States.

Conceptual Assumptions

In the upcoming sections, I will explain the principles of critical race theory and key notions within it that scholars have identified, especially colorblind racism and racial formation theory. I will also outline the key concepts of intersectionality that brings attention to a matrix of domination (Collins, 2009). Additionally, I will continue to provide an overview of the oppression of marginalized groups through historical and theoretical concepts that tie into intersectionality such as social Darwinism, eugenics, interest convergence, and neoliberalism. I hope that the discussion of these concepts will continue to provide more clarity on the school-to-prison pipeline and its connections with the past and present policies of the United States.

Critical race theory. An important concept to consider toward understanding the pervasive nature of racism across the United States and world is through critical race theory. Influenced from critical legal studies, legal scholar Derrick Bell is considered the originator of critical race theory (Delgado & Stefancic, 2001). Critical race theory relies on the creed that racism is a permanent phenomenon (Bell, 1992). The tenet that posits that social progress only occurs if and when it benefits white people and or the maintenance of whiteness (Bell, 1992) is known as the principle of interest convergence. The maintenance of a white supremacist social system in discourse that hides racism in rhetoric that feigns equality is known as colorblind racist discourse. Understanding the multiple layers of oppression, known as intersectionality, is also a key principle of critical race theory. I will explain these tenets of critical race theory in the sections below.

Interest convergence.

Translated from judicial activity in racial cases both before and after *Brown*, this principle of 'interest convergence provides: The interest of blacks in achieving

racial equality will be accommodated only when it converges with the interests of Whites. However, the fourteenth amendment, standing alone, will not authorize a judicial remedy providing effective racial equality for blacks where the remedy sought threatens the superior societal status of middle and upper class whites” (Bell, 1980, p. 523).

This quote from legal scholar Derrick Bell captures his principle of interest convergence, in which Bell contended that Whites approve measures of racial progress only when it benefits them. An understanding of Bell would not be complete without one of his counter stories. In the dialogue with Jesse B. Semple, Bell’s character posed that many African Americans believed that the Civil Rights Movement of the 1950s and 1960s created prolific racial progress. Semple vehemently disagreed with such a notion, arguing instead that racial progress occurred only when it benefitted White people. In explaining the superficial gesture of creating a national day to celebrate the life of Martin Luther King Jr., Semple postured:

A holiday for Dr. King is just another instance-like integration-that black folks work for and white folks grant when they realize-long before we do-that it is mostly a symbol that won’t cost them much and will keep us blacks pacified. It’s an updated version of the glass trinkets and combs they used in Africa a few centuries ago to trick some tribes into selling off their brothers and sisters captured from neighboring tribes. (p. 17)

Semple added that the very granting of this holiday represented nothing more than a *symbol* (p. 17) “of the white man’s power” (p. 17), which hid “white mendacity, white deceit, white chicanery” (pp. 17-18). I began with Bell’s storytelling to emphasize his

resistance to the dominant White narrative with a counternarrative beginning with what West termed as the *catastrophic* (Taylor, 2008). Through fiction, Bell explained some intrinsic features of U.S. society, which I sum up as the social, political, and economic inequality of African Americans through the exclusionary practices of a White supremacist structure that have historically and continue to grant exclusive privileges to White people. The principle of interest convergence enables white people to deflect racism as a thing of the past, but the social progress that has occurred actually serves to maintain White supremacy (Bell, 1991). Another important tenet of critical race theory, colorblind racism, serves a similar purpose. I will discuss the concept of colorblind racist discourse next.

Colorblind racism. The concept of colorblind racism embodies a form of discourse that masks racism in everyday life through language that affirms that the United States is presently in a post racial phase (Bonilla-Silva, 2014). It presents an oversimplification of King's (1963/1986) dream that his children would not be judged by their skin color, but by their characters. The discourse of colorblind racism utilizes the dream that King had without doing any actual work to end racist practices (Bonilla-Silva, 2014). Indeed, colorblind racist discourse actually perpetuates the White supremacist social system presently in place (Bonilla-Silva, 2014). Rather than acknowledging that racism exists in everyday life and promoting social, political, economic, and educational equity, the discourse of colorblind racism acts as a form of deflection, because the individual, the company, the agency, and the court, can simply assert that they do not see race (DiAngelo, 2018). I will elaborate extensively on the use of colorblind racist discourse in Chapter 5. Colorblind racism has strong ties to neoliberalism, which I will

discuss in a later section. It also illustrates the concept of racial formation, which I discuss next.

Racial formation in the United States. The concept of racial formation as it exists in the United States was developed by Omi and Winant (2015). As scholars of race, Omi and Winant charted the flawed racial paradigms of the 20th century, with their biological assumptions, assimilationist tendencies, and the use of race as a proxy for class. In refuting the significant shortcomings of racial paradigms, the scholars developed their own racial paradigm through theoretical research that they termed racial formation. Omi and Winant defined racial formation as, “*the sociohistorical process by which racial identities are created, lived out, transformed, and destroyed*” (italics in original; p. 109). The theoretical underpinnings of racial formation stress that race is an evolving social construct, but the day to day oppression of people of color in the United States is all too real (see also Kaufman, 2003). To Omi and Winant, the racial identities of people of color leave an enduring marker that impacts every aspect of their lives, from the communities they live to in to wealth, education, health, occupations; the list could go on. As important as it is to recognize the prominence of race in the everyday lives of both white people and people of color living in the United States, other markers of social identity exist that include class, sexual orientation, gender, disability, and so forth. Hence, it is important to understand the concept of intersectionality, which I will discuss next.

Intersectionality. Intersectionality is a Black feminist concept and a tenet of critical race theory that describes a matrix of domination in everyday life (Collins, 2009). The matrix of domination maintains a hierarchical social system that privileges social constructions of whiteness, wealth, heteropatriarchy, intellect, and able-bodiedness.

Conversely, the matrix exists to oppress and dehumanize women, people of color, poor people, people with disabilities, immigrants, LGBTQ people, and groups with other perceived differences to different degrees using structural, disciplinary, and interpersonal approaches (Collins, 2009). These apparatuses of power in existence in a society such as the United States serve to stamp individuals living in it with a master status (Goffman, 1963). The master status a person has is based off of bodily social markers such as age, gender, skin color, beauty, language use, and much more. Each marker of lower status categories carries with it varying degrees of stigma, which are based off of assumptions of normality within society (Goffman, 1963). These bodily features get used to determine each person's social rank. In the upcoming paragraphs, I provide two historical exemplars that demonstrates the historical existence of the intersectionality of race, class, ability, and gender; social Darwinism and eugenics.

Social Darwinism. In 1859, Darwin's *Origin of Species* was published. This work was foundational in evolutionary theory and its conceptual framework of life on Earth as a series of adaptations. The American School of Anthropology used Darwin's theory of evolution to argue that different races were essentially subhuman (Gould, 1996). After that idea lost popular appeal, Englishman Herbert Spencer's ideas of social Darwinism took hold of Western popular consciousness, a framework where the lower classes of society had innate characteristics that directly caused their lower status and these inferior traits on the human genome could be wiped out naturally through poverty (Gould, 1996; Trent, 1994). A high percentage of social Darwinists wanted to accelerate the process of natural selection through policies of sterilization and segregation, because the *degenerate* elements of society were understood as the causes of social ills such as

alcoholism, gambling, prostitution, and other forms of crime and vice (Trent, 1994).

Social Darwinism epitomizes the matrix of domination and intersectionality through the markers of race, class, gender, and ability. Related to social Darwinism and a concept that also possesses intersectional characteristics was the early 20th century pseudoscientific position of eugenics. I will discuss eugenics in the next section before analyzing both social Darwinism and eugenics using intersectionality.

Eugenics. Eugenics was part of an overall trend in the United States to blame the ills on society, such as crime, vice, and prostitution, on those who were thought to have had *defective* genes (Gould, 1996; Nielsen, 2012). According to Nielsen (2012), “the definition of ‘undesirable’ became ever more wide, fluid, and racially/ethnically based” and that “physical ‘defects,’ both scientists and the casual observer increasingly assumed, went hand in hand with mental and moral ‘defects’” (p. 100). Psychologist Walter Fernald (1913), the superintendent of The Massachusetts School of the Feeble Minded commented that, “Every feeble-minded person, especially the high-grade imbecile, is a potential criminal, needing only the proper environment and opportunity for the development and expression of his criminal tendencies” (p. 2). Eugenacists like Fernald strongly believed that *mental defectives* should be rid from the face of the Earth (Gould, 1996). Fernald (1913) went on to claim that “there is a large number of feeble-minded persons in our community. The great majority of these persons are feeble-minded because they come from a stock which transmits feeblemindedness from generation to generation in accordance with the laws of heredity” (p. 2). The Eugenicist policy on so called *mental defectives* involved sterilization and institutionalization (Trent, 1994; Gould, 1996), a policy that proponents argued would save the representative governance

of the United States (Nielsen, 2012). According to Goode et al. (2013), there was little scientific rigor in eugenics research, and it was an ideological tool for the inhumane treatment of people with disabilities. As they explained, “it was ‘science’ with its conclusion already in hand” (p. 40). Both eugenics and social Darwinism deserve analysis in an intersectional lens to demonstrate the matrix of domination.

The concepts of eugenics and social Darwinism embodied scholastic endeavors thought to be established fact at the height of their popularity (Gould, 1996). A historical perspective through an intersectional lens establishes the premise that these now falsified theories perpetuated inequalities of race, class, disability, and gender in U.S. society. For instance, social Darwinist discourse justified the position of poor people in society and stigmatized them as criminals while the social Darwinist discourse discouraged social programs and assistance to promote social uplift. Eugenicist discourse promoted the use of sterilizing the poor, people of color, and people with disabilities so these stigmatized groups could be rid from the face of the Earth. If a person within the United States during the early 20th century had a designated master status as being a poor white woman, an African American tenant farmer, a Mexican farm laborer, or a person with disability, the discourses of eugenics and social Darwinism served to justify the inferior social position of these categorical designations. In the next section I discuss neoliberal policies and the detrimental impacts they have had in the United States and across the globe.

Neoliberalism. According to the Children’s Defense Fund (2007):

Child poverty in America continues to grow. In 2006, 17.4 percent of children in America, 13 million children (one in 6), were poor. Today there are 1.2 million more children living in poverty than there were in 2000, an increase of 11 percent.

Children under the age of five remain more likely to be poor than older children, with 4.2 million living in poverty, one out of every five. (p. 26)

Chomsky (2002) explained that people in the United States, in many ways, do not have the right even to survive in the present climate of neoliberalism. The principle of denying basic survival has had profound implications on youth of color as Giroux (2003) explained that the neoliberal cuts to music, athletic, and after school programs and increases in funding to systems of incarceration stem from policies that view youth as *disposable* (p. 553). The neoliberal trend that began in the 1970s opposes government interference as it obstructs individual freedom (Klein, 2007). The neoliberal policies in the United States have resulted in discrepancies in salaries of 600 to 1 between CEOs of large corporations and the average worker. According to Klein, democratic governments from Chile to South Korea have been coerced into adopting Milton Friedman's Chicago School doctrine at the expense of ignoring principles of self-determination, their economic well-being, and human rights in general. This has deep connections to the implementation of the Individuals with Disabilities Education Act and the Americans with Disabilities Act as both of these laws were passed during this conservative period where leaders gutted social programs, because they argued that the programs did more harm than good. These historical increments of social progress and regression extend to Bell's principle of interest convergence (Bell, 1992). According to Bell, social progress occurs only to the degree that it benefits the interests of White people.

Policies across the United States and the world have adhered to the doctrine of neoliberalism for the last several decades (Chomsky, 2002; Klein, 2007). Neoliberalism, whose foundational thinker, Friedman, posited that private enterprise should govern a

country's natural resources and infrastructure (Klein, 2007). Friedman also advocated for cuts in government spending on public programs, including education (Klein, 2007).

Prior to the rise of neoliberalism in the United States, Democrats and Republicans alike shared more of a Keynesian vision of economics (Klein, 2007). The Keynesian vision came from the memory of the Great Depression that was, in part, caused by a lack of regulation of the financial/banking sector (Klein, 2007). Klein explained that the government as a regulator of business, finance, and a large investor came as a compromise to the fascist systems developed in Germany and Italy.

Neoliberalism accompanies policies of trickle-down economics and the principle that tax cuts for the wealthy and transnational corporations will eventually lead to prosperity for all (Klein, 2007). Fasching-Varner et al. (2014), using data from the Pew Research Center, explained the wealth disparity between White people and African Americans. As educational failure and social advancement to becoming prosperous is often blamed on the individual, Fasching-Varner et al. asserted that educational failure as an integral part of systemic racism as the prison industry benefits from the poor and the uneducated. This includes poor White people, but the system predominantly relies upon profiting from people of color. The discourse of neoliberalism shares fundamental commonalities with the discourses of eugenics and social Darwinism discussed earlier as neoliberal discourse blames the working poor in the United States for their status rather than the racist, sexist, xenophobic, homophobic, and ableist elements in U.S. society.

Neoliberal policies in the United States have gutted federal, state, and local social programs, including education (Klein, 2007), but have increased funding for prisons as neoliberal policies have, as Giroux (2003) claimed turned the prison system into a big

business. Private prisons profit from overcrowded facilities and they profit from the inmates themselves through corporate outsourced labor policies (Bauer, 2018). In cutting funding to education, after school programs, and the like, neoliberal policies hurt the working class and the poor (Giroux, 2003). Zero tolerance policies parallel the gutting of social programs, which Giroux argued is inhumane and unethical as it is based on the premise that youth are *disposable* (p. 553). Giroux argued that neoliberal policies are married with racial bigotry.

Tuzzolo and Hewitt (2007) discussed the ramifications of the privatization of the schooling system of New Orleans based on the neoliberal principle that private corporations can bring about innovation. According to Klein (2007), the aging Friedman himself strongly advocated for privatizing New Orleans schools after Hurricane Katrina in 2005. With disregard to the thoughts of the African American community who wanted to use the devastation of New Orleans to strengthen public schools in the city, New Orleans became an experiment of the school voucher system and the development of charter schools in the city (Klein, 2007). Klein reported the privatization of New Orleans as an example of disaster capitalism in which governments and corporations use a shock to the system like a natural disaster to take away publicly owned utilities and services and give them to multinational corporations. As previously mentioned in a section on disparate disciplinary outcomes, charter schools suspend students with disabilities, African American and Latinx students at higher rates than traditional schools (Losen et al., 2016). To Tuzzolo and Hewitt, what the Crescent City deemed as an experiment in education had the result of warehousing children in nearly uninhabitable buildings that lacked even the basic resources. In fact, Tuzzolo and Hewitt described the infrastructure

and school climate of some of the New Orleans charter schools as having *a prison like atmosphere*. (p. 60)

Researcher Stance. In terms of my stance as a researcher, my life experiences have shaped my critical lens. As a White man living in the United States, I have received what DuBois deemed the public and psychological wages of whiteness (Harris, 1995). I have undoubtedly had to work hard to get to the point at which I presently am, but I likely would not be at this point if I were a person of color living in the United States. I cited Fanon (1967) earlier and his notion that I am rich because I am White, and I am White because I am rich. Now, I am by no means wealthy and do not come from a wealthy background. However, living in a White supremacist social system has enabled me to have the cultural capital to attain a college education and achieve a quality of life where I can work toward achieving my educational endeavors, which I hope to use towards making a difference in the lives of those oppressed by social institutions, including schools.

When I talk about normality, I do so using the Foucauldian definition of the term. Foucault (1977a) understood normalization as the ways people within societies are indoctrinated, becoming easily controlled, manipulated, and ruled (also see Covalski, 1993). Foucault (1977a) elaborated that normalization included the discursive practices that created *docile bodies* (p. 179). He provided an in depth understanding of the use of discourse understood as Truth and the ways this knowledge is utilized as an extension of the panopticon where the establishment of medico-juridical system develops techniques of surveillance to help sort and categorize the normal from the abnormal. Those who follow the rules and refrain from questioning the discourse of power work to maintain the

hierarchical social system, which admits some and excludes others, including some poor Whites, subordinate racial groups, people from the LGBT community, and people labeled with disabilities. Those who conform to the rules are restrained and must follow the narrowly prescribed path, but those who deviate from the rules derived from knowledge construction are imprisoned in restrictive high security settings.

I would not identify as a completely normalized White man by any stretch of the word. I have attained an advanced degree despite being told by educators over the years that I would never experience academic success in higher education. The negative attitudes my teachers had of me began in elementary school and have continued as a doctoral student. However, because of my status as a White man, those negative attitudes have never prevented me from moving forward and achieving my educational endeavors both because of and despite the negative attitudes teachers and professors have had of me over the years and continue to have of me. I would like to think of myself as somewhat rebellious and someone who questions the contestations of professors. Although I have contested these constructions in ways that are antiestablishment and never sought retribution through bureaucratic ways, I likely would not have been able to have the highly subversive ontological disposition that I have developed if I were a person of color living in the contemporary United States.

Growing up in a working class White family in more of a rural setting, I have also had many run ins with the law-more so than a normal White man I would argue. While growing up, my family and I had to deal with corrupt county sheriffs and state police officers in the township of Tijeras, New Mexico. I have also been indicted for actions that I did not commit, and I have been held up at gunpoint by a 300 pound angry, White

police officer, forced to lay down on my stomach while I had to explain my actions. I am convinced the color of my skin was the predominant feature that saved my life during these encounters. As a teenager, I also committed actions that were illegal. I got into drugs and alcohol, got caught driving while under the influence of alcohol and received 6 months of probation. That was a rather light sentence for my actions. I believe that if I had been a person of color, I would have spent time in jail and/or been a victim of police brutality.

The key principle developed by the foundational members of the Frankfurt School in the 1920s involved the understanding that knowledge is not value neutral and therefore must be critiqued to bring light to systems of domination and subordination (Giroux, 2001). The school-to-prison pipeline stems from multiple systems of domination that include legal, economic, social, ideological, and political processes. These processes preserve whiteness as property (Harris, 1995) and are part of what DuBois termed as the *public and psychological wages of whiteness* (as cited by Harris, 1995, p. 276). Using the social constructionist argument of Hacking (2000), the pipeline exists as a result of human institutions and meaning making processes that could be done away with. Yet, the pipeline persists, which perpetuates the sadomasochistic machinery (Fromm, 1956/2013) that preserves the wages of whiteness (Harris, 1995) and stunts collective social growth (Zizek, 1989) toward a more humane and equitable socialist economic system; a system that would regard equitable education, healthcare, housing, and nutrition as fundamental human rights.

Importance of the Study

Donald Trump declared his intent to run for the presidency by calling Mexican immigrants criminals and rapists (Washington Post Staff, 2015). At his rallies he reminisced about the brutal tactics that authorities used to handle peaceful protests like those from the Civil Rights Movements (DuVernay, 2016), mocked a reporter with a physical disability (Carmon, 2016), and encouraged violence against the numerous protesters at his rallies (DuVernay, 2016). In his first two years as a president, he has retreated from the 2015 Paris Climate accord (BBC News, 2017), authorized the Dakota Access Pipeline against the wishes of the Sioux people (Eilperin & Dennis, 2017), and lessened the restrictions on car emissions (Davenport & Tabuchi, 2018) and water quality (Davenport, 2018). In his first two years as president, President Trump has separated numerous young immigrant children from their families (Rhodan, 2018) and authorized the U.S. Immigration and Customs Enforcement to detain peaceful immigrants who came into the country legally or illegally, regardless of whether or not they pose a threat to the safety and security of the country (Shear & Nixon, 2017). He has shown disdain for the rule of law and of democratic processes, such as freedom of speech and separation of powers. Given these policies, I felt it was important for someone like myself, who has a deep interest in educational philosophy, government policy, and the future of our society, to study the impacts of the Trump administration and the Secretary of Education, who is Betsy DeVos.

Scope and Delimitations of the Study

The scope of the study covered the first two years or so of educational policies of the Trump administration and the way the administration's policies impact the school-to-prison pipeline. The school-to-prison pipeline includes topics, such as residential

segregation, responses to complaints of racism, disciplinary policy, poverty, disproportionate representation, the education of incarcerated children, and the policies and strategies for the inclusion of students with disabilities in general education settings. I therefore examined as available instances of policy that touched on these topics. I also included lawsuits against the Departments of Education and Justice, as these too related to the pipeline. For this study I attempted to gather all relevant publicly available documents and department policy guidelines to determine what, if anything, the DeVos administration has done in response to the serious issue that is the school-to-prison pipeline.

Chapter 2: Review of Literature

A unique metaphor in the research on racism is that of the miner's canary (Guinier & Torres, 2003; Harry & Fenton, 2016; Waitoller et al., 2010). The origins of this idiom come from a practice where miners used to carry canaries with them into the mines. In the event of a gas leakage, such as carbon monoxide or methane, the canary would die. The death of the canary would alert the miner so that he could escape the dangerous situation. Harry and Fenton (2016) discussed its use in the title of the systematic review of the literature compiled by Waitoller et al. (2010) as it related to the disproportionate representation of students of color and English learners in special education. The researchers posited that the canary symbolized research that warned of the dangers of disproportionate representation. According to Harry and Fenton, the miner would signify the researcher who was trying to shed light upon the murky cave.

Another clever title composed by Carter et al. (2017) is entitled "You can't fix what you don't look at." Carter et al.'s title encompasses the sentiment among researchers in the field of warning educators, administrators, and policy makers about racial discrimination in schooling. Yet, year after year, the problems do not get addressed. These issues, principal in ensuring educational equity, are ignored, swept under the rug, remaining in the darkness of the coal mine. In attempt to heed the advice of the miners in the field of the school-to-prison pipeline, I organized a systematic review of the research about school discipline, zero tolerance policies, and disparate punishment. These topics play an integral role in the school-to-prison pipeline and the policies that maintain the exclusionary practices that force students out of schools and into the criminal justice system.

According to Galvan and Galvan (2017), the goals of a literature review should include that the reviewer take an in depth, *up to date* (p. 12) look at the topic that embodies the scholar's choice of research. In so doing, they should demonstrate a justification for a need to research a certain topic. To fulfill these goals, scholars should conduct the review of research in a replicable and systematic fashion. For the present review of the literature, I made every attempt to appease the requirements of these principles to ensure that the present review was trustworthy. Strong literature reviews depend upon structure and organization along with sound methods, which I have described in the next section.

Methods

I completed a literature review in an effort to select a wide range of articles about issues that concern the school-to-prison pipeline. According to Galvan and Galvan (2017), the quality of the methods of a literature review depends upon the search engine used and the organization of the phrases, which includes using words in quotation marks so that the database keeps the phrase together as opposed to searching for individual words. I set as inclusion criteria research studies published within notable and well established peer reviewed journals between 1975 and 2018. I chose 1975, because it was at this time that the Children's Defense Fund found evidence that African American students were being suspended at a much higher rate than White students. I honed in on students within the grade ranges of pre-K to 12. I intended that the main impetus of the review to include school discipline as it exists in the United States.

I set as the exclusion criteria theoretical papers, or how to guides. I also set as exclusion criteria articles not found in well-established peer reviewed journals. I

evaluated the inclusion and exclusion criteria through a combination of reading each article's abstract and scanning each article to determine if it had traditional elements of a research piece and was organized with sections, such as a literature review, methods, results, and a discussion of the results

I began the process in the ERIC Department of Education database. While I wanted to find articles beginning in the year 1975, ERIC only retrieves articles dating back 20 years. Thus, only studies conducted after 1997 could be found on ERIC. For the ERIC search I used the key words function and performed three separate searches of the following Boolean phrases; "disparate punishment," "disproportionate punishment," and "zero tolerance policies." Conducting a search on ERIC for "disparate punishment" led to one article for the present study (Peguero & Shekarkhar, 2011). A Boolean search for "disproportionate punishment" on ERIC led to four results. Of those four articles, one article was redundant from the previous search. The other article did not meet the inclusion criteria. Therefore, the search led to two articles to review (Peguero et al., 2017; Shirley & Cornell, 2012). The search on "zero tolerance policies" led to a total of 154 results. Of those results, 33 met the inclusion criteria of the present review of research (Berlowitz et al, 2014; Bernhard et al., 2004; Brown & Clarey, 2012; Caton, 2012; Chen, 2008; Cornell et al., 2011; Christle et al., 2004; Curran, 2016; Desai & Abeita, 2017; Frisby et al., 2005; Gastic, 2017; Heilbrun et al., 2015; Hernandez Sheets, 1996; Hoffman, 2014; Irby & Clough, 2015; Kennedy-Lewis, 2012; Kim, 2006; Kim, 2010; McCarthy & Soodak, 2007; McNeal & Dunbar, 2010; Morrison & D'Incau, 1997; Mowen & Manierre, 2017; O'Malley, 2009; Portillos et al., 2012; Sherer & Nickerson, 2010; Stovall & Delgado, 2009; Wallace et al., 2008; Wun, 2018).

In an effort to retrieve research from 1997 and prior, I completed a Boolean keyword search within Education Research Complete. The Education Research Complete database stores articles from journals published 1975 and well prior to that. I attempted to use the key words from the previous ERIC search and performed three separate searches of the following Boolean phrases “disparate punishment” “disproportionate punishment,” and “zero tolerance policies.” However, this resulted in zero articles. I concluded that additional key terms were needed and therefore, searched for an article from Russell Skiba, a researcher and scholar on the topic of school discipline, to determine the key words I should use with this database. I chose “school discipline” as the predominant search term followed by schools and “United States of America” or “U.S.” or “U.S.A.” I decided to include articles from 1974 to 2002 to parallel the ERIC search and avoid duplicating article findings. Doing so led to the retrieval of 116 articles. Of those articles 24 met the inclusion criteria (Allen, 1986; Brieschke, 1989; Check, 1979; Chiu, 1975; Conroy et al., 2002; Cox-Peterson, 2001; Geiger, 2000; Gottfredson & Gottfredson, 2001; Jones-Wilson et al., 1992; Kennedy, 1995; Menacker et al., 1989; Morgan et al., 1997; Myers et al., 1987; Nichols et al., 1999; O’Sullivan & Dyson, 1994; Rose, 1988; Scott & Friedli, 2002; So, 1992; Sugai et al., 2000; Tulley & Chiu, 1995; Vavrus & Cole, 2002; Zuckerman, 2000).

For some reason, these two searches on two databases did not yield some important articles that I was familiar with. Therefore, in addition to the aforementioned Boolean searches, I also included four significant studies conducted by Skiba and colleagues (Skiba et al., 1997; Skiba et al., 2000; Skiba et al., 2002; Skiba et al., 2014) as well as two significant studies conducted by Annamma (Annamma, 2014; Annamma,

2015). Lastly, I cited all studies within the Fall 2003 edition of *New Directions for Youth Development* entitled “Deconstructing the School-to-Prison Pipeline” (Balfanz et al, 2003; Casella, 2003; Raffaele Mendez, 2003; Wald & Kurlaender, 2003). For this present review of the literature, I reviewed a grand total of 69 articles.

Results

After reviewing these studies, I divided them up into themes. I organized the aforementioned themes in this review as sections. Each section contains two summaries, one from a more dated research piece in the review and another research article published more recently. I made the choice to summarize articles in this fashion in an effort to make the selection process more systematic and avoid bias in presenting exemplar articles. I chose the exemplar articles based on a variety of reasons. I chose to summarize some of the articles within a section, because they highlighted key issues such as the prison-industrial complex, corporal punishment, or issues of ongoing racist practices. In other sections, I chose to present a study, because the study displayed solid methods, results, and discussion of the results. Other times, I chose a study, because it was an example of problematic ideologies and attitudes towards parents and students. All of the exemplar articles met the set inclusion criteria and were worthy of extended analysis.

After the article summaries, I provided a synthesis of all articles that met inclusion criteria and provide further insight as necessary. The organization of the significant themes of the review of research follow Kilbourn’s (2006) notion of a funnel for a dissertation proposal whereby the content is first provided at a more specific or locational level and gradually broadens to a broader, social level. The themes included in the present review of the literature include (a) classroom management and school

discipline, (b) parent and student perspectives, (c) staff and administrative perspectives, (d) disproportionate punishment, (e) school safety and learning climate, (f) critique of zero tolerance policies, (g) adhering to federal law, and (h) institutional and/or structural racism. I elaborate on each theme by discussing the articles identified from the systematic review of the literature that I conducted. In the sections that follow, I will cover the core information that I gathered using the systematic methods that I have taken strides to explain.

Classroom Management and School Discipline.

A total of 11 articles or about 16% of the articles in the present review of research dealt with everyday issues related to classroom and school rules that go under the common theme of classroom management and school discipline (Allen, 1986; Beasley, 1983; Chiu, 1975; Cox-Peterson, 2001; Geiger, 2000; Irby & Clough, 2015; Tulley & Chiu, 1995; Zahorik, 1977; Zuckerman, 2000). The first article I summarize, Allen (1986), discussed some of the classroom procedures at the school where he conducted observations. Allen contended that some of the issues high school students face are related to the differing management styles of their teachers. The issue of differing management styles among educators must also accompany an observation of the effectiveness of the management style. The classroom management style of the teacher should provide positive learning outcomes and they should possess an ability to plan rigorous and challenging curriculum. In addition, the teacher should be able to deal with student issues and conflicts and provide opportunities to enable diverse students to express their paradigms and foster their growth. I chose to analyze Allen's study, because the qualitative research portrayed everyday life in high schools and the education of

adolescent students in a way that I am familiar with. After delving into Allen's study, I will discuss Irby and Clough's (2015) article on positive behavior interventions and supports to highlight what they would refer to as the understudied issue of consistency. I chose to exemplify Irby and Clough, because they applied Foucauldian notions of discourse and normality to critique a scripted disciplinary alternative to zero tolerance policies.

Allen's (1986) Qualitative Study on Classroom Management. Allen conducted a naturalistic field study to understand classroom management strategies of teachers from the perspective of high school students. The high school consisted of 65% White students, 35% Mexican American students, and 1% African American and Asian American students. Taking a symbolic interactionist approach, Allen used ethnographic methods of participant observation and interviews with three teachers and 15 9th graders to collect data. Allen triangulated the data analysis by including student perspectives and a comparison of the classrooms of three teachers who he had observed during classroom activities. According to Allen, students' goals within each classroom involved socializing with peers and successful completion of the course. In order to achieve their goals, Allen claimed that student behaviors served the purpose of having fun, providing the teacher with what they wanted, reducing boredom, staying out of trouble, and minimizing the workload.

Allen (1986) noted stark differences between teacher management styles. For one teacher who taught agriculture, the informal nature of the class, the lack of academic rigor, and lack of ease of in class activities within the class led to student behavior that reduced boredom. Students were expected to participate in outside community events

focusing on agriculture, but not much else. In the classroom, the teacher often hurled sarcastic comments at students and picked on students who made negative comments about the class or the content.

Allen (1986) reported that a health teacher required a lot of written work from the students, but much of it included rote activities, such as defining key vocabulary words and copying lecture notes from the board. During independent activities, the teacher would allow light conversation with other students and informal conversations to occur between him and the students. Within the class, students would share work with one another to reduce their workload.

According to Allen (1986), a Spanish teacher's class focused on a formal relationship between students and the teacher systematized instructional time to include structured routines, such as drills, written assignments, and tests. The class possessed a well-developed management style for beginning Spanish speakers. However, bilingual students who attended the class found it easy and rather dull. Those students dealt with their boredom by sitting at the back of the classroom, talking during instructional time, and disrupting the learning activity at times. Allen observed that the teacher attributed the behavior of the bilingual students to immaturity. Interviews from the students themselves revealed that the class lacked academic rigor for the more advanced Spanish students in the class.

Using Woods (1979), Allen (1986) defined context as "the combination of various elements of the classroom environment that influence or are influenced by the formation and operation of student perspective" (p. 438). He further explained that within each classroom context, students seek to understand the teacher so that they can ease the class

workload and socialize with peers so they can successfully complete the class. Allen concluded by urging educators to design classrooms and implement classroom management strategies with the perspectives of students in mind so that student learning can be optimized.

Allen (1986) successfully explained teacher classroom management styles from the perspective of students in the classes he observed. Allen failed to use critical questioning for his analysis and discussion. These questions include: who benefits from these management styles? Such a question would hint at the commonalities of the teachers' classrooms. Related to this question involves issues of the hidden curriculum. What was being learned in these classes? It appeared as if students figured out the teachers' expectations and performed behaviors that aligned with what the teacher expected. Very little of these interactions focused on the students gaining relevant and meaningful content knowledge, literacy, language, technology, and mathematical skills.

Lastly, Allen (1986) observed numerous instances of teachers disciplining student misbehavior but did not account for the characteristics of the student being disciplined. This was a crucial oversight as studies have provided evidence that students of color and students identified as having disabilities experience disparate instances of disciplinary conduct. Allen accurately described what classrooms across the United States can look like, but could have done more to answer questions, such as: Whose interests do these classrooms serve? What types of violence protects those interests? What would a liberating classroom look like?

Allen (1986) ultimately trusted the institution of education without questioning the purpose and function of discipline, a topic that Irby and Clough's (2015) study dealt

with. Their work centered on the impacts of schoolwide disciplinary supports and the problems of coercing all teachers within a school to deal with school issues in a scripted and systematic fashion. In the study, Irby and Clough problematized the notion of consistency of administration of interventions, while also considering the way that positive behavior interventions and supports act as a tool of normalization, for better or worse.

Irby and Clough's (2015) Study on PBIS and the Issue of Consistency. Irby and Clough utilized Foucauldian notions of discourse and the function of punishment as a philosophical foundation for conducting a study on school discipline and positive behavioral interventions and supports. The study took place in two U.S. high schools that the researchers chose because of the gentrification happening within the school district. Irby and Clough elaborated that the demographic shift taking place had the result of forcing poor people and people of color to the social and geographic periphery of the community. Using focus groups consisting of educators and administrators within each school, Irby and Clough asked each group they questioned about the school's discipline procedures how the discipline plan functioned on a daily basis, and how school discipline would ideally function. The researchers proceeded to transcribe the focus group interviews and develop codes, then themes.

The researchers found that the discourse of the educators focused generally on the issue of consistency. The teachers who followed the script for implementing positive behavior interventions and supports tended to blame their peers who they considered to be inconsistent in applying these interventions. In contrast, some of the teachers perceived as inconsistent criticized positive behavior interventions and supports for its

stance on rules as external in nature, preferring to discuss the rules with students to help them grasp the reasons underlying the rules. Irby and Clough further clarified that consistency was a key factor for faculty solidarity, so students could learn expected conduct, and the difficulties of consistency that arose due to teacher differences.

For the subtheme of consistency for faculty solidarity, the participants spoke about being “on the same page” in an effort to consistently enforce the school rules. Some of the examples that came up included teachers observing in the hallways during passing periods and following through with standard enforcement of rule violations. A particularly strong example involved a principal who was ultimately convinced by a colleague to suspend two students for their involvement in a food fight. Even though the principal was apprehensive about suspending the students as food fights had not occurred in the school since his arrival, the school policy clearly stated that he suspend the students for their actions.

Irby and Clough (2015) also reported that certain members of the school argued that all staff show consistency in the enforcement of positive behavior interventions and supports; that way students could get accustomed to school expectations. They reported that students became confused when staff do not enforce rules consistently. According to the proponents of consistency, staff responses to student behaviors should include the “scripted verbal messages” (p. 165) of positive behavior interventions and supports, which they argued would lead to a safer school and classroom community.

Irby and Clough (2015) also highlighted alternative viewpoints that argued against the consistent enforcement of discipline. They suggested that staff gain rapport with students, establish relationships, and provide engaging instruction. For example,

they reported that regarding an issue of tardiness, a teacher noted that they influenced students to come to class on time for moral reasons rather than for the consequences they will receive if they are tardy.

For the discussion and conclusion section, Irby and Clough (2015) emphasized the dominance of student adherence to strict modes of conduct throughout the interview process. They highlighted that other approaches that center on building interpersonal relationships and encouraging community building and fostering student moral development were shunned. Meanwhile, the external focusing on incentivizing positive behaviors and punishing or negatively reinforcing negative behaviors consumed the discussion. Irby and Clough ended their study by explaining that consistency is understudied and undertheorized. Until these topics can be further clarified through educational research, they caution schools against using consistency as the focal point of school disciplinary policy.

In my own critique of their study, Irby and Clough (2015) highlighted the ambiguities of the term consistency. They utilized Foucauldian notions of discipline in a subtle way that policy can involve both violence and productivity (Foucault, 1977). Irby and Clough also utilized Foucauldian notions of the functions of schools as sites that create “docile bodies” through external punishments (Foucault, 1977a). Yet, they failed to mention that those who cannot and/or will not adhere to the normalizing tendencies within schools get placed in sites of confinement. The two summaries I presented here address many important issues, including alternative disciplinary systems, classroom management, instructional planning, and learning strategies in the classroom. In the next section, I will explore these topics further.

Discussion. The two studies summarized above illustrate many issues regarding school discipline reported in the literature. These issues include the reasons for student behavior at the high school level (Allen, 1986) and the pros and cons of having a schoolwide system of behavioral supports (Irby & Clough, 2015). As early as Chiu (1975), researchers have reported that student teachers and teachers (Check, 1979) find student behavior as the prominent area of difficulty in their teaching practice. Based on the articles analyzed in this review of the literature, I summarize suggestions for educators to improve their classroom management strategies and reflect on their overall philosophy of learners and learning.

Allen's (1986) conclusions from his study advise teachers, particularly those at the secondary level, to plan with students in mind. Planning with students in mind can involve providing engaging activities that increase the challenge and rigor of curriculum activities and allow students to socialize through cooperative learning. In terms of managing a classroom that offers potent cooperative learning activities, Beasley (1983) suggested that teachers switch from cooperative learning to whole group throughout the lesson. In her evaluation of cooperative learning classrooms, Beasley found that switching from small groups to whole class proved more effective than the educator providing direction by going from small group to small group. The whole group strategy appears to make sense as the teacher can enable the students to refocus from time to time, clarify any confusion, discuss what is happening, and to enable students to ask and answer questions.

The literature also contained strategies for dealing with disruptive behavior from students. Offering praise to students was observed as an effective classroom management

tool (Tulley & Chiu, 1995; Zahorik, 1977). Researchers like Geiger (2000) observed that classroom disruptions are the most common impediment to the flow of instruction.

Geiger reported that the most common ways teachers dealt with classroom disruptions involved techniques that did not impede the flow of instruction. Geiger noticed that the teachers often ignored the disruption, shushed the students, or repeated directions to deal with the disruptive behavior. Although these strategies do appear successful in the short term, educators must also work to model and teach behaviors that ensure a strong classroom community.

Two studies revealed that there appears to be a focus on rules as external in nature (Irby & Clough, 2015; Zahorik, 2000). To clarify, under this assumption students would be motivated to comply with the school and classroom codes with the incentive of rewards or the threat of negative reinforcers or punishers (Irby & Clough, 2015; Zahorik, 2000). These studies suggest that rather than enforcing compliance, school staff and especially teachers can foster student growth through self-control and a focus on self-improvement through ethical and moral pathways (Irby & Clough, 2015; Zahorik, 2000).

From the Foucauldian theoretical framework utilized by Irby and Clough (2015), schools, in addition to hospitals and military barracks, serve as sites of normalization. Foucault (1977a) specifically mentioned schools as sites of normalization that shape bodies to conform and become docile. With this understanding of shaping docile bodies, comes the importance of teacher reflection as advocated by Cox-Peterson's (2001) research. Through Foucauldian notions of governmentality, whereby governments are understood as both productive and violent, a teacher's critical praxis can serve to limit the violence that they commit in the classroom.

The literature that I retrieved left out many well-known and effective classroom strategies, including differentiated instruction (Tomlinson, 2005), and sheltering instruction for English learners (Cappellini, 2005; Gibbon, 2002). This literature also did not include the potential benefits of including students with disabilities in general education settings. Also missing was discussion of the ability of teachers to organize humanizing classrooms that provide students with voice, through opportunities to explain their experiences of oppression and ways that they can oppose and resist that oppression. Returning to the metaphor of the miner's canary, it deserves emphasizing that the funnel of the school-to-prison pipeline begins in the classroom. A teacher's everyday classroom practices can contribute to or detract from funneling students into the criminal justice system. This critique, grounded in the work of Irby and Clough (2015) and Zahorik (2000), suggests it would be prudent for teachers to reflect on their everyday practices and unlearn some of the racist, sexist, homophobic, ableist, and Manichaeian notions of good and evil in modern U.S. society. Unfortunately, the literature I reviewed barely scratched the surface of strategies teachers can use to shut down the school-to-prison pipeline. In the upcoming section I will discuss parent and student perspectives about their education and treatment in schools across the United States.

Parent and Student Perspectives

Issues of school discipline from the viewpoints of students and parents were also present in the literature I reviewed. Twelve such articles, or about 17% of the articles examined student perspectives about the administration of school discipline (Allen, 1986; Bernhard et al., 2004; Caton, 2012; Desai & Abeyta, 2017; Hernandez Sheets, 1996; Jones-Wilson et al., 1992; Kim, 2006; Kim, 2010; McNeal & Dunbar, 2010; Portillos et

al., 2012; Wald & Kurlaender, 2003). Quantitative methodologies are highly represented in the research on the school-to-prison pipeline. However, qualitative studies are also valuable in exposing problematic issues within education systems, which is why I highlighted qualitative studies in the first theme of classroom management. I therefore first summarized a qualitative study by Hernandez Sheets (1996) who captured the resentment students of color in the study felt and the lack of trust they had toward school staff and administration as a result of the discriminatory policies of the school. Hernandez Sheets suggested that the discrimination students faced on a day to day basis in schools resulted in resentment. I used Hernandez Sheets as an exemplar article to demonstrate the way that qualitative research studies can be an important part in understanding student perspectives. In the next article of focus, Desai and Abeyta (2017) completed a qualitative study that focused on a young man of color caught in the web of the criminal justice system. I chose to highlight Desai and Abeyta as the study shows the way the prison-industrial complex can trap youth of color and keep them in systems that make it difficult for youth to get educated, learn from their mistakes, and move on with their lives.

Hernandez Sheets' (1996) Qualitative Study on Discipline. Hernandez Sheets conducted a qualitative study that compared students and teacher reports about discipline. The study consisted of 16 students from diverse backgrounds and nine teachers from an urban high school in the Pacific Northwest. Hernandez Sheets gathered data through classroom observations, interviews, and studying disciplinary records. Hernandez Sheets found that African American, Latinx, and Filipino Americans were disciplined at a higher rate than White students. The researcher also reported that students held strong feelings

that racism played a large role in the administration of discipline. Although she found that both teachers and students gathered that racism had a lot to do with the nature and severity of school discipline, Hernandez Sheets commented that while teachers thought that this problem stemmed from unconscious bias, students held convictions that the actions of teachers they felt were discriminatory were both conscious and deliberate.

According to Hernandez Sheets (1996), the school site was under an integration mandate and many of the students of color were bused into the school, capturing a sense that the students of color felt uncomfortable there. Thus, Hernandez Sheets deemed this school as a “struggle made tolerable only by avoidance, resistance, solidarity, and social relationships” (p. 182). Hernandez Sheets described the way that students within schools dealt with the hostile practices and policies.

