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### Discipline Beyond the Schoolhouse Doors: Anti-Black Racism and the Exclusion of Black Caregiver

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# U.C.L.A. Law Review

## Discipline Outside the Schoolhouse Doors: Anti-Black Racism and the Exclusion of Black Caregivers

Thalia González & Paige Joki

### ABSTRACT

This Essay calls upon the civil rights and education justice communities to expand their vision of school discipline law and policy reform to include the often ignored, yet deeply impacted lives of parents, caregivers, and families. Deploying what critical race theorists define as storytelling or counternarratives, we share Nyla's story to bring forward an all too common deployment of education laws—flown under a banner of safety, order, maintenance, and well-being of school communities—that reinforce anti-Black racism. In particular, we aim to elevate how embedded and reinforced racism in education law and policy, whether conscious, visible, or explicit, harms Black caregivers and families who seek justice for their children by contesting oppressive, and at times illegal, health-harming conditions in schools. We argue that in advancing a more inclusive antiracist movement for education justice—one that centers advocacy against the breadth of injuries that students and caregivers who are punished, excluded, and policed by school officials face—we can move towards a more transformative agenda for education. While we acknowledge the endemic nature of racism in the U.S. educational system and beyond, we do not give up hope for Nyla and others and remain vigilant in our praxis to name and challenge the complex array of anti-Black practices, policies, and norms that maintain and rationalize white power and privilege.

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Authors are listed in alphabetical order to denote equal contributions. We wish to acknowledge Cassiopeia Land for her invaluable assistance in preparation of this Essay. We wish to thank the editors of the *UCLA Law Review Discourse* for their insightful comments and attention to detail.



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Nyla,<sup>1</sup> a Black mother, whose daughter has unmet special education needs, intervened quickly when her daughter disclosed that her Pennsylvania middle school was unsafe and was not providing her with the supports she needed to help her learn.<sup>2</sup> Nyla, herself a person with disabilities, knew that supports were necessary for her daughter to access school. Nyla knew the life-long impact that could result from the school denying her daughter these crucial resources. She also knew that her daughter had civil rights that were being violated by the school's conduct. After insisting that her daughter receive the necessary and legally required special education support and demanding that the school investigate and remedy the bullying and sexual harassment that her daughter was facing at school, a standard practice for many caregivers,<sup>3</sup> Nyla was formally and indefinitely banned from her daughter's school.

The school's formal—and racialized—notice characterized her advocacy as a “verbal diatribe” and warned that if Nyla set foot on school grounds without a prior appointment, the school would call the police and have her arrested. Immediately after issuing the notice in person, the school acted swiftly to remove Nyla, who was cast as a threat. School officials called the city police to escort Nyla off school grounds while her daughter looked on. Armed officers also threatened Nyla's daughter with arrest and placed her in handcuffs after she came to her mother's aid by questioning the officers' actions.

After being physically removed from school grounds, the school undercut her subsequent attempts to advocate on behalf of her daughter. Despite numerous requests, the school stopped answering Nyla's phone calls and emails, aside from

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1. A pseudonym was used, and some details have been changed to preserve the privacy and confidentiality of the client's experience upon which Nyla's story most proximately draws. Nyla's story is informed by some of the lived experiences of clients served by the Education Law Center, a Pennsylvania-serving non-profit that, among other systemic and policy advocacy efforts, provides direct legal representation to families and students facing educational barriers. The Education Law Center focuses on advancing the rights of public school students who have been historically underserved by the education system.
  2. Interview with Nyla, Parent of Unnamed Child, Feb. 2, 2022 (on file with author).
  3. We have chosen to use the term ‘caregiver’ as a term of art to best capture the diversity of individuals who care for and advocate on behalf their children enrolled in public school. This mirrors the expansive definition of who can be considered a ‘parent’ for educational decision-making purposes found in law. For instance, the Individuals with Disabilities in Education Act (IDEA), a federal education civil rights law protecting students who are people with disabilities who require special education services and supports, recognizes a broad definition of ‘parent.’ 20 U.S.C. § 1400–84 (1991). By doing so, IDEA reflects the reality that many individuals can serve in a decision-making role in the special education context. Examples include an appointed surrogate parent or another caretaking individual such as a relative or family friend with whom a child lives. *Id.*