In the next study I chose to illustrate for this theme, Desai and Abeyta (2017) explicated the way disciplinary practices work to exclude students of color from school and the way the criminal justice system keeps a firm hold on young men of color, making it difficult to leave the penal system. I chose to summarize this article, because it was conducted locally and emphasizes the way that when young people of color enter the criminal justice system, it becomes difficult to exit and move on with their lives. Andrea Abeyta is from Isleta Pueblo and is presently a doctoral student in Language, Literacy, and Sociocultural Studies at the University of New Mexico. She also teaches numerous classes on antiracism at UNM. Andrea has an uncanny ability to organize and lead acts of resistance and activism, a knowledge of the system that enables her to use it to the benefit of people of color, pushes the frontiers of qualitative research methodologies, and is an

eloquent writer and a profound author who is already making a difference in using critical race theory to expose the school-to-prison pipeline.

Desai and Abeyta's (2017) Qualitative Study on the School-to-Prison Pipeline. Desai and Abeyta organized a qualitative study or what they called an “empirical inquiry” (p. 47) using critical race theory methodology of a “bounded case” (p. 47) of a young man of mixed ethnicity (African American and Native American) who was caught up in what they deemed as the prison industrial complex. The young man, with the pseudonym of Malcolm, was just seventeen years old at the time the study was conducted. He participated in a group called Leaders Organizing to Unite & Decriminalize (LOUD). The researchers collected participant observation field notes and transcripts from interviews conducted over the course of an academic year to determine the young man's thoughts on his life experiences and run ins with the juvenile justice system and his plan of action for resistance and self-advocacy.

The major findings from Desai and Abeyta (2017) involved the participant's association with the juvenile justice system, school experience, and the development and growth of self-advocacy. The researchers explained that Malcolm became involved with the prison industrial complex at age 12 as the result of a domestic dispute with his mother. For five years running up to the time of the study, Malcolm and his siblings were placed in foster care and the sentence he received led him to struggle with the terms of his probation. Desai and Abeyta's findings indicated that Malcolm was pushed out of school after the incident. Through LOUD, the researchers urged him to pursue a GED. Desai and Abeyta assisted Malcolm in advocating for himself in a court hearing that enabled him to make strong attempts to pull himself from out of the prison industrial

complex. Throughout the research study, Desai and Abeyta emphasized the targeting of Black bodies and the assumption of inherent criminality of African Americans to highlight the racist social system of the United States. The summaries of Desai and Abeyta and Hernandez Sheets (1996) illustrate the institutional and structural racism deeply embedded in the U.S. educational and criminal justice systems. These pervasive practices, which maintain White supremacy, are highlighted in the discussion below and will play a central role in the rest of this systematic review of the literature.

Discussion. According to Allen (1986), student goals within each classroom involved socializing with peers and successfully completing the coursework necessary to graduate. Allen claimed that students achieved those ends by providing the teacher with what they wanted, reducing boredom, staying out of trouble, and minimizing the workload. Allen demonstrated the disconnected curriculum, instruction, and assessment in U.S. schools. The narrative inquiry of Kim (2006) similarly described the disconnected teaching and unengaged learning activities of the curriculum experienced by the students, predominantly of color, who attended alternative schools and could not relate to this curriculum. In a later case study, Kim (2010) argued that student resistance often served as a mechanism of self-defense and civil disobedience to protest for engaging curriculum and meaningful instruction. In contrast to Allen's results, Kim observed students who wanted to learn, but claimed that the material lacked the level of rigor and engagement necessary for learning to occur.

The criticism this literature captures of educational practices and disciplinary codes was not limited to curriculum and instruction, but also applied to the effects of mechanisms of surveillance on students, especially students of color. From the results of

interviewing ten African American youth who recently dropped out of high school, Caton (2012) concluded that student uneasiness with excess security measures, such as body and bag searches, passing through metal detectors, and security guards who lacked professionalism, played a role in their decision to drop out of high school. Hernandez Sheets (1996) also portrayed the uncomfortable feeling students of color at the school had of the discriminatory administration of punishments, actions the disheartened students found to be conscious and deliberate acts of racism. The results of McNeal and Dunbar (2010) provide evidence that students continue to feel unsafe in schools. They elaborated that despite the harsh consequences employed by zero tolerance policies, many students felt unsafe in institutions of learning. McNeal and Dunbar (2010) relayed students concerns, such as the level of training of security guards, inconsistent application of discipline, and a lack of security within schools, which they attributed to a lack of safety in the schools they attended.

A previous critique of Allen's study includes that he did not account for disparities in discipline for students of color and students with disabilities. Desai and Abeita's (2017) case study exemplified the trend of how students of color are pushed out of school upon entering the criminal justice system. Student exclusion from public schools through suspension, segregated classrooms, surveillance, and stiff zero tolerance policies is known in the pipeline literature as the pushout phenomenon (Taylor et al., 2012). The pushout phenomenon occurs when the use of suspensions due to zero tolerance policies serves to outpace students into alternative schools or encourage dropping out of school. It took the support of the facilitators of LOUD for Malcolm, the African American/Native American participant, to work toward getting his GED and

become his own legal advocate in order to exit the criminal justice system and escape the funnel of the school-to-prison pipeline.

In addition to student voices, parents also shared their frustrations with the schools their children attended. Based on the analysis of 65 parent interviews, Bernhard et al. (2004) concluded that Latina mothers found school personnel to be aloof, impersonal, and uncaring. In addition, they reported that the mothers critiqued the inability of staff and administration to distinguish between major and minor misbehaviors. Lastly, Bernhard et al. found that the school staff overly emphasized rules and underemphasized character building and moral development. Jones-Wilson et al.'s (1992) interviews with African American parents revealed the growing sentiment within the African American community against having children attend public and neighborhood schools and for attending private or charter schools. The reasons they provided for their opinion that charter schools would lead to better outcomes for African American children included a lack of discipline, lack of proper facilities, racism from faculty, and fighting that occurred at their neighborhood schools. Jones-Wilson et al. contended that the thrust to advocate for charter schools and school vouchers came despite warnings from African American intellectuals against the privatization of education.

In bringing this back to the metaphor the canary in the coalmine, the following studies focused on student and parent perspectives on the education they received, which appears to fall well short of a quality education. In this case, the research that suggests the dehumanizing aspects of schooling is the canary and the coalmine epitomizes the geography of the urban school. The literature summarized here suggests that the schools

have significant problems with the ways they often treat students of color, which can lead students of color to be misunderstood, discriminated against, and indeed miseducated. These problems have led many parents to yearn for more charter schools even though charter schools have been found to suspend and expel students of color at a higher rate than traditional neighborhood schools (Losen et al., 2016). In the next section, I review research in which staff and administration provide their perspectives on U.S. schooling. While some articles come to terms with discriminatory educational policies, others deflect and blame students and parents. This is what to look forward to in the paragraphs that follow.

Staff and Administration Perspectives

Many studies within the present review of research dealt with the viewpoints and attitudes of staff and administration. Faithfully, 21 articles or about 30% of articles met the criteria established for the theme entitled staff and administration perspectives on school discipline and school disciplinary policy (Check, 1979; Chiu, 1975; Cox-Peterson, 2001; 1994; Frisby et al., 2006; Geiger, 2000; Hernandez Sheets, 1996; Irby & Clough, 2015; Jones & Harty, 1978; Kennedy, 1995; Kennedy-Lewis, 2012; Kim, 2006; Menacker et al., 1989; Myers et al., 1987; O'Malley, 2009; O'Sullivan & Dyson, 1994; Rose, 1988; Scott & Friedli, 2002; Sherer & Nickerson, 2010). One article I summarized was of a survey conducted by Kennedy (1995). I summarized Kennedy to highlight the advocacy of corporal punishment, especially by professionals in the field of education. This use of corporal punishment that some schools in some U.S. schools brings the institution of education closer to that of a penal institution like a prison. After the summary of Kennedy, I will shift the focus to a survey conducted by Sherer and

Nickerson (2010) who set out to study school practices that dealt with bullying. I chose to exemplify the study of Sherer and Nickerson, because it dealt with the popular issue of bullying in schools.

The Kennedy (1995) Study on Corporal Punishment. Kennedy studied the perceptions of school staff and university students regarding the use of corporal punishment in schools. The study took place in the rural Southern U.S. and included 256 teachers, 60 educational assistants, and 480 university students as participants. Kennedy administered a survey where participants rated the seriousness of different scenarios that can occur in schools using a Likert scale. Through the analysis of her data, Kennedy categorized the scenarios into dangerous behaviors, moral transgressions, and social transgressions. The survey results indicated that dangerous behaviors warranted corporal punishments more so than the other types of infractions. However, Kennedy found differences depending on a person's professional or academic role as well as the participant's gender, men being more likely to advocate for corporal punishment than women. She noted that university students rated the behavioral infractions less severely than did school staff. Teachers as a whole advocated for corporal punishments in higher numbers than university students. Even though they agreed with using spankings for dangerous transgressions, some educators and paraeducators also called on student spanking for moral transgressions that can include hitting peers or theft.

Kennedy (1995) attributed the results to the experience of educators in dealing with students, but also called upon them to study ethical guidelines for the use of corporal punishments. Despite all of the research that, even at the time, suggested that corporal punishments are ineffective punishers that hindered the livelihood and well-being of

children, relatively educated teachers and support staff supported their use in schools. The problem of using strategies not supported by the research applies to other issues, such as bullying, which is what the next study, by Sherer and Nickerson (2010), is about. Sherer and Nickerson, with their emphasis on the popular issue of bullying in schools, showed that the discourse on bullying does not equate with supports for students who exhibit bullying behaviors and students who get bullied. The study also showed that bullying is often solved with more of the same zero tolerance policies.

Sherer and Nickerson's Study on Bullying. Sherer and Nickerson (2010) sought to examine the practices schools used to deal with instances of bullying. Using a random sample, the researchers surveyed 200 school psychologists to determine school anti-bullying practices. The researchers developed questions and the participants answered them using a five point Likert scale. The participants reported that their school's responses to bullying focused primarily upon the victim and the aggressor as opposed to school wide interventions that had students attempt to prevent bullying through student led counseling. They also discussed that many schools lacked a referral system as well as professional development that would provide systems to be in place to address instances of bullying. Sherer and Nickerson discussed how student suspension was the way most schools dealt with bullying. Rather than encouraging community, teacher, parent, and student involvement, Sherer and Nickerson's study provided evidence that schools have a business as usual response to bullying that tends to focus on punishment rather than providing students and staff with the tools they need to address this issue and build a more legitimate classroom and broader school community.

Sherer and Nickerson's (2010) results demonstrate how zero tolerance policies and the overemphasis on suspension as a punishment all too often fail at creating a vibrant school community that appreciates and respects difference. In the upcoming discussion on staff and administration perspectives on discipline, I further categorized this issue into two subcategories: (a) Increasing behavioral problems in the classroom and (b) classroom discipline and instructional strategies. While I recognize the research I examined for this literature review includes some problematic dominant narratives, there are also some rather surprising glimmers of hope.

Discussion. This section is comprised of two subcategories. The first, increasing behavioral problems in the classroom includes literature where school staff and leadership reported increasing disruptions to the classroom process. The second subcategory, classroom management and instructional strategies, is about the ways teachers and administrators can deal with student misbehavior. Some of the classroom management strategies are humanizing while others are dehumanizing. I discuss this further in the paragraphs that follow.

Increasing Behavioral Problems in the Classroom. The results of several studies supported an opinion by school educators and support staff that teachers are facing increasing behavioral challenges by students (Check, 1979; Frisby et al., 2006). Check (1979) surveyed teachers in Wisconsin who reported that student misbehavior was on the rise. According to Check, educators in the survey tended to place the increased instances of behavioral infractions on an increasing number of students who live in *problem homes* (p. 135). It is perhaps these attitudes that led educators in Kennedy (1995) to advocate for the use of corporal punishment in schools in the rural South. In contrast to Check,

O'Sullivan and Dyson's (1994) survey of physical education teachers found that they opined that student behavior was not getting more challenging. The researchers found that the teachers who participated in the study reported they simply had to teach and emphasize their routines and provide structure for their students.

Teachers and administrators provided a variety of perspectives about the social well-being of the students. Using a specific profile analysis on an inventory of the educator participants in their study, Frisby et al. (2006) divided inventory responses into one of two profiles. One profile blamed the glorification of violence through the outlets of mass media as the primary cause of school violence. The profile tended to place blame on the individual and advocate for zero tolerance policies and an overall *law and order* outlook. The second profile tended to blame the violent actions of youth on social ills and called on students to be protected through stricter gun control measures and other policies to reduce violence. Both outlooks the researchers mentioned have implications for the classroom discipline and instructional strategies that teachers utilize, which capitulates the content within the next section.

Classroom Discipline and Instructional Strategies. Several studies addressed classroom discipline strategies utilized by educators (Chiu, 1975; Cox-Peterson, 2001; Geiger, 2000). Chiu based their results on the reflections of preservice teachers. The researcher's analysis revealed that the predominant forms of student misbehavior involved disrupting instruction through talking and instances of perceived aggression by students. Chiu found that the student teachers favored the use of approval as the most effective response to these behaviors, which included instances of praise, offering stimulating lessons, and providing forms of positive reinforcement. In contrast,

preservice educators deemed acts of disapproval, such as making threats, scolding, yelling, and withholding stimuli, as ineffective forms of classroom management. Cox-Peterson's (2001) study demonstrated that equipping preservice teachers with research methods, such as utilizing inquiry and inductive reasoning, enabled students with some tools to improve their teaching. According to Jones and Harty (1978), science teachers tended to favor inquiry based instructional strategies as opposed to more traditional forms of individual activities.

Many of the studies I reviewed examined ineffective and effective classroom management techniques. The results of Geiger (2000) coincide with and elaborate on the work of Chiu (1975). In the classroom observations conducted by Geiger, student misbehavior primarily consisted of talking during instructional time, student movement, and fidgeting. According to Geiger, classroom teachers tended to respond to these behaviors in ways that minimized the flow of the lesson for the teacher as opposed to dealing with the issues as a teachable moment or perhaps building in movement breaks and periods for students to have informal discussions. Despite the findings by Geiger, it is important to remember the finding of Hernandez Sheets (1996) that racially diverse students know that they are dealt harsher punishments than White students. According to Hernandez Sheets, they called the harsher consequence deliberate acts of racism and led to a lack of trust between students and school staff. However, in contrast to the students, the researcher also found that the predominantly White faculty interviewed in her study acknowledged instances of disparate punishment and racial discrimination but attributed this phenomenon to implicit or unconscious bias.

The research has shown some positive associations between discipline and academic outcomes. Using Pearson correlations, Myers et al. (1987) found a correlation between student misbehavior and academic achievement. Based on their work, when school administrators suspended students who demonstrated what they considered as low achievement, those “low achievers” also tended to display what the school considered as problem behaviors. The exclusion of students considered to be problems exemplifies the pushout phenomenon, which I discussed in the section on the perspectives of students and parents and was also discussed in Chapter 1. As Skiba et al. (2008) noted in their extensive review of the literature, the students who received suspensions often required additional and more intensive supports, services that a school who suspends such a student does not tend to have. Sherer and Nickerson (2010) claimed that schools that employed a pool of school psychologists tended to favor zero tolerance policies and did not have much in the way of Tier III behavioral interventions.

Educators certainly held some problematic views about the learners who came into their classrooms, but some also appeared to be a bit more humanizing. Kim (2006) portrayed the teachers in an alternative school, her case study, as caring people. Results of a survey organized by Menacker et al. (1989) indicated that teachers tended to agree with the decisions of the liberal Supreme Court headed by Justice Warren, which ruled in favor of integration and individual liberties as it related to school matters, such as search and seizure and educational benefit. Yet, it appears as if their beliefs did not coincide with their actions. Despite having some understanding of the hurtful impacts of the suspension and expulsion of students, administrators who participated in Scott and Friedli’s (2002) study of principals indicated that zero tolerance policies failed to deter

students from cutting classes, fighting, disrupting the classroom, and talking back to teachers. In relating these issues back to their relationship to my introductory metaphor of the miner's canary, it is apparent that even though research demonstrates that teachers want to help their struggling students, they tend to have philosophical beliefs that perpetuate the status quo of the use of punishments through zero tolerance policies. The next section will uncover the ways that schools tend to discipline students of color at higher rates than White students, indicative of harmful racial discrimination that can lead students to drop out of school. These higher rates of discipline could serve as the miner's canary, if examined on a consistent basis, providing critical information to administrators and teachers as to the presence of a toxic atmosphere that could lead to student disengagement, disillusionment, and dropping out.

Disproportionate Punishment

Multiple articles within the present review of research emphasized disparate rates of discipline between students of color, students with disabilities, and White students. Fourteen articles or about 20% of the studies fit the established criteria for the common theme of disproportionate punishment (Curran, 2016; Heilbrun et al., 2015; Hoffman, 2014; Nichols et al., 1999; Peguero & Shekarkhar, 2011; Peguero et al., 2017; Portillos et al., 2012; Shirley and Cornell, 2011; Skiba et al., 1997; Skiba et al., 2002; Skiba et al., 2014; Wallace et al., 2008). The first summarized article, a classic study conducted by Skiba et al. (1997) epitomized a strong focus on the issues related to school discipline and its relationship to racism with well-organized methods, results, and discussion of the results. These are the reasons that I chose to use Skiba et al. as an exemplar article. The racist practices the researchers found displayed ways that teachers wrote administrative

referrals for African American students. Skiba et al. also found that African American students received disciplinary outcomes more so than White students despite not being found to exhibit more offensive behaviors and/or commit more behavioral violations. After the analysis of the Skiba et al. study, I will turn to another strong study completed by Peguero et al. (2017) on the relationship between school discipline and dropping out of school. I chose to use Peguero to illustrate the important issue of dropping out of high school.

Skiba et al.'s (1997) Study on Discipline. Skiba et al. conducted two studies in middle schools located in the Midwest United States. The first study took place in one of the major urban centers in the United States, which consisted of 50% African American and 42% White students. Skiba et al. accounted for students in special education and general education as well, reporting 83% of students in general education and 16.8% of students who received special education services. The researchers collected and coded disciplinary data for an academic year. They then connected each disciplinary infraction to student demographic information, such as gender, race, class, and disability. The results of Skiba et al. indicated that African American and Native American students received a higher number of referrals and suspensions on average than students from other racial backgrounds. Students from low income families and students with disabilities also received a higher number of referrals and suspensions.

The second study of Skiba et al. (1997) focused on a medium sized Midwestern school district with a majority White population with African Americans comprising 5.1%, Asian American students 3%, Latinx students 2.4%, and Native American students 1.1% of the student population. Skiba et al. noted that 25% of the students in the district

qualified for free and reduced lunches. They did not indicate what percentage of students were receiving special education services. The research team followed the same procedures as they did the first study, collecting and coding the referrals before connecting them to student demographic information. For this study, Skiba et al. focused on the reasons the students were referred to the office, such as disruptions, fighting, disrespect, and vandalism. In their data collection, they found that “the most common reasons for referral were ‘lack of cooperation’ and ‘insubordination/verbal abuses, followed by excessive tardiness/absences’ and ‘inappropriate/profane/abusive language’” (p. 304). When discussing their findings, Skiba and colleagues argued that students were displaying behavior commensurate with their age and developmental stage.

Skiba et al. (1997) also noted that the prevalent types of disciplinary infractions committed did not concern issues that hindered the safety of other students, but instead centered on issues of disrespecting school staff. They elaborated that students in middle school were in developmental stages where some students can typically question authority figures. Yet, rather than using milder interventions that sought to teach students, administrators resorted to suspension for violations of disrespect and insubordination, especially for the African American students in the study. And Skiba et al. found that people of color, males, and students with disabilities were suspended at higher levels in comparison to middle class White students and Asian American students. Exclusionary discipline, such as suspension, can often prove harmful to the educational outcomes of students, which embodies what Peguero et al. (2017) set out to study. The Peguero et al. findings demonstrate the way that zero tolerance policies are related to the pushout phenomenon and is explained in the section on student and parent perspectives. In

contrast to Skiba et al., Peguero et al. focused on Latinx students and the way students from this background are impacted by the school-to-prison pipeline.

The Peguero et al. (2017) Study on School Discipline and School Dropout.

Peguero et al. (2017) examined the relationship between school punishment and dropping out of high school. Using data from the Education Longitudinal Study and the Common Core of Data, the study consisted of 1,800 Latinx students with 6,300 White students used as a reference. The researchers looked at numerous factors that included: student perceptions of school order; student self-report of their discipline encounters; gender, race/ethnicity, student, family, and school characteristics; student achievement; school size; victimization at school; and poverty. What they found indicated that the aforementioned factors led Latinx students to dropping out of high school more frequently than their White counterparts. In discussing the findings, Peguero et al. noted that for both male and female students in this study, overall, being punished at school increased the probability of dropping out. This finding is concerning given that previous studies (Crenshaw et al., 2015; Hirschfield, 2008; Kim et al., 2010; Peguero & Shekarkhar, 2011; Rios, 2011; Skiba et al., 2011) also suggest that Latinx students are disproportionately punished at school, although they are not misbehaving any more than their White counterparts.

Discussion. A rather obvious conclusion, based on the results of this review of the literature, is that the enactment of state laws that mandate schools to suspend and expel students has led to increased instances of suspension and expulsion (Curran, 2016). According to Heilbrun et al. (2015), principal endorsement of zero tolerance policies is positively associated with suspension rates. They also found that suspension rates were

highest in schools in urban areas with high rates of students on free and reduced lunch, indicative of high rates of poverty. The enactment of zero tolerance policies thus exacerbates the disparate rates of discipline between White students and African American students (Curran, 2016; Heilbrun et al., 2015; Shirley and Cornell, 2011; Skiba et al., 1997; Skiba et al., 2000; Skiba et al., 2001) and between White students and Latinx students (Peguero & Shekarkhar, 2011, Peguero et al., 2017; Portillos et al., 2012).

Skiba et al. (2002) found that while White students were suspended for objective infractions, such as smoking and school vandalism, African American students were found to be suspended for more subjective reasons, such as classroom disruptions or disrespecting the teacher. According to the study conducted by Nichols et al. (1999), disrespect and insubordination amounted to the primary reasons that students received out of school suspensions. Gastic's (2017) results revealed that even for the objective infraction of fighting, school administrators chose to suspend African American students at a higher rate than White students, even though the data clearly showed that African American students did not get into more fights than White students. The school principals in the study had the flexibility under these policies to determine who would receive suspensions and who would receive less severe forms of punishment and the data suggested they applied these consequences in a racially biased manner.

The literature also suggests that African American and Latinx students are often referred to administration and suspended at higher rates than their White counterparts (Peguero et al., 2017; Skiba et al., 1997). The disparities in discipline between these groups cannot be attributed to higher rates of misbehavior (Skiba et al., 2000), but instead result from disproportionate rates of punishment (Peguero & Shekarkhar, 2011). This is

perhaps part of the reason that Portillos et al. (2012) and Hernandez Sheets (1996) found that Latinx students and African American students were fearful and distrusting of school staff and school security.

Another canary in the coalmine related to the school to prison pipeline is the way zero tolerance policies have tended to ignore longstanding instances of racial discrimination and the criminalization of students with disabilities and students of color. As the title of Carter et al. (2017) elaborates upon, “You can’t fix what you don’t look at.” If education is to be a force of good for all students, it must conscientiously and deliberately work to include students of all races, abilities, sexual preferences, gender identities, and language preferences. Research suggests this improved tolerance would ultimately improve both school safety and learning climate. I will discuss creating safe schools with hospitable learning climates in the next section.

School Safety and Learning Climate

Regarding policy and attitudes relating to the learning climate of the school and issues of safety in schools and classrooms, ten articles, or about 15%, of the articles of the present review of research fit the theme of school safety and learning climate (Allen et al., 2008; Check, 1979; Chen, 2008; Christle et al., 2004; Cornell et al., 2011; Gottfredson & Gottfredson, 2001; McNeal & Dunbar, 2010; McCarthy et al., 2007; Shirley & Cornell, 2011). The first study I will summarize, Check (1979), highlights some of the problematic structural functionalist mindsets that teachers and researchers can have. I included this piece to emphasize that many student teachers might have these dominant understandings. It is up to the professors of preservice teachers to illuminate to

students the illusory chains that these dominant understandings have on the oppressed and on the oppressor.

Check (1979) surveyed teachers' attitudes towards the behavioral problems of students. Check examined whether teachers held similar opinions to the general public, as evidenced by the results of a Gallup Poll regarding behavioral challenges in schools. Check also sought to determine if teachers had trended in a negative or positive fashion over time. After sending the questionnaire out to 956 elementary, middle, and high school teachers and receiving a 73% response rate, Check found that 62% of participants reported an increase in students with challenging behaviors compared to five years prior to the study. Check noted that teacher attitudes about student behavior occurred regardless of whether the teachers worked in a parochial or a public school. Check mentioned that only a small fraction of teachers reported that behavioral problems within schools had decreased. He further elaborated that elementary and middle school teachers reported having more behavioral problems than did high school teachers. After I discuss Check, I will then summarize a study on threat assessment conducted by Cornell et al. (2011). I analyzed the work of Cornell et al., because it emphasized the use of threat assessment as a viable alternative to zero tolerance policies.

The Check (1979) Study. Check emphasized that classroom discipline issues were the primary reason of teacher dissatisfaction and highlighted that discipline issues were the primary reason that teachers left the profession within the first three years. Check also found that 21% of the respondents reported using corporal punishment. Male teachers holding bachelor's degrees had a higher likelihood of using corporal punishment while female teachers holding master's degrees indicated they were much less likely to

consider beating students as punishment. In response to the reports of increasing discipline within schools, Check recommended improving teacher preparation programs to better address discipline issues. He also recommended establishing educational programs that specifically address the needs of disruptive students. In addition to professional development opportunities and administrative support, Check recommended programs for parents and more studies on the effectiveness of corporal punishment.

Check's (1979) study was problematic on multiple fronts. It appears to scapegoat parents and children without regard to the school's ability to provide care, support, academic rigor, and high quality instruction to students. The conservative viewpoint appeared to act as a counter discourse to mandates of racial integration and incorporating students with disabilities in neighborhood schools. Check even appeared to support the increased use of corporal punishment to bring order to schools. Unfortunately, many teachers still appear to have the conservative mindset that Check set forth. It is from these assumptions that zero tolerance policies have given rise. Rather than focusing on interventions that research has shown to lack effectiveness and might even in fact be detrimental to the development of youth, other studies focused on alternatives to the use of corporal punishment and zero tolerance policies. One such study, summarized next, was conducted by Cornell et al. (2011) who studied the effects of threat assessment. It was chosen to show that alternatives to zero tolerance do exist. Yet it remains unclear the degree to which alternative school wide supports, such as threat assessment, can really have on alleviating the pushout phenomenon and the issue of students of color being

pushed out of school where they have a higher likelihood of entering the criminal justice system.

The Cornell et al. Study on Threat Assessment. Cornell et al. (2011)

administered a quasi-experimental study that examined the efficacy of threat assessment as a viable alternative to zero tolerance policies. They defined threat assessment as “a strategy for preventing violence through identification of persons who pose a threat to harm others, followed by intervention designed to reduce the risk of violence” (p. 176). The researchers studied 23 high schools in the state of Virginia on the effects of threat assessment training, on staff attitudes about the threat assessment model, and instances of student discipline. Cornell et al. conducted a one day workshop on threat assessment to school staff and administrators in the participating schools. As part of their training, participants received important manuals and guidelines to improve the implementation of threat assessment. In order to measure teachers’ shifting attitudes toward threat assessment and zero tolerance policies, the researchers administered a pre/post survey to those in attendance. Cornell et al analyzed the first phase of the research through multiple statistical approaches, such as running multivariate and univariate tests to analyze the differences between the pre and posttest scores. As a result of the training, Cornell et al. found a change in staff attitudes in favor of threat assessment and more skepticism of zero tolerance policies. For the second phase of their study, they ran multiple ANCOVA analyses and found that school suspensions and instances of bullying experienced significant decreases compared with the previous academic year.

Cornell et al. (2011) emphasized the benefits of threat assessment as an alternative to zero tolerance policies. Their work demonstrates that dealing with conflicts

without suspensions, as recommended by threat assessment procedures, tends to improve the school climate by reducing school bullying and out of school suspensions. Yet again, it is important to point out what the study did not mention, which includes who continued to receive suspensions and who school staff considered a threat.

Discussion. A closer inspection of the previously summarized articles revealed both beneficial and problematic qualities regarding the discourse of school safety. As reported by Skiba et al. (2008), zero tolerance policies within schools are often based upon the assumption that such policies improve the safety of the school and enhances the learning environment of schools who implement them. As reported in their report on zero tolerance policies, which consisted of an extensive review of the literature, Skiba et al. found that there is little to no evidence that zero tolerance policies improved school safety or improved learning climates within schools. Indeed, Skiba et al. tended to find the opposite to be more likely. They emphasized research based interventions, which included school wide enforcement of positive behavioral interventions and supports, as well as the use of threat assessment to help respond to student conflict with staff and peers before they escalate to unsafe levels.

The research found in the present review of the literature contained results that affirmed the use of threat assessment as a viable and more effective intervention than zero tolerance policies. For instance, Allen et al. (2008) found increased teacher approval for the use of threat assessment over zero tolerance policies as a result of the professional development opportunity offered to school staff. According to Cornell et al. (2011), the adoption of threat assessment guidelines in Virginia led to a reduction of both instances

of bullying and long term suspensions. This reduction of bullying and long term suspensions likely had a positive impact on school safety and learning climate.

In referring to the use of packaged programs, Gottfredson and Gottfredson (2001) found that many schools implemented a Drug Abuse Resistance Education (DARE) program to reduce the use of illegal substances in schools and communities. Yet, a study conducted by Brown and Clarey (2012) have found DARE to be ineffective in this capacity. In fact, Brown and Clarey called this type of program *disintegrative shaming* as the curriculum tended to focus on frightening and pressuring students to make healthy choices about using drugs and alcohol. Gottfredson and Gottfredson were surprised to find the widespread use of short and long term suspensions to deal with problem behavior despite the calls for due process in Supreme Court decisions, such as *Wood v. Strickland* (1975) and *Goss v. Lopez* (1975).

With a conservative stance Check (1979) placed blame on students and parents using an ideological approach akin to a Nixonian understanding of law and order. Sugai et al. (2001) echoed the law and order approach by using the results in their study to advocate for the use of metal detectors and surveillance cameras within schools. Yet, as Skiba et al. (2008) emphasized, those apparatuses of surveillance tend to be detrimental to the learning environment of schools and oftentimes did not reduce infractions of the school discipline code. In a statistical analyses of Pearson correlation coefficients, Chen (2008) found a correlation between school crime and school climate. Christle et al. (2004) observed high amounts of yelling and sending students out of the classroom at what the state considered as low performing schools.

To sum up, environments engulfed in zero tolerance policies often did not feel safe (McNeal & Dunbar, 2010). Perhaps for this section, the canary in the coalmine is both what the literature in the present review of the literature mentioned about school safety and learning climate, but perhaps also what it failed to mention as well. With the mass shootings in the United States primarily perpetrated by young White men, many agree that schools can no longer be understood as safe spaces. The research literature has provided ways to make schools moderately safer, such as securing cooperation between the school, school district, and parents (McCarthy and Soodak, 2007). Yet, there are many aspects of school safety that school leaders can do little about, such as the proliferation of gun violence across communities in the United States. Instead, I contest that the federal government, through the legislative and executive branches, needs to tackle the issue of gun safety and gun violence in communities across the United States.

Critique of Zero Tolerance Policies

Several studies dealt with critiquing zero tolerance policies and falsifying common assumptions about zero tolerance policies. Sixteen studies in the present review of research, or approximately 23% of articles, met the criteria for the theme that embodies an overall critique of zero tolerance policies (Brieschke, 1989; Brown & Clarey, 2012; Casella, 2003; Chen, 2008; Christle et al., 2004; Curran, 2016; Freiberg et al., 1995; Gastic, 2017; Heilbrun et al., 2015; Hoffman, 2014; Kennedy-Lewis, 2012; Morrison & D’Incau, 1997; Mowen & Manierre, 2017; Nichols et al., 1999; Vavrus & Cole, 2002). The first article I summarized for this section was a study by Brieschke (1989). I chose to emphasize this article to show the high degree of racial segregation in school districts, such as the Chicago district Brieschke examined. I also chose it to show

the realities of poor planning, collaboration, and implementation of a school wide disciplinary code. School staff must often deal with the aftermath of the chaos of poor planning and implementation from the district and state. After summarizing Brieschke, I will analyze a study by Gastic (2017) on fighting suspension disparities between White, African American, and Latinx students. I chose the Gastic study as an exemplar article, because the study demonstrated that students of color also receive disparate punishments for objective behavioral infractions such as fighting.

Brieschke's (1989) qualitative study on the Roll Out of a District Wide Discipline Plan. Brieschke examined the implementation of a district wide discipline code in a school district in Chicago. She conducted her study in an elementary school and a middle school, both of which educated a 100% population of African American students. To understand the rollout of the uniform discipline code, Brieschke observed classrooms and interviewed school staff, administration, and parents. The researcher then analyzed the data to develop themes, which she referred to as *surprises*. Using the term surprises reflected Brieschke's theoretical framework of having a "truth seeking" as opposed to having a "truth making" disposition. The surprises consisted of the source of the discipline policy, the teachers' thoughts on the policy, controversy that arose from its implementation, and what she deemed as *the three day deal* (p. 317).

Brieschke's (1989) results indicated that the source of the implementation of the uniform discipline code was a federal mandate. The federal government mandated that the district take efforts toward racial integration and reduce the number of suspensions within the district. According to Brieschke, the policy was developed by the superintendent and upper administration while principals had limited input and educators

had no input at all. Brieschke documented that new record keeping systems and a lack of professional development on the implementation on the codes led to confusion and, frankly, a chaotic situation that lasted throughout the timeframe of the study. That was Brieschke's first surprise.

Regarding the second surprise about teacher thoughts on the discipline code, Brieschke (1989) observed the quagmire that the discipline policy created at the administrative level led teachers to believe that the policy did not apply to them. For the third surprise, Brieschke noted that the controversy of the code had to do with the limited role principals had in developing it. Although the intent of the discipline policy involved reducing the number of suspensions, the code called on principals to suspend students as consequences to certain disciplinary infractions. For the fourth surprise, Brieschke observed the administration of informal suspensions she referred to as *the three day deal* (p. 317) to students as teachers informed students who committed disciplinary infractions in their classes to not attend classes for a three day period.

The next article is a study conducted by Gastic (2017). I chose to emphasize this article to expand upon the results of the previous section on disproportionate punishment, as African American and Latinx students also receive higher rates of suspension for objective offenses, such as fighting. In this study, Gastic found that the increased suspensions for students of color were not the result of higher rates of fighting on their part. Gastic's findings appear to indicate that principals dealt with fighting involving White students in alternative ways to suspensions or they simply chose not to administer consequences to White students for these code violations.

The Gastic (2017) Study on Fighting and Suspensions. Gastic studied differences in referrals for fighting between White students and African American and Latinx students. Using disciplinary data, incident data, demographic data, and student self-reports from longitudinal studies, Gastic used relative risk ratios with data from the state of Massachusetts. According to Gastic, about 4,000 students were disciplined for fighting. The analysis the researcher provided through using relative risk ratios indicated that African American and Latinx students were over twice as likely to be suspended for fighting than White students. Gastic's independent variable of school fighting can appear as a rather objective phenomenon. Yet student self-reports demonstrated that only 14.5% of fights at Massachusetts schools were disciplined, which led Gastic to infer that many fights ended up without referrals or suspensions. Since African American and Latinx students received more referrals and suspensions than White students, it appeared that principals potentially chose to deal with fights involving White students in alternative ways. I will further clarify the many problems with zero tolerance policies in the discussion below.

Discussion. School districts across the country have experienced difficulties in rolling out school discipline policies. The Brieschke (1989) study revealed the difficulties with the rollout of a district wide discipline code, particularly a code that failed to meaningfully involve key stakeholders, such as students, parents, teachers, and administrators. The lack of buy in combined with the lack of professional development for school staff and administration appeared to lead to the poor implementation of the code.

Studies from the review of literature suggest that alternatives to zero tolerance policies, such as threat assessment, are being implemented in states, such as Virginia (Cornell et al., 2011). However, the literature also documented that many school districts have increased the use of zero tolerance policies. According to Heilbrun et al. (2015), administrators' positive attitudes toward zero tolerance policies were positively associated with the use of suspensions. This is particularly troubling as at the sites of the study, African American students were twice as likely as White students to receive suspension as a consequence for misconduct. The issue of disproportionate punishment has an entire section within the present writing dedicated to it.

This pivotal section identifies numerous canaries in the coalmine that is the U.S. education system. The critique of zero tolerance policies, as provided in the present review of literature, reveals that zero tolerance policies often fail in providing supports for students with diverse learning needs. These include students from low income backgrounds, students with disability labels, and students of color (Casella, 2003). In fact, rather than providing a supportive environment for students, these policies tend to appear as what the literature calls the pushout phenomenon, described in the section on parent and student perspectives and in Chapter 1. From the results of her study, Casella concluded that students of color and students with disabilities were targeted as being prone to violence, which led to increased surveillance by administration, and finally coerced the students into withdrawing from school. As effective as the available studies found that suggested that threat assessment was an alternative to zero tolerance policies, the problematic assumption of the inherent criminality of people of color (Dancy, 2014) and potentially students with disabilities may hinder the effectiveness of threat

assessment as a viable alternative for zero tolerance policies. In the next section I will discuss the issues of school punishment as it relates to adhering to federal law.

Adhering to Federal Law

With regard to the efforts and attitudes of implementing federal law, particularly as it related to the rights of students with disabilities, five studies, or about 7.5 % of the articles within the present review of research, related to the theme of adhering to federal law (Conroy et al., 2002; McCarthy and Soodak, 2007; Morgan et al., 1997; O'Malley, 2009; Rose, 1988). I will summarize the Rose study in the paragraphs that follow. I chose this study to emphasize the degree to which the literature portrays the dedication of schools to adhere to federal law. After the analysis of Rose's work, I will then provide a summary of a qualitative study conducted by McCarthy and Soodak (2007) to examine the tensions schools face when suspending students with disabilities. I chose to use the study of McCarthy and Soodak, because the researchers provided a look into the decisions and conflicts that school principals face on a daily basis.

Rose's (1988) Survey on Suspensions and Expulsions of Students with Disabilities. Rose conducted a survey of well over 300 elementary, middle, and high schools to determine the administration of suspensions and expulsions for students with disabilities. The researcher chose the subject of the use of suspensions and expulsions as punishments for students with disabilities due to clarification in federal and Supreme Court decisions, such as *Goss v. Lopez* (1975) and many others, that limited out of school suspensions to ten days and limited long term suspensions except in cases where the student posed a significant danger to him/herself or others.

Rose (1988) analyzed the survey results, which included demographic information on principals, such as experience, the size of the community, the size of the school, grade level, gender, and region with the United States. Rose utilized frequency data to compare and contrast the different eligibilities whom principals suspended. For the results, Rose found that principals with 2-15 years of experience used suspensions most frequently. Rose also found that principals reported less suspensions in smaller schools and communities and that male administrators reported more of a disposition toward expelling students with disabilities than female administrators.

According to Rose (1988), principals reported that they often suspended students with disabilities for disruptive behaviors, ditching, using profanity, fighting, theft, drugs, and bringing weapons to school. Lastly, Rose explained that principals reported that students with disabilities were less likely than students without disabilities to be expelled for fighting, rule violations, behavior infractions or bringing weapons to school. Yet, they also found that students with disabilities to be more likely than students without disabilities to be expelled for hitting staff members, committing a felony, or drug/alcohol use. For the conclusion, Rose argued for the need to provide a systematic administration of discipline and to urge the consistent administration of consequences. The next summarized study conducted by McCarthy and Soodak (2007) provides insight into the tensions that principals face when administering consequences to students with disabilities. It shows the frustrations of adhering to federal law for principals and how certain principals and districts do so effectively while others ignore the law or implement the law poorly.

The McCarthy and Soodak (2007) Study on Tensions Principals Face in Suspending Students with Disabilities. McCarthy and Soodak completed a qualitative study that focused on the tensions some administrators can face in schools of providing discipline for students with disabilities that foster individual rights mandated by federal law and promoting the common good of the school. Nine principals from public high schools in rural, suburban, and urban settings throughout the state of New York agreed to interviews for the study. From the interviews, McCarthy and Soodak developed themes, which centered upon their research questions relating to the awareness administrators in the study had of the individual rights of students with disabilities and the common well-being of the school, the degree of variation between schools and principals, and their strategies to respond to the tension between the common good and individual rights.

Regarding the first question that concerned the degree to school administrator wherewithal of individual rights of students with disabilities and the common good, McCarthy and Soodak's (2007) findings indicate that principals advocated for their responsibility on maintaining school safety. They captured their frustrations of explaining to parents the reasons for differential treatment in the administration of consequences to infractions between students with and students without disabilities. According to McCarthy and Soodak, School principals expressed anxieties about the judgment of colleagues, teachers, and parents for implementing IDEA protections of students with disabilities.

Answering the question about how administrators dealt with the common good/individual rights tension, McCarthy and Soodak (2007) disclosed that principals in the study dealt with this tension in several ways. They explained that certain principals in

the study limited the number of students with disabilities enrolled in the school through limiting the services and supports offered through special education services. To the researchers, this sink or swim approach enabled administrators to rid the school of the behavior problems of all students, including students with disabilities who could not handle the reportedly rigorous curriculum that the school supposedly offered. They did this, in part, as a principal explained to McCarthy and Soodak, through determining in a manifestation determination that a student's behavior was not a result of the student's disability.

Other administrators found manifestation determinations frustrating as the district robbed them of their authority to provide what they deemed as appropriate consequences. One principal at a school that streamlined its discipline meetings with district meetings reported less administrator tensions than other schools due to a greater degree of parental support and understanding of the concerns by the school and district. In answering their third research question on the strategies that principals in the study used to deal with the common good/individual rights tension, they reported that the principals in the study relied upon compromise, negotiation, and effective communication so all parties involved could have an understanding of the student's behavioral issues. The researchers reported an issue involving White teachers at a school that served predominantly people of color explaining to parents that if the school could not support a student's behavior, chances were high that it would turn into a criminal matter. For the conclusion, McCarthy and Soodak (2007) argued that schools should be sites where democratic values are maintained, which can occur when the rights of individuals with disabilities are secured. More discussion on issues related to federal law is in the section below.

Discussion. The issue of consistency has twice come up in the selected studies in the present review of the literature. Rose (1988) discussed the need for the consistent administration of school disciplinary policies. As Irby and Clough (2015) emphasized, consistency is both an understudied and an undertheorized concept. Questions arise that include, what is being given up in the name of consistency? What happens when a minority of stakeholders do not agree with the policy that is being implemented consistently? Why does the school want to maintain consistency?

Accompanying the problem of consistency involves the tensions between providing for the common safety of the school and the individual rights of students with disabilities (McCarthy and Soodak, 2007). The principals in McCarthy and Soodak's study wanted to be consistent and perhaps suspend the students with disabilities, but federal mandates that place limits on how long a local educational agency can suspend a student with special needs as well as manifestation determination meetings put a check to the administrator's authority. Similar to the discussion within the section that critiqued zero tolerance policies, much of the reasons students receive out of school suspensions has little to do with maintaining school safety, but instead all too often result from acts of insubordination and classroom disruptions (Freiberg et al., 1995; Vavrus & Cole, 2002).

Under the Individuals with Disabilities Education Act, schools within states that receive federal funding must implement a three tiered system of interventions consisting of primary, secondary, and tertiary interventions. A survey conducted by O'Malley (2009) suggested that schools had a lack of tertiary interventions in place. The tertiary interventions that did receive attention were found by previous research to be ineffective and indeed, detrimental to student learning (Brown and Clary, 2012).

Here are some canaries within the present section on adhering to federal law: As a result of gauging the effectiveness as a system of supports for diverse learners, Morrison and D’Incao (1997) found that students caught in what they referred to as the *web* (p. 331) of zero tolerance policies were students that the policies were not intended for. They contended that zero tolerance policies were intended for students who impeded school safety through dangerous actions. Zero tolerance policies tended to impact low income students, students of color, and students with disabilities that many schools across the U.S. all-too-often prefer not to deal with (Morrison & D’Incao, 1997). In response to McCarthy and Soodak’s (2007) study, it appears as if administrators in their study dealt with the tension between common good and individual rights by siding with their perception of the common good, which often punishes diverse learners for being diverse learners. The critique that zero tolerance policies fail to provide adequate supports for diverse learners has been dealt with in a previous section. The next section delves into the way that the literature supports that schools are sites of institutional and structural racism.

Institutional and Structural Racism

Many articles, especially researchers within the critical tradition or scholars that adhere to critical race theory addressed issues of the pervasiveness of racism in everyday practices within the U.S. Eleven articles or approximately 16% of the studies within the present research review discussed issues related to the theme of institutional and structural racism (Annamma, 2014; Annamma, 2015; Balfanz et al., 2003; Berlowitz et al., 2014; Bernhard et al., 2004; Bingham et al., 1990; Brown & Clarey, 2012; Desai & Abeyta, 2017; So, 1992; Stovall & Delgado, 2009; Wun, 2018). The first summarized study, a survey conducted by Bingham et al. (1990) shows the racist attitudes held by

White teachers and their unwillingness to have their children attend the diverse schools they worked at, despite working at high performing schools. I chose to provide an extended analysis of the study of Bingham et al. to show the racist attitudes of educators. After a discussion of Bingham et al., I will summarize a qualitative study done by Annamma (2014) about the education of juvenile women incarcerated in a detention center. I chose the study of Annamma to highlight the issues of intersectionality of imprisoned young women of color identified as having disabilities caught in the funnel of the school-to-prison pipeline.

The Bingham et al. (1990) Study on Racist Attitudes of Instructors. Bingham et al. completed a study that sought to highlight the opinions of educators about their schools by asking teachers if the schools were adequate enough for their children to attend. Bingham et al. studied a large urban school district who was under a desegregation mandate from a federal court. 55% of the population of young people were students of color and 65% of the population came from poor families. The researchers received surveys back from 2,389 teachers who participated. Bingham et al. (1990) hypothesized that teachers at low performing schools would not want their children to attend the school they were employed at while those at high performing schools would want their children to attend.

For the results, Bingham et al. (1990) correctly hypothesized that most teachers who worked at low performing schools would not want their children attending. Yet, to their surprise, the researchers results indicated that teachers at high performing schools would not want their children to attend the schools they were employed at. They explained that “it appears inescapable that a good number of teachers believe that their

schools are doing well for their students but are not very suitable for their own children” (p. 283). After studying all of the variables involved, Bingham et al. concluded by noting, “unfortunately, it is clear that race and racial attitudes still play an important part in decisions by many Whites as to where they will send their children to school. This is even true for teachers” (p. 286). The next summarized study conducted by Annamma (2014) examined intersectional components of racism, sexism, and ableism within a juvenile detention center. This particular study shows the way that prisons often fail to educate students of color with special needs and the way that underprepared and inexperienced staff perpetuated the multiple layers of oppression that Annamma documented.

Annamma’s (2014) Study on the Education of Incarcerated Young Women.

One of the qualitative studies completed by Annamma involved an effort to research the intersectional aspects of the school-to-prison pipeline through conducting a critical phenomenology that utilized ethnographic methods. Annamma’s purpose for conducting the study involved understanding the intersections of race, gender, and disability in the school-to-prison pipeline in a way that described the way these social identities impacted their treatment in incarceration and student reports of this treatment and structural inequalities in general. She defined disability in terms of a layer of oppression, which obstructs students from success in public schools and leads them down the narrow path to incarceration. Annamma focused her research on incarcerated teenage females of color with disability labels and utilized ethnographic methods to explain the education and/or miseducation of incarcerated young women of color.

Annamma (2014) conducted interviews, classroom observations, and faculty meeting observations to examine the lives of ten female inmates, six of whom were African American, three Latina, and one Native American. Annamma formally interviewed both staff and students to gather information about the experiences of the female inmates. She used video recordings and detailed field notes that focused on discourse, lesson objectives, and classroom interactions. She used Dedoose to assist in the analysis to develop themes and throughout the interpretation process.

Using these ethnographic methods, Annamma (2014) found two themes: student experiences with disability labeling and the “socializing practices in juvenile incarceration” (p. 316). According to Annamma, although most students did not have labels of intellectual disability or learning disabilities, students had internalized their labels in a way that made them feel intellectually incapable. Annamma also observed that most of the time, teachers and prison officials focused on maintaining order and discipline in the classroom more than providing rich curriculum for students. Based on the results, Annamma suggested that staff address issues of race, gender, and disability for inmates to improve the system of care and education provided to these young women. Annamma’s keen observations provided substantial insights on the treatment of young women of color, many of whom were incarcerated for seemingly inconsequential acts, such as truancy, smoking, and alcohol use. More discussion of institutional racism awaits in the next section.

Discussion. Institutional racism, in part, refers to the dominant ideology within schools that leads to negative attitudes and inequitable treatment that has led to higher dropout rates for oppressed groups. Bingham et al.’s (1990) study revealed the negative

attitudes that faculty had about racial inclusivity and integration from the participants' preference not to have their children attend a school in their district, despite the high performance of the school. Berlowitz et al. (2014) also found evidence of negative attitudes held by school staff who tended to blame the community and parents for student misbehavior while heaping praise on zero tolerance policies for what they falsely considered as reducing problem behaviors. The literature reviewed suggests that students could benefit from understanding the reasons the rules are in place and from staff providing ethical reasons for rules, rather than focusing primarily on punishing misbehavior (Irby & Clough, 2015). The research suggests that punishments tend to have the unconscious or conscious impact of maintaining racism, sexism, and ableism in the U.S. social system.

As previously discussed, zero tolerance policies hinder the development of a positive school climate and create an environment of fear and distrust of those in positions of authority. Schools in high poverty areas with high percentages of students of color tend to favor zero tolerance policies to a greater degree than schools with middle class, predominantly White populations (National Association for the Advancement of Colored People, 2005). Other studies have provided evidence that within schools, administrators have the flexibility to punish certain students of color and tend to have more leniency with White students (Gastic, 2017). The literature overwhelmingly indicates that African American and Latinx students are suspended and expelled at higher rates than White students, and also demonstrates the inherent racial discrimination that occurs within schools. Far from being impartial, as the proponents of zero tolerance

policies contend, zero tolerance policies are inherently biased in ways that maintain a system based, in part, on White supremacy.

My previous assertion that schools maintain the present racist social order gives a nod to my own ideological underpinnings as a critical theorist influenced by the tenets of Critical Race Theory (Delgado & Stefancic, 2001) but also result from numerous interdisciplinary studies of all kinds that demonstrate that the present social system makes every attempt to dehumanize people of color. For instance, Belfanz et al. (2003) conducted a statistical analysis of longitudinal data and individual student data from an urban school district and the local juvenile detention center. Their results suggested that the inmates in the juvenile detention centers that they studied were overwhelmingly African American and male. They also found that the inmates in the juvenile detention centers they studied were suspended at high rates in high school, displayed academic difficulties, had poor attendance, and attended schools in impoverished communities.

In the results of her phenomenological study of a juvenile detention center, Annamma (2015) found that the teachers within the facilities lacked the credentials to teach students with special needs. In addition, the faculty tended to hold a colorblind teaching philosophy, which lacked the cultural responsiveness necessary to empower the young women of color who were confined within the prison. The lack of experience and wherewithal to help these young women of color led Annamma to conclude that the site of her study maintained whiteness as property. Annamma's (2014) previous study also portrayed the detention facility and the cogs within that machine as dedicated to maintaining order over personal growth. These policies led some of the young women to

internalize these negative attitudes and perceived themselves as incapable of being successful.

The results of Desai and Abeyta (2017) indicated that the events from a young man's life centered around the predominance of racism within the criminal justice system, a system that nearly guaranteed recidivism. Malcolm's troubles led to his forced withdrawal from school and down the funnel of the pipeline. Desai and Abeyta discussed the way that they assisted Malcolm in escaping the funnel by encouraging him to get his GED and advocate for different probationary terms.

The negative attitudes of schools can lead oppressed groups to internalize negative attitudes that institutions of education tend to emit. This might be a likely reason to problem pose and conduct participant action research about the problematic processes and policies of the criminal justice system, such as the study conducted by Stovall and Delgado (2009). And as the numbers indicate, male students of color are more likely to enter the funnel than other groups (Skiba et al., 1997). Yet also, female students of color, particularly African American students, are more likely to be in the funnel than White female students (Skiba et al., 1997). This growing phenomenon suggests that the difficulties female students face might be different than their male counterparts (Wun, 2018). In her qualitative study, Wun documented young women of color navigating between complicated home and school lives where they frequently encountered racism and gender based violence.

Throughout this dissertation, I am using the metaphor of the miner's canary to argue that these indicators of institutional racism and educational inequity can act as harbingers of the life threatening situation of living in a world where such inequities

exist. In an alarming historical parallel, it might be important to note that prison inmates who could have been justly or unjustly convicted in the 19th century worked in coal mines and died in great numbers as many lacked the experience to perform such an arduous and difficult task, particularly as they worked in ill-equipped and excruciating working conditions for long hours (Blackmon, 2008; Bauer, 2018). Many of these convicts were African Americans and worked and lived in brutal conditions because of a loophole in the 13th Amendment that excludes prisoners from prohibition of slavery if they are convicted of a crime (DuVernay, 2016). It is violent, racist policies that have existed throughout the history of the United States and continue to strangle people of color, many to death, that depletes the country's oxygen and are the greatest threat to its existence.

Conclusion

In the preceding sections, I provided an analysis of over 60 studies published in well-established and credible journals, which I identified from a systemic review of the academic literature. Some of the studies examined zero policies, pointing out disparate rates of discipline between White students and students of color. Other studies attempted to determine alternatives to zero tolerance policies. Certain studies spoke to the way that schools maintain a racist, sexist, ableist, heteronormative social system. Reviewing these studies has led me to call into question the motives of school disciplinary policy. These questions include: Why do zero tolerance policies remain unchanged despite the numerous studies that have found them to be ineffective in deterring problem behaviors within schools? If we know that these policies are impacting male and female students of color at disparate rates and that these policies lead students to fall behind in their studies

and drop out, what can be enacted to help these students? Since the literature has demonstrated that we have known about these problems for decades, why is nothing being done about it?

DuBois (1920/1998) explained, “whiteness is the ownership of the earth forever and ever, Amen!” (DuBois, 1998, p. 185). The notion of whiteness as property identifies the law as a method that reifies whiteness in such a way that it maintains what DuBois termed the “public and psychological” (as cited by Harris, 1995, p. 285) wages of whiteness. The Supreme Court, in fact, codified whiteness as property into law in its decision of *Thind v. U.S.* (1923) in which the court found that whiteness is *common knowledge* (Haney Lopez, 2006, p. 7). In its decision, our nation’s highest court ruled that whiteness is an ideological tool that provides validity to what is meaningful, worthwhile, and valuable (Bell, 1992). Nineteenth century European immigrants, such as the Irish, quickly caught on to the need to be White, which often meant being the overseers that kept people of color brutalized and at the bottom of the social ladder (Roediger, 1999). In order to survive the harsh conditions that White people created, DuBois (1903/2003) suggested that Black people in the United States needed to have a double consciousness, a consciousness that understood whiteness and one where they could maintain their own African American traditions. According to Fanon (1994), the transmission of the White ideology maintains the colonialist system. The colonized mind wants to be White (Fanon, 1967), because to be White is to be normal (Mills, 1997).

The use of whiteness as property played a prominent role in the appointment of conservative White judge Brett Kavanaugh to the Supreme Court. Using the assumption of White innocence, Judge Kavanaugh’s narrative of his exploits as a teenager and young

man portrayed his actions as risky (Ludington et al., 2018, October 4), but by and large faultless (Kavanaugh, 2018, October 4). Judge Kavanaugh also vehemently denied the assault allegations of multiple women, including Dr. Christine Blasey Ford (Kessler, 2018, September 27). In the denial, Kavanaugh cashed out the social capital of his public and psychological wages of whiteness. He also used the power of patriarchy to deny the allegations of sexual assault, play the victim, and rally the hostilities of conservatives against Dr. Ford, who received death threats for the allegation she made (Mak, 2018, November 8). The risky actions young White men in the United States take and the criminal behavior that they get away with all-too-often gets explained away through the narrative that it is “just a phase” and their actions get absolved and do not impede their careers, wealth, and overall livelihood (Delgado & Stefancic, 2001).

Meanwhile young men of color all-too-often receive the assumption of criminality (Delgado & Stefancic, 2001), which is among the core reasons that a school-to-prison pipeline exists. While Kavanaugh sits as a justice on the Supreme Court, numerous African American men have criminal records that prevent them from getting jobs and providing for their families as well as the right to vote for nonviolent drug offenses and partying (Alexander, 2012), similar to the actions of Justice Kavanaugh. It is prudent to consider what would happen if an African American man was accused of sexual assault against a White woman from the intelligentsia. The United States has a long history of brutally punishing Black men for this (see e.g., Wells-Barnett, 1895/1998). As I have explained in reasonable depth throughout the first chapters of the present doctoral dissertation, the school-to-prison pipeline is observed in the disparate punishments students of color receive in schools and their overinvolvement in the criminal justice

system. The pipeline exists as a result of longstanding residential discrimination that has led to large gaps between Whites and people of color from health and income to housing and educational opportunities.

At the memorial of George Floyd, an African American man who died from asphyxiation from being choked for 8 minutes and 46 seconds from a Minneapolis police officer who pinned Floyd by the neck with his knee, Reverend Al Sharpton orated about the significant injustices African Americans have faced over the centuries (Burke, 2020, June 5). Reverend Sharpton disclosed:

George Floyd's story has been the story of Black folks, because ever since 401 years ago, the reason we could never be who we wanted and dreamed of being is you kept your knee on our neck. We were smarter than the underfunded schools you put us in, but you had your knee on our neck. We could run corporations and not hustle in the street, but you had your knee on our neck. We had creative skills, we could do whatever anybody else could do, but we couldn't get your knee off our neck. What happened to Floyd happens every day in this country, in education, in health services and in every area of American life. It's time for us to stand up in George's name and say, "Get your knee off our necks!" (Burke, 2020, June 5)

Antiracist protests from groups such as Black Lives Matter that stemmed from the death of Floyd and multiple other high profile deaths and beatings of African American and Latinx people by the police that have recently occurred during the time of Covid-19, have engulfed the United States, calling for an end to police brutality and a defunding of local police authorities (Burke, 2020, June 5). With the realization that, like Covid-19, racism

is also a pandemic disease, the antiracist protesters are calling on the government to treat what Kendi (2019) called the treatable, but terminal disease of racism through antiracist policies and to hold the police accountable for their racist violence against people of color. In order to eliminate the school-to-prison pipeline, racism must be eliminated, I argue, through antiracist policies.

Chapter 3: Methods

Overview

The purpose of the present study was to understand the policies of the Trump administration and its stance or stances on the pursuit of educational equity in U.S. schools. The present study aimed to situate the policies of the U.S. Department of Education and Department of Justice within the context of the school-to-prison pipeline, which included the operation of these bureaucratic institutions to address problems within the U.S. education system, such as the disproportionate representation of culturally and linguistically diverse groups in special education, the administration of zero tolerance policies that disparately punish culturally and linguistically diverse students and students with disabilities, the symbiotic relationship between the education system and the criminal justice system, the high dropout rates of culturally and linguistically students and students with disabilities in the U.S. education system, and residential segregation that has divided the country on the lines of race and class. One example of the policies I examined was the Department of Education's major revision of the manual for the Office of Civil Rights that enabled the agency to deny complaints to "frequent fliers" in order to "preserve resources". These changes also prevented the Office of Civil Rights from determining whether the widespread denial of Civil Rights was systemic within a given school district in the U.S. For this study, I systematically searched for other policies implemented during the first two years of the Trump administration, such as: (a) the push to expand a voucher system that promotes school choice and to expand the use of charter schools in school districts around the country and (b) deregulation and the way states dealt with deregulatory policies. These policies, as well as others, deserved careful examination of the intersectional way they address race, class, class, gender, sexuality,

and disability to determine the degree to which they are inclusive policies consistent with Civil Rights law.

In this study, I will address the following questions.

1. How does the Trump administration address issues related to the school-to-prison pipeline within the bureaus of the Department of Education and the Department of Justice?
2. What do these policies reveal about the educational stance and ideology of the present administration?

Before I delve into the scope of the study, it would be prudent to elaborate more on what I mean by policy and ideology. These interrelated concepts demonstrate the discursive and nondiscursive actions that a government takes and the embedded assumptions within those actions. That is what I will discuss in the proceeding paragraphs.

What is a Policy?

The Oxford Dictionary (n.d.) defines a policy as “a course or principle of action adopted or proposed by a government, party, business or individual.” As my intent was to look at governance, I kept my elaboration narrowed down to policy as practiced by a government. I by and large agree with the definition that Oxford offered, but, as a critical theorist, I always must ask the critical question of who benefits from the policies enacted by a government. What follows are some musings on the purposes and principles of government from a Western standpoint.

In his dialogues in *The Republic*, the ancient Greek philosopher Plato (375 BCE/1974) brought forth the notion that the purpose of a government is for a country to establish and maintain justice. Yet Plato maintained that justice did not equate with

equality as his ideal government would have an elite ruling class based on Plato's ideology that only a certain few with intellectual talent could have the capability of governing. Differing from his predecessor and contemporary, Aristotle (350 BCE/ 1992) proposed that "the state came about as a means of securing life itself, it continues in being to secure the *good* life" (italics in original; p. 59). In utilizing his golden mean, Aristotle argued for a limited democracy or a moderate oligarchy. Yet, the ancient Greek philosopher also taught that a husband was to have supreme authority of his wife and children and slavery was natural as the master had moral authority over his slave. As Martin Luther King Jr. would proclaim in 1966, Aristotelian logic would maintain the slave system (King, 1966)

Within Western thought, the way that a government can work for the purposes of Christianity and to adhere to Christian doctrine was a central project in political theory. To St. Thomas Aquinas (1268/2011), the way to achieve the ends of Christian principles was through monarchy, in which a hereditary line thought to be ordained by God would establish the governance of a locality. Machiavelli (1513/2011) encouraged the hereditary principality to expand authority through any means necessary. Indeed, Machiavelli argued that "people should either be caressed or crushed. If you do them minor damage they will get their revenge; but if you cripple them there is nothing they can do. If you need to injure someone, do it in such a way that you do not have to fear their vengeance" (loc. 19739). He wrote his most significant work, *The Prince*, to offer his services as counsel to the prominent and powerful Medici family. Thus, policy of war, treatment of the peasants, taxes and the like, to Machiavelli, should be administered for the prince to

take everything he can to maintain what is his, to form and break alliances, all to expand his stronghold.

Hobbes (1651/2011) elaborated on the concept of the commonwealth, which he understood as occurring naturally as an authoritarian system where the governors and the governed assumed the duties assigned to them by God. Locke (1609/2011), in a way, critiqued Hobbes' idea of the commonwealth. Having more of a suspicion of those in positions of power, Locke posited that their principle duty involved ruling on behalf of the governed as the governors received their authority to rule by the governed. Locke proposed that anytime a government failed to promote policy for the governed, its citizens could rise up to alter or abolish the government and to form a new government. The suspicion of government authority also extended to sociologist Max Weber.

According to Weber (1918/2011):

it is rather the case that in the final analysis the modern state can be defined only sociologically by the specific *means* that are peculiar to it, as to every political organization: namely, physical violence. 'Every state is based on force,' Trotsky remarked at Brest-Litovsk. That is indeed the case" (loc. 47550).

To Weber, the state maintains the monopoly and has the sole right to use violence to squash the will of the people and to demand *obedience* (loc. 47601). To Weber, rule by force requires both administrative and bureaucratic staff to maintain an aloof form of authority as well as a large proletarian population to maintain the productive capacities of the state sponsored capitalist framework. It was the confining bureaucratic processes of institutions that led Mills (1959/2000) to advocate that scholars have a sociological imagination. Instead of maintaining top down, undemocratic processes that maintain

capitalism, Mills called upon scholars to existentially understand their positions and historicity to challenge the hierarchical social structure through humanizing and liberating forms of research. Scholars must challenge the everyday workings of bureaucracies and expose the violence that results from the policies, which is what I sought to do in this study. The discursive and nondiscursive actions of a government is legitimated by ideology. That is the topic I take up next.

What is an Ideology?

According to the Oxford Dictionary (n.d.), ideology is “a system of ideas and ideals, especially one which forms the basis of economic or political theory and policy.” Again, omitted from the dictionary’s definition involve ideas of power, control, and authority and the means with which the dominant culture manages to remain relevant, popular, and sovereign. McLaren (1994) claimed that hegemonic processes would cease to exist without ideological processes. Hegemony is maintained through the control of meaning by the dominant culture. Hall (1982) elaborated that the control of meaning through narrow syntactic structures produces hidden messages that might include what counts as being *common sense* (p. 73). The ideology that I seek to highlight is the ideology of governance. As the hidden messages of rhetoric contain assumptions (Fairclough, 1989) about broad topics, such as the nature of society, the nature of reality (Mercer, 1992), and the meaning of freedom (Apple, 2006). Fairclough (1989) posited that ideologies are closely linked to power. He elaborated that the everyday use of political rhetoric provides its social agent with legitimacy. Fairclough went on to claim that “the exercise of power, in modern society, is increasingly achieved through

ideology” (p. 2). Ideology, according to Fairclough, is the predominant means to *manufacturing consent* (p. 4).

Apple (2006) captured the ideology of the right utilizing just four words: “Markets, standards, god, and inequality” (p. 9). According to this educational philosopher, the term markets is short for the maintenance of the capitalist market economy and its focus on meritocracy, individualism, and strong government intervention through the subsidization of transnational and multinational corporations. In terms of education, the ideology of the right promotes school privatization through charter schools and school vouchers. Apple then explained the notion of state adoption of statewide and national standards based upon the conservative assumption that teachers failed to teach students basic skills. Therefore, educators must have curriculum imposed upon them and then administer high stakes standardized assessments to students.

Apple’s (2006) notion of god as it relates to Republican policies embodies the far right’s notion of culture wars that accompanies the supposed erosion of morality and the degradation of Christian principles in everyday life. Conservatives, particularly evangelical Christians who have aligned with the GOP have, Apple asserted, remain proponents of prayer in schools and the teaching of creationism. Most recently, Evangelical educational policies include state laws and policies that force transgender or gender nonconforming students into using the restrooms based on their biological sex. Lastly, Apple asserted that the right’s ideology of inequality in which neoliberal policies perpetuate the racist and classist systems within the United States. Based on Apple’s claim, children of color in inner city schools get harmed as states have defunded education over the past four decades. Apple’s notions demonstrate the way that ideology

drives policy making and governance. In this study I explored these notions as it relates to the present context and the rise to power of President Trump and his appointed officials, especially Secretary DeVos and former Attorney General Sessions.

Scope of the Study

The scope of the present study covered the first two years of the U.S. Departments of Education and Justice and explored how the Trump administration's policies impacted the school-to-prison pipeline. The school-to-prison pipeline can include topics such as residential segregation, responses to complaints of racism, disciplinary policy, poverty, mass incarceration, disproportionate representation, the education of incarcerated children, and the policies and strategies for the inclusion of students with disabilities in general education settings. The present study also included lawsuits against the DeVos administration. For the study, I gathered all publicly available documents and department policy guidelines to determine what, if anything, the Departments of Education and Justice did to address the school-to-prison pipeline. I have outlined the inclusion and exclusion criteria in the paragraphs that follow.

Inclusion Criteria

I included all primary and secondary sources documenting educational policy decisions that specifically relate to the school-to-prison pipeline between January 2017 and June 2019. These sources were all available in digital form. To collect data, I searched federal websites, national nonprofit organizations, and reputable news sites and reporting. I included official government documents that discuss policy as it relates to the school-to-prison pipeline. As nearly all reporting and archiving is available online these days, all of the primary and secondary sources I used came from the internet. I included

sources beginning the first day of President Trump's inauguration of January 20, 2017 and ending around two years from that date, on June 1, 2019.

Exclusion Criteria

I excluded sources produced before President Trump's inauguration of January 20, 2017 and sources produced after the date of June 1, 2019. When I conducted each internet search, I stopped searching for sources once the search results became redundant. I also excluded social media, such as Facebook and Twitter, as my focus was on the actual policy enacted, rather than on social commentary regarding policy. In addition, despite President Trump's problematic rhetoric, I did not include his posts on Twitter as this was beyond the possible scope of this dissertation and could have deviated from my explicit focus on policy related to the school-to-prison pipeline. Although Trump's tweets should be considered as policy, I wanted to capture what the executive branch has done to implement Trump's far right agenda.

Description of Methodology

I used a hybrid of interpretive analysis and analysis of the structures of discursive frameworks to complete a critical policy analysis. Through this analysis I attempted to do what Freire and Macedo (2005) deemed *reading the world* (p. 29). By *reading the world* (p. 29), Freire and Macedo called upon people to study the everyday workings of the world through a lens that observes the way that the oppressor objectifies, exploits, and otherwise dehumanizes the oppressed. Utilizing the theoretical background of psychodynamic theory developed by Freud and the communist sensibilities of Marx, Fromm (1962) stressed the unconscious everyday actions of individual actors that maintain what he deemed as the *chains of illusion*. Indeed, Fromm commented that

critical theory should not necessarily be about achieving an ideal, but it should do what Lefebvre (2014) deemed as a *critique of everyday life*. Fromm explained: “I believe that no one can ‘save’ his fellow man by making the choice for him. All that one man can do for another is to show him the alternatives truthfully and lovingly, yet without sentimentality or illusion” (p. 191). By committing to this study, I attempted to follow in the footsteps of the scholars I have cited throughout this dissertation to expose the problems of the policy documents that I came across, falsify their underlying assumptions, and delegitimize the false claims they made. Lefebvre claimed that “only a vast inventory of the elements of our culture—in other words of our consciousness of life—will enable us to see clearly” (p. 214). I humbly attempted to take on Lefebvre’s call to critique.

I referred to Fairclough’s (1989) critical language study to refine my methodological approach. Fairclough posited that the predominant feature of critical language study would assume that “language is centrally involved in power, and struggles for power, and that it is so involved through its ideological properties” (p. 17). Another feature Fairclough provided for critical language study includes that language is a central feature of society that cannot be separated from *social processes* (p. 22).

Fairclough noted that:

seeing language as discourse and as social practice, one is committing oneself not just to analyzing texts, nor just to analyzing processes of production and interpretation, but to analyzing the relationship between texts, processes, and their social conditions, both the immediate conditions of the situational context and the more remote conditions of institutional and social structures (p. 26).

Morrow and Brown (1994) proposed that, to the Frankfurt School, all authority “was grounded in acts of violence” (p. 13). Social theorists Theodor Adorno, Herbert Marcuse, and Max Horkheimer developed The Institute for Social Research in 1923 during the height of Germany’s rise to fascism (Giroux, 2001). The members of the Frankfurt School critiqued governments and theory during a torrent of antidemocratic rhetoric (Giroux, 2001). These members, along with Erich Fromm and Frantz Fanon, and many prominent critical social theorists that followed explained what Leonardo deemed as the “dialectical tensions in modernity” (Leonardo, 2004, p. 11). One of these tensions includes the supposed purpose of a government, which involves maintaining peace, order, and prosperity, while also perpetuating war, chaos, poverty, and violence. This violence can be through deadly force, and also what Bourdieu (1986) described as *symbolic violence*, in which matters of preference and taste get utilized to accumulate a scarcity of *cultural capital*. Based on Bourdieu’s analysis, the participation in bourgeois practices and legitimating institutions are forms of symbolic violence. Perhaps, the violence that occurs in colonized societies led Fanon (1963) to claim that the only way to promote decolonization was through violence, which could include bloodshed, but could also involve a person who utilizes language as a form of resistance.

Bourdieu’s (1986) notion of symbolic violence is worthy of some extended analysis, particularly as it relates to critical discourse analysis. Although multiple theories exist that attempt to explain language development, most language scholars would agree (with the possible exception of behaviorists) that symbols are an essential quality of language. Instead of using language as a form of dialogue, the possibilities for dialogue are often hidden and minimized. The messages that reinforce systems of domination are

acts of symbolic violence. Critical research seeks to expose these acts of symbolic violence through what Giroux (1988) deemed an *oppositional discourse* (loc. 1845). That research could then serve to revive one's agency to commit acts of *cool violence*, to do what Weber explained as becoming a person "who embraces an ethics of conviction" (loc. 48491) and "is unable to tolerate the ethical irrationality of the world" (loc. 48491).

Foucault also offered his take on critical discourse analysis. In his discursive research on topics, such as madness, prisons, sexuality, and the sciences, Foucault (1972) studied traditions of thought and the dynamics of power within those traditions. As he explained, his methodology involved exposing the assumptions within what he called discursive regularities often found in oeuvres. And in exposing the assumptions found in the text, Foucault intended to disrupt the tradition itself. The next leap from exposing discursive regularities for Foucault involved identifying discursive formations. Language has a lot of possibility, but Foucault found that topics such as mental illness often contained a limited amount of expression in the description of the topic. Foucault called the occurrence of repetitive written structure and organization a *unity of discourse* (p. 32). Yet, Foucault's goal did not involve writing a history of ideas, but rather to hypothesize the functions of discursive formations. The following quote from Foucault provides a glimpse into his work in *Birth of the Clinic*, which studied the discourse of mental illness.

Mental illness was constituted by all that was said in all the statements that named it, divided it up, described it, explained it, traced its developments, indicated its various correlations, judged it, and possibly gave it speech by articulating, in its name, discourses that were to be taken as its own. (p. 32)

Foucault's methodology studied the structure of discourse to expose the ways it functioned.

For the discourse to function, Foucault (1972) explained that the topic would become an object. When the topic becomes objectified, the discourse reifies the topic, as Foucault stated that the discourse regulates their *ordering* (p. 52). Who gets the authority of authorship of discourse are those considered to have internalized the discursive schemata from their chosen fields? The end result of the discursive practice from the author dictated the nondiscursive practices that those below were to carry out. Foucault elaborated that "discourse is the empirical figure that contradictions may take up and whose apparent cohesion must be destroyed, in order to rediscover them at last in their irruption and violence" (p. 151). To Foucault, an analysis and synthesis of discourse would involve exposing the violence underlying it and the way that it targets the body and otherwise controls the populace of a socially constructed geographical space of governance.

To Foucault (1972), exegesis was "by nature, the object of a struggle, a political struggle" (p. 120). It is a political struggle, because it uncovers the violence committed through nondiscursive practices by discursive practices. Foucault clarified his motives for the long hours of time he spent in libraries looking at out of date manuals, forms, catalogues, and books when he wrote:

To describe statements, to describe the enunciative function of which they are the bearers, to analyse the conditions in which this function operates, to cover the different domains that this function presupposes and the way in which those

domains are articulated, is to undertake to uncover what might be called the discursive formation. (pp. 115-116)

In his long hours of scholarly rigor, Foucault successfully managed to question the ethics of discourses such as the techniques used to administer punishment, the development of spaces of confinement, and the limiting of sexuality. So, if what was happening was unethical, then the discourses served as functions of domination and governmentality. I will explain Foucauldian understandings of critical discourse analysis more in the next section on methods.

Methods

The methods of the present study were implemented in an effort to provide detailed information concerning the policies and policy changes of the first two years of the Department of Education and Department of Justice of the Trump presidency. The policies that I intended to capture covered policy changes, such as school privatization as well as regulatory policy from previous administrations that the Departments of Education and Justice of the Trump administration chose to deregulate. The methods I utilized assisted me in making the research systematic and transparent. I employed them to organize how, where, and when I found the policy documents as these documents have been known to be abruptly taken down from government websites. As I captured policy changes by the Trump administration, such as deregulation, systematicity, transparency, and organization. In the paragraphs that follow, I will discuss the way I collected and recorded data that I will use to uncover the way that the Trump administration dealt with the issues of the school-to-prison pipeline.

Data Collection and Recording

The first step in the process of data collection consisted of conducting multiple internet searches using the Google search engine to retrieve primary and secondary sources that exposed the policies and policy shifts of the Trump administration. Primary sources included the official government documents from the Departments of Education and Justice. Primary sources included interviews from Secretary DeVos and her administrative team, President Trump, and other members of the executive branch who discussed educational issues. Lastly, primary sources included federal court decisions that involved the Department of Education or the Department of Justice. Secondary sources included the reporting of the actions of the executive branch on federal educational policy through mainstream and alternative outlets. Secondary sources also consisted of information and resources on the websites of nonprofit organizations, such as The American Civil Liberties Union, and conservative television media, such as Fox News. Locating secondary sources were crucial to the present study as these news stories and organizational positions provided direction to primary sources. Finding secondary sources from conservative outlets enabled me to understand the ideological underpinnings of the Trump administration. I ended up with a total of 130 documents to be analyzed. A crucial element into locating and using primary and secondary sources involved making the process transparent and systematic, which I explain in the next section.

A Transparent and Systematic Data Collection Process. Prior to collecting data, I consulted with a knowledgeable university librarian who specialized in the location of government documents. I consulted with this librarian to learn about databases to use and Boolean searches that would set me up to cast the widest net to catch

as many documents as possible. The librarian suggested using WestLaw. Otherwise, the librarian suggested that I primarily rely upon using search engines, such as Google, Bing, or Yahoo. As part of data collection, I documented the search engine used, the phrasings used, the number of sources found, and the date of retrieval.

I also conducted hand searches on the primary and secondary sources that I found along the way. For certain credible sources with salient data, I scoured through every reference in a source to find more pertinent references as part of an effort to extract as much valuable data as possible. In an effort to be transparent, I included the name of the sources that I conducted hand searches on, detailed the number of references each source had, and the number of sources found about my topic. Please see Appendix A to see a table of these searches. In order to successfully complete this endeavor, organization was key. The methods of organization that I employed will be discussed in the next section.

Storing of Documents. I stored all documents within OneNote, a Microsoft Office program that allows users to store a variety of files within a digital notebook. In addition to using the approaches to data collection that I described in the previous section, I kept a digital notebook in OneNote. Each time I conducted a search, I added a new page to the notebook. On the notebook, the date and the time of the search was stamped. The note page also included information, such as the date of the search, pdf, html, and Word documents retrieved from the search, and screen shots of government websites that could act as evidence in case the information of the sites were taken down. Only a small number of articles and videos could not be saved in pdf format. With articles that I could not save in pdf format, I continued to take notes on OneNote where I also had reference information, which included the website address. All of this data was

stored in a cloud on the internet. I also had the collection of resources available to me offline with a password encrypted computer. After I completed the data collection process, I went through a rigorous, scholarly, and organized process to perform a thematic analysis.

Data Processing and Analysis

I started processing data first by taking notes in OneNote on each document that I collected. I then proceeded to develop codes based on the policies the document emphasized. According to Foucault (1972), discourse contains an interiority and an exteriority. I attempted to uncover these elements of discourse by gleaning the policy within the document. I also determined if the policy had shifted from previous administrations, and the ideological assumptions apparent in each source. Foucault posited that “archaeology tries to define not the thoughts, representations, images, themes, preoccupations that are concealed or revealed in discourses; but those discourses themselves, those discourses as practices obeying certain rules” (p. 138). He encouraged scholars who sought to study discourse in the manner that he did to “recapture that elusive nucleus in which the author and the *oeuvre* exchange identities” (p. 139). As he (2001) emphasized, “truth isn’t outside power” (p. 317). What I was looking for, in part, was the authority that the author internalized and was outlining for nondiscursive actions committed by the federal government that were both productive and violent.

I developed codes by using tags in OneNote. Although I already had the general overarching themes that I focused on (policy, policy changes, and ideology), I used OneNote to assist me in capturing the details of the themes and the development of subthemes, highlighting the subtleties of each policy, and most importantly, to

demonstrate empirically the salience of the themes and subthemes. The use of OneNote was a crucial element to the organization, transparency, and systematicity of the present study. I also relied on it heavily to develop themes and ensure trustworthiness, which is what I take up next.

In order to develop themes, I studied the tags I developed in each article available on OneNote. I then began writing daily in a researcher's notebook about musings from the data that attempted to incorporate the primary and secondary sources that I could recall. After, I had analyzed and synthesized all sources that I had memorized, I looked through One Note for additional sources to determine if my musings had the saliency to turn into themes or if more thought and study was necessary. After approximately three weeks, I used the twenty to thirty pages of researchers notes I composed to consolidate the musings and the articles that supported them into themes. I reached trustworthiness in the themes I developed as the codes were interpreted using multiple sources and, in most instances, traceable to a primary source such as an interview, a government document, or a court case. In developing the order and organization of the themes, I ventured to present the themes in a chronological manner, but at times, I had to supersede chronology with ensuring that I fulfilled my obligation to clarifying each theme. I developed the following themes in the present study: (a) school choice and neoliberal ideology as the solution to the school-to-prison pipeline; (b) deregulation of civil rights policy, which includes school safety/ school discipline guidelines and disproportionate representation guidelines, and (c) the criminalization of immigrant children from Latin American countries and their parents. These themes will receive extensive attention in Chapter 4, which begins next.

Chapter 4: Results

In this critical policy analysis, I sought to understand the policies of the Trump administration and its stance on the pursuit of educational equity in U.S. schools. The aim of this study was to situate the policies of the U.S. Department of Education and Department of Justice within the context of the school-to-prison pipeline, which includes the operation of these bureaucratic institutions to address problems within the U.S. education system, such as the disproportionate representation of culturally and linguistically diverse groups in special education, the administration of zero tolerance policies that disparately punish CLD students and students with disabilities, the symbiotic relationship between the education system and the criminal justice system, the high dropout rates of CLD students and students with disabilities in the U.S. education system, and residential segregation that has divided the country on the lines of race and class. The research questions I focused on were: (a) How does the Trump administration address issues related to the school-to-prison pipeline within the bureaus of the Department of Education and the Department of Justice? and (b) What do these policies reveal about the educational stance and ideology of the present administration? In Chapter 1, I defined the school-to-prison pipeline as an active process that excludes students of color and students identified with disabilities from school where they often face a far higher likelihood of being incarcerated.

This study covered the first two years of policies of the Trump administration. The systematic study included a variation of Google searches, website searches, and hand searches. For detailed information on the search order, types of searches completed, and the number and variety of sources found, see Appendix A. As described in Chapter 3, I

began by conducting each search, then compiled the articles in OneNote on the basis of the type of search that I was completing. As I studied each document, I highlighted important information, and took notes for almost every one of the 130 documents I collected. The information I highlighted included actions that the Trump administration had taken, policy initiatives they proposed or enacted, key ideas, and evidence on the educational stance of cabinet members and the president. I took notes on concepts that I found that were developed across the literature that I could use to develop codes. After I studied each article, I came up with categories and organized the materials into those categories. After the documents were categorized, I developed codes and used those codes through tagging pages on OneNote to help with analysis, synthesis, and evaluation of the sources to answer the questions.

The following themes came up in the contents of the sources, which included: (a) school choice and neoliberal ideology as the solution to the school-to-prison pipeline; (b) deregulation of civil rights policy, which includes school safety/ school discipline guidelines and disproportionate representation guidelines, and (c) the criminalization of immigrant children from Latin American countries and their parents. The ideology and policymaking or dismantling by the Trump administration all tie into the maintenance of the school-to-prison pipeline. These themes will receive a thorough discussion in the paragraphs to follow.

It bears noting, however, that at no point in the documents compiled in this systematic critical policy review did the Trump administration specifically address anything members of the administration would refer to as the school-to-prison pipeline. Indeed, it appears that the administration did not even acknowledge the existence of the

pipeline phenomenon, let alone elaborate on the reason federal civil rights policies exist. Over the first two years of the Trump presidency, the administration dismantled civil rights guidelines that sought to address pipeline issues, such as discipline and disproportionate representation guidance, and enforcement of civil rights policies through the Office for Civil Rights (Balingit, 2018, June 1; Ballotpedia, 2018; Camera, 2018, December 18; Collaboration to Promote Self-Determination and National Disability Rights Network 2018, November 27; Hill, 2018; Jackson, 2017, June 8; Klein, 2018; Offices of Senator Elizabeth Warren and Representative Kathrine Clark, 2018, February; Russell, 2018, June 1; Ujifusa, 2019, March 26). However, I could not find any public reference to the impact rescinding and revising these initiatives might have on the school-to-prison pipeline.

The hidden nature of racist policy toward people of color is what I will refer to in the sections of this chapter and in Chapter 5 as colorblind racism (Bonilla-Silva, 2014; Omi & Winant, 2015). In his discussion on colorblindness, Kendi (2019) articulated:

Some White people do not identify as White for the same reason they identify as not-racist: to avoid reckoning with the ways that Whiteness—even as a construction and mirage—has informed their notions of America and identity and offered them privilege, the primary one being the privilege of being inherently normal, standard, and legal. (p. 38)

According to Omi and Winant (2015), colorblindness maintains White hegemony and racial othering in U.S. society. In this section I will address the signature policy initiative of the Trump administration, school choice, as guidance to solve issues that involve the school-to-prison pipeline. As Secretary DeVos has been the main advocate for school

choice and she has headed the Department of Education for President Trump's first term, she, as well as the conservative voices that support her, will take center stage in this section.

School Choice: The Neoliberal Solution to the Pipeline

The present section discusses the life's work of Secretary DeVos, school choice, and the neoliberal ideology that has led her to advocate for school choice for the past three decades. School choice is the diversion of state funds to allow students to attend private schools, often through vouchers. Although conservatives would argue that privatizing education would lead to greater educational opportunities, private schools do not necessarily have to implement federal and state laws, many whose aim is to include and adequately educate students from diverse learning backgrounds. As I make the case in Chapter 5, school privatization is an exclusionary tactic that could maintain and intensify the school-to-prison pipeline.