*renewing their threat to involve law enforcement should she come on school property. Despite referencing that such appointments could be made on the notice itself, the school refused to set up an appointment for Nyla to discuss her daughter's educational needs.*

*In issuing this notice, Nyla was transformed in the eyes of the law. Instead of being viewed as a mother advocating for her child, deeply internalized bias and racism transformed Nyla into a grave threat to the safety of the school community, a fact not lost on her daughter who already felt unwelcome and unwanted at her school.*

\* \* \*

## I. INTERSECTIONALITY, COUNTERNARRATIVES, AND THE CRIMINALIZATION OF BLACK WOMEN

Critical race theory is a powerful framework in the domain of education justice.<sup>4</sup> It serves not only as a theoretical tool for descriptively analyzing school inequity, but is also deployable for critiquing institutions, movements, and dominant logics within education justice. In defining the critical race theory “revolution” and, more specifically, how it has been instrumental in shaping how “legal scholars think and write about race,”<sup>5</sup> Angela Harris draws attention to its methodological commitment to social reflexivity and the use of storytelling:

CRT scholars, in dramatic opposition to this norm, employed “storytelling” in their work. Williams, for instance, liberally employs first-person narrative in her book, weaving personal stories and striking visual images into dense passages of legal theory. Bell and Delgado became famous for their use of fables and dialogues with fictional characters as means by which to criticize law and racial politics. “Storytelling” as a method of scholarship has been criticized by some within the legal academy as an attack on truth itself. Its use, however, focuses CRT directly on the problem of knowledge, insisting on social

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4. Critical race theory has a long history of using counternarratives to critique discriminatory practices and uplift silenced voices. See, e.g., Michelle N. Amiot, Jennifer Mayer-Glenn & Laurence Parker, *Applied Critical Race Theory: Educational Leadership Actions for Student Equity*, 23 RACE ETHNICITY & EDUC., 200, 214–15 (2020); RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION 1 (2001).
  5. Angela P. Harris, *Racing Law: Legal Scholarship and the Critical Race Revolution*, 52 EQUITY & EXCELLENCE IN EDUC. 12, 17 (2019).

reflexivity and rejecting traditional legal scholarship's belief in a "view from nowhere."<sup>6</sup>

Thus, critical race theory can be understood as a praxis that develops ground truths from the lived experiences of marginalized people through the use of counternarratives.<sup>7</sup> In the context of our work, critical race theory shines light on narratives previously left out of the traditional domains of civil rights and education justice. The impact of education laws is not single axis; rather, they are multi-axial and exist within a larger ecosystem of control and punishment that criminalizes Black people—whether they are students or not.

In this Essay, we use Nyla's story to construct a counternarrative to invite examination, not only of the architecture of an education system built, nourished, and sustained upon a foundation of white supremacy and anti-Black racism,<sup>8</sup> but to expose how Black women uniquely experience race and sex discrimination at the hands of state actors. First entering the legal lexicon in 1989, Kimberlé Williams Crenshaw's use of the term "intersectionality"<sup>9</sup> has been widely adopted to capture the compounded legal, social, political, and economic matrices of oppression that Black women and girls face.<sup>10</sup> As Michele Goodwin writes in the context of Breonna Taylor's murder, "the function of women's erasure serves to preserve social norms, positions of power, and sex-based hierarchies" and that "women of color may suffer a unique *invisibility*, because they fall through the cracks of race and sex identities and social movements."<sup>11</sup> Particularly so for Black women as "there is a lingering mark and contradiction of Black womanhood, the

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6. *Id.* at 18 (citations omitted).

7. Delgado defined a 'counter-story' as a "counter-reality that is experienced by subordinate groups, as opposed to those experiences of those in power." RICHARD DELGADO, CRITICAL RACE THEORY: THE CUTTING EDGE 194 (Richard Delgado eds., 1995). *See also*, Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 Mich. L. Rev. 2411 (1988); Richard Delgado & Jean Stefancic, *Critical Race Theory: An Annotated Bibliography*, 79 VA. L. REV. 461 (1993).