DeVos and her conservative allies view school choice policy through a distorted lens of social justice. This distorted lens enables them to view federal interventions into public education as federal overreach and entitles them to ignore the claims of civil rights advocates, because to conservatives, the left fails to understand that conservatives have found the solution for a just society. In a speech she gave at The Manhattan Institute, Betsy DeVos explained:

Education spending, Milton Friedman said, 'will be most effective if it relies on parental choice and private initiative.' The godfather of school choice was right then, and he's still right today. Students deserve something different. And actually doing something different demands courage to confront a powerful and pernicious

establishment. One that opposes change in education, as establishments tend to do in every other industry. And let's not kid ourselves, education is an industry . . .

Similarly, a cabal has rooted itself between students and their education to protect 'what is' at the expense of what could be. Their fingers are in their ears too, refusing to hear the chorus of voices demanding better. Instead of pursuing innovations for students, they pursue protections from politicians and themselves. (DeVos, 2019, May 1).

For the past three decades Secretary DeVos has been among the most vocal and powerful advocates of school choice (DeVos, 2019, May 1; Douez et al., 2017, January 19; Green, 2019, February 28; National Review Institute, 2019, March 29; Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden, 2019, May 1; Ujjusa, 2019, March 26). DeVos acknowledged Milton Friedman as the architect of school choice in the quote that began the present section. Friedman, a founding member of the Chicago School of Economics, was a prominent neoliberal (Klein, 2007). To neoliberals a just society would consist of what Apple (2006) called the "weak state" (p. 31), which occurs when government privatizes public industries and enacts deregulation policies so that markets can provide its citizens with equal opportunity (see also Klein, 2007). To the neoliberal thinker, the government is incapable of running equitable institutions so the free market must (Apple, 2006; Klein, 2007).

The neoliberal discourse of the DeVos administration focused upon educational freedom through school choice and charter school expansion during the first two years of her tenure as Secretary of Education (Camera, 2019, February 28; Hornbeck, 2018, November 29; Ujjifusa, 2019, March 26). Her cabinet also focused heavily on

deregulation and attempting to make budget cuts to public education (Brown et al., 2019, May 17; Ujifusa, 2019, March 26), both hallmarks of both neoliberal policy and colorblind racism, the dominant discourse on race in the United States that hides racism in neoliberal policy (Bonilla-Silva, 2014; Freeman, 2005; Omi & Winant, 2015). Omi & Winant described colorblindness as having a *hegemonic* status that “is today the prevailing mode of racial ‘common sense’” (loc. 147). Colorblindness and neoliberalism are important concepts to understand what the Trump administration was up to during the first two years. First, I will turn to DeVos and her conservative allies’ philosophy of what they understand as their market based social justice approach before touching upon DeVos’s advocacy of school choice, then her neoliberal deregulatory policies.

In response to her contributions to Republican nominees and school choice initiatives, DeVos replied:

Yes, I have been a contributor . . . I’ve also been an activist. I think it’s important for people to engage in things they believe in. But that’s not the point. The point is for 30 years I have been working on behalf of families that have not had opportunity. (as cited by Stossel, 2018, para. 20)

The quote from DeVos is telling. She considers herself an activist and she and the conservatives who support her describe her as selflessly dedicated to social change (Ashford, 2018, March 12; Lowry, 2017, January 18; Stossel, 2018, May 9). DeVos’s policy proposals have been framed by conservatives through a discourse that equates them with civil rights. To DeVos, public schooling has not changed in fifty years (DeVos, 2019 May 1; Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden, 2019, May 1; Testimony before the House Labor Committee, 2019,

April 10). The conservative stance alleges that the bureaucrats in Washington continue to throw more money at public education (Stossel, 2018, May 9; Testimony before the House Labor Committee, 2019, April 10), but things merely stay the same and the United States stays in the middle of the pack at best (DeVos, Betsy, 2019 May 1; Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden, 2019, May 1).

Armed with a Cold War mentality that understands education as an industry that enables the United States to be competitive globally, DeVos has argued for decades that school choice is the primary force that could empower students and their families to have equality of opportunity (National Review Institute, 2019, March 29; Stossel, 2018). To its advocates, school choice would empower students and parents to make informed decisions about the types of schooling they will receive (DeVos, 2019, May 1; Testimony before the House Labor Committee, 2019, April 10; Ujifusa, 2019, March 26). To conservatives, school choice equates to educational freedom, to educational fairness, and equality of opportunity (Testimony before the House Labor Committee, 2019, April 10, Ujifusa, 2019, March 26). The enactment of school choice will promote social justice, according to DeVos and her allies. For these reasons, DeVos called for the federal government to create a \$5 billion tax credit program to promote school choice, which would divert tax funds from corporations and the wealthy for a school voucher program (Testimony before the House Labor Committee, 2019).

As I argued in Chapter 1, the problematic aspects of neoliberalism with its cuts over the last five decades to numerous federal and state support agencies, including education, has led to more inequality and has created a far from ideal state. These cuts to social programs have impeded on the progress of lower and middle class people of color

and have been among the most oppressive policies (Omi & Winant, 2015). Neoliberalism tends to benefit the wealthy at the expense of the poor. Neoliberal policy also tends to advantage wealthy and bourgeois White people with the cultural capital to navigate through and make more beneficial educational choices for their children (Apple, 2006). President Reagan advanced the causes of neoliberalism and colorblind racism through his calm, reassuring demeanor, and familiarity that created a sense of comfort (Alexander, 2012). Yet, beneath the smooth discourse was the brutal dehumanization of deregulation through very racist depictions of African American women as “welfare queens” (Alexander, 2012). Secretary DeVos’s familiar presence, calm and polite sensibilities, and use of everyday language enables her to hide the neoliberal, colorblind discourse borrowed heavily from the influence of President Reagan.

Concluding Thoughts

In addition to giving its support for school choice, the DeVos administration has also embraced charter schools and proposed a billion dollars to be allocated by the federal government to charter schools (Offices of Senator Elizabeth Warren & Representative Katherine Clark, 2018, February; Civil Rights Roundtable, 2018, November 15). The administration’s sustenance of charter schools comes despite an audit conducted by the U.S. Department of Education’s inspector general, who noted the numerous closures of charter schools nationwide, the lack of federal oversight over charter schools, and the billions of dollars of funding that charter schools have siphoned from public schools over the years (Zais, 2018). The DeVos administration has also eased federal restrictions on charter school lottery systems that were aimed at preventing racial discrimination from occurring in lottery based admissions processes (Civil Rights Roundtable, 2018,

November 15). The conservative utilization of deregulation as a tactic that perpetuates discrimination based on race, gender, sexuality, disability, and the rest has been abundant, far reaching and harmful. Next, I discuss of one such deregulation effort, which involves procedures within the Office for Civil Rights.

Deregulation

This section introduces the policies of deregulation that occurred during the first two years of the tenures of Secretary DeVos and former Attorney General Sessions. Congress has thus far provided a check on increasing funding for school choice and decreasing the overall budget for the Department of Education. However, the Trump administration was successful in changing several important aspects of civil rights policy, including the dismantling of Title IX guidance on transgender students and rollbacks on the use of consent decrees to changes in the Office for Civil Rights procedures. In this section I attempt to provide an introduction into the harmful policies of the Trump administration in the Department of Education and the Department of Justice. The few policy proposals that Secretary DeVos outlined during the first two years of her administration pale in comparison to her primary role as a deregulator. In this section I provide an introduction into the harmful policies of the Trump administration in the Department of Education and the Department of Justice and focus on the deregulation of discipline guidance and disproportionate representation. I will address the changes made to Title IX guidance, funding guidelines for the Every Student Succeeds Act, and alterations made to the Office for Civil Rights Procedure Manual, which explains the process for filing a civil rights complaint within the Office for Civil Rights.

On February 7, 2017, Betsy DeVos was narrowly confirmed in the Senate on a 51-50 vote when Vice President Pence casted the tie breaking vote to seal her confirmation as Secretary of Education (Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February). Her administration did not waste much time in the quest to dismantle policies from the Obama administration. Among the earliest policy rescinding the DeVos administration did in conjunction with the Department of Justice was on the treatment of transgender students (Civil Rights Roundtable, 2018, November 15; Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February). In February of 2017, the Trump administration through Secretary DeVos withdrew Title IX guidance that helped schools address the civil rights of transgender students (National Center for Transgender Equality, 2017, February 21). Because Secretary DeVos rescinded the guidance, complaints of discrimination by transgender students could no longer be heard through the Office for Civil Rights and chances decreased of a transgender student winning a Title IX school discrimination case in federal court (Civil Rights Roundtable, 2018, November 15; Jimenez & Flores, 2019, May 30; National Center for Transgender Equality, 2017, February 21). According to the National Center on Transgender Equality “the harmful message sent by the Trump administration’s rollback of the guidance could encourage some students, staff, and administrators to bully and discriminate against transgender students” (p. 2). Secretary DeVos has also deregulated district funding procedures in Every Student Succeeds Act while former Attorney General Sessions put an end to the use of consent decrees. I will discuss these issues in the paragraphs that follow. First, it would be good to understand general policies of deregulation.

The deregulation that has occurred throughout federal agencies from the Department of Labor to the Environmental Protection Agency has been no accident (Huseman & Waldman, 2017, June 15). The deregulation that occurred from the Department of Education stemmed, in great part, from an executive order signed by President Trump on April 26, 2017 (Ballotpedia, 2018). Entitled *Enforcing Statutory Prohibitions on Federal Control of Education*, the order directed the secretary of education to assess education policies within the agency and rescind any guidance that the secretary and her team determined to be examples of federal overreach within three hundred days (Ballotpedia, 2018).

The deregulation occurred across government agencies, including the Department of Justice, where former Attorney General Jeff Sessions' Department of Civil Rights put a prompt end to consent decrees, which had a long tradition of providing federal oversight over civil rights settlements made in a federal court (Huseman & Waldman, 2017, June 15). This federal oversight had long been crucial to reform in states found in violation of federal civil rights laws. Sessions had opposed the use of consent decrees for a long time (Huseman & Waldman, 2017, June 15). He asserted that consent decrees "constitute an end run around the democratic process" (As cited by Huseman & Waldman, 2017, June 15, para. 18). A settlement that is made without a consent decree lacks the oversight necessary to compel the government agency to comply with the law. The instructions to abstain from consent decrees led the Department of Justice to drop oversight in reforming police departments, which according to Huseman and Waldman, sought to guarantee "they were in line with the Trump administration's law-and-order goals" (para. 18). The deregulation of consent decrees had significant impact on any civil

rights violation from police departments to the voter ID law of Texas. Sessions' de facto end of the use of consent decrees was done without any discussions with key stakeholders (Huseman & Waldman, 2017, June 15). There were also numerous instances where Secretary DeVos' administration failed to discuss her policy changes with civil rights organizations. The lack of transparency and Secretary DeVos's unwillingness to interact with key stakeholders would lead to litigation, including from her administration's changes to the Office for Civil Rights (OCR) policy manual that included an attempt to push legal advocates from filing claims, gut the appeals process, and no longer investigate systemic issues (OCR, 2018b). The administration also made changes to the Every Student Succeeds Act of 2015.

Policy changes occurred to the Every Student Succeeds Act, where Secretary DeVos changed the process of district funding to disregard a school's Title I status (Jimenez & Flores, 2019, May 30). With this change, the federal government no longer required states to distribute funds between districts in an equitable manner (Jimenez & Flores, 2019, May 30). Districts with higher poverty rates could receive less federal funding and upper class, predominantly White districts could continue their already numerous monetary advantages (Jimenez & Flores, 2019, May 30). Indeed, DeVos was accused by Congress of accepting plans that did not adhere to the letter and the spirit of the Every Student Succeeds Act (Education Policy Hearing with Secretary DeVos, 2019, April 10; Jimenez & Flores, 2019, May 30; Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February).

The policies of deregulation, such as dismantling the use of consent decrees from then Attorney General Sessions, are important for conservatives as they argue that

deregulation frees states from federal overreach (Butcher, 2018, July 18; Robinson, 2019, June 6; Stossel, 2018, May 9). Secretary DeVos herself, in her advocacy for school choice, has long been a staunch defender of states' rights (DeVos, 2019, May 1; National Review Institute, 2019, March 29). Congress has the budgetary power, which has thus far prevented Secretary DeVos from (a) decreasing the federal education budget (Brown et al., 2019, May 17; Campbell & Partelow, 2019, March 11; Civil Rights Roundtable, 2018, November 15; Hornbeck, 2018, November 29; OCR, 2017; OCR, 2018a; Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February; Testimony before the House Labor Committee, 2019, April 10; Ujifusa, 2019; March 26; Ujifusa, 2018, December 26) and (b) funding school choice initiatives (Ballotpedia, 2018; Brown et al., 2019, May 17; Camera, 2019, February 28; Civil Rights Roundtable, 2018, November 15; DeVos, 2019, May 1; Douez et al., 2017, January 19; Education Degree, 2019; Green, 2019, February 28; National Review Institute, 2019, March 29; Strauss, 2019, March 31; Testimony before the House Labor Committee, 2019, April 10; Ujifusa, 2018, December 26; Ujifusa, 2019, March 26). However, her department deregulated educational policy through changing the guidelines in the complaint process at the Office for Civil Rights (Balingit, 2018, June 1; Busch, 2018, June 3; Civil Rights Roundtable, 2018, November 15; Greenwood, 2018, April 20; *The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018; Jimenez & Flores, 2019, May 30; OCR 2018b; Russell, 2018, June 1; Waldman, 2018, June 21), rescinding Obama era guidance in discipline disparities (Bill Bennett: Secretary of Education Betsy DeVos rescinding Obama-era

school discipline policies is the right thing, 2019, December 19; Butcher, 2018, July 18; Camera, 2018, December 18; Civil Rights Roundtable, 2018, November 15; Kamenetz, 2018, December 18; Klein, 2018, April 4; Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February; U.S. Department of Education, 2018a; U.S. Department of Education, 2018b; Waldman, 2018, April 23), and ending guidance from the Obama administration on disproportionate representation in special education (Ballotpedia, 2018; Civil Rights Roundtable, 2018, November 15; Jimenez & Flores, 2019, May 30; The Leadership Conference on Civil and Human Rights, 2017, December 7).

The rollbacks of important policy from the Department of Education under Secretary DeVos have led to uneasiness from civil rights groups at the least (American Civil Liberties Union, 2018, May 22; Collaboration to Promote Self-Determination & National Disability Rights Network, 2018, November 27; National Center for Transgender Equality, 2017, February 21;; Walsh, 2016, November 23) and numerous lawsuits from civil rights organizations, such as the NAACP, The National Federation of the Blind, and the Council of Parent Attorneys and Advocates (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019; *The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018). These organizations claimed that the actions of the Department of Education were harmful for youth in schools (The Leadership Conference on Civil and Human Rights, 2017, December 7). All of these civil rights policies directly connect to the school-to-prison pipeline and will be discussed in this chapter. Now, I will discuss the

deregulation of Office for Civil Rights guidelines that sought to impede civil rights investigations in U.S. schools.

Deregulation of Office for Civil Rights Guidelines for Handling Complaints

Secretary DeVos confirmed the fears of civil rights organizations on March 5, 2018, when the DeVos administration revised the Office for Civil Rights (OCR) process guidelines for handling complaints (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018). The reasoning the administration provided for revising the OCR policy manual included improving efficiency in the handling of complaints (Hill, 2018). According to Department of Education Press Secretary Elizabeth Hill, it was important to speed up the process, because “justice delayed is justice denied” (As cited by Waldman, 2018, April 23, para. 13). The changes also sought to deter what Secretary DeVos, her undersecretaries at the Department of Education, Elizabeth Hill, and the Deputy Assistant of the Office for Civil Rights, Candice Jackson, deemed as federal overreach in state matters and leading to what they referred to as a “one-size-fits-all” approach (U.S. Department of Education, 2018a; U.S Department of Education, 2018b) The justification of federal overreach and federal policy as “one-size-fits-all” was used by DeVos in her advocacy of school choice and rolling back the civil rights policies of the Obama administration (Camera, 2018, December 18; National Review Institute, 2019, March 29; U.S. Department of Education, 2018a, U.S. Department of Education 2018b). Lastly, the Department of Education made these policy changes, because they thought that the amount of cases the Office for Civil Rights received placed an unreasonable burden on

staff (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018; OCR, 2018b).

The alterations made to the policy manual authorized the Office for Civil Rights to investigate a complaint in the order received as opposed to a perceived immediacy of need (Jackson, 2017, June 8). The DeVos administration also no longer required three years of data for Title X sexual violence complaints or Title VI complaints for school discipline complaints (Jackson, 2017, June 8). Instead, the Office for Civil Rights would make data determinations on a case by case basis (Jackson, 2017, June 8). According to Huseman and Waldman (2017, June 15), the Office for Civil Rights stated that lifting the requirement of collecting three years of data would allow complaints to be addressed “much more efficiently and quickly” (para. 1). The revised Office for Civil Rights *Case Processing Manual* referenced those filing complaints as *individuals* (OCR, 2018b). For instance, for Title VI of the Civil Rights act of 1964, the manual (OCR, 2018b) stated, “under Title VI, OCR has jurisdiction to investigate complaints involving individuals covered by the law” (p. 5). The case processing manual contained similar language as it pertained to Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, and the Boy Scouts of America Equal Access Act of 2001.

In effect, the changes to the OCR guidelines included the way OCR would handle cases. According to the Offices of Senator Elizabeth Warren and Representative Katherine Clark (2018, February), under acting Secretary for the Office for Civil Rights,

Candice Jackson, “OCR investigations would ‘only apply a ‘systemic’ or ‘class action’ approach where the individual complaint allegations themselves raise systemic or class wide issues or the investigative team determines a systemic approach is warranted through conversations with the complainant” (p. 11). They went on to suggest that “Jackson was significantly raising the threshold for OCR’s investigations and actions, as individual cases that did not suggest a systemic issue were no longer under the purview of the office” (p. 11). The Office for Civil Rights took on a more decentralized approach as complaints were handled by regional offices that did not have to report back to OCR’s main headquarters in Washington D.C. (Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February). The policy shift appeared to work from the standpoint of discrimination against race, gender, sexuality, and disability as isolated occurrences and that the individuals who had their civil rights violated, as opposed to a legal advocate, would file the complaint (Civil Rights Roundtable, 2018, November 15). The policy shift initially allowed the OCR to dismiss cases filed by civil rights and advocacy organizations, such as the NAACP, the National Federation of the Blind, and The Council of Parent Attorneys and Advocates (COPAA) whose missions involve filing numerous complaints on behalf of their clients (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018).

Civil Rights organizations argued that the changes to the manual significantly weakened OCR’s ability to determine if there were systemic violations as the department began only investigating individual complaints (Civil Rights Roundtable, 2018,

November 15; Jackson, 2017, June 8; Waldman, 2018, June 21). According to Waldman (2018, June 21), the OCR under DeVos rejected over 1,200 civil rights complaints. She found that in general, OCR rulings favoring the complainant of a civil rights violation dropped from 51% during the Obama administration to 35% under the Trump administration. Specifically, Waldman (2018, June 21) asserted that findings of discrimination for English learners fell from 70% to 52%. Findings of civil rights violations for students with disabilities fell from 45% to 34%. Findings of sexual harassment dropped from 41% to 31% and racial harassment dropped from 31% to 21%. Waldman observed that although the Trump administration processed complaints faster than the Obama administration, the OCR under Obama spent lengthy periods of time investigating systemic issues, such as disparities in school discipline for African American students and students with disabilities. Undersecretary Hill claimed that President Obama created a huge backlog of cases and was pleased to increase the efficiency of the OCR and turn the OCR investigators into what she called “neutral fact-finders” (as cited by Waldman, 2018, June 21, para. 7).

The policy shift that enabled the Office for Civil Rights to “improve efficiency” was fulfilled, because OCR no longer investigated systemic issues, but was also due to the manual change that prevented a complainant from filing multiple claims. According to the manual (OCR, 2018b), a complainant cannot file:

a complaint alleging the same or similar allegation based on the same operative facts within the 180-day period with another federal, state, or local civil rights enforcement agency, or federal or state court, and filed a complaint with OCR within 60 days after the other agency had completed its investigation or, in the

case of a court, there had been no decision on the merits or settlement of the complaint allegations. Dismissal with prejudice is considered a decision on the merits. (p. 8)

The change allowed OCR to dismiss individuals who filed multiple complaints on the premise that multiple complaints placed an “unreasonable burden on OCR’s resources” (p. 9). To add insult to injury, a complainant could no longer appeal a complaint as the manual changes took away the appeals process (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018).

Civil rights groups disagreed with the policy changes made by Secretary DeVos. The Council of Parent Attorneys and Advocates, The National Federation of the Blind, and the National Association for the Advancement of Colored People filed a joint lawsuit in the federal D.C. Circuit court on March 31, 2018 claiming that DeVos violated The Administrative Procedures Act (Busch, 2018, June 3; Civil Rights Roundtable, 2018, November 15; *The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018; Waldman, 2018, June 21). In response to the dismissal of cases with multiple complaints, they explained the work of COPAA member and public interest lawyer Katie Kelly. The lawsuit details:

Katie Kelly is a public interest lawyer in Florida who has filed complaints with OCR on behalf of students with disabilities and their parents to challenge discrimination under Section 504, and Titles VI and IX of the Civil Rights Act.

Her clients often cannot file complaints on their own behalf and cannot afford to pay an attorney. The 2018 OCR Case Processing Manual's provision requiring dismissal of complaints by individuals who have filed previously applies to her and her clients and interferes with their ability to advocate for the civil rights of low-income children. (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018, p. 7).

The lawsuit alleged more than the preference the DeVos administration provided to wealthy complainants; it also claimed that the manual changes prevented civil rights organizations and advocacy groups from filing more than one complaint per 180 days, blocking them from effectively carrying out their missions (Civil Rights Roundtable, 2018, November 15). In response to the assertion that the complaints placed an unreasonable burden on OCR, the lawsuit challenged that the Department of Education did not discuss these issues with key stakeholders and made the changes without consulting them, a violation of the Administrative Procedures Act (*The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson*, 2018).

The claimants also argued that it did not make sense for the OCR changes to argue both that the number of complaints by an individual caused an unreasonable burden while also decreasing the number of OCR staff to conduct civil rights investigations

(OCR, 2017; OCR, 2018a). NAACP General Counsel Bradford M. Berry told the publication *The Root*:

By summarily changing policies to allow for the dismissal of civil rights complaints and the ability of organizations to appeal their rulings, DeVos is basically saying protecting civil rights and the rights of those with disabilities no longer matter. (as cited by Busch, 2018, June 3 para. 4).

The policy changes made to the OCR made it all but impossible for advocacy and civil rights organizations to file more than one complaint per 180 day period, decreased staffing at OCR, dismantled the appeals process, and made it much more difficult for investigations of systemic discrimination to be conducted, all within the guise of increasing efficiency, reducing “burdensome” cases, and eliminating local institutions from the grasps of “one-size-fits-all” policies.

Concluding thoughts. These changes have had real life consequences. Waldman (2018, April 23) reported that Secretary DeVos shut down sixty five school discipline investigations that began during the Obama administration, including a probe in Bryan, Texas where African American students were four times more likely to be suspended than their White counterparts. She contended that under the Obama administration, the Office for Civil Rights investigated complaints to look for systemic violations. According to Waldman (2018, June 21), the Trump administration reversed this policy to instead focus on individual complaints in the name of efficiency. But the Trump administration did much more to deregulate disparate discipline policies than to make unilateral changes to the OCR policy manual. The administration also deregulated discipline guidance under the smokescreen of federal overreach and school safety. I discuss this next.

The Deregulation of School Safety and Federal Discipline Guidelines

The present section deals with policy initiatives by the Trump administration to deal with school safety. I will also go through the federal response to the mass shooting that occurred in Parkland, Florida on Valentine's Day of 2017 and some of the backstory on the discipline guidelines developed by the Obama administration. Then I will document the way that the Department of Education under Secretary DeVos used the guise of school safety to deregulate a 2014 Obama era discipline policy. Disparate discipline rates between White students and students of color play a significant role in the maintenance of the school-to-prison pipeline. The federal response, which consisted of an interagency policy to both train and arm school staff and federal discipline guidelines, will be discussed in the paragraphs that follow.

As part of the federal response to the mass shooting that occurred at Marjory Stoneman Douglass High School in Parkland in 2017, the Departments of Justice, Education, Homeland Security, and Education collaborated to discuss solutions to mass shootings within schools (U.S. Department of Education, 2018a; Kamenetz, 2018, December 18). The Commission on School Safety went around parts of the country to listen to local officials voice their concerns on school violence (U.S. Department of Education, 2018a). The Department of Education commissioned the report, which provided a background of mass shootings over the previous decades, then discussed the passage of The Stop School Violence Act and the funding that the law issued to states to implement interventions to attempt to put an end to mass shootings in schools (U.S. Department of Education, 2018a). The *Final Report of the Federal Commission on School Safety* (U.S. Department of Education, 2018a) also provided recommendations for

best practices for states to adopt to improve interagency communication, threat assessment, character education, and mental health provisions for schools.

In addition to publishing *The Final Report of the Federal Commission on School Safety*, the Department of Education also published a research study funded by federal grants to foster interagency collaboration between state agencies and local school districts to promote mental health in schools (Kendziora et al., 2018). A noteworthy critique of the report on school safety was that the report failed to provide recommendations beyond those already previously discussed in the literature on school safety (Kamenetz, 2018, December 18). Rather than write federal guidance on the topic, these federal agencies spent a sizeable amount of time and taxpayer dollars providing recommendations that have been provided in the literature for many years (Kamenetz, 2018, December 18). The contents of both reports contained recommendations for states to consider, yet the report did not provide any federal guidance except the possibility of allowing states to use federal funds to train and arm school staff, including teachers (U.S. Department of Education, 2018a).

Although the contents of the *Final Report of the Federal Commission on School Safety* consisted primarily of recommendations already well established in the literature on school safety, the report also weighed in on using federal funds to arm school personnel, including teachers (Ujifusa & Blad, 2018, August 24; U.S. Department of Education, 2018a). Reports began to surface that suggested that the Trump administration would allow states to use federal funds for firearms (Camera, 2019, April 10; Ujifusa & Blad, 2018, August 24). The report itself maintained that “numerous federal programs may, among other purposes, be used to support efforts to train school personnel in

various school safety topics” (p. 105) The contents of the report concealed the opportunity it provided to states and school districts to train and arm “specialized staff *and* non-specialized staff to be armed for the sake of effectively and immediately responding to violence” (p. 106). In another recommendation the Department of Education provided, “school districts may consider arming some specially selected and trained school personnel (included but not limited to SROs [school resource officers] and SSOs [school security officers]) as a deterrent” (block parenthesis given by present author; p. 106). Secretary DeVos herself claimed that it was up for states to decide, stating “we have not advocated for nor against” (as cited by Camera, 2019, April 10 para. 9). When faced with criticism, her undersecretaries deemed that the media exaggerated the plan (Ujifusa & Blad, 2018, August 24).

Yet, the contents of the report do evidently support states that decide to train and arm public school teachers with guns with federal funds (Department of Education, 2018b; Ujifusa & Blad, 2018, August 24). Ujifusa and Blad reported that a request from Texas had the Education Department contemplating if it could provide funds to states to arm school personnel, including teachers, from a federal grant within the Every Student Succeeds Act of 2015. These funds would come from Title IV Part A of the 2015 law (Botel, 2018, July 16), a grant that the Trump administration had previously considered slashing from the budget (Ujifusa & Blad, 2018, August 24). A memorandum dated July 16, 2018 from the Principal Deputy Assistant Secretary revealed that the Department of Education advocated for arming more school personnel, including teachers, as doing so would purportedly make public schools safer (Botel, 2018). The memo also indicated that the Department of Education was open to using Title IV Part A of the Every Student

Succeeds Act to grant states funding to train and arm public school teachers (Botel, 2018).

If more evidence is needed to demonstrate the degree of support the executive branch of government had for arming public school teachers, the buck should stop with the words of the chief executive officer of the United States. Indeed, President Trump himself strongly advocated for arming public school teachers (Trump, 2018, February 22). During a listening session after the mass shooting at Stoneman Douglass High School, President Trump explained:

One of the fake news networks, CNN, last night was saying I want teachers to have guns. I don't want teachers to have guns. I want certain highly adept people, people that understand weaponry, guns-if they really have that aptitude. Because not everybody has an aptitude for a gun. But if they have the aptitude, I think a concealed permit for-having teachers and letting people know that there are people in the building with a gun-you won't have-in my opinion, you won't have these shootings. Because these people are cowards. They're not going to walk into a school if 20 percent of the teachers have guns. It may be 10 percent or it may be 40 percent. And what I would recommend doing is the people that do carry, we give them a bonus. We give them a little bit of a bonus. Frankly, they'd feel more comfortable having a gun anyway. But you give them a little bit of a bonus. (paras. 146-147)

What is apparent here is the advocacy the Trump administration provided to train and arm public school teachers. According to the administration, the arming of educators would serve to make schools safer. At this point, however, it might be important to ask:

Who will feel safer as a result of arming teachers with guns? The rise of the Black Lives Matter movement has emphasized police brutality in the way that unarmed African Americans are killed by police. This phenomenon paired with the over disciplining of students of color in schools raises questions about the proposition of arming public school educators at the least.

As it pertains to mental health policy, in the February 22, 2017 roundtable discussion, President Trump advocated for states increasing funding to increase mental institutions in the United States. The president expounded:

Part of the problem is we used to have mental institutions. And I said this yesterday-where you had a mental institution where you take a sicko, like this guy, so many sides-and you bring him to a mental health institution. Those institutions are largely closed because communities didn't want them.

Communities didn't want to spend the money for them. So you don't have any intermediate ground. You can't put them in jail because he hadn't done anything yet, but you know he's going to do something. So we're going to be talking seriously about opening mental health institutions again. In some cases, reopening. I can tell you, in New York, the governors in New York did a very, very bad thing when they closed our mental institutions, so many of them. You have these people living on the streets. And I can say that, in many cases throughout the country, they're very dangerous. (paras. 14-15).

The president appears to have a lack of understanding that there are existing mental health facilities in every state in the U.S. where people can be committed. President Trump also appears to want states to bring back policies of institutionalization of people

with mental health problems. This ideology assumes people with mental health problems and/or the homeless are violent criminals, similar to his stance on newly arrived immigrants, which I will discuss later.

Though the *Final Report of the Federal Commission on School Safety* (2018a) provided mainly recommendations for states to consider, the Department of Education used the platform to publish their intent to deregulate a federal mandate that addressed disparate disciplinary outcomes for students of color and students with disabilities. They made the following justification for their strong opposition to the federal discipline guidance, which is quoted extensively below.

Maintaining order in the classroom is a key to keeping schools safe. Teachers are best positioned to identify and address disorderly conduct. However, guidance issued by the prior Administration advocated a federal solution that undercut the ability of local officials to address the impact of disciplinary matters on school safety. The guidance also relies on a dubious reading of federal law. The guidance should be rescinded and information about resources and best practices for improving school climate and learning outcomes should be developed for schools and school districts. (U.S. Department of Education, 2018a, p. 14)

Shortly after the final report of the commission came out, Secretary DeVos rescinded the discipline guidelines (Ujifusa, 2019, March 26).

In 2014, the Obama administration under former Education Secretary Arne Duncan provided guidance on ways to avoid discriminatory discipline (Kamenetz, 2018, December 18). They praised the work of Marjory Stoneman Douglas High School, who utilized what the district referred to as PROMISE, as a shining example that showed that

attempts schools have made to reform school discipline could be beneficial for schools (Kamenetz, 2018, December 18). Many of the largest school districts in the country complied willingly with the policy directives to reduce disparate punishment (Camera, 2018, December 18; Kamenetz, 2018, December 18). Kamenetz disclosed that Nikolas Cruz, the alleged White gunman who killed seventeen staff and students at Stoneman Douglas High School, was referred to PROMISE in middle school, but no record was uncovered of Cruz ever receiving services. On a local radio show a parent who lost his daughter to the mass murder that took place at Stoneman Douglass High School called PROMISE a “cancer” (para. 12) whose lenient policies and “non-reporting of criminals” (para. 12) fostered the environment that enabled the shooting to occur. With the Trump administration in control of the executive branch, these purportedly lenient policies would come to an end, particularly with the conservative ideology of Secretary DeVos and her inclinations toward states’ rights.

Demonstrating her strong stance favoring states’ rights, including the authority of local authority over school discipline, DeVos herself explicated that,

Ultimately, governors and state legislators should work with school leaders, teachers and parents to address their own unique challenges and develop their own solutions . . . It [The Department of Education] does not impose one-size-fits-all solutions. The primary responsibility rests with states and local communities. Local problems need local solutions. (Block quotes added; as cited by Camera, 2018, December 18, para. 2).

The conservative response to the discipline guidance of the Obama administration from organizations, such as The Heritage Foundation, criticized the rules as federal overreach

into local matters that detracted school officials from creating safe schools (Butcher, 2018, July 18). According to critics, the policy guidance also hindered school administrators' efforts to promote safe schools and made them afraid to suspend and expel students who committed violent acts on campus (Butcher, 2018, July 18; Kamenetz, 2018, December 18). Commission officials claimed that they received this feedback from participants in their listening sessions (U.S. Department of Education, 2018a). Such criticism was made by Florida Senator Marco Rubio after the school shooting at Stoneman Douglass High School (Camera, 2018, December 18).

Also, while promoting his new book *The True Saint Nicholas: Why He Matters to Christmas*, former Secretary of Education Bill Bennett claimed the policy guidance omitted important considerations, such as a student's family life, that factored into the reason that disparate discipline exists (Bill Bennett: Secretary of Education Betsy DeVos rescinding Obama era school discipline policies is the right thing, 2018, December 19). Bonilla-Silva (2014) defined cultural racism as "a frame that relies on culturally based arguments such as 'Mexicans do not put much emphasis on education' or 'blacks have too many babies' to explain the standing of minorities in society" (p. 76). It appears here that former Secretary Bennett utilized discourse using cultural racism but hid it by not stereotyping any specific group. He also utilized both neoliberal and colorblind ideology as framing the problem within individuals rather than as a problematic, systemic issue.

The conservative stance on the policy guidance on discipline did not parallel with those of schools, many of whom willingly complied with the guidance (Camera, 2018, December 18; Kamenetz, 2018, December 18). Kamenetz asserted that the recommendation by the commission to rescinding Obama era policy on disparate

discipline went “in defiance of public consensus” (para. 17). The conservative stance embodied by Trump and DeVos also defied interstate solidarity to comply with Obama era policy when they delayed policy on disproportionate representation (Ballotpedia, 2018), which I will discuss in another section. The conservative stance, on its face, appeared to advocate for states’ rights, autonomy, and freedom. Yet, on the ground level, the deregulation of the guidance obstructed states from reforming their practices and essentially undermined democratic functions within a federalist system of representative democracy.

The DeVos administration disagreed with the entire premise of the federal government providing discipline guidance to states. The Federal Commission on School Safety (U.S. Department of Education, 2018a) indicated that the policy rested on “a dubious reading of federal law” (p. 14). Waldman (2018, April 23) indicated that Kenneth Marcus, assistant secretary of Civil Rights under Secretary DeVos, reasoned that disparate discipline had what Waldman termed as “legal limitations” (para. 9). The DeVos administration contended that the regulation on disparate discipline prevented schools from administering consequences when students committed violent infractions. In one of the discussion sessions DeVos held, a teacher commented:

Policymakers have made it so we have no authority. Only perceived authority.

Only as much power as you get your kids to believe. Once the kid finds out he can say ‘F*** you,’ flip over a table, and he won’t get suspended, that’s that. (as cited by U.S. Department of Education, 2018a, p. 69)

In the final report, The U.S. Department of Education referenced the Texas School and Firearm Action Plan, which claimed that the constant interrogation of teachers’

disciplinary decisions had reduced teachers' efforts to refer students for classroom disruptions and has led to instances of lower academic achievement.

The Commission itself acknowledged that the issue of school discipline might be “complex” (U.S. Department of Education 2018a, p. 2; U.S. Department of Education, 2018b, para. 1);, but the commission renounced imposing any “one-size-fits-all” (U.S. Department of Education 2018a, p. 2; U.S. Department of Education, 2018b, para. 2) federal solutions that states would have to follow. Ujifusa (2019, March 26) reported that when pressed by the Education Committee on the reasons she rescinded the guidelines, DeVos replied, “no child should be treated differently based on his or her race or color or national origin. If or when they are, our office for civil rights will act swiftly. Children need to be treated as individuals” (As cited by Ujifusa, 2019, March 26, para. 19). Representative Barbara Lee of California reportedly shot back, “but they’re not being treated as individuals . . . That’s why we had this order put in place (as cited by Ujifusa, 2019, March 26, para. 20). DeVos often utilized very disingenuous ways to inform the public that she would enforce civil rights statutes, but behind the scenes, she and her department dismantled important procedures in the Department of Education’s Office for Civil Rights and deregulated pertinent civil rights policies and protections for oppressed groups. I will discuss DeVos’s disingenuous discourse in more depth in Chapter 5.

Not only did Secretary DeVos rescind the guidance on discipline, but as I discussed in the previous section, she also dismantled the way the Office for Civil Rights investigated discipline complaints (Waldman, 2018, June 21). According to Waldman, “under Secretary of Education Betsy DeVos, the department has scuttled more than 1,200 civil rights investigations that were begun under the Obama administration” (para. 5).

Greenwood (2018, April 20) reported that the dismissed cases included “500 disability rights complaints” (para. 5). These claims involved discrimination on the basis of disability (Russell, 2018, June 1), and race (Kamenetz, 2018, December 18; Waldman, 2018, April 23).

The revocation of the discipline policy enabled local officials to do what Butcher (2018, July 18) claimed they needed the authority to do; to “remove a student from class if the circumstances call for it-regardless of the student’s race” (para. 13) in an effort to maintain “the safety of all students in the classroom” (para. 13). This is a blatant example of colorblind racism. Enabling what Bonilla-Silva (2014) deemed as “rationalizing racial unfairness in the name of equal opportunity” (loc. 2053) has been a hallmark of the DeVos administration’s rationalization for deregulating educational policy that pertained to civil rights.

Concluding Thoughts. An important line of defense the DeVos administration used to withdraw from the discipline guidance provided by the Obama administration involved the reasoning that DeVos’s general counsel at the Education Department, Hans Bader, provided (Waldman, 2018, April 23). Waldman reported Bader as suggesting that the guidance amounted to the establishment of *racial quotas* (para. 9). The deregulation of policy guidance on discipline is a clear example of colorblind constitutionalist policy. Taylor (2006) maintained that that “assumptions of white superiority are so ingrained in political, legal, and educational structures that they are almost unrecognizable” (p. 73). Adherents to a colorblind construction of the Constitution actually make racism a common practice by hiding it behind the rhetoric of equal opportunity and opposition to racial discrimination (Taylor, 2006) The DeVos administration also utilized Bader’s

racial quotas assertion to attempt to deregulate another policy from the Obama administration, the issue of the disproportionate representation of minority groups in special education. The rescinding of the guidance on disproportionate representation by DeVos would lead to a lawsuit by COPAA. The deregulation of disproportionate representation will be discussed in the next section.

The Deregulation of Disproportionate Representation Guidelines

This section is dedicated to the unsuccessful attempt by the DeVos administration to dismantle Obama era *significant disproportionality* guidelines from 2016. This issue stems back to the 2004 reauthorization of the Individuals with Disabilities Education (IDEA) act that forced states that accept IDEA funding to address the issue of higher rates of culturally, linguistically, and racially diverse students in special education through early identification and interventions. In 2018, the DeVos administration attempted to delay the guidance for two years through the Federal Register. COPAA sued and U.S. District Court Judge Tanya Chutkan ruled in the favor of the plaintiff to prevent the delay. Disproportionate representation plays a significant role in the maintenance of the school-to-prison pipeline, as detailed in Chapter 1. In this section I will address the policy guidance, the policy delay, and the decision that favored COPAA in depth.

On March 7, 2019, COPAA won a decision in the U.S. District Court for the District of Columbia against Secretary DeVos (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019; Marshall, 2019, March 7). COPAA filed the lawsuit in response to an attempt to delay a regulation by the Obama administration on the disproportionate representation of culturally, linguistically and racially diverse students in special education (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019;

Justia, 2018, July 13). The legal victory by COPAA has been among the few successful attempts to prevent the DeVos administration from undermining civil rights policy and obstructing the implementation of civil rights law (Stratford, 2019, March 21).

The Obama administration's policy guidance on significant disproportionality had its roots in the 2004 reauthorization of IDEA (Civil Rights Roundtable, 2018, November 15; *Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). The revised IDEA instructed states to allot 15% of their funding for early intervention services for districts that were found to have significant disproportionality or states found to have disparate discipline for students with disabilities (Civil Rights Roundtable, 2018, November 15; Jimenez & Flores, 2019, May 30; The Leadership Conference on Civil & Human Rights, 2017, December 7). Yet, Congress did not define the term significant disproportionality and provided no methodology for states to use to determine if it was occurring (Civil Rights Roundtable, 2018, November 15). Some states took advantage of the ambiguity and avoided identifying districts as having significant disproportionality by setting high limits on risk ratios (Civil Rights Roundtable, 2018, November 15; The Leadership Conference on Civil & Human Rights, 2017, December 7).

By February of 2013, the Government Accountability Office noticed the trend of states setting unattainably high thresholds, which allowed states to circumvent the law and recommended a common threshold for states to use to identify significant disproportionality (The Leadership Conference on Civil & Human Rights, 2017, December 7). The agency recommended that the Department of Education set a standard threshold and methodology for defining significant disproportionality that all states could use so that the letter and spirit of the revised IDEA amendments could be faithfully

implemented (Civil Rights Roundtable, 2018, November 15; The Leadership Conference on Civil & Human Rights, 2017, December 7). Between 2013 and the publishing of the regulations in the federal register in 2016, the Department of Education under President Obama held listening sessions with key stakeholders for their feedback (Civil Rights Roundtable, 2018, November 15). Among the comments received by the government involved the worry held by some about the possibility that states could try to stay below the threshold by establishing racial quotas, which might prevent students who needed services from receiving them (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019).

Although the concern that states would establish racial quotas was by no means a broad consensus of stakeholders, the Department of Education sought to address the apprehensiveness experienced by some nonetheless (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). In the finished policy entitled “Final Regulation Regarding Assistance to States for the Education of Children with Disabilities; Preschool Grants for Children with Disabilities”, the Department of Education laid out that states would establish the thresholds and methodology in conjunction with key stakeholders (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). The regulations would also entail utilizing risk ratios with seven ethnic and racial groups to observe issues of proportionality within each of the fourteen disabilities under IDEA (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). The regulations condemned any practices states would use for developing racial quotas as antithetical to the enactment of IDEA and warned states that considered the adoption of quotas would open themselves up to litigation (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019).

The Obama administration acknowledged that states could establish racial quotas, particularly those who had low thresholds so that they would not have significant disproportionality (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). However, cabinet members in the Department of Education thoroughly addressed the issue in the final version of the regulations (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). The directives of the Department of Education under President Obama explained:

It is important for States to take time to consult with their stakeholders and State Advisory Panels to ensure that, when setting risk ratio thresholds, they balance the need to identify significant disproportionality in LEAs with the need to avoid perverse incentives that would inhibit a child with a disability from being identified or placed in the most appropriate setting based on the determination of the IEP Team. (As cited in *Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019)

The final regulations on disproportionality do indeed appear to address the possibility that states would establish racial quotas and took steps to prevent the establishment of racial quotas from occurring. They also admonished states for thinking about instituting special education quotas by race, warning that doing so would be a clear violation of The Civil Rights Act of 1964 (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). Numerous civil rights organizations, such as the ACLU and TASH, organized to share their support of the significant disproportionality guidelines (The Leadership Conference on Civil and Human Rights, 2017). On December 7, 2017, a coalition of 115 civil rights organizations signed a letter supporting the new guidelines on significant

disproportionality and urged Secretary DeVos to allow the guidelines to go into effect. Two months later, on February 13, 2018, the Department of Education proposed delaying the 2016 regulations for two years, from July 1, 2018 to July 1, 2020 (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). The Department was concerned that states would establish racial quotas (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019; Civil Rights Roundtable, 2018, November 15). The Department held an inquiry in which the public could not comment on the merits of the 2016 regulation (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019).

On July 3, 2018 the DeVos administration delayed the implementation of the significant disproportionality regulation, asserting that a case involving school districts in Texas supported their concerns on implementing the Obama era regulation (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). During their monitoring of the Texas school districts, the Education Department reported that some of the school districts had attempted to decrease the percentage of children with disabilities in the districts (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). Additionally, the administration argued that the regulations prevented Individualized Education Program teams from making data based decisions based on the needs of the child (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). Department of Education attorneys argued that the department needed more time to study the guidance to follow up on their concerns that states would establish racial quotas for special education placement (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019; Harper, 2019, March 10). Although the Department of Education delayed the guidance, they continued to allow states to follow the guidance (*Council of Parent Attorneys and*

Advocates, Inc. V. DeVos, 2019). On July 12, COPAA filed suit in the D.C. Circuit of the U.S. District Court (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019).

COPAA filed the lawsuit alleging that the DeVos administration had illegally changed the policy without notifying key stakeholders, violating the Administrative Procedures Act (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). COPAA also claimed that by delaying the significant disproportionality regulations, the government policy harmed the organization by withholding information that it was legally entitled to as it prevented the organization from advocating for students in the communities of organization members (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). COPAA requested a summary judgement from the court (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). As the Defendants, DeVos and her counsel filed a motion to dismiss the case or a summary judgment in favor of the Department of Education (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019).

On March 7, 2019 Judge Tanya Chutkan handed over her judgment in the case *Council of Parent Attorneys and Advocates, Inc. v. DeVos* in favor of the plaintiff. Citing the litmus test for the necessity for the plaintiff as needing to bear the burden of proof, Judge Chutkan ruled that delaying the significant disproportionality regulations brought harm upon COPAA. She determined that the delay of the regulations harmed COPAA as many members' children received an education from school districts that had taken advantage of the vagueness of the reforms in the 2004 reauthorization of IDEA. Judge Chutkan found that the delay of the 2016 regulation on significant disproportionality could injure the well-being of the children. Additionally, she ruled that the delay of the

significant disproportionality regulations would harm COPAA as the federal government would deny COPAA with information the organization was entitled to under the law.

In this ruling against the Department of Education, Judge Chutkan (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019) located numerous holes in the government's argument. The Department of Education's argument asserted that COPAA's claim failed to "establish organizational standing" (p. 18), because the injury the client would receive was "speculative" (p. 18), "conjectural and hypothetical" (p. 18). According to the Department of Education, no one could possibly know that the delay in the significant disproportionality would lead to increases or decreases in the number of states labeled as having significant disproportionality. In the years of contemplation that led up to the rollout of the policy guidance, the federal government had in fact predicted that over the next several years, the government would observe an increased number of school districts with significant disproportionality (*Council of Parent Attorneys and Advocates, Inc. V. DeVos*, 2019). Judge Chutkan opined that:

the government's own statements undermine its argument that an increase in LEAs being identified as significantly disproportionate is speculative. Indeed, these statements demonstrate that an increase in the number of LEAs found to be significantly disproportionate was likely had the 2016 Regulations gone into effect. (p. 20)

To Judge Chutkan, COPAA had demonstrated the threshold for burden of proof as they provided evidence that supported a "substantial probability" (p. 20) of injury. The injury that accompanied the denial of the implementation of the regulations would lead to misinformation about the number of districts with significant disproportionality.

Publishing the delay of the regulations two days after they were to take effect certainly hindered the Education Department's defense.

Judge Chutkan ordered for the 2016 regulations to take effect, in part, because of these mishandlings. The judge ruled that the Department of Education violated the Administrative Procedure Act by its failure to provide "a reasoned explanation for delaying the 2016 Regulations" (p. 28) and because "it failed to consider the costs of delay" (p. 28). Due to the problems uncovered, the judge ruled the delay in the 2016 regulation as "arbitrary and capricious" (p. 28).

Concluding Thoughts. Judge Chutkan actually found the lack of reasoning in the Education Department's defense as akin to the "the type of speculation the Supreme Court and the D.C. Circuit have rejected" (p. 33). COPAA successfully won a case against the Department of Education in D.C. Circuit Court (Harper, 2019, March 10; Jimenez & Flores, 2019, May 30; Marshall, 2019, March 7). The judge's ruling in their favor was uplifting for COPAA who called the decision "a victory for children, especially children of color and others who are at-risk for being inappropriately identified for special education" (Marshall, 2019, March 7, para. 3). The COPAA victory was monumental, but unfortunately, only one victory during an administration with numerous instances of dehumanization, including the zero tolerance policies towards migrants fleeing violence and oppression in Central and South American countries. These issues as they relate to the school-to-prison pipeline will receive a bit of clarity in the next section.

The Criminalization of Immigrant Children from Latin American Countries and Their Parents

The Trump administration's zero tolerance policy on immigrants applying for asylum, undocumented workers, and legal immigrants from Latin American countries has received ample coverage in the news media. For the present policy analysis, I captured some of the more obscure, but no less catastrophic elements of the racist and xenophobic policy of the Trump administration, including rescinding civil liberty protections from the Department of Justice, statements made by Secretary DeVos about undocumented immigrants in schools that contradicted federal law, and the torture and abuse children faced as a result of President Trump's family separation policy within the confines of detention centers.

On July 3, 2018, the same day that the Department of Education rescinded the guidance on significant disproportionality, former Attorney General Sessions rescinded guidelines at the Department of Justice, many of which protected the civil liberties of juveniles and those from oppressed groups (Kalmbacher & Keller, 2018, July 3). Among the protections former Attorney General Sessions rescinded were those involving juveniles, including the way authorities dealt with minors suspected of breaking the law (Kalmbacher & Keller, 2018, July 3). The rescinded policies kept minors and adult inmates separate, called on states to find alternatives other than incarceration, and prevented states from indicting minors for acts that are only crimes because of their age (Kalmbacher & Keller, 2018, July 3).

Another repeal former Attorney General Sessions made on July 3 included a document prepared that details Supreme Court precedent on affirmative action (Kalmbacher & Keller, 2018, July 3). With regard to both documented and undocumented immigrants, as well as refugees, the Attorney General rescinded guidance

that provided assistance to help these groups find employment and to alert these groups that it was unconstitutional for public and private agencies to discriminate against their national origin (Kalmbacher & Keller, 2018, July 3). The last repeal that former Attorney General Sessions completed that relates to the school-to-prison pipeline involved Obama era guidelines dating back to 2012 that helped people with limited English proficiency access the court system (Kalmbacher & Keller, 2018, July 3).

It has certainly been no secret that the Trump Administration, through the Department of Justice, has bulldozed the 1997 settlement of Flores vs. Reno that mandated the placement of immigrant children in the least restrictive setting possible (Johnson, 2018, July 30). During President Trump's first two years in office, the zero tolerance policies put into place in the Department of Justice have placed detained minors in detention facilities where, in some cases, they were subjected to abusive treatment (Johnson, 2018, July 30). In one such case, U.S. District Court Judge Dolly Gee ruled on July 30, 2018 for children in Shiloh Treatment Center in Manvel, Texas to be relocated (Johnson, 2018, July 30). A class action lawsuit filed on behalf of the detained children claimed that the children were being dosed with psychotropic medication without parental consent. In addition, the detention center employed draconian security measures, such as denying the children with access to drinking water (Johnson, 2018, July 30).

Concluding Thoughts

At the Department of Education, Secretary DeVos made a dangerous claim that local school districts could report undocumented students to Immigrations and Customs Enforcement, commonly referred to as ICE (ACLU, 2018, May 22). Additionally, while being interviewed by Fox News' Brian Kilmeade, DeVos did not correct the show's host

who proposed that “illegals” who could not speak English were a drain on the education system in states like Texas (Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden, 2019, May 1). Reports have shown that immigrant students are more fearful in public schools, have more socioemotional issues, and are showing increased absences in schools (Civil Rights Roundtable, 2018, November 15). It might be worthwhile to consider what Hamann (2004) deemed as the *educational welcome* of newly arriving immigrants to the United States at this particular moment.

Some of the interpretations of DeVos’s educational policy has included opinions that have referred to her as unqualified or unknowledgeable for the position of Education Secretary (DeGroff, 2017; Douez et al., 2017, January 19; Hornbeck, 2017, February 7; Tampio, 2018, March 26). It may be appropriate on its face to make such a claim, particularly when DeVos herself has made claims, such as the one she made on January 17, 2017 during her confirmation hearing, where she suggested that guns in schools might be necessary in Wyoming “to protect from potential grizzlies” (as cited by the Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February, p. 2). To attribute such discourse as an occasional gaffe, is dangerous, I would argue, and minimizes the harmful and oppressive policies she has put in place.

Conclusion

In the preceding systematic policy analysis, I captured some of the policies and discourse of the Trump administration as it related to education in the Departments of Justice and Education. Based on the data I collected, I found rampant deregulation of civil rights policies, proposals to decrease education funding, and ardent proposals of school choice initiatives. The administration justified the deregulation under the auspices

of “improving efficiency” and that federal policies were “one-size-fits all.” In Chapter 5, I will go into greater depth into the discourse of the Trump administration to falsify these claims. I will also criticize the policies, expanding more on the reasons the discourse of the Trump administration can accurately be determined to be colorblind racist discourse. This study contains numerous limitations, but it also has practical applications and considerations for future research. If my intent for Chapter 4 was to see what was happening in the Departments of Justice and Education as it pertained to the school-to-prison pipeline, my objective for Chapter 5 is to determine the reasons these actions matter and to situate them theoretically and historically.

Chapter 5: Discussion

Summary of the Findings

In this study, I critiqued the policies of the Trump administration and its stance on the pursuit of educational equity in U.S. schools through a critical policy analysis. The research questions I focused on were: (a) How does the Trump administration address issues related to the school-to-prison pipeline within the bureaus of the Department of Education and the Department of Justice? And (b) What do these policies reveal about the educational stance and ideology of the present administration? With regard to the first question, I found policies implemented by the U.S. Department Education and Department of Justice that maintained the school-to-prison pipeline, including ones addressing the deregulation of school safety/discipline and disproportionate representation. Additionally, the updates to the OCR policy manual also maintained the school-to-prison pipeline. Although neither the Department of Education nor the Department of Justice acknowledged the existence of the school-to-prison pipeline, in the documents I analyzed, the chief solution to educational issues involved the privatization of schools through school choice initiatives and deregulation. These issues of deregulation and other neoliberal policies will be addressed in the upcoming discussion.

Through the methodology of critical discourse analysis, I sought to uncover the ideology and practices of the Trump administration and how Education Secretary Betsy DeVos and former Attorney General Jeff Sessions were complicit in the maintenance of the school-to-prison pipeline (e.g., Kalmbacher & Keller, 2018, July 3; Klein, 2018, April 4). The resulting analysis uncovered an administration entrenched in neoliberal ideology that perpetuated colorblind racism in discourse (e.g., DeVos, 2019, May 1; Ujifusa, 2018,

December 26; Ujifusa, 2019, March 26) and policy (e.g., Civil Rights Roundtable, 2018, November 15; Waldman, 2018, April 23). The policy dismantling of the present administration (e.g., Balingit, 2018, June 1; Camera, 2019, April 10), its advocacy for arming school staff including teachers (e.g., U.S. Department of Education, 2018b; Ujifusa & Blad, 2018, August 24), its lackadaisical approach to enforcing federal law (e.g., Waldman, 2018, June 21; Waldman, 2018, April 23), and its advocacy of school choice through a distorted lens of social justice (e.g., Stossel, 2018, May 9) will receive analysis in the paragraphs that follow.

Discussion of the Findings

In addition to extending the issues brought upon by the Trump administration, the present discussion must incorporate the issues raised in the results chapter to a broader theoretical framework that adequately situates these practices historically and within systems of domination. As I mentioned in Chapter 1, critical theory is a research tradition that seeks to critique texts and expose the ideology and power of messages, both hidden and visible (Giroux, 1988; Morrow & Brown, 1994). As the present study utilizes discourses, it must also critique the interiority and exteriority of the discourses of the Trump administration to expose its problematic thinking. The point of this project should be to understand that these times might be unique in the way that President Trump displays so much blatant bigotry that stirs up racial animosity that epitomizes fascism. Yet, the policies he has implemented largely mimic his neoliberal, neoconservative predecessors, and their fascist rhetoric on issues such as imprisonment and immigration. Also worthy of consideration involves the way that people in the United States should respond to these racist policies. It might be prudent to elaborate upon some unfinished

business that bring to a close some of the issues brought up in Chapter 4. First, though, it might help to begin the discussion of the findings to examine the topic of school choice a bit more critically.

School Choice and Neoliberal Ideology: The Conservative Social Justice Initiative

In this section, I critique school choice, which is the conservative one-size-fits-all solution to the school-to-prison pipeline and all other problems in education today. I present the many faults of school choice, including the impacts that school privatization could have on curriculum, class composition, and federal and state laws, and discuss how these policies influence the maintenance of the school-to-prison pipeline. I ultimately attempt to make the case that school choice epitomizes both colorblind and laissez-faire economic approaches and seeks to exclude students with disabilities and those with language differences. I understand school choice as a means that conservatives are attempting to use that circumvent federal civil rights policies and obstruct social, political, economic, and educational equity. In the next section, I will elaborate a bit more about the problems of school privatization and its links to the pipeline in the paragraphs to follow.

As part of this discussion, I argue that transforming schools into the free market is a ploy that benefits White people with conservative leanings. In turning students and parents into consumers, school choice maintains the exclusionary tactics of discipline and unengaging curriculum that is essential to the push out phenomenon. In the paragraphs that follow, I make the case that school choice is a way to circumvent civil rights laws that seek to protect oppressed groups including students of color, students with

disabilities, LGBTQ students, immigrant students, and so on. First, I will answer the question of “who benefits from school privatization?”

A Critique of School Choice. Among the core principles for school choice necessitates the privatization of schools (Apple, 2006). To first study this issue critically, one can begin by asking the question, “Who benefits from school privatization?” Private schools need not follow state laws and can perform actions, such as getting consent from parents to waive federal laws like the Individuals with Disabilities Education Act (Underwood, 2017). Private schools can teach creationism (Apple, 2006), what Wallace (1996) referred to as *a Mickey Mouse history* that demonstrates the distorted memory of many people in United States, and they can separate classes and schools based on gender (Apple, 2006; Butler, 2020). When markets are left with the sole authority in determining the education of students, private schools can teach children based on their own sense of moral and ethical guidelines (Apple, 2006), which may or may not align with the educational literature. They most certainly do not adhere to more critical understandings of education that encourage educators to teach about systems of domination that stratifies society by race, gender, disability, sexuality, and other marginalized differences (Apple, 2006). What privatizing schools will ultimately do is to enable states to circumvent federal policy that seeks to include students with disabilities, poor students, LGBTQ students, and even female students (Apple, 2006). If a school is not inclusionary, then it is exclusionary. Exclusionary tactics perpetuate, intensify, and ultimately maintain the school-to-prison pipeline. These exclusionary tactics are part of the norming process, which is part of the racial contract, which I will discuss in further detail in this section (Mills, 1997).

Most, if not all, of the policies of the DeVos administration advocated for were exclusionary. If the DeVos administration advocated for inclusionary civil rights initiatives, it did so in an insincere way that I will refer to in this chapter as disingenuous discourse. An example of the exclusionary practices advocated for by the DeVos administration included the deregulation of school discipline guidelines (e.g., Camera, 2018, December 18, Civil Rights Roundtable, 2018, November 15). The guidelines that Secretary DeVos axed sought to address racial disparities in school discipline. Secretary DeVos also attempted to eliminate guidelines to address significant disproportionality, which held states to funding early childhood education for states that had an overrepresentation of students of color as having disabilities and requiring special education services (e.g. Jimenez & Flores, 2019, May 30; The Leadership Conference on Civil and Human Rights, 2017, December 7). In attempting to revise the OCR policy manual, the DeVos administration attempted to reduce the avenues to filing a complaint and no longer investigated systemic discrimination (e.g., OCR, 2018b; Waldman, 2018, June 21). Lastly, Secretary DeVos advocated to increased funding for school choice and charter schools and encouraged their exclusionary practices for selection and circumventing federal civil rights law that attempt to provide historically marginalized groups with equal protection under the law (e.g., Testimony before the House Labor Committee, 2019; Ujifusa, 2019, March 26). These are just a few of the examples of the exclusionary tactics that the DeVos administration utilized, which are key components to the school-to-prison pipeline. These exclusionary tactics uphold the racial contract.

Schooling and the Racial Contract. According to Leonardo (2015), schools maintain a racial contract that dehumanizes and/or colonizes people of color. Any

educational policy that does not specifically address Mills' (1997) racial contract, and seeks to oppose whiteness as the *somatic norm* (loc. 826), will continue to be a policy of dehumanization for people of color (see also Leonardo, 2015). The stigmatization and ostracization of students deemed outside of the parameters of normal play a significant role in sustaining the school-to-prison pipeline. As it does not address the racial contract in any significant way, school choice will likely retain the pipeline in some ways and reroute it in others. A key policy proposal of Secretary DeVos was a \$5 billion pitch to federally fund a voucher program through tax deductible donations by wealthy individuals and corporations (e.g., Camera, 2019, February 28; Testimony before the House Labor Committee, 2019). School choice can reroute the pipeline, in part, by turning students and parents into consumers.

Turning Students and Parents into Consumers. In his discussion of school choice, Apple (2006) explained that school choice is a neoliberal endeavor to privatize education and turn students and parents into consumers. In the education marketplace, consumers can make good choices about the schools they attend, but they can make poor choices as well (Apple, 2006). Under the assumption of neoliberals, the marketplace will eventually eliminate poorly performing schools, but the students who attend the poor performing schools will likely have a higher likelihood to be from oppressed groups as those with the social and cultural capital will have the connections to make the better educational choices for their children (Apple, 2006). The consumers can then be held responsible for their *poor* or *good* school choices, therefore shifting the accountability from the school to students and families (Apple, 2006). The shift from the institution to the individual is a hallmark of the practice of neoliberalism.

In order to address issues related to the school-to-prison pipeline, the literature calls upon schools to improve communication with families and students (e.g., Bernhard et al., 2004) and establish trust with students (Hernandez Sheets, 1996). If charter schools are any indicator, private schools could potentially utilize harsh consequences, such as suspensions more so than public schools (Losen et al., 2016). They might publicly say that this is to facilitate a safe and comfortable learning climate, but these policies tend to create hostile and uncomfortable learning environments (McNeal & Dunbar, 2010). Issues of student resistance to a lack of engaging curriculum (Kim, 2010) or other issues that relate to the pushout phenomenon (Taylor et. al, 2012) will likely not be solved through school privatization. Indeed, the pushout phenomenon will likely accelerate as schools remain unchecked by the states or federal government (Underwood, 2017). If schools continue to adhere to zero tolerance policies, they will continue to perpetuate and maintain the school-to-prison pipeline, regardless of if the schools are public or private. Secretary DeVos also deregulated the federal response that sought to provide incentives to zero tolerance policies (e.g., U.S. Department of Education, 2018a). As the deregulation guts federal oversight and leaves states and school districts with the decision making power, the administration provides a clear example of the laissez-faire perspective.

School Choice as a Laissez-Faire Approach. Omi and Winant (2015) clarified that a laissez-faire approach seeks to avoid government obstruction and to enable markets to work freely. They expounded that:

A laissez-faire, free market account accuses state policies such as minimum wage laws, labor laws, licensing procedures in labor-intensive trades (barbering, taxi-

driving, trucking), and importantly, affirmative action, of disrupting market equilibrium and depriving people of the opportunity to compete fairly (Williams 1982; see also Katznelson 2005). (p. 56)

It bears noting that capitalist approaches have yet to bring about social changes. A rather violent example of squashed capitalist entrepreneurialism that prevented the social mobility of people of color occurred on June 1, 1921 in Tulsa, Oklahoma at a place known at the time as Black Wall Street (Burke, 2020). The site of African Americans' attempt at upward social mobility was destroyed by bombs and rioting by White citizens in the prosperous African American community of Greenwood (Burke 2020). Amy Goodman of *Democracy Now* reported that rather recently officials were attempting to decipher if mass graves existed from the pogrom that occurred on Black Wall Street (Burke, 2020). Leaving schools to capitalism as Secretary DeVos proposed to do would likely not lead to equitable outcomes as racism and capitalism are intertwined (Kaufman, 2003; Kendi, 2019). Not to mention, a report came out during DeVos's term that suggested that charter schools syphoned money from public schools and were not anymore successful (Zais, 2018, September 28). Advocating for laissez-faire approaches, such as privatization also ultimately leads to the dismantling of social programs and labor unions, both of which help improve the livelihoods of working and poor people.

The Laissez-Faire Approach and the Dismantling of Social Programs and Labor Unions. In addition to changing education to a form of consumerism, Omi and Winant's (2015) concept of the laissez-faire approach indicates that conservatives want to end all public agencies, civil rights laws, and labor unions. Accompanying school privatization would entail the dismantling of teachers' unions (Apple, 2006; Stossel,

2018, May 9), such as The American Federation of Teachers (AFT), who the political right label as obstructionists to competition (see Tobin, 2017, February 3). The conservative media labeled teachers' unions as members of the establishment who just want to protect the status quo (e.g., French, 2017, February 8). In rebuttal, the AFT (2020) argued that they have spent decades fighting against cuts to education, pointing out the problems with treating schools like businesses through high stakes testing, and degrading and de-skilling the teaching profession in general. In the next section, I will discuss school choice as it relates to learning and language differences.

School Choice and the Principle of a Free Appropriate Public Education. The perspective of one of my colleagues that I attend a doctoral group with is worthy of noting. The concept of school choice is not anything that he can relate to as he has always had to choose the school for the Deaf to pursue his educational endeavors. If school choice were to be the crux of U.S. educational policy then, in theory, Deaf students should also attend the school of their choice and receive the most effective form of instruction, with American Sign Language interpretation. The 1982 Supreme Court case of *Board of Education v. Rowley* (458 U.S. 176, 1982) centered on the issue of a public school providing an ASL interpreter to first grader, Amy Rowley (Smith, 1996). In its decision, the court determined that the school did not have to provide an interpreter to improve Amy Rowley's learning outcomes. In the majority opinion, Chief Justice Rehnquist remarked that PL 94-142 only required schools to provide students identified as having disabilities under the law to attend public schools with minimal educational benefit to students. Chief Justice Rehnquist maintained that "the handicapped child needs only the services necessary to permit the child 'to benefit' from the instruction" (458 U.S.

176, 1982). Bogdan and Knoll (1995) claimed this decision “defined the right of disabled students to ‘a basic floor of educational opportunity’” (p. 699).

The low standard of FAPE provided by the Rehnquist court in the Rowley decision negatively impacted the instructional outcomes of students identified with disabilities for over three decades (Bogdan & Knoll, 1995). Schools can be inclusive places when the instruction adequately addresses students who are from historically oppressed groups, including those with diverse learning needs, such as students identified with disabilities and students learning English as a second language (e.g., Freire, 1993, Hayes et al., 1998; Hull & Schultz, 2002; Tomlinson, 2005). The low standards associated with the Rowley decision needs to be both discussed and understood as an extension of the pushout phenomenon, an exclusionary tactic that funnels students out of schools and into the juvenile and criminal justice systems (e.g., Desai & Abeita, 2017; Taylor et al., 2012).

The Supreme Court recently rendered an updated decision about one of the key principles of IDEA, the right to a free and appropriate public education, in the case *Endrew F. v. Douglas County School District* (2017; Diament, 2017, December 11; U.S. Department of Education, 2017, December 7). The decision claimed that schools need to ensure that students identified as requiring special education services have challenging learning objectives (2017; Diament, 2017, December 11). The Department of Education under Secretary DeVos has issued a question and answer document to support the implementation of the ruling (Diament, 2017, December 11; U.S. Department of Education, 2017, December 7). In DeVos’s affirmation that students with disabilities were denied the chance to make meaningful gains in schools, she explained, “for too

long, too many students offered IEPs were denied that chance. I firmly believe all children, especially those with disabilities must be provided the support needed to empower them to grow and achieve ambitious goals” (as cited by Diament, 2017, December 11, para. 7). In raising the bar of FAPE, the *Andrew F.* decision requires that schools make improvements in the education of students receiving special education services. But this decision raises the question of what special education services would be provided under a school choice educational model.

School privatization must be looked at as a way to bypass federal laws, including IDEA. The unbridled support Secretary DeVos has for school choice enables her to support the *Andrew F.* decision in a superficial way (e.g., Diament, 2017, December 11). Yet DeVos’s response exemplifies disingenuous discourse as her praise of the decision is undermined by her unwavering advocacy for school choice (e.g., Douez et al., 2017, January 19; National Review Institute, 2019, March 29). DeVos’s discourse is a way of hiding dictatorship within a democracy (Zizek, 1989), a technique that supports the second-class citizenship of certain groups and epitomizes the fascist elements of the U.S. government. Unless private schools accept money from states, they do not have to adhere to either IDEA or the ESSA (Underwood, 2017). This is a tactic that Secretary DeVos utilizes to undermine civil rights policy without outright opposing it. Indeed, this tactic has enabled Secretary DeVos to whole-heartedly support civil rights policy while simultaneously dismantling the policies meant to protect the oppressed and historically marginalized groups in the United States, including students with disabilities. Surely such a stance to dismantle policies that address the pipeline will not dismantle the school-to-prison pipeline.

Civil rights laws exist to protect the inclusion of oppressed groups, such as students with disabilities in the educational process. What choices will they have to pursue their academic goals in a school choice model? In the high-stakes testing that supposedly separates high-performing schools from low-performing ones, schools often consider students with disabilities to be a burden as this group does not tend to score well on high-stakes achievement tests (Baker, 2002), which can be attributed in part to testing bias (e.g., Cavendish et al., 2014), but also the low standards established, and through miseducation due to a multitude of factors from teacher efficacy to disparate discipline (Annamma, 2014). The high-stakes testing established by the No Child Left Behind Act and continues in the ESSA continues to view historically marginalized students, such as English learners, through a deficits-based, culture-in-poverty lens (Freeman, 2005) that does not adequately account for out-of-school literacies (Hull & Schultz, 2002). Private schools can also blatantly discriminate against LGBTQ students, another historically marginalized group. Private schools can exclude LGBTQ students from schools, force them to use restrooms and gym lockers aligned with their gender assigned at birth, and be intolerant places for them to receive an education in general (Donheiser, 2017, August 10). So, school choice is really no choice at all for many marginalized groups. The plan to privatize education involves parents and students choosing schools, but also enables each school with the authority to choose its students (Apple, 2006). In a time where states continue to heavily emphasize high-stakes achievement testing as the foremost accountability measure, which schools will select English language learners? How about LGBT students? Students with disabilities? What about students of color identified as having disabilities?

School Choice, Race, and Language Issues. The answer to these questions can be studied in a multitude of ways. One can be through a critical lens of social capital (Bourdieu, 1986) where those with the social capital will attend a school that caters to the needs of students with disabilities. Looking at the intersection of race and disability, as evidence continues to demonstrate that disproportionate representation of culturally, linguistically, and racially diverse groups has occurred and continues to occur (e.g., Artiles et al, 2005; Harry & Klingner, 2006), students of color identified with disabilities can be excluded from the predominantly White private schools and attend whatever poorly funded public schools are still in existence (Apple, 2006). This is ultimately a way to continue to impede the integration of students of color with White students and obstruct the decision made in *Brown v. Board of Education* that extended the equal protection clause of the Fourteenth Amendment to public schools (Apple, 2006; Cavendish et al., 2014; Ferri & Connor, 2005). Mills (1997) explained the *norming of space* (loc. 650) as “partially done in terms of the *ricing* of space, the depiction of space as dominated by individuals (whether persons or subpersons) of a certain race” (loc. 650). Leonardo (2015) deemed schools as norming spaces that privilege White students and dehumanize students of color. It appears school privatization will not humanize students of color. It appears as if school privatization will maintain and strengthen the norming process that Mills indicted that excludes the racialized bodies of people of color.

With the focus on school choice, it is unclear whether bilingual or ESL instruction will be available for students learning English as a second language. Also, without the help of public schools or what Trump referred to in his state of the union address as *government schools* (Strauss, 2020, February 18), will there be a focus on language

revitalization to instruct Native American children on their indigenous languages?

According to Taylor (2006), “non-White access to education has never been a de facto legal or social right” (p. 75). Bringing in Bell’s (1992) principle of interest convergence, access has only been provided to the degree that it has benefitted White people. Unless school choice addresses the permanence of racism in U.S. society that Bell explicated, it will reproduce the same inequalities that public schools do presently. School choice might lead to increased instances of homeschooling, which will receive attention in the next paragraph.

School Choice and Homeschooling. Secretary DeVos indicated in her testimony to the House Labor and Education Committee that she would also allow school voucher funds for private home schooling (Testimony before the House Labor Committee, 2019), which poses many problems of accountability for taxpayer funds and academic outcomes. Homeschooling is a complex, multi-faceted issue that includes the critique of problematic public schooling (Johnson, 2013; McDonald, 2019). Yet, this issue also can be a way for certain families to receive money while only providing their children with a rudimentary education. With the many problems of school choice, it is certainly not the magic bullet or the solution to solving any educational issue, let alone the school-to-prison pipeline. But that is not to say that public schools do not have numerous problems that need to be addressed.

A Critique of Public Schools. By being critical of school choice does not mean that public schools are ideal at this point in time. The literature tends to call upon schools to do more to ensure student safety (e.g., McNeal & Dunbar, 2010; Hernandez Sheets, 1996), to be open and inclusive spaces. It calls upon teachers to develop curriculum,

instruction, and assessment in ways that connect with students and challenges their skillsets (e.g., Allen, 1986; Beasley, 1983). It signals to school staff to work on reducing unconscious and conscious bias for differences, such as race, gender, sexuality, and disability (Hernandez Sheets, 1996; National Center for Transgender Equality, 2017; Skiba et al., 2008). The literature calls upon teachers to work to putting an end to the school-to-prison pipeline (e.g., Desai & Abeita, 2017) and upon state and federal governments to pass and enforce antiracist policies (Kendi, 2019). The problem of the school-to-prison pipeline cannot be solved by the capitalist marketplace where the maintenance of capitalism has depended upon and continues to depend upon the maintenance of hierarchy (Bowles & Gintis, 1976; Freire, 1995; Giroux, 2001; Kaufman, 2003). But it also cannot end with underfunded schools that have been at the front lines of neoliberal cuts (Apple, 2006, Kozol, 1991). As has been suggested, the complexities of the school-to-prison pipeline require antiracist policies that address income inequality, inadequate housing, healthcare, and promoting safe and humane conditions for everyone. The pipeline almost certainly cannot be solved in the realm of education alone. Part of the issue of the school-to-prison pipeline and the problematic policies of the Trump administration is its practice of colorblind racist rhetoric, which will receive attention in the paragraphs to follow.

Colorblind Racist Discourse and its Strong Ties to Conservative Ideology

In order bring clarity to my argument that the Trump administration utilizes racist discourse and implements racist policies requires an explanation of colorblind racist discourse. In this section, I will expand on what colorblind racism is and provide a brief history of its use in the United States with the Nixon and Reagan administrations. I will

explain the reasons that colorblind discourse is racist discourse before going into examples of colorblind racist discourse from Secretary DeVos and members of her administration. In addition to being racist, I will also argue that colorblind discourse promotes fascism in that it hides techniques of dictatorship in a country that supposedly cherishes democracy.

An Introduction to Colorblind Racist Discourse. Colorblind racism is a discourse that masks the continuing significance of racism in the U.S. through language that appears to accept that the country is presently in a post racial phase (Bonilla-Silva, 2014). Colorblind racist discourse tends to couch language that maintains White supremacy within discourse that might appear at first to advocate against discrimination (I will provide examples later). Generally, racism is maintained through discourse that asserts the phrase, “I don’t see color” (DiAngelo, 2018). The question becomes, then, how can a person who claims not to see race be a racist? Although colorblind racists do not speak specifically about the predominance of racism, their racist assumptions are still apparent (Bonilla-Silva, 2014). For instance, Jonathan Butcher (2018, July 18) of the Heritage Foundation explained that schools needed authority to “remove a student from class if the circumstances call for it-regardless of the student’s race” (para. 13). On its face, Butcher’s argument decries against all forms and kinds of discrimination. The statement echoes King’s (1963/1986) dream that his children not be judged by the color of their skin, but by the content of their character. Yet, the U.S. is not yet ready to have such policies as numerous studies cited throughout this dissertation suggest that students of color are disciplined at higher rates than White students. The studies cited throughout this dissertation also suggest that the discipline students of color receive is not the result

of more wrongdoing, instead they receive stiffer punishments for the wrongdoing they commit. Butcher's comment completely ignores that disparate discipline is a form of institutional racism and thus is a textbook example of colorblind racist discourse.

Colorblind Racist Discourse and the Nixon administration. In order to address the disparities touched upon in the paragraphs above and to understand the reason why the policies of the Trump administration maintains the school-to-prison pipeline and can accurately be called racist policy, it is important to understand the history and ideology of colorblindness. Colorblind racism epitomizes the ethnicity paradigm and laissez-faire capitalism in the way that race is minimized as a factor in everyday existence (Omi & Winant, 2015). The most visible proponent of colorblind racism in its beginning years was President Richard M. Nixon who used subtle, but still racial language, such as the focus on maintaining *law and order*. The law and order discourse, to Alexander (2012), epitomized what Nixon's advisors deemed "a Southern, racial strategy" (p. 46) that appealed to White supremacy without the reliance on Jim Crow segregation (also see Omi & Winant, 2015). Orfield et al. (2016) explained that after winning the 1968 presidential election, President Nixon refused to implement the racial integration processes first established by President Lyndon B. Johnson. President Nixon also nominated four justices to the Supreme Court, an action that essentially ended the Civil Rights Movement of the 1960s (Orfield et al., 2016). The Nixon administration also criminalized grass roots activism by social justice organizations largely comprised of people of color, such as the Young Lords or the Black Panthers (Mueller & Ellis, 2012). The criminalization of people of color and the denial of their rights through the colorblind discourse of the *silent majority* and *law and order* hid racial issues but maintained racist

rhetoric (Alexander, 2012). It is this colorblind discourse that led to the development of funneling students out of schools into the legal system and this did not stop with the Nixon administration. The practice was refined by President Reagan and has lasted to the present day.

Colorblindness in the Reagan Administration. If the Nixon administration began colorblindness as a successful strategy, the Reagan administration polished its practice in the 1980s (Alexander, 2012). According to Alexander (2012), President Reagan's "rhetoric on crime, welfare, taxes, and states' rights was clearly understood by white (and black) voters as having a racial dimension" (p. 50). According to Freeman (2005), the administration of President Reagan implemented neoliberalism based on the idea that government assistance hindered people of color because, to neoliberals like President Reagan, every U.S. citizen had an equal opportunity and thus, they no longer needed *special attention*. The special attention equated to the adequate enforcement of civil rights policy in realms, such as employment or education. Underneath President Reagan's calm demeanor was someone who viciously attacked African American men and women through the use of degrading stereotypes (Alexander, 2012). During the Reagan Administration, the Department of Education published *A Nation at Risk: America's Failing Schools* (Roth, 2017). As the title suggests, the work portrayed U.S. schools as failing in comparison with other countries as measured by standardized tests (Sleeter, 1986). So, at the end of the Cold War era, the U.S. maintained a Cold War mentality that included maintaining U.S. hegemony by outcompeting other countries in gross domestic product (GDP), the arms race, aeronautics, and education. Based on the ideology inherent in *A Nation at Risk*, if the United States did not excel in the areas of

science, technology, engineering, and mathematics, the United States would lose its place as the world leader (Roth, 2017).

The Crux of the Colorblind Racist Argument. The epitome of colorblind racist policy is captured by the quote by Chief Justice John Roberts when he opined, “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race” (Roberts, No. 05-908). DeVos has made similar colorblind statements about race, like when she explained: “no child should be treated differently based on his or her race or color or national origin. If or when they are, our office for civil rights will act swiftly. Children need to be treated as individuals” (Ujifusa, 2019, March 26, para. 19). To fail to understand that children face racism in schools on a daily basis is tantamount to colorblind racism (DiAngelo, 2018).

The Reasons that Colorblindness Equates to Racist Discourse. At this juncture in time the U.S. cannot disavow race in any matter (Bonilla-Silva, 2014; DiAngelo, 2018), but must seek to remedy racism through policies, such as affirmative action. Without so much as attempting to construct an equitable society, colorblind, laissez-faire economic policymakers, such as Secretary DeVos, want to wash themselves of civil rights policy that attempt to make strides toward equity in the workplace, in housing, in healthcare, nutritional assistance, and in education. The destruction or attempted destruction of federal regulations, such as the guidance on transgender students (Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February), preventing racial discrimination in lottery school in charter schools selection (Civil Rights Roundtable, 2018, November 15), and ending consent decrees (Huseman & Waldman, 2017, June 15) by the Trump administration under Secretary DeVos and

former Attorney General Sessions has nurtured the continuance of the school-to-prison pipeline.

Unpacking the “Improves Efficiency” Argument. The settlement between the Department of Education and civil rights organizations revived the appeals process at the OCR and enabled advocates in civil rights organizations to file more than one lawsuit per six months. The settlement, unfortunately, failed to change OCR practices to force the agency to investigate systemic violations. The Department of Education claimed that the changes were made to *improve efficiency* in the federal government (Hill, 2018). The discourse makes some assumptions. It might reflect the neoliberal assumption that *big government* is by nature inefficient (Apple, 2006; Kaufman, 2003). In this neoliberal perspective, the federal government should stay out of the business of the states and quit interfering with their authority. The assumption’s fear is related to the idea that individuals should be free from government interference (Apple, 2006; Kaufman, 2003). Yet, civil rights policies require federal intervention. Perhaps the political right’s fears about the government are steeped in the supposed infringement on their freedoms by the federal government and ignore that, as Foucault (1977b) asserted, governments have violent tendencies, but they have productive tendencies as well. So, the federal government has the authority to perform surveillance measures, which can be understood as an infringement on individual rights. But the federal government can also provide health services to seniors over age 65 through Medicare, which prolongs the life of the elderly. Perhaps it might be important to examine the irrational fears of the political right so that we can find a way to live in a more perfect union.

The supposed improvement of efficiency within OCR based on the changes the department attempted to make was based on the premise made by the head of OCR, Candice Jackson, that “justice delayed is justice denied” (As cited by Waldman, 2018, April 23, para. 13). The concept of justice within the Department of Education could use some hashing out. First, Jackson’s statement makes it appear at first as if she ardently supports civil rights, which is not the case as Jackson’s statements are tantamount to disingenuous discourse with a flawed sense of justice that epitomizes colorblind racism. Jackson’s discourse on justice epitomizes the way that colorblind racists like her use the language of antiracism to perpetuate racist practices. This also hides dictatorship within democratic language (Zizek, 1989). Additionally, it appears that the OCR has equated justice with efficiency here. Rather than looking at implementing policies that create a more equitable society, justice appears to be equated with the efficiency of the federal government to solve isolated problems, then allow both parties to get on with their lives. Based on the neoliberal concept of justice, then, the federal government is incapable of establishing justice. Jackson’s statement provides credence to a pessimistic concept of justice that ethics and equity cannot be achieved by what conservatives would refer to as *big government*. Secretary DeVos generated disingenuous discourse of her own, which will receive attention next.

In her public statements, Secretary DeVos claimed that the Education Department would enforce any and all civil rights violations to the full extent of the law (Testimony Before the House Labor Committee, 2019, April 10; Ujifusa, 2019, March 26; Waldman, 2018, June 21), another example of disingenuous discourse. The lack of willingness to investigate systemic violations and to only consider complaints on a case-by-case basis

(OCR, 2018b) does appear to assume that racism is an isolated act rather than a phenomenon that is embedded and legitimated within institutions, which is another component of colorblind discourse (Bonilla-Silva, 2014; Omi & Winant, 2015). The ideology and discourses apparent in the Trump administration during the time the present study focused on are indicative of both neoliberalism and colorblind racism (Bonilla-Silva, 2014; Omi & Winant, 2015). These conservative ideologies fuel the flames of the pipeline and will be discussed in the next section. They also share close relationships with colorblind racism and conservatism.

An Oppositional Discourse to Colorblind Racism. According to the prominent scholar on the topic of colorblind racism, Bonilla-Silva (2014) described the institutional privileging of White people through racist U.S. policy. He explained:

Being an antiracist begins with understanding the institutional nature of racial matters and accepting that all actors in a racialized society are affected materially (receive benefits or disadvantages) and ideologically by the racial structure. (locs. 494-495)

To understand Bonilla-Silva's words involves understanding that racism is much more powerful than a White man, even one that holds our nation's highest office, who continues to use degrading epithets, as harmful, abusive, and racist as that is. To acknowledge Bonilla-Silva's prose is to concede that White supremacy is part of everyday life in the United States and is actually embedded in its institutions. From the lending practices of banks to access to healthcare, and from finding employment to living in a certain neighborhood. And yes, from the learning that occurs in the education system

to incarceration in its penal system. Practices and policies that perpetuate racism are embedded in all of these agencies.

In this racist social system, White people who oppose racism cannot have a narrow definition of it (DiAngelo, 2018). They must understand that the system works to their advantage on a daily basis, because of racist policy making (DiAngelo, 2018; Kendi, 2019). Instead, some members of DeVos's cabinet have argued that they have been victims of reverse discrimination. This claim of reverse discrimination is one more example of colorblind racist discourse as well as an example of bootstraps ideology, which I will expand on in the next paragraph.

Candice Jackson and Her Reverse Discrimination Claims. Secretary DeVos chose Candice Jackson to head the Department of Education's Office for Civil Rights (Waldman, 2017, April 14). Like many chosen in the present administration for top agency positions, Jackson had very little experience in civil rights law and has claimed that she was a victim of discrimination at Stanford University for being White (Waldman, 2017, April 14). According to Bonilla-Silva (2014), positions, such as reverse racism, work to preserve White supremacy and allow whites to victimize themselves and disparage the "morality, values, and work ethic" (p. 4) of people of color. After affirming that she went into law school without any special assistance, Jackson claimed that "no one, least of all the minority student, is well served by receiving special treatment based on race or ethnicity" (as cited by Waldman, 2017, April 14, para. 17). Yet, with this comment, she ignores the ways that White, middle class students do receive special treatment by virtue of not experiencing the systematic barriers experienced by poor students and students of color in America's schools (Bonilla-Silva, 2014).

Jackson's discourse epitomizes colorblind racism in that it decries discrimination in ways that maintain racist practices. Jackson's assertion also showed that she did not account for her own White privilege in her acceptance into Stanford. Jackson's discourse exemplifies what Omi and Winant (2015) called the bootstraps model and the neoliberal discourse that calls for individuals to achieve social mobility through working harder through the false notion that there is an American dream that all people can attain. Neoliberal discourse has destroyed civil rights policies in the United States. Waldman observed that the pick to head the civil rights division at the Department of Education was not herself convinced that civil rights policy should remain in existence. Jackson's position that assumes the United States is a meritocracy aligns with the overall laissez-faire approach that is synonymous with colorblind racism.

A policy that does not specifically acknowledge racism in everyday life is a clear example of colorblind racism. DiAngelo (2018) claimed that "according to this ideology, if we pretend not to notice race, then there can be no racism" (pp. 40-41). So therefore, when Secretary DeVos rescinded guidelines on disparate discipline (e.g., Camera, 2019, April 10; Civil Rights Roundtable, 2018, November 15) and disproportionate representation (e.g., Ballotpedia, 2018; Jimenez & Flores, 2019, May 30), she was implementing racist policy. When she ended discrimination protections in charter school lottery systems (Civil Rights Roundtable, 2018, November 15) and equitable funding measures required in the Every Student Succeeds Act of 2015 (Jimenez & Flores, 2019, May 30), DeVos was actively engaged in racist policymaking. To fail to speak about the school-to-prison pipeline and acknowledge the racism in our public schools, she epitomized the model of colorblind racist discourse. All of these policies contribute in

some way or other to the phenomenon that pushes students out of schools and into prisons. In the paragraphs that follow, I utilize Omi and Winant (2015) and their theoretical research to deconstruct the origins of colorblind racism and its connection to the ethnicity paradigm, which conservative philosophy stems from.

Conservative Ties to the Ethnicity Paradigm. Conservative political thinking, neoliberalism, and colorblind racism all tie into what Omi and Winant (2015) designated the ethnicity paradigm. The discourse that began in the Nixon administration of the 1970s and was refined in the Reagan era of the 1980s has led to the racist system of incarceration that the United States presently implements, and thus sustains the school-to-prison pipeline (Alexander, 2012).

As preeminent scholars on the topic of racial paradigms in the United States past to present, Omi and Winant (2015) connected colorblind racism within an ethnic worldview connected to racist principles of assimilation or cultural pluralism. As flawed as the ethnicity paradigm was to begin with, the scholars noted that the world view originated from the political left with anthropologists from the University of Chicago sociologists, such as Franz Boas and Robert E. Park. To Omi and Winant, although the ethnicity paradigm was among the first to acknowledge race as a social construction and discredited the civilization hypothesis where cultures *advanced* from barbarous to civilized, there was a lack of perspective from African American, Native American, and Latinx voices. Rather than emphasize the crisis of the color line that DuBois (1903/2003) articulated, the ethnicity paradigm downplayed racial conflict and emphasized the inclusion of the variety of Christian religious sects and newly arrived immigrants from Southern and Eastern Europe, some of whom were political radicals (Omi & Winant,

2015). To Omi and Winant, the focus on helping these groups was to help the new arrivals *become American*, meaning to become White.

According to Omi and Winant (2015), the ethnicity paradigm was important, because it unseated biological versions of race. Its embedded flaw involved that it failed to adequately account for the unique and oppressive histories African Americans, Native Americans, and Hispanics in the Southwestern United States as well as the changing demographic of immigrants of color from Asia and Latin American countries (Omi & Winant, 2015). The assumption that these groups could be lumped in as immigrants was a fatal flaw of the paradigm and prevented adherers to the ethnicity paradigm from understanding the role of race and racism as a predominant form of everyday life (Omi & Winant, 2015). Part of this ignoring of racism in everyday life is the conservative belief that if you work hard and make attempts to assimilate, you can have the American dream (Omi & Winant, 2015).

Ethnicity Paradigm and the Bootstraps Model. Omi and Winant (2015) claimed that after the Civil Rights Movement, the ethnicity paradigm began to change to encapsulate political conservatism including what they called the “bootstraps model,” that called for individuals to work hard to pull oneself from their bootstraps to improve their social circumstances. The bootstraps model pressured historically oppressed groups to *stop complaining* and get working so they could achieve the professed *American dream*. The ethnicity paradigm of race has almost always ignored the history of slavery, genocide, colonization, and brutal capitalism of the past and the ways those practices continue in a different form to this day.

The ethnicity paradigm lives on in the practices of conservative policy, which the ideology of Secretary DeVos and former Attorney General Sessions strongly depend on. The bootstraps model epitomizes neoliberal assumptions that places the blame on the individual rather than policies that perpetuate and maintain racist phenomena that include the school-to-prison pipeline. The next section will go into more depth about the deregulation of school safety, including disparate discipline and disproportionate representation.

Deregulation

The paragraphs that follow delve a bit deeper into the deregulation that occurred at the Department of Education under Secretary DeVos between the years of 2017 and 2019, the time period I focused on in this present study. The deregulation has contributed to the maintenance of the school-to-prison pipeline. The conclusion of the lawsuit between COPAA, the National Federation of the Blind, and the NAACP will receive attention. I will also discuss the deregulation of school safety, as well as the deregulation of disparate discipline and disproportionate representation. My purpose is to consider the issue of deregulation and the discourse that maintains neoliberal practices within a critical and historical framework. I argue that it is important to consider the role of deregulation in the maintenance of the school-to-prison pipeline. The Children's Defense Fund began to notice pipeline issues in the mid-1970s (Advancement Project, 2005), when neoliberal policies began to be implemented in state and federal governments (Klein, 2007). The issues of school cuts and a reliance on imprisonment for nonviolent offenses has by and large created a nation that presently incarcerates over 2 million people, predominantly of people of color (Alexander, 2012; Davis, 2003).

Deregulation of the Office for Civil Rights Manual. It is important to know that the deregulation of the OCR policy manual enabled the maintenance and growth of the school-to-prison pipeline. Even though the Department of Education reached a settlement with COPAA, the NAACP, and the National Federation of the Blind that brought back the appeals process and enabled counsel to file multiple complaints, the Department of Education could still avoid conducting systematic investigations of civil rights violations. Thus, I argue the DeVos administration shirked its responsibilities from enforcing civil rights, making it abhorrent to civil rights organizations and interested parties looking to end acts of racism in the United States.

So, what happened to the lawsuit COPAA, the National Federation of the Blind, and the NAACP brought against Secretary DeVos for summarily changing the OCR policy manual? After being served, the DeVos administration reversed its decision and allowed multiple complaints to be filed by legal advocates and reinstated the appeals process (Flaherty, 2018, November 21). The plaintiffs decided to move ahead with the lawsuit in an effort to prevent Secretary DeVos from reversing herself again and making the reinstatement of appeals and complaint-filing process permanent (Flaherty, 2018, November 21). The civil rights organizations succeeded in their effort as the parties made the settlement in federal court on February 6, 2020 (Brown Goldstein Levy, 2020; National Federation of the Blind, 2020, February 6). Yet, the DeVos administration and the Office for Civil Rights maintained a large part of their dismantling of the OCR, such as by failing to investigate systemic claims in an effort to “improve efficiency” (Waldman, 2018, June 21), which I unpacked in a previous section in this chapter. Next, I

will discuss the deregulation of school safety and disproportionate representation and how those policy initiatives perpetuate the school-to-prison pipeline.

Deregulation of School Safety and Disproportionate Representation. School safety is an important consideration to make regarding the school-to-prison pipeline. As I discussed in the review of the literature in an earlier chapter, the enactment of zero tolerance policies and the use of surveillance equipment can create an atmosphere of apprehensiveness and angst that is detrimental to human growth and development (e.g., Rausch & Skiba, 2006; Skiba et al., 2008). The literature encouraged schools to implement alternatives to zero tolerance policies, such as the use of threat assessment, positive behavior interventions and supports, and restorative justice (e.g., Cornell et al., 2011; Scott & Friedli, 2002). The disparate discipline of students of color (e.g., Brieschke, 1989; Gastic, 2017) and students with disabilities (e.g., Castillo, 2014; National Council on Disability, 2015; Skiba et al., 2002) plays a significant role in the school-to-prison pipeline (Skiba et al., 2014). In the present section, I will further clarify the problematic discourse of the Department of Education as well as the politics of education. First, I will criticize the one-size-fits all discourse of Secretary DeVos.

A Critique of “One-Size-Fits All” Conservative Discourse. The Federal Commission on School Safety renounced imposing any “one-size-fits-all” (U.S. Department of Education, 2018a, para. 2; U.S. Department of Education 2018b, p. 2) federal solutions that states would have to follow to address the mass shootings that have occurred in school districts across the country. The Department of Education also criticized the Obama administration’s guidance on discipline and justified removing the guidance using this phrase. The term one-size-fits-all, which has been used in the public

lexicon for decades, was used recently to criticize the Common Core curriculum and the accompanying assessment, the Partnership for Assessment of Readiness for College and Careers (PARCC) (e.g., Strauss, 2016, December 23). The saying one-size-fits-all appears to fit for the Common Core and the PARCC given their lack of ways to accommodate those with learning and language differences (e.g., Beals, 2014, February 21).

The use of the phrase by the DeVos administration took the argument against Common Core and used it to critique the civil rights policies of the federal government. With this argument, the DeVos administration could appeal to parents who oppose the Common Core and entice them into thinking that the issues of federal policy and Common Core have similarities. The use of the idiom one-size-fits-all is also a way to cast a conservative argument to portray its thinking as *common sense*, which means that it maintains hegemonic relationships. (Apple, 2006; Giroux, 2001; Kaufman, 2003). The assumptions embedded in the terminology, again, represent a strong belief in states' rights and all of the problems associated with such beliefs.

The assumption that the issue of discipline is much too complex for the federal government is not supported by the literature on the topic. The issue of disparate discipline, covered in reasonable depth in Chapters 1 and 2, indicates that across the country African American, Native American, Latinx students, LGBTQ students and students identified with disabilities are disciplined at far higher rates than White students and on much harsher terms (e.g., CDF, 2007; Hariot, 2018; Losen et al., 2016; Mallett, 2017; National Council on Disability, 2015; Raffaele Mendez, 2003; Snapp et al., 2015). The federal policy guidance administered during the Obama years tried to address the

issue of disparate discipline, urged states to ease up on zero tolerance policies, and to adopt policies in line with best practices in the literature, such as restorative justice (e.g., Civil Rights Roundtable, 2018, November 15; Kamenetz, 2018, December 18). Far from one-size-fits all, the discipline guidance acknowledged states' rights, but in a way that offered a federal response to address the problem of disparate discipline rates between White people and people of color in the U.S.

So, if the discipline and significant disproportionality guidelines enacted by the Obama administration complimented a federal form of governance that acknowledged states' rights, then the function of the argument of states' rights in these cases appeared to serve to gut the federal government of performing its essential functions that include making certain that states are accountable for effectively implementing federal civil rights law. And in these cases, the deregulation of federal policy and the gutting of the federal government to perform essential duties prevented actions that could have alleviated some of the harmful impacts of the school-to-prison pipeline. Another harmful policy of the DeVos administration is the decision to allow federal funds to be used for schools to train and purchase firearms. That will receive attention in the next section.

A Critique of Arming School Staff and Hardening Schools. The rescinding of discipline guidance paired with the hardening up of schools by arming school staff, including teachers (e.g., Camera, 2019, April 10; U.S. Department of Education, 2018b), makes it rather difficult to comprehend the discipline policy of Secretary DeVos. The literature indicates that schools that utilize approaches, such as processing students through metal detectors, security cameras, and other practices associated with zero tolerance policies, leave students feeling less safe, not more (e.g., Annamma, 2015;

McNeal & Dunbar, 2010; Skiba et al., 2008). Increasing the number of staff with guns and hardening the school grounds would make many schools appear more like the geography of a prison (e.g., Annamma, 2015; Davis, 2003; Tuzzolo & Hewitt, 2007) and put weapons in the hands of staff who students of color would not necessarily trust (e.g., Hernandez Sheets, 1996; Portillos et al., 2012). To rescind discipline guidance, then advocate for the federal use of funds to arm and train staff including teachers to maintain safe schools, is the policy of a system that ignores the education of inner-city youth, some of whom are educated in facilities that look like prisons.

When discussing the racist prison system and the geography of inner-city public schools in the United States, Davis (2003) contended that:

There is even more compelling evidence about the damage wrought by the expansion of the prison system in the schools located in poor communities of color that replicate the structures and regimes of the prison. When children attend schools that place a greater value on discipline and security than on knowledge and intellectual development, they are attending prep schools for prison. (pp. 38-39)

The assertion of Davis that schools put more emphasis on discipline and order than they do on education converges with Foucault's (1977a) study of Bentham's panopticon in the manner that teachers and school administrators utilize discourses of power to describe, pathologize, criminalize, and otherwise sort. To Foucault, institutions such as education are utilized as tools of normalization to form and mold docile bodies. Within this framework, schools are sites of discipline, but they also sort according to differences, such as gender, disability, sexuality, nationality, race, and any other differences outside

of what is considered as normal. These differences derived from the productive, but violent normalization/abnormalization processes fuel the phenomenon of the school-to-prison pipeline. These processes of normalization include pathologizing students and criminalizing their behavior. The Trump Administration has done nothing to stop this process and school choice would continue the normalizing tendencies of power and governmentality. Yet the Obama and Clinton administrations have largely held these systems in place as well. These issues have persisted for many decades under both Democratic and Republican administrations. These issues should be looked at in an intersectional way, which is what I address next.

Intersections of Race and Disability. It might be appropriate at this time to follow the instructions of Erevelles (2014), who encouraged those concerned with the issues of the school-to-prison pipeline to attempt to understand the policy making that has occurred through the constructs of race, gender, sexuality, and ability/disability. The policymaking under the direction of Secretary DeVos on disproportionate representation and disparate discipline demonstrates the interplay between the social constructions of race and disability. Students of color stand at a higher chance of placement in special education than their White peers (e.g., Artiles et al., 2005; Bal et al., 2014; Harry & Klingner, 2006). Students with designated disabilities experience higher rates of suspension than students without those designations (e.g., National Council on Disability, 2015; Skiba & Peterson, 2000). Students of color with disabilities show higher rates of suspension than White students with disabilities (e.g., National Council on Disability, 2015; Vincent et al., 2012). Someone in charge of such an important agency within the federal government like Secretary DeVos should, if nothing else, grapple with the reason

that other administrations set policies in place on discipline and disproportionate representation and discuss them with key stakeholders, such as the National Federation for the Blind, COPAA, and the NAACP (e.g., Malik, 2018, June 1). But to fail to do so based on the claim that these “leftist” organizations “fail to understand” their actions (e.g., Lowry, 2017, January 18) is ignorant and maintains problematic systems of domination, systems of domination that exclude, under-educate, and miseducate oppressed groups. The paragraphs that follow include an explanation of the ableist discourse of President Trump.

The Ableist Discourse of President Trump. The institutionalization of people with disabilities, including those with mental health issues, needs to be understood as closely related to the school-to-prison pipeline. In the mid-1960s, psychiatrist Thomas Szasz (1973) argued against mental asylums by comparing them to prisons. Szasz held that people in mental asylums were being detained against their will like prisoners, but unlike prisoners, had not been convicted of a crime. As much as Szasz’s argument is out of touch today as district attorneys rely on plea deals to gain a conviction of predominantly poor people of color (Alexander, 2012), Szasz’s idea does emphasize that for much of the history of the United States, people with mental health issues and other disabilities were placed in institutions, which share many similarities with prisons.

In a discussion on school safety, President Trump attributed the problem of mass shootings due to a lack of mental institutions in the United States (Trump, 2018, February 22). The president claimed that states did not want mental health institutions, because communities did not want to pay for them. President Trump was referring to the deinstitutionalization that occurred under neoliberal governments in the 1970s,

particularly under Governor Rockefeller of New York and Governor Reagan of California (Trent, 1994). To President Trump and his White racial lens that embraces a nostalgic past (DiAngelo, 2018), the president can find the solution through institutions for those with mental health issues and intellectual disability. President Trump did not discuss the deplorable conditions and abuses within institutions (e.g., Rothman & Rothman, 2009; Trent, 1994). Instead, he cast people with disabilities and people who are homeless as violent criminals, one of the problematic stereotypes of people with disabilities in the media (Bogdan & Knoll, 1995). Placing the blame on certain groups, including those with disabilities, is an infamous fascist ploy. In fact, these groups are more likely to be victims of violent crime rather than criminals (Canadian Mental Health Association, 2020).

The ableist rhetoric of President Trump, with its invalid assumptions that suggests people with disabilities are criminals, perpetuates the thinking of eugenicists who attributed criminal behavior to genetic defects (Gould, 1996). Rather than understanding the social, political, and economic conditions of the 1920s when eugenics was at its height, Eugenicists attributed criminality as an inherited genetic trait that should be eradicated by sterilizing those perceived to have genetic defects (Nelson, 2012; Stubblefield, 2007). President Trump's ableist verbosity serves to pathologize mass shooters to deflect from regulating the selling and manufacturing of guns and ammunition, but it also serves to undermine the role of whiteness and patriarchy in the mass shootings that have occurred in the U.S. over the decades. Rather than deeply reflect on issues related to White supremacy, President Trump labeled the White gunman as akin to a psychopath, which enabled the president to attribute the shooting to an

individual rather than to a group, mainly the growing numbers of White fascists around the world, of which he is part. One of the reasons that Trump should be considered a fascist is because he scapegoats certain groups. In particular, he has criminalized youth from Latin American countries and their parents.

The Criminalization of Youth from Latin American Countries and Their Parents

Among the most violent domestic policies that the Trump Administration has implemented has been its complete intolerance for immigrants to the United States from Latin American countries. As I discussed in Chapter 1, Donald Trump began his bid for presidency by going down the escalator in Trump Tower and declaring Mexican immigrants to be criminals and rapists (Washington Post Staff, 2015). As I discussed in Chapter 4, the detainment of children, their separation from their parents or family members, and the administration of psychotropic medication without parental consent are just some of the dehumanizing policies the Trump administration has implemented for immigrants of color in the United States. (Johnson, 2018, July 30). The zero tolerance family separation policy aimed at deterring asylum seekers and illegal immigration from Central and South America is quite obviously dehumanizing as it disassembled the family unit, placing thousands of children, some younger than a year old in detention centers and their parents or relatives in separate detention centers (Associated Press, 2019, October 25), which ignored the Flores Settlement of 1997 (Johnson, 2018, July 30). Families were treated as if they were violent criminals when they were often the ones fleeing violence, violence that stemmed in part from U.S. intervention in Latin American countries to push through transnational capitalism and neoliberal indoctrination (see e.g. Chomsky, 2002; Klein, 2007). Any form of institutionalization accompanies atrocious conditions

including a lack of stimulation, comfort, and hygiene (Goffman, 1961; Blatt & Kaplan, 1966). The people confined to what Goffman called total institutions, or what have been called immigration detention centers, have been susceptible to viral outbreaks, such as the mumps and Covid-19 (Lee et al., 2020, June 4; Leung et al., 2019, August 30). There have been many deaths reported in these detention centers and while in the custody of Immigration and Customs Enforcement or Customs and Border Protection (Rappleye & Riordan Seville, 2019, June 9).

The criminalization of immigrants of color in the United States directly connects to the school-to-prison pipeline. The oppressive policies of former Attorney General Sessions that include taking away employment resources and rescinding guidance to protect against discrimination from national origin (Kalmbacher & Keller, 2018, July 3) could directly lead to economic destitution for families. Children of working age might have to drop out of high school to help their parents navigate through the system and to find employment themselves, which might include working in illegal pursuits. If crime is something that the United States wants to decrease, there needs to be supports in place to ensure that new arrivals to the country can adequately provide for themselves and their families. These oppressive policies have ties both to fascism and the ethnicity paradigm.

Xenophobia and the Ethnicity Paradigm. In critiquing the ethnicity paradigm as being part of a particular place and time period, Omi and Winant (2015) explained that the paradigm was at its height when a large influx of immigrants from southern and eastern Europe immigrated to the United States in search of jobs and a better life. The influx of people from these regions into the United States led, in part, to a xenophobic scare that was embedded in the eugenics movement (Gould, 1996; Trent, 1994). The

lobby for the racial hygiene of *Americans*, or White people, based on false notions of intellectual inferiority, deviancy, and promiscuity of non-White populations persuaded lawmakers, many of whom agreed with the arguments, to pass the Immigration Act of 1924 (Gould, 1996; Trent, 1994). In order to maintain the racial purity of White people (Stubblefield, 2007), many people with disabilities became warehoused in institutions and asylums (Trent, 1994). Eugenicists in the United States helped the Nazis to draft their racial hygiene laws in the 1930s (Irons, 2006). These are very specific fascist tendencies of the U.S. over the previous decades. These discourses continue into the present day with far-right policymakers, such as former Attorney General Sessions.

In 2015, then Senator Sessions lamented to Steve Bannon of Breitbart News about the influx of immigrants to the United States and called upon lawmakers to pass immigration restrictions similar to the Immigration Act of 1924 (Kendi, 2019). Former Attorney General Sessions explained that after the passage of immigration restrictions, the *melting pot* did its job. He told Bannon, “we then assimilated through to 1965 and created the solid middle class of America with assimilated immigrants. And it was good for America” (as cited by Kendi, 2019, p. 62). Former Attorney General Sessions along with his protégé, Stephen Miller, were the architects of the Trump administration policies that orchestrated the ICE assault on illegal immigrants and the zero tolerance policies that separated children from their families (Foley & Planas, 2018, November 7; McKay, 2018, June 19).

Among the most brutal and inhumane trends of the present administration involved the criminalization of people attempting to cross the U.S.-Mexican border. At the center of this issue involved the separation of children from their parents and their

placement in detainment facilities families (Foley & Planas, 2018, November 7; McKay, 2018, June 19). These facilities are very much total institutions as Goffman (1961) defined them. The deplorable conditions within these detention facilities coincided with illegal policies where parents did not provide consent for staff to administer psychotropic drugs to the detained children in their custody (Johnson, 2018, July 30). Yet it is important to emphasize that inhumane policies directed toward the United States' southern neighbors is nothing new.

Such policymaking began very early as a result of the passage of the Immigration Restriction Act of 1924. From the 1920s on, the policies toward immigrants from Mexico and Latin American countries has ebbed and flowed from negative to positive while the overall sentiment has been negative and unwelcoming. An example of negative sentiment occurred in 1928 when the United States entered a Great Depression (Bailyn et al., 1985). Under President Franklin D. Roosevelt, Latinx people, both immigrants and U.S. citizens, who resided predominantly in the southwestern United States were repatriated to Mexico (Burke, 2017). This policy resulted from discourse that scapegoated Latinx laborers as taking the jobs of White people (Burke, 2017). During World War II, the United States needed laborers to help in agriculture (Bailyn et al) and President Roosevelt enacted the bracero program, an agreement between the United States. and Mexico that encouraged Mexican farm laborers to the United States. The policies toward immigrants also included the education of their children in U.S. schools.

Schools have predominantly acted as tools of assimilation toward immigrant students (Rubin, 2014). Similar to the treatment of Native Americans in boarding schools, in many times and locations, Spanish-speaking students were not allowed to

speak English on school grounds (e.g., Anzaldua, 1987). At times, it has been commonplace for administrators to use corporal punishment on students who spoke their native language at school (Anzaldua, 1987). More recently, state policies in Arizona and California gutted bilingual programs in support of English immersion programs (Artiles et al., 2005; Sullivan, 2011), although this was recently reversed in California in 2016 by the passage of Proposition 58, which reversed the restriction imposed in 1998 through the passage of Proposition 227. I hope that through this narrative that discusses the multiple layers present in systems of domination, the preceding paragraph showed the separate, but interconnected systems of oppression based on differences, such as race, gender, ability, and residency status. These beliefs are violent and have ties to White extremism, which I will discuss next.

Conservative Ties to White Extremist Discourse. The research of Daniels (1997) suggests that there is an interplay between the discourse of White extremist organizations in their periodicals like *The Klansman* and *Thunderbolt* and conservative and mainstream discourse. For instance, the research of Hernstein and Murray (1994) in their work *The Bell Curve* attributed lower IQ scores of African Americans to inherent inferiority and advocated against civil rights legislation, such as racial integration. According to Daniels, the findings of Hernstein and Murray influenced the racist imagery and discourse in these White extremist papers. According to Leonardo (2009), Hernstein and Murray *scientized* (p.29) the racial inferiority of African Americans, basing their claim on the lower IQ scores of African Americans. Likewise, White extremist periodicals contain imagery and discourse that depicted African American men as criminals and that rendered African American women as promiscuous and dependent on

welfare, discourse similar to that of President Reagan, President Trump, and former Attorney General Sessions. The news media and politicians have also mischaracterized African Americans this way. The media, especially through conservative viewpoints have ways to sanitize the messages of the White extremists into the mainstream. Many educators may hold these White extremist views and it could be the reason that, for instance, disparate punishment and disproportionate representation exist. It is up to scholars, reporters, educators, and cultural workers of all kinds to point out the racism hidden in the sanitized versions of these messages. Some of the sanitized messages might hide the problems of mass incarceration in the United States, which I will discuss next.

Mass Incarceration

On December 21, 2018, President Trump signed the First Step Act into law (Lartey, 2018, December 21). This was a law aimed at prison reform and working on ending the practice of mass incarceration in the United States (Lartey, 2018, December 21). As important as it was to pass the legislation, it might be necessary to be reminded of Foucault's claim that prisons have been in a continuous state of reform since their inception (Davis, 2003; Foucault, 1977a). Reports have surfaced that President Trump's Department of Justice under the current Attorney General William Barr have failed to implement the spirit of the law and is instead making recidivism more common (e.g., Davie & Medino, 2020, January 30). It is also of importance that states can block ex-felons from voting (Stockman, 2018, May 11), an essential aspect of a representative democracy.

The claim made by Davis (2003) that prisons should be abolished because they maintain structures of racism and intersect with gender in ways that amount to sexual

assault needs to be heeded. Davis (2003) contended that women of color were the fastest growing demographic of those confined to prisons. The literature on the school-to-prison pipeline also shows a growing trend in young girls of color being disciplined and caught in the pipeline (Annamma, 2018; Crenshaw et al, 2015; Zaveri, 2020, February 27). The research of Crenshaw et al. suggested that African American girls have higher disparities in suspension than African American boys when compared with White boys and girls. She highlighted that the data distinguishes their issues from those of males that consists of sexual assault, not feeling heard in school, familial obligations, and issues with facing pregnancy.

Limitations

This study contains numerous limitations. A study is only as credible as the researcher conducting it. I am an ontologically and epistemologically curious White man who cares deeply about the problems of hegemonic processes, systems of domination, exploitation, racial apartheid, and exclusionary practices. Through my positionality and my social lens, I must remain humble as a researcher. I did not uncover Truth here. As Foucault (1977a) reminded scholars,

Truth isn't outside power, or lacking in power: contrary to a myth whose history and functions would repay further study, truth isn't the reward of free spirits, the child of protracted solitude, nor the privilege of those who have succeeded in liberating themselves. Truth is a thing of this world. (pp. 72-73)

The results of the present study should caution a more relativistic understanding of truth. I conducted a critical policy analysis of the Trump administration's policies that related to the school-to-prison pipeline. Using a critical lens that is deeply informed by critical

race theory and critical disability studies, the following study found that the harmful policies of the Trump administration perpetuated the school-to-prison pipeline. More careful studies are needed to continue to provide evidence that the innerworkings of federal and state government educational policies maintain a matrix of domination for oppressed groups.

This study covers a small moment in the present juncture, only slightly more than the first two years of the Trump administration. I cannot say with certainty that the present study captured every action the Trump administration took to help or hinder the school-to-prison pipeline. I directed my searches more to the actions of Secretary DeVos and the policies she implemented at the Department of Education. Certainly, more deregulatory policymaking occurred at the Department of Justice than I managed to capture, though I did manage to capture a great deal, thanks to the help of scholarly recommendations. Another limitation of the study is that it might prevent those just getting into the field of education from understanding that the Trump administration's policies are unique, but not novel. These policies have occurred in both Democratic and Republican administrations for over a century. I hope that the discussion of these issues in this chapter demonstrated that problematic policymaking has been occurring for much of this country's history.

Implications

The present study involved studying neoliberal, conservative ideology and policymaking as it pertains to the maintenance of the school-to-prison pipeline. One of the sources I utilized included testimony by Secretary DeVos before the House Labor and Education Committee (2019, April 10). The partisan formalities I witnessed involved a

scolding of Secretary DeVos by the Democratic members of congress and a tolerant and forgiving appraisal from Republican members. These exchanges epitomized a political atmosphere that is deeply divided and, unless the discussion is based on austerity of the wealthy and large corporations, unable to compromise.

The implications of this study must ultimately question the neoliberal and conservative meaning of freedom. The meaning of freedom is important, as the school-to-prison pipeline presently denies significant numbers of students of color and students with disabilities an equitable education and incarcerates millions of people in the United States, both signifiers that relate to freedom to many sides; but perhaps not as much to conservatives who attribute freedom to the unfettered processes of capitalism (Kaufman, 2003). Conservative values also stress freedom from government interference (Kaufman, 2003), which conservatives, such as Secretary DeVos, espouse. Yet this conception of freedom significantly hinders the upward mobility of poor people, people with disabilities, LGBTQ people, and people of color through the dismantling of affirmative action, housing, nutritional assistance, and healthcare, all of which require the effective use of government programs. The conservative meaning of freedom of unconstrained capitalism ignores the dominance of capitalist processes, such as the hierarchical relations that many jobs have, the overwhelming wealth of predominantly White CEOs in transnational corporations that can exploit labor pools overseas with little if any recourse, and the wealth gap between the predominantly White elite and the 99% (see Kaufman, 2003). At the very least, this study needs to be looked as a model to deconstruct conservative and liberal ideology that perpetuates the status quo, meaning it fuels racist phenomena, such as the school-to-prison pipeline.

Those in favor of civil rights and social, political, and economic equity must make their case. They must do so in a reflective manner that considers the effectiveness of the approaches they utilize. When Secretary DeVos testified before the House Labor and Education Committee on April 10, 2019, those who opposed Secretary DeVos strongly criticized her administration and enabled her to play the gentle, but valiant harbinger of conservative values. The harsh criticism from democratic members of congress that prevented Secretary DeVos and other conservatives from responding may play more into the hands of the conservative side of the aisle. The formalities that exist, particularly the five minute time questioning limit, burdened committee members and allowed Secretary DeVos to cunningly evade questions, even straight forward ones directed her way. The political left needs to find a solution to these evasive tactics and prevent the right from playing the victim. I think it needs to come by deconstructing the conservative argument, exposing its flaws and the weak logic and facts it relies upon, and make every attempt to use that approach to stamp the conservative argument out of existence.

When protesters disrupted a speech made by Secretary DeVos at Harvard University's Kennedy School of Government on September 28, 2017, bearing banners that labeled her as a "White supremacist" and informing her that "our students are not for sale!" (Hess & Addison, 2017, October 2) they were calling her out on her support of racist policy. Yet to conservatives, the protesters represented a "mindless mob" (Hess & Addison, 2017, October 2, Title). By looking at the conservative voices in the literature, the support is heavy on ideology and is lacking in fact. For instance, mob is a very loaded term that implies a disorderly or unruly gathering. The term mindless suggests that the students were not thinking of the consequences of their actions, failed to understand what

they were doing, and were essentially puppets of what conservative discourse would call the liberal establishment. In a time where the first amendment is being upheld in institutions of higher education to bring in White nationalists to speak, the question then becomes, can protesters expose that racism?

The conservative approach to education undoubtedly embodies problematic values that produce social division and educational inequity. Yet the way that Secretary DeVos can come across as a kind-hearted woman with Christian values who speaks using words that many can understand, appeals to a lot of everyday people whose main focus is not public education. The left must continue to protest, but it also must speak truth to power from a frame of reference that embodies the values of human rights through environmental, economic, political, and social justice. The left must expose the *chains of illusion* (Fromm, 1962) of conservatism, but it must do so in ways that are understandable to everyone. So, protest, disrupt, and rebel, but also be ready to articulate the reason for your actions.

Fanon (1967) articulated that “a given society is racist or it is not” (loc. 1041). Studying some of the issues a bit more at the locational level, one can also ponder whether schools and detention centers are racist. If one comes to the conclusion that these institutions are racist, then one can observe the racist policies that these institutions are presently implementing. One can study the discourse of the policies and likely come to the conclusion that the racist practices in institutions such as schools continues to occur, because as the title of Carter et al. (2017) suggests, “you can’t fix what you don’t look at”. In this political landscape, it is important to remember that Democratic president Bill Clinton signed a crime bill into law in 1994 that intensified mass incarceration in the

United States (Alexander, 2012; Hoffman, 2014). And as much as President Obama used his exceptional oratory to poignantly express that Trayvon Martin could have been him thirty-five years ago (Cohen, 2013, July 19), his administration prioritized the bail out of Wall Street banks over the millions who had to foreclose on their homes during the Great Recession of 2008 (Dayton, 2016, December 14). As stringent as he was on the enforcement of civil rights in education (e.g., Civil Rights Roundtable, 2018, November 15; Waldman, 2018, June 21), President Obama also expanded the use of drone attacks, resulting in many civilian casualties in U.S. wars abroad (Friedersdorf, 2016, December 23). As much as he sang “Amazing Grace” during a funeral resulting from a mass shooting in a church by a White gunman (Phelps, 2015), his policy on immigration through mass deportations made him known as the “deporter in chief” (Barron Lopez & Thompson, 2019, July 12). And as much as he exposed the issue of mass incarceration by visiting a prison as a sitting president (Horsley, 2015, July 16), President Obama also chastised the African American community, placing the blame on them for the problems that occurred in their communities, rather than the problems of institutionalized racism, segregation, and unrepentant poverty (Alexander, 2012). Whether under Democrat or Republican administrations, the authority of governments are grounded in acts of violence (Morrow & Brown, 1994).

It appears highly unlikely to me that U.S. institutions can solve the predominance of systems of oppression in the country. To do so would require shared values of equality that do not exist, inclusion and integration that so often leads to White hostility, and reparations for the catastrophic and traumatic policies of dehumanization of the past. In a speech given at Penn State University in 1965 to urge legislative action on voting rights

and arguing that laws will not stop racism in the U.S., Dr. Martin Luther King Jr. expounded, “It may be true that the law cannot make a man love me, but it can restrain him from lynching me, and I think that’s pretty important also” (King, 1965, para. 29). At this juncture, most civil rights laws basically consist of discourses that profess equity, but lack any type of rigorous implementation (DiAngelo, 2018). In order for laws to do anything to help in the area of civil rights, they must be rigorously enforced by Democrats and Republicans, Independents, Libertarians, and self-avowed Socialists alike. The law cannot withstand one political party who makes attempts, half-hearted as they might be, to enforce the law while the other party guts it until there might as well not be a law to begin with. Something has to give here. Our system is not working as it should at this point in time.

Practical Applications

The present study has contributed to the research literature, because it provides evidence that the Trump administration has largely followed the policymaking and ideology of its neoliberal predecessors, which include both Democrat and Republican administrations. Just as with previous administrations, The Trump administration justified its policymaking through colorblind racist discourse. It has also maintained and expanded the policies of the school-to-prison pipeline through policies that promote inequitable funding structures, racial discrimination resulting from disproportionate representation and disparate discipline, and intolerance toward Latinx and immigrant students, students with disabilities, and LGBTQ students. The upcoming paragraphs will expand on the ways that the present study was applied using a social constructionist lens.

The present study demonstrates the way the processes by which symbolic reality legitimates subjective knowledge through institutions (Berger & Luckman, 1966). It has been written with the intention of raising consciousness as social constructionists stress (Hacking, 1999). The discourse in what Berger and Luckman called “knowledge limited to pragmatic competence in routine performances” (p. 44) stratifies society by what Kliever (1998) deemed the *differences that matter*. The present study calls on people to be reflexive, to study their actions, and get beyond the mundane everyday workings of social reality by actively and continuously critiquing it.

Using his social constructionist leanings, philosopher John Searle (1995) reminded that:

The world divides up the way we divide it, and if we are ever inclined to think that our present way of dividing it is the right one, or somehow inevitable, we can always imagine alternative systems of classification. (p. 160)

Searle’s ideas ascertain that the school-to-prison pipeline is a human invention. It is not the metaphorical stars in the sky, but more like a metaphorical screwdriver. Using the concept of intersectionality, the present study demonstrates ways that capitalism, racism, sexism, ableism, paternalism, homophobia, and the rest are deeply embedded in government policy. Having said that, there are practical ways to improve the school-to-prison pipeline through historical, ironic, reformist, rebellious, and revolutionary ways (Hacking, 1999).

The present study can be applied historically, because it shows the continuation of racist policy that maintains a White supremacist social system and exposes systems of domination that harms the disenfranchised. Through the passage of time, a historian

could use the present study to help them make sense of this particular time period. It is an example of problem-posing, an important tool in critical pedagogy that exposes systems of domination that have been around for much of the history of the U.S. and continue to be maintained. These problems are not easily fixed, nor are they static. The pedagogical tools of problem posing and dialogue should be used to expose preservice educators to social problems such as the issues that sustain school-to-prison pipeline. These examples demonstrate the ways that the present study is historical in nature.

The present study also exposes irony. Education should be the pursuit of freedom through the journey toward achieving excellence, yet it is not. It is a normalizing, sorting mechanism in the Foucauldian sense. The contents of the present study demonstrated that zero tolerance policies were enacted to foster a safe learning environment but did the opposite. It sought to expose the ironies of the call for states' rights, which tend to destroy civil rights policies in a federalist system that exists to provide equal protection under the law for every citizen. Similarly, the present study has exposed the way that Secretary DeVos uses language of equality to show that she supports civil rights, while she has also attempted on multiple occasions to dismantle the same civil rights protections she claimed to hold so dear. These are just a few of the reasons that the present study has exposed irony in a manner consistent with social constructionism.

The present study suggests some reforms that could ease the pipeline phenomenon, such as the stiff enforcement of affirmative action policies, maintaining the education policies of the Obama administration on disparate discipline and disproportionate representation, and the implementation and passing of decarceral legislation. At the level of the school, administrators and teachers can work to find viable

alternatives to zero tolerance policies, such as positive behavioral interventions and supports, restorative justice, or threat assessment. Federal and state initiatives need to improve the diversity of teaching staff and administration. Progress also needs to be made to expand and improve bilingual and other language development support programs and to improve the education of students receiving special education services. These policies should take into account the workings of intersectionality to make every attempt to include everyone, despite their social marker.

The present study is an act of rebelliousness that encourages acts of rebellion. Its intent is to rally dissent through exposing systems of domination. In his essay “Existentialism is a Humanism,” Sartre (1946) explained the way that people work as social agents. In *Being and Nothingness*, he (1943/1984) codified the way that certain people deal with social constraints and authority. I want for educators and cultural workers to use their sense of being to continually work towards what Sartre would call *being for others*. Right now, a lot of work is being expended to maintain the present system. In my opinion, we need to work on undoing it and that might require courageous acts of rebellion, such as activism and protest.

The present study should be read as a piece written to facilitate radical change in our country. The change I want to bring forth is radical, because it encourages the government and the citizens in it to work on projects that bring about social, political, economic, environmental, and educational equality. Throughout his life and writings, Foucault remained very skeptical of all forms of discourse, including discourse about social justice. Dewey (1944) expounded that U.S. society, like every other society, is unequal. Can a government ever remain free of violence? I am not convinced. But I think

that governance could be much more humane than it is presently. Our government needs a change of priorities from that of helping capital to that of humanizing the oppressed.

Thus, the activity of people must work to reconstruct a social order in our everyday endeavors, in our professional endeavors, in our scholastic endeavors, as well as in our athletic and artistic ones. The present practices of exclusion through segregation of all kinds must be confronted. White people must stop isolating themselves socially and work to build personal and professional relationships with people of color. It is through looking at the world through understanding the conditions and experiences of the oppressed (Freire, 1995) that we can begin to understand the brutal implications for the way society presently works. According to Harding, “‘starting from marginalized lives’ becomes part of the method of maximizing value-neutral objectivity” (p. 73). Critical theory, critical race theory, critical disability studies, and feminist approaches might help in the paradigmatic shift that needs to take place away from the apparent marriage between ethnicity paradigm and laissez-faire racist approaches that predominate in the United States today and move more toward a paradigm of racial formation.

I hope that scholars can use the present study to help understand educational policies that all-too-often get ignored in the media in favor of foreign policy, international diplomacy, and the economy. I have been thankful for the reporting on education that has enabled me to uncover all of the current events that have occurred over the first two years of the Trump administration, particularly those that relate to the school-to-prison pipeline. I would like to read, listen to, and watch more in-depth reporting of national educational issues and for education to play a more prominent role in the cultural landscape of the United States. The media can be problematic in so many ways, but it can

also serve as an asset to inform the public about the importance of education in society. More reporters are needed to inform the public on educational issues. Parents send their children off to school Monday through Friday. They need to be informed about the laws in place to educate and protect their children. A more informed public might help in shifting the social landscape. If nothing else, it will expose the numerous problems in our educational institutions, especially if the reporting has commitments to expose injustices and promote educational equity in our education system through frameworks such as critical race theory. Over the long term, I would like educators to understand the importance of policy in everyday classroom experiences. Educators should judge whether a policy maintains markers of inferiority and if it does perpetuate the matrix of domination through intersectionality, to voice their opposition to and resist the implementation of the policy. Those in the educational field of teacher preparation should expose their students to conservative, liberal, and radical viewpoints, exposing the flaws within all of these perspectives. They should discuss with students about the concepts discussed throughout this dissertation such as critical race theory, expose students to the school-to-prison pipeline, and dialogue with students about educational practices that maintain the pipeline.

I am presently writing in an unprecedented time in U.S. history. Covid-19 has proven to be a shock to the country's social, political, educational, and economic systems. At the present time, the governors in many states have ordered all schools to shut down. The Native American population in western New Mexico accounts for nearly 56 percent of all covid-19 cases in the state (New Mexico Department of Health, 2020). The virus has hit the Navajo nation particularly hard (Groetzinger, 2020, April 22). In

education, the lack of internet access in the Navajo reservation in states such as New Mexico and Utah have created a barrier to remote instruction (Groetzinger, 2020, April 22). The federal government has declared national emergencies in many states and invoked the Defense Production Act to help get needed supplies, such as ventilators to hospitals. Meanwhile, President Trump signed a \$2.2 trillion relief package for individuals, small businesses, and large corporations. As Klein (2007) reminded, based on neoconservative economist Milton Friedman, the time for drastic change comes after a shock to the system, which she named the *shock doctrine*. Over the last five decades, shocks to our system have accompanied neoliberal policy implementation. This present moment offers an opportunity to turn neoliberal thinking into radical thinking by addressing economic inequality, abolishing privatized healthcare, getting nonviolent inmates out of prisons, and passing legislation to make the society more equitable for everyone.

Future Research

It is important to consider the totality of the conservative argument on issues, such as education. For instance, Secretary DeVos considers the Department of Education to be akin to a big bank, due to its oversight of student loans (Stratford, 2019, December 3), ignoring that tuition hikes have occurred through the present neoliberal time period. Her administration has obstructed policies that paid students back for the terrible for-profit colleges that scammed them from an education (Camera, 2019, April 10). Secretary DeVos has also made it more difficult for those who qualify to receive loan forgiveness, where there is a lawsuit pending by the American Federation of Teachers (2019).

Although they do not necessarily pertain to the present study, they are still important considerations to make to determine the qualifications and ideology of Secretary DeVos.

Some conservatives contend that the left fails to understand their vision for the country. Moving education to the free market and deregulating federal policy is not difficult to grasp. In response to the assertion that “if you’re a religious conservative, the only way to be ‘good enough’ to earn the respect of radicals is to change your beliefs” (French, 2017, February 8 para. 3), I would respond that the left does not want to change the religious beliefs of conservatives. Many religious scholars and activists have argued vehemently for equality and civil rights (Washington, 1986; West, 2004). Conservatism and its uncompromising claims for states’ rights and deregulation make it impossible to have any dialogue. I can point out that these policies are racist, and they can use White fragility to play the victim, deflect, and maintain their problematic position. It is a precarious position, undoubtedly, but that is where we are presently at in the United States and I suppose it needs more study.

The conservative claim that education spending has continued to increase with little to no results is the crux of the argument for school choice. According to Stossell (2018, May 9), “taxpayers spend \$634 billion a year on it. It’s laughable that activists claim conservatives ‘cut’ education spending. Funds per student tripled over the past several decades while test scores stayed flat” (para. 6). Spending close to \$13,000 per student per year should yield better results. It is essential that the federal government play a stronger role in determining where both federal and state monies are going to create more equitable schools so that the United States can have a humanizing education system. It might be a good exercise to better monitor the way the funding gets allocated

to states and to better ensure that states utilize the funds to fund public schools in an equitable manner. Cuts to the Office for Civil Rights and k-12 education, as Secretary DeVos has attempted to do every year of her tenure, likely will not produce equitable funding measures (Office for Civil Rights, 2017; Office for Civil Rights, 2018). The proposed staff reductions might make the situation in public education worsen, which would justify further cuts. That appears to be the cyclical aspect of neoliberal administrations.

Future educational research, both that conducted in the classroom and otherwise, should take into account the impacts of state and federal law and regulations on the classroom experience. Educational research also should emphasize the ideology of the policies and the way those policies can benefit or harm students. The actions taken at the state and federal level are felt by educators and students. Future educational research can focus on those experiences through both qualitative, quantitative, and mixed approaches.

Conclusion

In order to justify a position that advocates for civil rights, it is up to those who want for an equitable society and are clear-headed enough to think social justice cannot happen through neoliberalism to expose the problematic ideology and logic of the conservatives. To expose the flaws of conservative ideology, it is up to scholars to deconstruct it. To deconstruct the propaganda of the right, it must be studied with rigor. It needs to be explained to students the reason that the implementation of civil rights law is a crucial role of the federal government.

Rather than understanding schools as sites of mere social reproduction (Bowles & Gintis, 1976), Giroux (2001) has convinced me to believe that schools have the potential

to be sites of radical possibility. They do not have to be this way. Teachers can be resistive to these mechanisms of social sorting and stratifying, but it would be much easier to transform schools with the productivity of governmentality. If schools are going to be effective in helping educate other people's children (Delpit, 1995), the focus needs to be on helping all children live happy, healthy, and free lives where they get to understand themselves, their strengths, and develop into the adults that they want to be.

References

- Advancement Project. (2005). *Education on lockdown: From the schoolhouse to the jailhouse*. Advancement Project.
https://b3cdn.net/advancement/5351180e24cb166d02_mlbrqgxlh.pdf.
- Alexander, M. (2012). *The new Jim Crow: Mass incarceration in the age of colorblindness* (Kindle Ed.). The New Press.
- Allen, J. D. (1986). Classroom management: Students' perspectives, goals, and strategies. *American Educational Research Journal*, 23(3), 437–459.
- Allen, K, Cornell, D., Lorek, E., & Sheras, P. (2008). Response of school personnel to student threat assessment training. *School Effectiveness and School Improvement*, 19(3), 319–332.
- Allen, Q., & White-Smith, K. A. (2014). “Just as bad as prisons”: The challenge of dismantling the school-to-prison pipeline through teacher and community education. *Equity and Excellence in Education*, 47(4), 445–460.
- Alliance for Excellent Education. (2007). *Saving futures, saving dollars: The impact of education on crime reduction and earnings*.
- American Civil Liberties Union. (2018, May 22). ACLU comment on education secretary DeVos remarks about reporting undocumented students to ICE. *ACLU*.
<https://www.aclu.org/press-releases/aclu-comment-education-secretary-devos-remarks-about-reporting-undocumented-students>
- American Civil Liberties Union. (2008). *Locating the school-to-prison pipeline*. *ACLU*.
https://www.aclu.org/files/images/asset_upload_file966_35553.pdf.

American Academy of Pediatrics. (2003). Policy statement: Out-of-school suspension and expulsion. *Pediatrics*, *112*(5), 1206–1209.

AFT. (2020). *American Federation of Teachers*. <https://www.aft.org/>

Annamma, S. A. (2014). Disabling juvenile justice: Engaging the stories of incarcerated young women of color with disabilities. *Remedial and Special Education*, *35*(5), 313–324.

Annamma, S. A. (2015). Whiteness as property: Innocence and ability in teacher education. *Urban Review*, *47*, 293–316.

Anzaldua, G. (1987). *Borderlands: La frontera*. Aunt Lute Books.

Apple, M. (2006). *Educating the “right” way*. (2nd ed.). Taylor & Francis.

Aquinas, T. (1268/2011). On kingship to the king of Cyprus. In M. L. Morgan (Ed.), *Classics of Moral and Political Theory*. (5th Ed. Kindle Ed., p. locs. 17975-18046). Hackett Publishing Company.

Aristotle. (350 BCE/1992). *The politics*. Penguin Classics.

Arraf, J. (2018, March 29). Yazidis remain in fear on Iraq’s Mount Sinjar after attempted genocide. *NPR*.

<https://www.npr.org/sections/parallels/2018/03/29/597616117/yazidis-remain-in-fear-on-iraqs-mount-sinjar-after-attempted-genocide>.

Artiles, A. J. (1998). The dilemma of difference: Enriching the disproportionality discourse with theory and context. *The Journal of Special Education*, *32*(1), 32–36.

- Artiles, A. J., Rueda, R., Salazar, J. J., & Higuera, I. (2005). Within-group diversity in minority disproportionate representation: English language learners in urban school districts. *Exceptional Children, 71*(3), 283–300.
- Artiles, A. J. (2009). Re-framing disproportionality research: Outline of a cultural-historical paradigm. *Multiple Voices for Ethnically Diverse Exceptional Learners, 11*(2), 24–37.
- Ashford, B. R. (2018, March 12). Here's why progressives hate Betsy DeVos. *Fox News*. <https://www.foxnews.com/opinion/heres-why-progressives-hate-betsy-devos>.
- Associated Press. (2019, October 25). More than 5,400 children split at border according to new count. *NBC News*. <https://www.nbcnews.com/news/us-news/more-5-400-children-split-border-according-new-count-n1071791>
- Baker, B. (2002). The hunt for disability: The new eugenics and the normalization of school children. *Teachers College Record, 104*(4), 663–703.
- Bal, A., Sullivan, A. L., & Harper, J. (2014). A situated analysis of special education disproportionality for systemic transformation in an urban school district. *Remedial and Special Education, 35*(1), 3–14.
- Balfanz, R., Spiridakis, K., Curran Neild, R., & Legters, N. (2003). High-poverty secondary schools and the juvenile justice system: How neither helps the other and how that could change. *New Directions for Youth Development, 99*, 71–89.
- Bailyn, B., Dallek, R., Davis, D. B., Donald, D. H., Thomas, J. L., & Wood, G. S. (1985). *The great republic: A history of the American people*. D. C. Heath and Company.
- Balingit, M. (2018, June 1). NAACP, special education advocates sue Betsy DeVos over her department's handling of civil rights cases. *The Washington Post*.

https://www.washingtonpost.com/local/education/naacp-special-education-advocates-sue-betsy-devos-over-her-departments-handling-of-civil-rights-cases/2018/06/01/bb8d8e44-65b7-11e8-99d2-0d678ec08c2f_story.html?utm_term=.d4aaea406dcd.

Ballotpedia. (2018). Federal policy on education, 2017-2018. *Ballotpedia*.

https://ballotpedia.org/Federal_policy_on_education,_2017-2018.

Barron-Lopez, L., & Thompson, A. (2019, July 12). Biden under fire for mass deportations under Obama. *Politico*.

<https://www.politico.com/story/2019/07/12/biden-immigration-2020-1411691>.

Bauer, S. (2018). *American prison: A reporter's undercover journey into the business of punishment*. Penguin Press.

Beals, K. (2014, February 21). The common core is tough on kids with special needs. *The Atlantic*. <https://www.theatlantic.com/education/archive/2014/02/the-common-core-is-tough-on-kids-with-special-needs/283973/>.

BBC News. (2017, June 1). Paris climate deal: Trump pulls US out of 2015 accord. *BBC News*. <https://www.bbc.com/news/world-us-canada-40127326>.

Beasley, W. (1983). Teacher management behaviors and pupil task involvement during small group laboratory activities. *Journal of Research in Science Teaching*, 20(8), 713–719.

Bell, D. A. Jr. (1980). Brown v. Board of Education and the interest-convergence dilemma. *Harvard Law Review*, 93(3), 518–533.

Bell, D. (1992). *Faces at the bottom of the well: The permanence of racism* (Kindle Ed.). Basic Books.

- Berger, P. L. & Luckman, T. (1966). *The social construction of reality: A treatise in the sociology of knowledge*. Open Road Integrated Media.
- Berlowitz, M. J., Frye, R., & Jette, K. M. (2017). Bullying and zero-tolerance policies: The school to prison pipeline. *Multicultural Learning and Teaching*, 12(1).
- Bernhard, J. K., Freire, M., Bascunan, L., Arenas, R., Rugeles Verga, & Gana, D. (2004). Behaviour and misbehaviour of Latino children in a time of zero tolerance: Mothers' views. *Early Years*, 24(1), 49–62.
- Bingham, R. D., Haubrich, P. A., White, S. B., & Zipp, J. F. (1990). Dual standards among teachers. *Urban Education*, 25(3), 274–288.
- Bill Bennett: Secretary of Education Betsy DeVos rescinding Obama-era school discipline policies is the right thing. (2018, December 19). [Video]. *Fox News*.
<https://video.foxnews.com/v/5981542274001/#sp=show-clips>.
- Blackmon, D. A. (2008). *Slavery by another name: The re-enslavement of black Americans from the Civil War to World War II*. Anchor Books.
- Blatt, B., & Kaplan, F. (1966). *Christmas in purgatory*. Allyn and Bacon.
- Blumer, H. (1969). *Symbolic interactionism*. Prentice Hall.
- Board of Education v. Rowley*, 458 U.S. 176 (1982).
- Bogdan, R., & Knoll, J. (1995). The sociology of disability. In E. L. Meyen & T. M. Skrtic (Eds.) *Special education and student disability, an introduction: Traditional, emerging, and alternative perspectives* (4th ed., pp. 675–711). Love Publishing.

Bonilla-Silva, E. (2014). *Racism without racists: Color-blind racism and the persistence of racial inequality in the United States* (4th ed.; Kindle ed.). Rowman & Littlefield.

Botel, J. (2018). Memorandum *Department of Education*.

<https://edlabor.house.gov/imo/media/doc/Title%20IV-A%20Guns%20Memo.pdf>.

Bourdieu, P. (1986). The forms of capital. *Marxist Internet Archive*.

<https://www.marxists.org/reference/subject/philosophy/works/fr/bourdieu-forms-capital.htm>.

Bourdieu, P., & Wacquant, L. J. D. (1992). *An invitation to reflexive sociology*. (eBook).

The University of Chicago Press.

Bowles, S., & Gintis, H. (1976). *Schooling in capitalist America: Educational reform and the contradictions of economic life*. Haymarket Books.

Brieschke, P. A. (1989). The surprise side of policy analysis: A case study. *Policy Studies Journal*, 18(2), 305–323.

Brown, E., Strauss, V., & Douglas-Gabriel, D. (2019, May 17). Trump's first full education budget: Deep cuts to public school programs in pursuit of school choice. *The Washington Post*.

https://www.washingtonpost.com/local/education/trumps-first-full-education-budget-deep-cuts-to-public-school-programs-in-pursuit-of-school-choice/2017/05/17/2a25a2cc-3a41-11e7-8854-21f359183e8c_story.html?utm_term=.7e51862680da.

Brown Goldstein Levy. (2020, February 6). National Federation of the Blind, COPAA, and NAACP settle lawsuit against United States Department of Education.

<https://www.browngold.com/settle-lawsuit-against-doe>.

Brown, J. H., & Clarey, A. M. (2012). The social psychology of disintegrative shaming in education. *Journal of Drug Education*, 42(2), 229–253.

Burke, M. (2020, June 5). “Get your knee off our necks”: At memorial for George Floyd, mourners condemn 400 years of racism. *Democracy Now*.

https://www.democracynow.org/2020/6/5/george_floyd_memorial.

Burke, M. (2017, February 28). “Decade of betrayal”: How the U.S. expelled over a half million U.S. citizens to Mexico in the 1930s. *Democracy Now*.

https://www.democracynow.org/2017/2/28/forgotten_history_in_1930s_us_deported.

Burke, M. (2020, February 6). Search underway for possible mass grave of African Americans killed in 1921 massacre. *Democracy Now*.

https://www.democracynow.org/2020/2/6/headlines/search_underway_for_possible_mass_grave_of_african_americans_killed_in_1921_tulsa_massacre.

Busch, M. (2018, June 3). NAACP is suing Betsy DeVos and the Dept. Of Education to halt a new Office for Civil Rights rule. *Bustle*. <https://www.bustle.com/p/naACP-is-suing-betsy-devos-the-dept-of-education-to-halt-a-new-office-for-civil-rights-rule-9279343>.

<https://www.bustle.com/p/naACP-is-suing-betsy-devos-the-dept-of-education-to-halt-a-new-office-for-civil-rights-rule-9279343>.

Butler, K. (2020, March-April). Of two minds. *Mother Jones*, 50–57.

Butcher, J. (2018, July 18). Betsy DeVos should get feds out of school discipline policy, withdraw Obama-era guidance. *The Daily Signal*.

<https://www.dailysignal.com/2018/07/18/betsy-devos-should-get-federal-government-out-of-school-discipline-policy-withdraw-obama-era-guidance/>.

Camera, L. (2018, December 18). White House: Scrap Obama-era school discipline guidance. *U.S. News & World Report*. <https://www.usnews.com/news/education-news/articles/2018-12-18/white-house-scrap-obama-era-school-discipline-guidance>.

Camera, L. (2019, February 28). DeVos makes \$5 billion school choice pitch. *U.S. News & World Report*. <https://www.usnews.com/news/education-news/articles/2019-02-28/devos-makes-5-billion-school-choice-pitch>.

Camera, L. (2019, April 10). Education department memo says DeVos can guide states on arming teachers. *U.S. News & World Report*. <https://www.usnews.com/news/education-news/articles/2019-04-10/internal-memo-says-betsy-devos-can-guide-states-on-using-federal-funds-to-arm-teachers>.

Campbell, N., & Partelow, L. (2019, March 11). Trump's education budget ignores needs of students and schools. *Center for American Progress*. <https://www.americanprogress.org/issues/education-k-12/news/2019/03/11/467178/trumps-education-budget-ignores-needs-students-schools/>.

Canadian Mental Health Association. (2020). The myth of violence and mental illness. *Canadian Mental Health Association*. <https://cmhadurham.ca/finding-help/the-myth-of-violence-and-mental-illness/>.

Cappellini, M. (2005). *Balancing reading and language learning: A resource for teaching English language learners, k-5*. Stenhouse Publishers.

- Carmon, I. (2016, August 11). Donald Trump's worst offense? Mocking disabled reporter, poll finds. *NBC News*. <https://www.nbcnews.com/politics/2016-election/trump-s-worst-offense-mocking-disabled-reporter-poll-finds-n627736>.
- Casella, R. (2003). Punishing dangerousness through preventive detention: Illustrating the institutional link between school and prison. *New Directions for Youth Development, 99*, 55–70.
- Carter, P. L., Skiba, R., Arredondo, M. I., & Pollock, M. (2017). You can't fix what you don't look at: Acknowledging race in addressing racial discipline disparities. *Urban Education, 52*(2), 207–235.
- Carter, S. & West, K. (2011). *Watch the throne*. [Album] Roc-A-Fella Records.
- Castillo, J. (2014). Tolerance in schools for Latino students: Dismantling the school-to-prison pipeline. *Harvard Journal of Hispanic Policy, 26*.
- Caton, M. T. (2012). Black male perspectives on their educational experiences in high school. *Urban Education, 47*(6), 1055–1085.
- Cavendish, W., Artiles, A. J., & Harry, B. (2014). Tracking inequality 60 years after Brown: Does policy legitimize the racialization of disability? *Multiple Voices for Ethnically Diverse Exceptional Learners, 14*(2), 30–40.
- Check, J. F. (1979). Classroom discipline-Where are we now? *Education, 100*(2), 134–137.
- Chen, G. (2008). Communities, students, schools, and school crime: A confirmatory study of crime in U.S. high schools. *Urban Education, 43*(3), 301–318.

- Children's Defense Fund. (2007). America's cradle to prison pipeline. *Children's Defense Fund*. <http://www.childrensdefense.org/library/data/cradle-prison-pipeline-report-2007-full-lowres.pdf>.
- Chiu, L. (1975). The student teacher and discipline problems. *The Journal of Educational Research*, 69(2), 69-72
- Chomsky, N. (2002). *Understanding power: The indispensable Chomsky*. The New Press.
- Chomsky, N. (2003). *Hegemony or survival: America's quest for global dominance*. Henry Holt & Co.
- Christle, C., Nelson, C. M., & Jolivet, K. (2004). School characteristics related to the use of suspension. *Education and Treatment of Children*, 27(4), 509–526.
- Civil Rights Roundtable. (2018). Trump administration limits civil rights protections for children and youth of color. http://www.ndrn.org/images/Documents/Issues/Juvenile_Justice/CRRT_Paper.pdf
- Cogshall, J. G., Osher, D., & Colombi, G. (2013). Enhancing educators' capacity to stop the school-to-prison pipeline. *Family Court Review*, 51(3), 435–444.
- Collins, P. H. (2009). *Black feminist thought: Knowledge, consciousness, and the politics of empowerment*. Routledge.
- Collaboration to Promote Self-Determination and National Disability Rights Network. (2018, November 27). Secretary Betsy DeVos. *CPSD & NDRN*. https://cqrcengage.com/anchor/file/oWJzLOyIw4H/CCD_Nov_2018_WIOA_Letter_Devos.pdf.

Coppins, M. (2018, June 19). The outrage over family separation is exactly what Stephen Miller wants. *The Atlantic*.

<https://www.theatlantic.com/politics/archive/2018/06/stephen-miller-family-separation/563132/>

Cornell, D. G., Gregory, A., & Fan, X. (2011). Reductions in long-term suspensions following adoption of the Virginia student threat assessment guidelines. *NASSP Bulletin*, 95(3), 175–194.

Conroy, M. A., Katsiyannis, A., Clark, D., Gable, R. A., & Fox, J. J. (2002). State office of education practices implementing the IDEA disciplinary provisions. *Behavioral Disorders*, 27(2), 98–108.

Council of Parent Attorneys and Advocates, Inc. V. DeVos, Civil Action No. 18-cv-1636 (TSC) (U.S. District Court for the District of Columbia March 7, 2019).

<https://cases.justia.com/federal/district-courts/district-of-columbia/dcdce/1:2018cv01636/198455/31/0.pdf?ts=1552044663>.

Coutinho, M. J., & Oswald, D. P. (2000). Disproportionate representation in special education: A synthesis and recommendations. *Journal of Child and Family Studies*, 9(2), 135–156.

Coutinho, M. J., Oswald, D. P., & Best, A. M. (2002). The influence of sociodemographics and gender on the disproportionate identification of minority students as having learning disabilities. *Remedial and Special Education*, 23(1), 49–59.

Coutinho, M. J., Oswald, D. P., Best, A. M., & Forness, S. R. (2002). Gender and sociodemographic factors and the disproportionate identification of culturally and

- linguistically diverse students with emotional disturbance. *Behavioral Disorders*, 27(2), 109–125.
- Cox-Petersen, A. M. (2001). Empowering science teachers as researchers and inquirers. *Journal of Science Teacher Education*, 12(2), 107–122.
- Cregor, M., & Hewitt, D. (2011). Dismantling the school-to-prison pipeline: A survey from the field. *Poverty & Race*, 20(1), 5–7.
- Crenshaw, K., Ocen, P., & Nanda, J. (2015). *Black girls matter: Pushed out, overpoliced, and underprotected*. (Kindle ed.). Center for Intersectional Policy Studies.
- Curran, F. C. (2016). Estimating the effect of state zero tolerance laws on exclusionary discipline, racial discipline gaps, and student behavior. *Educational Evaluation and Policy Analysis*, 38(4), 647–668.
- Cuellar, A. E., & Markowitz, S. (2015). School suspension and the school-to-prison pipeline. *International Review of Law and Economics*, 43, 98–106.
- Dancy, T. E. II. (2014). (Un)doing hegemony in education: Disrupting school-to-prison pipelines for black males *Equity and Excellence in Education*, 47(4), 476–493.
- Daniels, J. (1997). *White lies: Race, class, gender, and sexuality in white supremacist discourse*. Routledge.
- Davie, F., & Medina, J. (2020, January 30). First Step Act is failing some who find themselves fearing reincarceration after release. *USA Today*.
<https://www.usatoday.com/story/opinion/policing/2020/01/30/first-step-act-failing-some-who-live-fear-after-release/4558354002/>.

- Davenport, C. (2018, January 31). E. P.A. blocks Obama-era clean water rule. *The New York Times*. <https://www.nytimes.com/2018/01/31/climate/trump-water-wotus.html>.
- Davenport, C., & Tabuchi, H. (2018, March 29). E.P.A. prepares to roll back rules requiring cars to be cleaner and more efficient. *The New York Times*. <https://www.nytimes.com/2018/03/29/climate/epa-don't-auto-pollution-rollback.html>.
- Davis, A. Y. (2003). *Are prisons obsolete?* Seven Stories Press.
- Dayen, D. (2016, December 14). Obama failed to mitigate America's foreclosure crisis. *The Atlantic*. <https://www.theatlantic.com/politics/archive/2016/12/obamas-failure-to-mitigate-americas-foreclosure-crisis/510485/>.
- de Valenzuela, J. S., Copeland, S. R., Qi, C. H. & Park, M. (2006). Examining educational equity: Revisiting the disproportionate representation of minority students in special education. *Exceptional Children*, 72(4), 425–441.
- DeGroff, B. (2017). Betsy DeVos and the voucher vision of education. *National Lawyers Guild Review*, 33.
- Delgado, R., & Stefancic, J. (2001). *Critical race theory: An introduction* (Kindle Ed.). New York University Press.
- Delpit, L. (1995). *Other people's children: Cultural conflict in the classroom*. The New Press.
- Desai, S., & Abeita, A. (2017). Breaking the cycle of incarceration: A young black male's journey from probation to self-advocacy. *Journal of Urban Learning, Teaching, and Research*, 45–52.

DeVos, B. (2019). Prepared remarks by Secretary DeVos at the Manhattan Institute's 19th annual Alexander Hamilton Award dinner.

https://www.ed.gov/news/speeches/prepared-remarks-secretary-devos-manhattan-institutes-19th-annual-alexander-hamilton-award-dinner.

Dewey, J. (1944). *Democracy and education*. The Free Press.

Diamant, M. (2017, December 11). Trump administration weighs in on FAPE, IEPs.

Disability Scoop. <https://www.disabilityscoop.com/2017/12/11/trump-administration-fape-ieps/24510/>.

DiAngelo, R. (2018). *White fragility: Why it's so hard for white people to talk about racism*. Beacon Press.

Dodson, H., Baraka, A., Lumet Buckley, G., Gates, H. L., Jr., & Gordon-Reed, A. (2003).

Jubilee: The emergence of African American culture. National Geographic Books.

Donheiser, J. (2017, August 10). Chalkbeat explains: When can private schools discriminate against students? *Chalkbeat*.

<https://chalkbeat.org/posts/us/2017/08/10/chalkbeat-explains-when-can-private-schools-discriminate-against-students/>.

Donovan, S., & Cross, C. T. (2002). *Minority students in special and gifted education*.

Committee on minority representation in special education. National Research Council Division of Behavioral and Social Sciences and Education.

Douez, D., Costello, E., & Kalpana, J. (2017, January 19). Donald Trump, Betsy DeVos and school choice: Eight essential reads. *The Conversation*.

<https://theconversation.com/donald-trump-betsy-devos-and-school-choice-eight-essential-reads-62800>.

Dunn, L. M. (1968). Special education for the mildly retarded-is much of it justifiable?

Exceptional Children, 35, 5–22.

DuVernay, A. (2016). *13th*. Netflix.

DuBois, W. E. B. (1933/1995). Marxism and the negro problem. In Lewis, D. L. (Ed.),

W. E. B. DuBois reader (pp. 538–544). Henry Holt & Co.

DuBois, W. E. B. (1920/1998). The souls of white folk. In D. R. Roediger (Ed.), *Black on*

white: Black writers on what it means to be white (Kindle ed., pp. 184–200).

Schocken Books.

DuBois, W. E. B. (1903/2003). *The souls of black folk*. Barnes & Noble Classics.

Education Degree. (2019). Who is Betsy DeVos and why does it matter to educators?

<https://www.educationdegree.com/articles/who-is-betsy-devos/>.

Eilperin, J., & Dennis, B. (2017, February 7). Trump administration to approve final

permit for Dakota access pipeline. *The Washington Post*.

[https://www.washingtonpost.com/news/energy-](https://www.washingtonpost.com/news/energy-environment/wp/2017/02/07/trump-administration-to-approve-final-permit-for-dakota-access-pipeline/?utm_term=.335fbc4f272f)

[environment/wp/2017/02/07/trump-administration-to-approve-final-permit-for-](https://www.washingtonpost.com/news/energy-environment/wp/2017/02/07/trump-administration-to-approve-final-permit-for-dakota-access-pipeline/?utm_term=.335fbc4f272f)

[dakota-access-pipeline/?utm_term=.335fbc4f272f](https://www.washingtonpost.com/news/energy-environment/wp/2017/02/07/trump-administration-to-approve-final-permit-for-dakota-access-pipeline/?utm_term=.335fbc4f272f).

Eitle, T. M. (2002). Special education or racial segregation: Understanding variation in

the representation of black students in educable mentally handicapped programs.

Sociological Quarterly, 43(4), 575–605.

Ellis, D. & Mueller, D. (2012). *COINTELPRO: The FBI's war on black America*.

[Video] (2012, May 24). Imperial Sevens. YouTube.

<https://www.youtube.com/watch?v=DDbVIDJnPzA>.

Endrew F. v. Douglas County School District, 580 U.S. (2017).

- Erevelles, N. (2014). Crippin' Jim Crow: Disability, dis-location, and the school-to-prison pipeline. In Ben-Moshe, L., Chapman, C., & Carey, A. C. (Eds.), *Disability incarcerated: Imprisonment and disability in the United States and Canada* (Kindle Ed., pp. 81–100). Palgrave MacMillan.
- Fairclough, N. (1989). *Language and power*. Longman Inc.
- Fanon, F. (1963). *The wretched of the Earth* (Kindle Ed.). Grove Press.
- Fanon, F. (1967). *Black skin, white masks* (Kindle Ed.). Grove Press.
- Fasching-Varner, K. J., Mitchell, R. W., & Martin, L. L. (2014). Beyond school-to-prison pipeline and toward an educational and penal realism. *Equity and Excellence in Education, 47*(4), 410–429.
- Fernald, W. E. (1913). The burden of feeble-mindedness. *Journal of Psycho-Asthenics*. Disability History Museum.
<http://www.disabilitymuseum.org/dhm/lib/detail.html?id=1208&page=all>.
- Ferri, B. A., & Connor, D. J. (2005). Tools of exclusion: Race, disability and (re)segregated education. *Teachers College Record, 107*(3), 453–474.
- Flaherty, A. (2018, November 21). Education Secretary Betsy DeVos reverses stance on civil rights probes that led to lawsuit. *ABC News*.
<https://abcnews.go.com/Politics/education-secretary-betsy-devos-reverses-stance-civil-rights/story?id=59331454>.
- Foley, E., & Planas, R. (2018, November 7). Trump boots Jeff Sessions, architect of his cherished immigration crackdown. *Huffington Post*.
https://www.huffpost.com/entry/jeff-sessions-immigration-family-separation-daca_n_5be34fb1e4b0769d24c899e0.

Foucault, M. (1972). *The archaeology of knowledge: And the discourse on language*.

Pantheon Books.

Foucault, M. (1977a). *Discipline and punish: The birth of the prison*. Vintage.

Foucault, M. (1977b). *Power/knowledge: Selected interviews and other writings, 1972-*

1977. Pantheon.

Foucault, M. (2006). *History of madness*. Routledge.

Freeman, E. (2005). No Child Left Behind and the denigration of race. *Equity and*

Excellence in Education, 38, 190–199.

Freiberg, H. J., Stein, T. A., & Parker, G. (1995). Discipline referrals in an urban middle school: Implications for discipline and instruction. *Education and Urban Society*,

27(4), 421–440.

Freire, P. (1993). *Pedagogy of the oppressed* (Revised Ed.). The Continuum Publishing Company.

Freire, P., & Macedo, D. (2005). *Literacy: Reading the word and world* (Kindle Ed.).

Taylor & Francis.

French, D. (2017, February 8). Important lessons in the outrageous response to Betsy

DeVos. *National Review*. [https://www.nationalreview.com/corner/important-](https://www.nationalreview.com/corner/important-lessons-outrageous-response-betsy-devos/)

[lessons-outrageous-response-betsy-devos/](https://www.nationalreview.com/corner/important-lessons-outrageous-response-betsy-devos/).

Friedersdorf, C. (2016, December 23). Obama's weak defense of his record on drone

killings. *The Atlantic*.

[https://www.theatlantic.com/politics/archive/2016/12/president-obamas-weak-](https://www.theatlantic.com/politics/archive/2016/12/president-obamas-weak-defense-of-his-record-on-drone-strikes/511454/)

[defense-of-his-record-on-drone-strikes/511454/](https://www.theatlantic.com/politics/archive/2016/12/president-obamas-weak-defense-of-his-record-on-drone-strikes/511454/).

- Frisby, C. L., Kim, S., & Wolfmeyer, A. (2006). Identifying core profiles in attitudes toward school violence. *Journal of School Violence, 4*(4), 5–29.
- Fromm, E. (1962). *Beyond the chains of illusion*. Pocket Books, Inc.
- Fromm, E. (1956/2013). *The art of loving*. (Kindle ed.). Open Road Integrated Media.
- Galvan, J. L., & Galvan, M. C. (2017). *Writing literature reviews: A guide for students of the social and behavioral sciences*. (7th edition). Routledge.
- Garcia, F. D., & Sola, O. (Eds.). (2000). *Che: Images of a revolutionary*. New Internationalist Publications.
- Gastic, B. (2017). Disproportionality in school discipline in Massachusetts. *Education and Urban Society, 49*(2), 163–179.
- Geiger, B. (2000). Discipline in K through 8th grade classrooms. *Education, 121*(2), 383–39.
- Gibbons, P. (2002). *Scaffolding language, scaffolding learning: Teaching second language learners in the mainstream classroom*. Heinemann.
- Gibran Muhammad, K. (2010). *The condemnation of blackness: Race, crime, and the making of modern urban America*. Harvard University Press.
- Giroux, H. A. (1988). *Teachers as intellectuals: Toward a critical pedagogy of learning* (Kindle Ed.). Bergin & Garvey.
- Giroux, H. A. (2001). *Theory and resistance in education: Toward a pedagogy for the opposition* (Revised and Expanded Ed.). Bergin & Garvey.
- Giroux, H. A. (2003). Racial injustice and disposable youth in the age of zero tolerance. *International Journal of Qualitative Studies in Education, 16*(4), 553–565.
- Goffman, E. (1961). *Asylums*. Random House.

- Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. (Kindle ed.). New York, NY: Simon & Schuster.
- Gottfredson, G. D., & Gottfredson, D. C. (2001). What schools do to prevent problem behavior and promote safe environments. *Journal of Educational and Psychological Consultation*, 12(4), 313–344.
- Gould, S. J. (1996). *The Mismeasure of Man* (Revised and Expanded). Horton.
- Gramlich, J. (2018, January 12). The gap between the number of blacks and whites in prison is shrinking. *Pew Research Center*. <http://www.pewresearch.org/fact-tank/2018/01/12/shrinking-gap-between-number-of-blacks-and-whites-in-prison/>.
- Green, E. L. (2019, February 28). Betsy DeVos backs \$5 billion in tax credits for school choice. *New York Times*. <https://www.nytimes.com/2019/02/28/us/politics/devos-tax-credit-school-choice.html>.
- Greenwood, M. (2018, April 20). Education dept takes steps to dismiss hundreds of civil rights complaints: Report. *The Hill*. <https://thehill.com/homenews/administration/384235-education-dept-takes-steps-to-dismiss-hundreds-of-civil-rights>.
- Groetzinger, K. (2020, April 22). Navajo families without internet struggle to homeschool during COVID-19 pandemic. *National Public Radio (NPR)*. <https://www.npr.org/2020/04/22/839948923/navajo-families-without-internet-struggle-to-homeschool-during-covid-19-pandemic>.
- Guinier, L., & Torres, G. (2003). *The miner's canary: Enlisting race, resisting power, transforming democracy*. (eBook). Harvard University Press.
- Hacking, I. (2000). *The social construction of what?* Harvard University Press.

Hall, S. (1982). The rediscovery of “ideology”: Return of the repressed in media studies.

In M. Gurevitch, T. Bennet, J. Curran, & J. Wollacott (Eds.), *Culture, society, and the media* (pp. 56–90). Methuen.

Hamann, E. T. (2003). *The educational welcome of Latinos in the new South*. Praeger.

Haney Lopez, I. (2006). White Lines. In I. Haney Lopez, (Ed.), *White by law: The legal construction of the race* (pp. 1–26). NYU Press.

Foley, E., & Planas, R. (2018, November 7). Trump boots Jeff Sessions, architect of his cherished immigration crackdown. *Huffington Post*.

https://www.huffpost.com/entry/jeff-sessions-immigration-family-separation-daca_n_5be34fb1e4b0769d24c899e0.

Harding, S. (1992). Rethinking standpoint epistemology: What is “strong objectivity”? In L. Alcoff & E. Potter (Eds.), *Feminist epistemologies*. Routledge.

Harper, A. (2019, March 10). Federal judge: Ed Dept illegally delayed Obama-era special education rule. *Education Dive*. <https://www.educationdive.com/news/federal-judge-ed-dept-illegally-delayed-obama-era-special-education-rule/550186/>.

Harris, C. (1995). Whiteness as property. In K. Crenshaw, N. Gotanda, G. Peller, K. Thomas (Eds.) *Critical race theory: The key writings that formed the movement* (pp. 276–291). The New Press.

Harry, B. (1994). *The disproportionate representation of minority students in special education: Theories and recommendations*. Alexandria, VA: National Association of State Directors of Special Education, Incorporated.

Harry, B., & Fenton, P. (2016). Risk in schooling: The contribution of qualitative research to our understanding of the overrepresentation of minorities in special

education. *Multiple Voices for Ethnically Diverse Exceptional Learners*, 16(1), 17–28.

Harry, B., & Klingner, J. (2006). *Why are so many minority students in special education?* Teachers College Press.

Hayes, C. W., Bahruth, R., & Kessler, C. (1998). *Literacy con carino*. Heinemann.

Heilbrun, A., Cornell, D., & Lovegrove, P. (2015). Principal attitudes regarding zero tolerance and racial disparities in school suspensions. *Psychology in the Schools*, 52(5), 489–499.

Heller, K. A., Holtzman, W. H., & Messick, S. (Eds.). (1982). *Placing children in special education: A strategy for equity*. National Research Council.

Hernandez Sheets, R. (1996). Urban classroom conflict: Student-teacher perception: Ethnic integrity, solidarity, and resistance. *The Urban Review*, 28(2), 165–183.

Hernstein, R. J., & Murray, C. (1994). *The bell curve: Intelligence and class structure in American life*. Free Press.

Hess, F. M., & Addison, G. (2017, October 2). Betsy DeVos vs. the mindless mob at Harvard. *National Review*. <https://www.nationalreview.com/2017/10/betsy-devos-harvard-speech-education-secretary-campus-protest-free-speech-school-choice/>.

Hill, E. (2018). Full statement. *Department of Education*. <https://www.documentcloud.org/documents/3866792-U.S.-Ed-Full-Statement.html>.

Hobbes, T. (1651/2011). Leviathan. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (5th ed. Kindle ed, locs. 21997-26483). Hackett Publishing Company.

- Hoffman, S. (2014). Zero benefit: Estimating the effect of zero tolerance discipline policies on racial disparities in school discipline. *Educational Policy*, 28(1), 69–95.
- Hornbeck, D. (2018, November 29). Betsy DeVos has little to show after two years in office. *The Conversation*. <http://theconversation.com/betsy-devos-has-little-to-show-after-2-years-in-office-107766>.
- Horsley, S. (2015, July 16). Obama visits federal prison, a first for a sitting president. *National Public Radio (NPR)*.
<https://www.npr.org/sections/itsallpolitics/2015/07/16/423612441/obama-visits-federal-prison-a-first-for-a-sitting-president>.
- Hosp, J. L., & Reschly, D. J. (2002). Predictors of restrictiveness of placement for African American and Caucasian Students. *Exceptional Children*, 68(2), 225–238.
- Hosp, J. L., & Reschly, D. J. (2004). Disproportionate representation of minority students in special education: Academic, demographic, and economic predictors. *Exceptional Children*, 70(2), 185–199.
- Hull, G., & Schultz, K. (2002). *School's out!* Teachers College Press.
- Huseman, J., & Waldman, A. (2017, June 15). Trump administration quietly rolls back civil rights efforts across federal government. *ProPublica*.
<https://www.propublica.org/article/trump-administration-rolls-back-civil-rights-efforts-federal-government>.
- Irby, D., & Clough, C. (2015). Consistency rules: A critical exploration of a universal principle of school discipline. *Pedagogy, Culture, & Society*, 23(2), 153–173.

- Irons, P. (2002). *Jim Crow's children: The broken promise of the Brown decision* (Kindle ed.): Penguin Books.
- Irons, P. (2006). *A people's history of the Supreme Court*. London: Penguin Books.
- Jackson, C. (2017, June 8). OCR instructions to the field re scope of complaints. *Office for Civil Rights*. <https://www.propublica.org/article/trump-administration-rolls-back-civil-rights-efforts-federal-government>.
- Jimenez, L. & Flores, A. (2019, May 30). 3 ways DeVos has put students at risk by deregulating education. *Center for American Progress*. <https://www.americanprogress.org/issues/education-k-12/reports/2019/05/30/470509/3-ways-devos-put-students-risk-deregulating-education/>.
- Johnson, A. (2018, July 30). Judge orders many migrant children removed from Texas facility said to use psychotropic drugs. *NBC News*. <https://www.nbcnews.com/news/us-news/judge-orders-most-migrant-children-removed-texas-facility-uses-psychotropic-n895966>.
- Jones-Wilson, F. C., Arnez, N. L., & Asbury, C. A. (1992). Why not public schools? *The Journal of Negro Education*, 61(2), 125–137.
- Justia. (2018, July 13). Nonprofit organization sues education secretary Betsy DeVos delaying regulation that would help disabled children. *Justia*. <https://news.justia.com/nonprofit-organization-sues-education-secretary-betsy-devos-for-delaying-regulation-that-would-help-disabled-children/>.

Kaeble, D., & Cowhig, M. (2018, April 26). Correctional populations in the United States, 2016. *Bureau of Justice Statistics*.

<https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6226>.

Kalmbacher, C., & Keller, A. (2018, July 3). On July 4th eve, Jeff Sessions quietly rescinds a bunch of protections for minorities. *Law & Crime*.

<https://lawandcrime.com/trump/on-july-4th-eve-jeff-sessions-quietly-rescinds-a-bunch-of-protections-for-minorities/>.

Kamenetz, A. (2018, December 18). DeVos to rescind Obama-era guidance on school discipline. In *All Things Considered*.

<https://www.npr.org/2018/12/18/675556455/devos-to-rescind-obama-era-guidance-on-school-discipline>.

Kant, E. (1797/2011). Grounding for the metaphysics of morals. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (Kindle ed., loc. 34561-35807): Hackett Publishing Company.

Kaufman, C. (2003). *Ideas for action: Relevant theory for radical change*. South End Press.

Kavanaugh, B. M. (2018, October 4). I am an independent, impartial judge. *Wall Street Journal*. <https://www.wsj.com/articles/i-am-an-independent-impartial-judge-1538695822>.

Kendi, I. X. (2019). *How to be an antiracist*. Random House.

Kennedy, J. H. (1995). Teachers, student teachers, paraprofessionals, and young adults' judgments about the acceptable use of corporal punishment in the rural South. *Education and Treatment of Children*, 18(1), 53–64.

- Kennedy-Lewis, B. L. (2012). What happens after students are expelled? Understanding teachers' practices in educating persistently disciplined students at one alternative middle school. *Teachers College Record*, 114, 1–38.
- Kenziora, K., Mack, A. R., & Jones, W. (2018). Collaboration for safe and healthy schools: Study of coordination between school climate transformation grants and project AWARE. (p. 74) [Final Report]. *U.S. Department of Education*.
<https://www2.ed.gov/rschstat/eval/school-safety/school-climate-transformation-grants-aware-full-report.pdf>.
- Kessler, G. (2018, September 27). Brett Kavanaugh and allegations of sexual misconduct: The complete list. *The Washington Post*.
https://www.washingtonpost.com/politics/2018/09/27/brett-kavanaugh-allegations-sexual-misconduct-complete-list/?utm_term=.e99907cd068a
- Kilbourn, B. (2006). The qualitative doctoral dissertation. *Teachers College Record*, 108(4), 529–576.
- Kim, J. H. (2006). For whom the school bell tolls: Conflicting voices inside an alternative high school. *International Journal of Education*, 7(6), 1–19.
- Kim, J. H. (2010). Understanding student resistance as a communicative act. *Ethnography and Education*, 5(3), 261–276.
- King, M. L. Jr. (1965). Rec Hall speech. *Onward State*.
<https://onwardstate.com/2013/01/21/martin-luther-king-jrs-rec-hall-speech/>.
- King, M. L. Jr. (1963). I have a dream. In Washington, J. M. (Ed.), *A testament of hope: The essential writings and speeches of Martin Luther King Jr.* (pp. 217–220). Harper Collins.

- King, M. L., Jr. (1966, March 17). *Transcript of Martin Luther King Jr. 's speech at SMU on March 17, 1966*. <https://www.smu.edu/News/NewsSources/MLKatSMU/mlk-at-smu-transcript-17march1966>.
- King Thorius, K. A., & Tan, P. (2016). Expanding analysis of educational debt: Considering intersections of race and ability. In D. J. Connor, B. A. Ferri, & S. A. Annamma (Eds.), *DisCrit: Disability studies and critical race theory in education*, (Kindle Ed., loc. 1818-2045.). Teachers College Press.
- Klein, N. (2007). *The shock doctrine: The rise of disaster capitalism* (Kindle Ed.). Henry Holt & Co.
- Klein, R. (2018, April 4). Betsy DeVos mulls the fate of guidance designed to reduce racial bias in schools. *Huffington Post*. https://www.huffpost.com/entry/devos-discipline-guidance_n_5ac4f523e4b093a1eb2150df.
- Kliewer, C. (1998). *Schooling children with Down syndrome: Toward an understanding of possibility*. Teachers College Press.
- Kochhar, R., Fry, R., & Taylor, P. (2011). Wealth gaps rise to record highs between whites, blacks, and Hispanics: Twenty-to-one (social & demographic trends). *Pew Research Center*. <http://www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-hispanics/>.
- Kozol, J. (1991). *Savage inequalities: Children in America 's schools* (Kindle ed.). Harper Perennial.
- Larry P. v. Riles*, 793 F.2d 969 9th Cir. Vol. 2 (1972).

- Lartey, J. (2018, December 21). Trump signs bipartisan criminal justice overhaul First Step Act into law. *The Guardian*. <https://www.theguardian.com/us-news/2018/dec/21/trump-prison-reform-first-step-act-signed-law>.
- Lefebvre, H. (2014). *Critique of everyday life*. (The one-volume ed.). Verso.
- Leonardo, Z. (2004). Critical social theory and transformative knowledge: The functions of criticism in quality education. *Educational Researcher*, 33(6), 11–18.
- Leonardo, Z. (2009). *Race, whiteness, and education* (Kindle Ed.). Routledge.
- Leonardo, Z. (2015). Contracting race: Writing, racism, and education. *Critical Studies in Education*, 56(1), 86–98.
- Leung, J., Elson, D., & Sanders, K. (2019). Notes from the field: Mumps in detention facilities that house detained migrants- United States September 2018-August 2019. *Morbidity and Mortality Weekly Report*. <https://www.cdc.gov/mmwr/volumes/68/wr/mm6834a4.htm#suggestedcitation>.
- Locke, J. (1609/2011). Two treatises of civil government. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (5th ed. Kindle ed., p. locs. 26548-28833). Hackett Publishing Company.
- Longerich, P. (2010). *Holocaust: The Nazi persecution and murder of the Jews*. Oxford University Press.
- Loewen, J. W. (1995). *Lies my teacher told me: Everything your American history textbook got wrong*. The New Press.
- Losen, D. J., Keith, M. A., Hodson, C. L., & Martinez, T. E. (2016). *Charter schools, civil rights, and school discipline* (The Civil Rights Project). UCLA. <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights->

[remedies/school-to-prison-folder/federal-reports/charter-schools-civil-rights-and-school-discipline-a-comprehensive-review?utm_source=CRP+Main+Mailing+List+2012&utm_campaign=a22d049666-66-charter+School+Suspensions&utm_medium=email&utm_term=0_e05cbe611a-a22d049666-286363277](https://www.federalreportsoncharter.org/remedies/school-to-prison-folder/federal-reports/charter-schools-civil-rights-and-school-discipline-a-comprehensive-review?utm_source=CRP+Main+Mailing+List+2012&utm_campaign=a22d049666-66-charter+School+Suspensions&utm_medium=email&utm_term=0_e05cbe611a-a22d049666-286363277).

Losen, D. J. (2011). *Discipline policies, successful schools, and racial justice*. Boulder, CO: National Educational Policy Center.

<http://nepc.colorado.edu/publication/discipline-policies>.

Lowry, R. (2017, January 18). The shameful war on Betsy DeVos. *National Review*.

<https://www.nationalreview.com/2017/01/betsy-devos-nomination-secretary-education-has-kicked-smear-campaign/>.

Ludington, C., Brookes, L., & Swisher, E. (2018, October 4). We were Brett

Kavanaugh's drinking buddies. We don't think he should be confirmed. *The Washington Post*. https://www.washingtonpost.com/opinions/we-were-brett-kavanaughs-drinking-buddies-we-dont-think-he-should-be-confirmed/2018/10/04/923cf6ac-c821-11e8-b2b5-79270f9cce17_story.html

Machiavelli, N. (1513/2011). The prince. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (5th ed. Kindle ed, locs. 19649-21193). Hackett Publishing Company.

Mak, T. (2018, November 8). Kavanaugh accuser Christine Blasey Ford continues receiving threats, lawyers say. *National Public Radio*.

<https://www.npr.org/2018/11/08/665407589/kavanaugh-accuser-christine-blasey-ford-continues-receiving-threats-lawyers-say>.

Marshall, D. (2019, March 7). COPAA victorious in lawsuit against Secretary DeVos.

Council of Parent Attorneys and Advocates (COPAA).

<https://www.copaa.org/news/441156/COPAA-victorious-in-lawsuit-against-Secretary-DeVos-ED.htm>.

Martin, W. E. Jr. (Ed.). (1998). Appellants' Brief. In *Brown v. Board of Education: A brief history with documents*. (pp. 137–141). Bedford St. Martins.

Marx, K. (1867/1999). *Capital (Abridged)* (Kindle Ed.). Oxford University Press.

McCarthy, M. R., & Soodak, L. C. (2007). The politics of discipline: Balancing school safety and rights of students with disabilities. *Exceptional Children*, 73(4), 456–474.

McDonald, K. (2019, September 4). Homeschooling and educational freedom: Why school choice is good for homeschoolers. *CATO Institute*.

<https://www.cato.org/publications/briefing-paper/homeschooling-educational-freedom-why-school-choice-good-homeschoolers>.

McLaren, P. (1994). *Life in schools: An introduction to critical pedagogy in the foundations of education* (2nd ed.). Longman.

McNeal, L., & Dunbar, C. D. Jr. (2010). In the eyes of the beholder: Urban student perceptions of zero tolerance policy. *Urban Education*, 45(3), 293–311.

Menacker, J., Hurwitz, E., & Weldon, W. (1989). Supreme Court attitudes about school discipline compared to attitudes of urban teachers. *The Journal of Negro Education*, 58(1), 92–101.

- Mercer, J. (1971). Sociocultural factors in labeling mental retardates. *Journal of Education, 48*(3), 188–203.
- Mercer, J. (1992). The impact of changing paradigms of disability on mental retardation in the year 2000. In L. Rowitz (Ed.), *Mental retardation in the year 2000* (pp. 15–38). Springer-Verlag.
- Mercer, J. (1972). IQ: The lethal label. *Psychology Today*, September, 44, 46–47, 95–96.
- Mills, C. (1997). *The racial contract* (Kindle Ed.). Cornell University Press.
- Mills, C. W. (1959/2000). *The sociological imagination*. (Kindle Ed.). Oxford University Press.
- Morgan, E. S. (1975). *American slavery American freedom*. New York: W. W. Norton.
- Morgan, M. L. (2011). Augustine. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (5th Ed. Kindle Ed., p. locs. 17433-17476). Hackett Publishing Company.
- Morgan, P. L., Farkas, G., Hillemeier, M. M., & Maczuga, S. (2012). Are minority children disproportionately represented in early intervention and early childhood special education? *Educational Researcher, 41*(9), 339–351.
- Morgan, P. L., Farkas, G., Hillemeier, M. M., Mattison, R., Maczuga, S., Li, H., & Cook, M. (2015). Minorities are disproportionately underrepresented in special education: Longitudinal evidence across five disability conditions. *Educational Researcher, 44*(5), 278–292.
- Morgan, R. L., Loosli, T. S., & Striefel, S. (1997). Regulating the use of behavior procedures in schools: A five-year follow-up survey of state department standards. *The Journal of Special Education, 30*(4), 456–470.

- Morrier, M.J., Hess, K. L., & Heflin, L. J. (2008). Ethnic disproportionality in students with autism spectrum disorders. *Multicultural Education*, (Fall 2008), 31–38.
- Morrison, G. M., & D’Incau, B. (1997). The web of zero-tolerance: Characteristics of students who are recommended for expulsion from school. *Education and Treatment of Children*, 20(3), 316–335.
- Morrow, R., & Brown, D. (1994). *Critical theory and methodology*. Sage Publications.
- Mowen, T. J., & Manierre, M. J. (2017). School security measures and extracurricular participation: An exploratory multi-level analysis. *British Journal of Sociology of Education*, 38(3), 344–363.
- Myers, D. E., Baker, K., Milne, A. M., & Ginsburg, A. (1987). Student discipline and high school performance. *Sociology of Education*, 60, 18–33.
- Myrdal, G. (1944/1998). An American dilemma: The Negro problem and modern democracy. In W. E. Martin Jr. (Ed.), *Brown v. Board of Education: A brief history with documents*. (pp. 102–109).
- National Association for the Advancement of Colored People. (2005). *Dismantling the school-to-prison pipeline*. NAACP Legal Defense and Education Fund.
<http://www.naacpldf.org/publication/dismantling-school-prison-pipeline>.
- National Center for Transgender Equality. (2017). *FAQ on the withdrawal of federal guidance on transgender students*.
https://transequality.org/sites/default/files/docs/resources/FAQ%20on%20the%20withdrawal%20of%20federal%20guidance%20on%20transgender%20students%2003_0.pdf
- National Council on Disability. (NCD, 2015). Breaking the school-to-prison pipeline for

students with disabilities. <https://www.ncd.gov/publications/2015/06182015>.

National Federation of the Blind. (2020, February 6). National Federation of the Blind and others settle lawsuit against the United States Department of Education: DOE to reopen investigations, allow appeals. *National Federation of the Blind*. <https://mk0browngold1tavotm7.kinstacdn.com/wp-content/uploads/DOE-Settlement-Release-Final.pdf>

National Review Institute. (2019, March 29). National Review Institute ideas summit, part 1. *C-Span*. <https://www.c-span.org/video/?459291-1/national-review-institute-ideas-summit-part-1>.

Nelson, L., & Lind, D. (2015). The school to prison pipeline, explained. *The Justice Policy Institute*. <http://www.justicepolicy.org/news/8775>.

New Mexico Department of Health. (2020). 2019 novel coronavirus (COVID-19). *New Mexico Department of Health*. <https://cv.nmhealth.org/>.

Nichols, J. D., Ludwin, W. G., & Iadicola, P. (1999). A darker shade of gray: A year-end analysis of discipline and suspension data. *Equity and Excellence in Education*, 32(1), 43–56.

Nielsen, K. E. (2012). *A disability history of the United States*. Beacon Press.

Novack, G. (1971). *An introduction to the logic of Marxism*. Pathfinder.

Nyiszli, M. (1993). *Auschwitz: A doctor's eyewitness account*. New York, NY: Arcade Publishing Inc.

Office for Civil Rights (OCR). (2017). Fiscal year 2018 budget request. *Department of Education*. <https://www.propublica.org/article/trump-administration-rolls-back-civil-rights-efforts-federal-government>.

- Office for Civil Rights (OCR). (2018a). Fiscal year 2019 budget request. *Department of Education*. <https://www2.ed.gov/about/overview/budget/budget19/justifications/z-ocr.pdf>.
- Office for Civil Rights (OCR). (2018b). Case processing manual. *U.S. Department of Education*.
- Offices of Senator Elizabeth Warren and Representative Katherine Clark. (2018). DeVos watch, year one: Failing America's students. *United States Congress*. <https://www.warren.senate.gov/imo/media/doc/DeVos%20Report%202-26.pdf>.
- O'Malley, M. D. (2009). Prevailing interventions to address peer victimization at school: A study of California school psychologists. *The California School Psychologist, 14*, 47–57.
- O'Sullivan, M., & Dyson, B. (1994). Rules, routines, and expectations of 11 high school physical education teachers. *Journal of Teaching in Physical Education, 83*, 361–374.
- Omi, M., & Winant, H. (2015). *Racial formation in the United States*. (3rd Ed; Kindle ed.). Routledge.
- Orfield, G. (2001). Schools more separate: Consequences of a decade of resegregation. *Harvard Civil Rights Project*. <http://www.law.harvard.edu/groups/civilrights/publications/resegregation01/schoolsseparate.pdf>.
- Orfield, G., Jongyeon, E., Frankenberg, E., & Siegel-Hawley, G. (2016). Brown at 62: School segregation by race, poverty and state. *Civil Rights Project UCLA*. <https://civilrightsproject.ucla.edu/research/brown-at-62-school-segregation-by->

[race-poverty-and-state?utm_source=CRP+Main+Mailing+List+2012&utm_campaign=c15e10c341-Brown+at+62+finds+concentrated+poverty+in+schools&utm_medium=email&utm_term=0_e05cbe611a-c15e10c341-286363277](https://www.seattleu.edu/office-of-diversity-and-inclusion/2012/05/15/race-poverty-and-state?utm_source=CRP+Main+Mailing+List+2012&utm_campaign=c15e10c341-Brown+at+62+finds+concentrated+poverty+in+schools&utm_medium=email&utm_term=0_e05cbe611a-c15e10c341-286363277).

Parents Involved in Community Schools v. Seattle School District, 551 U.S. 701 (2007).

<https://supreme.justia.com/cases/federal/us/551/701/>.

Patton, J. M. (1998). The disproportionate representation of African Americans in special education: Looking behind the curtain for understanding and solutions. *The Journal of Special Education*, 32(1), 25–31.

Peguro, A. A., & Shekarkhar, Z. (2011). Latino/a student misbehavior and school punishment. *Hispanic Journal of Behavioral Sciences*, 33(1), 54–70.

Peguro, A. A., Bondy, J. M., & Shekarkhar, Z. (2017). Punishing Latina/o Youth: School justice, fairness, order, dropping out, and gender disparities. *Hispanic Journal of Behavioral Sciences*, 39(1), 98–125.

Phelps, J. (2015, July 7). The story behind President Obama singing “Amazing Grace” at Charleston funeral. *ABC News*. <https://abcnews.go.com/Politics/story-president-obama-singing-amazing-grace-charleston-funeral/story?id=32264346>.

Plato. (375 BCE/1974). *The republic*. Penguin Classics.

Pollard, S. (2012). *Slavery by another name*. [Documentary; DVD]. PBS Distribution.

Portillos, E. L., Gonzales, J. C., & Peguro, A. A. (2012). Crime control strategies in school: Chicanas’/os’ perceptions and criminalization. *Urban Review*, 44, 171–188.

- President's Committee on Mental Retardation. (1967). *A first report to the President on the nation's progress and remaining great needs in the campaign to combat mental retardation*. U.S. Government Printing Office.
- Rabinow, P. (1984). Introduction. In Rabinow, P. (Ed.), *The Foucault reader*. (pp. 3-29) Pantheon.
- Raffaele Mendez, L. M. (2003). Predictors of suspension and negative school outcomes: A longitudinal investigation. *New Directions for Youth Development*, 99, 17–33.
- Rappleye, H., & Riordan Seville, L. (2019, June 9). 24 immigrants have died in ICE custody during the Trump administration. *NBC News*.
<https://www.nbcnews.com/politics/immigration/24-immigrants-have-died-ice-custody-during-trump-administration-n1015291>.
- Rao, S. (2006). Parameters of normality and cultural constructions on “mental retardation:” Perspectives of Bengali families. *Exceptional Children*, 53(1), 46–54.
- Rausch, M. K., & Skiba, R. (2006). Discipline, disability, and race: Disproportionality in Indiana schools. (Education Policy Brief) *Center for Evaluation & Education Policy: Indiana University*.
http://www.indiana.edu/~equity/docs/discipline_disability_race_indiana.pdf.
- Rehner, J., & Eder, J. (2004). *American Indian education: A history*. University of Oklahoma Press.
- Resnick, B. (2011, November 1). Chart: One year of prison costs more than one year at Princeton. *The Atlantic*.

<https://www.theatlantic.com/national/archive/2011/11/chart-one-year-of-prison-costs-more-than-one-year-at-princeton/247629/>.

Rhodan, M. (2018, June 18). Here are the facts about President Trump's family separation policy. *Time*. <http://time.com/5314769/family-separation-policy-donald-trump/>.

Robinson, P. (2019, June 6). Uncommon knowledge: Empowering students with Betsy DeVos. *National Review*. <https://www.nationalreview.com/corner/uncommon-knowledge-empowering-students-with-betsy-devos/>.

Roediger, D. (1999). Irish-American workers and white racial formation. In D. Roediger, (Ed.), *Wages of Whiteness: Race and the making of the American working class* (Revised Ed., pp. 133–163). Verso.

Rose, T. L. (1988). Current disciplinary practices with handicapped students: Suspensions and expulsions. *Exceptional Children*, 55(3), 230–239.

Roth, S. (2017). *We might well have viewed it as an act of war: The normalization of exclusion in the discourse of American educational reform*. (Doctoral dissertation). Albuquerque, NM: The University of New Mexico.
https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1073&context=educ_llss_etds.

Rubin, D. I. (2014). Engaging Latino/a students in the secondary English classroom: A step toward breaking the school-to-prison pipeline. *Journal of Latinos and Education*, 13(3), 222–230.

Russell, M. (2018, June 1). NAACP files suit against U.S. Department of Education and Secretary Betsy DeVos for summarily abandoning civil rights enforcement

policies without public notice. *National Association for the Advancement of Colored People*. <http://www.naacp.org/latest/naacp-files-suit-u-s-department-education-secretary-betsy-devos-summarily-abandoning-civil-rights-enforcement-policies-without-public-notice/>.

Sartre, J. P. (1943/1984). *Being and nothingness: The principle text of modern existentialism*. Washington Square Press.

Sartre, J. P. (1946). Existentialism is a humanism. *Marxist Internet Archive*.
<https://www.marxists.org/reference/archive/sartre/works/exist/sartre.htm>

Szasz, T. S. (1961). Science and public policy: The crime of involuntary mental hospitalization. *Medical Opinion and Review*, 24–35.

Schaeffer, R. T. (2002). *Racial and ethnic groups*. Prentice Hall.

Scott, D. M., & Friedli, D. (2002). Attendance problems and disciplinary procedures in Nebraska schools. *J. Drug Education*, 32(2), 149–165.

Searle, J. (1995). *The social construction of reality*. Free Press.

Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden. (2019, May 1). [Video]. *Brian Kilmeade Show*. Fox News.
<https://video.foxnews.com/v/6031841342001/#sp=show-clips>.

Shakur, T. A. (1998). Changes. *Greatest hits*. [Album] Death Row Records/Interscope Records.

Shealey, M. W., & Lue, M. S. (2006). Why are all the black kids still in special education? Revisiting the issue of disproportionate representation. *Multicultural Perspectives*, 8(2), 3–9.

- Shear, M. D., & Nixon, R. (2017, February 21). New Trump deportation rules allow far more expulsions. *The New York Times*.
<https://www.nytimes.com/2017/02/21/us/politics/dhs-immigration-trump.html>.
- Sherer, Y. C., & Nickerson, A. B. (2010). Anti-bullying practices in American schools: Perspectives of school psychologists. *Psychology in the Schools, 47*(3), 217–229.
- Shirley, E. L. M., & Cornell, D. G. (2012). The contribution of student perceptions of school climate to understanding the disproportionate punishment of African American students in a middle school. *School Psychology International, 33*(2), 115–134.
- Singh, V. (2017). Myths of meritocracy: Caste, karma, and the new racism, a comparative study. *Ethnic and Racial Studies, 41*(15), 2693–27100.
- Skiba, R. J., Peterson, R. L., & Williams, T. (1997). Office referrals and suspension: Disciplinary interventions in middle schools. *Education and Treatment of Children, 20*(3), 295–315.
- Skiba, R. J., Michael, R. S., & Nardo, A. C. (2000). *The color of discipline: Sources of racial and gender disproportionality in school punishment*. (Policy research report No. #SRS1). The Indiana Education Policy Center: Indiana University.
- Skiba, R. J., & Peterson, R. L. (2000). School discipline at a crossroads: From zero tolerance to early response. *Exceptional Children, 66*(3), 335–347.
- Skiba, R. J., Michael, R., Carroll, S., Nardo, A., & Peterson, R. L. (2002). The color of discipline: Sources of racial and gender disproportionality in school punishment. *The Urban Review, 34*(4), 317–342.

- Skiba, R. J., Poloni-Staudinger, L., Simmons, A. B., Feggins-Azziz, R. F., & Chung, C. G. (2005). Unproven links: Can poverty explain ethnic disproportionality in special education? *The Journal of Special Education, 39*(3), 130–144.
- Skiba, R., Reynolds, C. R., Graham, S., Sheras, P., Close Conoley, J., & Garcia-Vasquez, E. (2006). Are zero tolerance policies effective in the schools? An evidentiary review and recommendations. (Task Force Report) (p. 141). *American Psychological Association*. <http://www.apa.org/pubs/info/reports/zero-tolerance.aspx>
- Skiba, R. J., Simmons, A. B., Ritter, S., Gibb, A. C., Karega Rausch, M., Cuadrado, J., & Chung, C. G. (2008). Achieving equity in special education: History, status, and current challenges. *Exceptional Children, 74*(3), 264–288.
- Skiba, R. J., Eckes, S.E., & Brown, K. (2009). African American disproportionality in school discipline: The divide between best evidence and legal remedy. *New York Law School Law Review, 54*, 1071–1112.
- Skiba, R. J., Arredondo, M. I., & Williams, N. T. (2014). More than a metaphor: The contribution of exclusionary discipline to a school-to-prison pipeline. *Equity and Excellence in Education, 47*(4), 546–564.
- Skiba, R. J., Artiles, A. J., Kozleski, E. B., Losen, D. J., & Harry, E. G. (2016). Risks and consequences of oversimplifying educational inequities: A response to Morgan et al. (2015). *Educational Researcher, 45*(3), 221–225.
- Sleeter, C. E. (1986). Learning disabilities: The social construction of a special education category. *Exceptional Children, 53*(1), 46–54.

- Smith, C. D. (2009). Deconstructing the pipeline: Evaluating school-to-prison pipeline equal protection cases through a structural racism framework. *Fordham Urban Law Journal*, XXXVI, 1009–1049.
- Smith, R. C. (1996). *A case about Amy*. Temple University Press.
- Snapp, S. D., Hoenig, J. M., Fields, A., & Russell, S. T. (2015). Messy, Butch, and Queer: LGBTQ Youth and the School-to-Prison Pipeline. *Journal of Adolescent Research*, 30(1), 57–82.
- So, A. Y. (1992). The black schools. *Journal of Black Studies*, 22(4), 523–531.
- Stossel, J. (2018, May 9). John Stossel: What haters don't get about Betsy DeVos. *Fox News*. <https://www.foxnews.com/opinion/john-stossel-what-haters-dont-get-about-betsy-devos>.
- Stovall, D., & Delgado, N. (2009). “Knowing the ledge”: Participatory action research as legal studies for urban high school youth. *New Directions for Youth Development*, 123.
- Stratford, M. (2019, December 3). DeVos proposes spinning off federal student loans from Education Department into independent agency. *Politico*. <https://www.politico.com/news/2019/12/03/devos-federal-student-loans-independent-agency-074948>.
- Strauss, V. (2016, December 23). Teacher: A one-size-fits-all approach to instruction is stifling our classrooms. *The Washington Post*. [washingtonpost.com/news/answer-sheet/wp/2016/12/23/teacher-a-one-size-fits-all-approach-to-instruction-is-stifling-our-classrooms/](https://www.washingtonpost.com/news/answer-sheet/wp/2016/12/23/teacher-a-one-size-fits-all-approach-to-instruction-is-stifling-our-classrooms/)

- Strauss, V. (2019, March 31). A look at the Trump administration's record on special education funding. *The Denver Post*.
<https://www.denverpost.com/2019/03/31/trump-betsy-devos-special-education-funding/>.
- Strauss, V.. (2020, February 18). What it really means when Trump, DeVos and their allies refer to public schools as “government schools.” *The Washington Post*.
<https://www.washingtonpost.com/education/2020/02/18/what-it-really-means-when-trump-devos-their-allies-refer-public-schools-government-schools/>.
- Stockman, F. (2018, May 11). They served their time. Now they're fighting for other ex-felons to vote. *The New York Times*.
<https://www.nytimes.com/2018/05/11/us/voting-rights-felons.html>.
- Stubblefield, A. (2007). Tainted whiteness, cognitive disability, and eugenic sterilization. *Hypatia*, 22(2), 162–181.
- Sugai, G., Sprague, J. R., Horner, R. H., & Walker, H. M. (2000). Preventing school violence: The use of office discipline referrals to assess and monitor school-wide discipline interventions. *Journal of Emotional and Behavioral Disorders*, 8(2), 94–101.
- Sullivan, A. L. (2011). Disproportionality in special education identification and placement of English language learners. *Exceptional Children*, 77(3), 317–344.
- Tampio, N. (2018, March 26). Betsy DeVos said Common Core was 'dead' - it's not. *The Conversation*. <https://theconversation.com/betsy-devos-said-common-core-was-dead-its-not-92800>.

Taylor, E. (2006). A critical race analysis of the achievement gap in the United States: Politics, reality, and hope. *Leadership and Policy in Schools*, 71(5), 71–87.

Taylor, A. (2008). *Examined life-Cornel West*. YouTube.

https://www.youtube.com/watch?v=xfD3X3f5C_w.

Taylor, R. S., Banner, K., & Hartman, K. (2012). Kept out: Barriers to meaningful education in the school-to-prison pipeline. *Georgetown University*.

<https://nicic.gov/kept-out-barriers-meaningful-education-school-prison-pipeline>.

Testimony before the House Labor Committee. (2019, April 10). Education policy hearing with Secretary DeVos. C-Span. <https://www.c-span.org/video/?459644-1/education-policy-hearing-secretary-devos>.

The Leadership Conference on Civil and Human Rights. (2017, December 7). The honorable Betsy DeVos.

<http://civilrightsdocs.info/pdf/policy/letters/2017/SigDisSignOnLetter120617FINAL.pdf>.

The National Federation of the Blind; The Council of Parent Attorneys and Advocates, Inc.; National Association for the Advancement of Colored People, Inc v. U.S. Department of Education; Betsy DeVos; Candice Jackson, 1:18-cv-01568-TDC (U.S. District Court for the District of Maryland (Northern Division) Filed May 31, 2018). <http://live-naacp-site.pantheonsite.io/wp-content/uploads/2018/06/NFB-et-al-v-Dept-of-Education2c-et-al-Complaint-Accessible-version-5-31-18.pdf>.

The Oxford Dictionary. (n.d.). (Apple Ed.). Retrieved July 9, 2020 from personal laptop.

Thind v. U. S., 261 U.S. 204 (1923).

https://scholar.google.com/scholar_case?case=971300999506440453&q=T

hind+v.+United+States&hl=en&as_sdt=6,32&as_vis=1.

Thurlow, M. L., Sinclair, M. F., & Johnson, D. R. (2002). Students with disabilities who drop out of school: Implications for policy and practice. *National Center on Secondary Education and Transition*, 1(2).

<http://www.ncset.org/publications/printresource.asp?id=425>.

Tobin, J. S. (2017, February 3). The stakes on Betsy DeVos. *National Review*.

<https://www.nationalreview.com/2017/02/betsy-devos-education-reform-nominee/>.

Tomlinson, C. A. (2005). *How to differentiate instruction in mixed-ability classrooms*. (2nd Ed.). Pearson Education Inc.

Trent, J. W. (1994). *Inventing the feeble mind: A history of mental retardation in the United States*. University of California Press.

Trump, D. J. (2018). Remarks by President Trump with local and state officials on school safety. <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-meeting-local-state-officials-school-safety/>.

Tulley, M., & Chiu, L. H. (1995). Student teachers and classroom discipline. *The Journal of Educational Research*, 88(3), 164–171.

Tuzzolo, E., & Hewitt, D. T. (2007). Rebuilding inequity: The Re-emergence of the school-to-prison pipeline in New Orleans. *The High School Journal*, 90(2), 59–68.

- Ujifusa, A. (2019, March 26). DeVos says Trump budget means “freedom” in education; Democrats call it “cruel.” *Education Week*.
<http://blogs.edweek.org/edweek/campaign-k-12/2019/03/betsy-devos-trump-education-budget-house-democrats-hearing.html>.
- Ujifusa, A. (2018, December 26). Spending, guns, and that DeVos interview: 10 big federal policy stories of 2018. *Education Week*.
<http://blogs.edweek.org/edweek/campaign-k-12/2018/12/federal-education-policy-top-10-2018-spending-guns-devos.html>.
- Ujifusa, A., & Blad, E. (2018, August 24). Firestorm erupts as Betsy DeVos weighs if districts can buy guns with federal money. *Education Week*.
<https://www.edweek.org/ew/articles/2018/08/23/firestorm-erupts-as-betsy-devos-weighs-if.html>.
- Underwood, J. (2017). When federal and state laws differ: The case of private schools and the IDEA. *Phi Delta Kappan*, 99(3), 76–77.
- U.S. Department of Education. (2017). Question and answers (Q&A) on U.S. Supreme Court case decision *Endrew F. v. Douglas County School District Re-1*.
<https://sites.ed.gov/idea/files/qa-endrewcase-12-07-2017.pdf>.
- U.S. Department of Education. (2018a). Final report of the Federal Commission on School Safety. *U.S. Department of Education*.
<https://www.hsdl.org/?abstract&did=819607>.
- U.S. Department of Education. (2018b). Federal Commission on School Safety. *U.S. Department of Education*. <https://www.ed.gov/school-safety>.

- Vavrus, F., & Cole, K. M. (2002). "I didn't do nothin'": The discursive construction of school suspension. *The Urban Review*, 34(2), 87–111.
- Vincent, C. G., Sprague, J. R., & Tobin, T. J. (2012). Exclusionary discipline practices across students' racial/ethnic backgrounds and disability status: Findings from the Pacific Northwest. *Education and Treatment of Children*, 35(4), 585–601.
- Waitoller, F. R., Artiles, A. J., & Cheney, D. A. (2010). The miner's canary: A review of overrepresentation research and explanations. *The Journal of Special Education*, 44(1), 29–49.
- Wald, J., & Kurlaender, M. (2003). Connected in Seattle? An exploratory study of student perceptions of discipline and attachment to teachers. *New Directions for Youth Development*, 99, 35–54.
- Wald, J., & Losen, D. J. (2003). Defining and redirecting a school-to-prison pipeline. *New Directions for Youth Development*, 99, 9–15.
- Waldman, A. (2018, June 21). DeVos has scuttled more than 1,200 civil rights probes inherited from Obama. *ProPublica*. https://www.propublica.org/article/devos-has-scuttled-more-than-1-200-civil-rights-probes-inherited-from-obama?utm_campaign=sprout&utm_medium=social&utm_source=twitter&utm_content=1529589699.
- Waldman, A. (2018, April 23). Shutdown of Texas schools probe shows Trump administration pullback on civil rights. *ProPublica*. <https://www.propublica.org/article/shutdown-of-bryan-texas-schools-probe-shows-trump-administration-pullback-on-civil-rights>.

- Waldman, A. (2017, April 14). DeVos pick to head civil rights office once said she faced discrimination for being white. *ProPublica*.
<https://www.propublica.org/article/devos-candice-jackson-civil-rights-office-education-department>.
- Wallace, J. M. Jr., Goodkind, S., Wallace, C. M., & Bachman, J. G. (2008). Racial, ethnic, and gender differences in school discipline among U.S. high school students: 1991-2005. *The Negro Educational Review*, 59(1-2), 47-62.
- Wallace, M. (1996). *Mickey Mouse history and other essays on American memory*. Temple University Press.
- Walsh, M. (2016, November 23). Civil Rights groups wary on federal enforcement stance under Trump. *Education Week*.
https://www.edweek.org/ew/articles/2016/11/30/civil-rights-groups-wary-on-federal-enforcement.html?_ga=1.166598654.1770676689.1455734802.
- Washington, J. M. (Ed.). (1986). *A testament of hope: The essential writings and speeches of Martin Luther King Jr.* Harper Collins.
- Washington Post Staff. (2015, June 16). Donald Trump announces a presidential bid. *The Washington Post*. https://www.washingtonpost.com/news/post-politics/wp/2015/06/16/full-text-donald-trump-announces-a-presidential-bid/?noredirect=on&utm_term=.9aaeaeab36db.
- Watkins, W. H. (2001). *The white architects of black education*. Teachers College Press.
- Weber, M. (2011). Politics as a vocation. In M. L. Morgan (Ed.), *Classics of moral and political theory*. (Kindle Ed., locs. 47532-48850). Hackett Publishing Company.

- Wells-Barnett, I. B. (1998a). The case stated. In W. E. Martin Jr. (Ed.), *Brown v. Board of Education: A brief history with documents*. (pp. 68–73). Bedford St. Martins.
- Wells-Barnett, I. B. (1998b). The Case Stated (1895). In D. R. Roediger (Ed.), *Black on White: Black writers on what it means to be white*. (Kindle ed., pp. 305–307). Schocken Books.
- West, C. (2004). *Democracy matters* (Kindle Ed.). Penguin Books.
- Wiley, A. L., Brigham, F. J., Kauffman, J. M., & Bogan, J. E. (2013). Disproportionate poverty, conservatism, and the disproportionate identification of minority students with emotional and behavioral disorders. *Education and Treatment of Children*, 36(4), 29–50.
- Wilson, J. (1998). *The Earth shall weep: A history of Native America*. Grove Press.
- Wun, C. (2018). Angered: Black and non-black girls of color at the intersections of violence and school discipline in the United States. *Race, Ethnicity, and Education*, 21(4), 423–437.
- Zahorik, J. A. (1977). Teacher verbal behavior: Perceived value, source of acquisition, and method of justification. *Journal of Teacher Education*, 28(4), 50–55.
- Zais, M. M. (2018). Nationwide audit of oversight of closed charter schools. *U.S. Department of Education*.
<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a02m0011.pdf>.
- Zaveri, M. (2020, February 27). Body camera footage shows arrest by Orlando police of 6-year-old at school. *The New York Times*.
<https://www.nytimes.com/2020/02/27/us/orlando-6-year-old-arrested.html>.

Zhang, D., Katsiyannis, A., Ju, S., & Roberts, S. (2014). Minority representation in special education. *Journal of Child and Family Studies*, *23*, 118–127.

Zizek, S. (1989). *The sublime object of ideology: The essential Zizek*. Verso.

Zuckerman, J. T. (2000). Student science teachers' accounts of a well-remembered event about classroom management. *Journal of Science Teacher Education*, *11*(3), 243–250.

Appendix A

Short Description of the Table

The following table is a table of the searches that I completed to obtain data for the present study. It shows the type of the search I completed, which included Google search engine searches, website searches, and hand searches. The origin of the search refers to where a source was originally found or provided to me. The last two columns of the table provide the number of sources that met inclusion criteria (see page 137) and also the in-text citation of each source that I reviewed that met the inclusion criteria.

| Search | Origin of Source | Sources that met Inclusion criteria that I reviewed | In Text Citation of Sources That met inclusion criteria that I reviewed |
|---------------------------|--------------------------------|---|---|
| Scholarly Recommendations | Members of doctoral committee. | 14 | (Aviv, 2018, September 24; Bogado et al., 2018, June 20; Butcher, 2018, July 18; Greenhouse, 2018, September 7; Hariot, 2018, April 5; Huseman & Waldman, 2017, June 15; Johnson, 2018, July 30; Lombardo & Arnold, 2018, June 21; Kalmbacher & Keller, 2018, July 3; Kamenetz, 2018, August 2; OCR, 2018a; Stockman, 2018, May 11; Waldman, 2018, June 21) |

| | | | |
|---|---------------------------|----|---|
| Manual hand search of ProPublica article (Huseman & Waldman, 2017) | Scholarly recommendations | 8 | (Eilperin et al., 2017, May 29; Hill, 2017; Huseman & Waldman, 2017, June 15; Jackson, 2017, June 8; Kalmbacher, 2018, July 3; Lombardo & Arnold, 2018, June 21; OCR, 2018; Press Office for U.S. Department of Education, 2017, April 12; Sessions, 2017, March 31; Waldman, 2017, April 14) |
| Manual hand search of Washington Post article (Eilperin et al., 2017) | ProPublica Hand Search | 1 | (Brown et al. 2019, May 17) |
| Google Search using the Boolean term: DeVos Federal education policy | Google Search | 33 | (Annenberg Institute, 2017; Arnone, 2018, December 5; Associated Press, 2019, May 6; Ballotpedia, 2018; Barnum, 2019, March 26; Binkley, 2019, February 28; Brinkley, 2019, January 21; Campbell & Partelow, 2019, March 11; Camera, 2019, February 28; Camera, 2019, April 10; Education Degree, 2019; Education Votes, 2019; Green, 2019, February 28; Harris, 2019, March 11; Hornbeck, 2018, November 29; Jimenez & Flores, 2019, May 30; Johnson, 2019, March 5; Kamenetz, 2018, December 18; Meckler, 2019, March 27; Niebling, 2019, March 29; Olsson, 2019; |

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| | | | Phenicie, 2019, March 26; Schroeder, 2018, July 30; Stratford, 2019, March 21; Strauss, 2019, March 12; Sugarman, 2017, March; Tomar, 2018, November 6; Ujifusa, 2018, December 26; Ujifusa, 2019, March 26; U.S. Department of Education, 2018a; U.S. Department of Education, 2018b; Walker, 2019, March 5) |
| Manual hand search of ProPublica article (Waldman, 2018) | ProPublica Hand Search | 6 | (Balingit, 2018, June 1; OCR, 2017; Russell, 2018 June 1; Waldman, 2017, April 14; Waldman, 2018, April 23; Waldman, 2018, June 21) |
| Manual hand search of NAACP Press Release | NAACP Press Release Hand Search | 2 | (Greenwood, 2018; April 20; Hill & Lierman, 2018, May 31) |
| Manual Hand Search of U.S. News and World Report | U.S. News and World Report Hand Search | 5 | (Botel, 2018; DeVos, 2018; Camera, 2018, December 18; Ujifusa & Blad, 2018; August 24) |
| Manual Hand Search of Education Week | Ed Week Hand Search | 1 | (Zais, 2018, September 28) |
| Search of C-Span Website using DeVos, Betsy | C-Span Coverage | 2 | National Review Institute, 2019, March 29; Testimony before the House Labor Committee, 2019, April 10 |
| Manual Hand Search of Ballotpedia | Ballotpedia hand search | 7 | Office of Management and Budget, 2017; Strauss, 2018, February 26; Trump, 2017, February 22; Trump, 2017, April 26; Trump, 2018; Trump & Pence, |

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| | | | 2018, February 22; White House Press Secretary, 2018, March 14 |
| WestLaw Data Base Search of Betsy DeVos | WestLaw | 2 | DeGross, 2017; DeVos, 2018, March 27 |
| Search of ACLU using Betsy DeVos | ACLU website | 1 | (American Civil Liberties Union, 2018, May 22) |
| Search of theconversation.com using Betsy DeVos | Located from the google search of Betsy DeVos federal education policy. | 6 | (Doez et al., 2017, January 19; Hlavacik, 2018, January 21; Hornbeck, 2017, February 7; Hornbeck, 2017, August 10; Smrekar, 2018, January 15; Tampio, 2018, March 26) |
| Search of Fox News using Betsy DeVos | Fox News website from feedback from proposal to incorporate conservative ideology. | 5 | (Ashford, 2018, March 12; Bill Bennett: Secretary of Education Betsy DeVos rescinding Obama-era school discipline policies is the right thing, 2018, December 19; Kinnard, 2019, February 20; Secretary of Education Betsy DeVos fires back at former Vice President Joe Biden, 2019, May 1; Stossel, 2018, May 9) |
| Search of National Review using Betsy DeVos | National Review website from feedback from proposal to incorporate conservative ideology. | 11 | (Clegg, 2018, February 27; Crookston, 2017, February 17; French, 2017, February 8; Hess & Addison, 2017, October 2; Hess & Bell, 2019, March 20; Hess & McShane, 2017, June 22; Leef, 2018, September 17; Lowry, 2017, January 18; Lowry, 2017, January 31; Robinson, 2019, June 6; Tobin, 2017, February 3) |

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| Manual Hand Search for the Federal Commission on School Safety | Originated from Google search on DeVos Federal Education Policy | 1 | (Kendziora et al., 2018) |
| Manual hand search of Jimenez and Flores | Originated from Google search on DeVos Federal Education Policy | 5 | (Council for Exceptional Children, 2017, March 15; Darville, 2019, March 26; DeVos, 2019, May 1; Harper, 2019, March 10; National Center for Transgender Equality, 2017, February 21) |
| Manual Hand Search of Sugarman | Originated from Google search on DeVos Federal Education Policy | 1 | (Walsh, 2016, November 23) |
| Google Search of Council of Parent Attorneys and Advocates v. DeVos and Department of Education | Google Search | 19 | (Busch, 2018, June 3, Chutkan, 2019, March 7; Civil Rights Roundtable, 2018, November 15; Collaboration to Promote Self-Determination and National Disability Rights Network, 2018, November 27; Diament, 2017, December 11; Green, 2018, March 31; Johnston, 2019, June 21; Justia, 2018, July 13; Klein, 2018, April 4; Leagle, 2017; Malkus & Keller, 2017; Marshall, 2019, March 7; McKenna, 2017, January 24; National Center for Youth Law, n.d.; National Council on Disability, 2018; Offices of Senator Elizabeth Warren and Representative Katherine Clark, 2018, February; Samuels, 2019, March 12; Texas Educational |

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| | | | Agency, n.d.; The Leadership Conference on Civil and Human Rights, 2017, December 7) |
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