8. *See e.g.*, Michael J. Dumas, *Against the Dark: Antiblackness in Education Policy and Discourse*, 55 THEORY INTO PRAC. 11, 12 (2016); Damien M. Sojoyner, *Black Radicals Make for Bad Citizens: Undoing the Myth of the School to Prison Pipeline*, 4 BERKELEY REV. EDUC. 241, 245 (2013).

9. *See e.g.*, Kimberlé W. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989); Kimberlé W. Crenshaw, *The First Decade: Critical Reflections, or "A Foot Closing in the Door,"* 49 UCLA L. REV. 1343 (2002).

10. *See e.g.*, Trust Kupupika, *Shaping our Freedom Dreams: Reshaping Intersectionality Through Black Feminist Legal Theory*, 107 VA. L. REV. ONLINE 27 (2021).

11. Michele Goodwin, *Women on the Frontlines*, 106 CORNELL L. REV. 851, 857–58 (2021) (emphasis added).

necessary, maligned social scapegoat against which a society seeped in a history of racism defines her.”<sup>12</sup> We agree with Professor Goodwin when she queries, “how can we take seriously the travails of women, including the most vulnerable among them, if we do not take into account their stories and life journeys?”<sup>13</sup> It is within this domain of critical race theory or, more aptly, critical race feminism<sup>14</sup> that we—an activist-scholar and an education civil rights attorney—seek to intervene. We assert that Nyla’s narrative holds the promise to expose, contextualize, and demand a more transformative agenda for education equity.

## II. SYSTEMATIZING THE EXCLUSION OF BLACK CAREGIVERS

As is true for Black students, and for Black girls in particular,<sup>15</sup> the preservation of safety and order vis-à-vis education law and discipline is often a pretextual excuse to dehumanize, criminalize, and exclude far outside the schoolhouse doors. Like the often untold stories in the broader education rights landscape, stories like Nyla’s reveal that Black caregivers who oppose the unlawful and oppressive conditions their children encounter face harsh and punitive treatment at the hands of school officials whose actions reflect entrenched discriminatory beliefs and systemic racism in the U.S. educational system. Education law functions to punish, police, and exclude Black caregivers and form

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12. *Id.* at 854.

13. *Id.* at 859.

14. Legal scholars Kimberlé Crenshaw, Angela P. Harris, Dorothy Roberts, and Adrien Wing are widely accepted as leading theorists of critical race feminism. In each of their works, they derive ideas from critical race theory, critical legal studies, and feminist theory but draw attention to the deficits of each approach. See, e.g., DOROTHY E. ROBERTS, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* (1997); Crenshaw, *supra* note 9; Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990).

15. An analysis of national data shows that Black girls are 4.19 times more likely to be suspended and 3.66 times more likely to be arrested at school than their white peers. GEO. L. CTR. ON POVERTY & INEQ., *DATA SNAPSHOT: 2017–2018 NATIONAL DATA ON SCHOOL DISCIPLINE BY RACE AND GENDER 1* (2020). Black girls who are people who have disabilities are five times more likely to be suspended than white girls who are people who do not have disabilities. U.S. DEP’T OF ED. OFF. C.R., *CIVIL RIGHTS DATA COLLECTION* (2020). See also, KIMBERLÉ W. CRENSHAW, PRISCILLA OCEN & JYOTI NANDA, *BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED AND UNDERPROTECTED* 16–18 (2015); REBECCA EPSTEIN, JAMILIA J. BLAKE & THALIA GONZÁLEZ, *GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS’ CHILDHOOD* 9–11 (Ctr. on Poverty & Ineq. ed., 2017); Jamilia J. Blake et al., *The Role of Colorism in Explaining African American Females’ Suspension Risk*, 32 SCH. PSYCH. Q. 118, 118–30 (2016); MONIQUE W. MORRIS, *PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS* 34 (2016).

an interwoven web of punitive threads that creates and sustains deep, lasting, racialized, and intergenerational harm.<sup>16</sup>

In Nyla's case, the school deployed a Parental Exclusion Letter<sup>17</sup> against her. Legally, schools across the country have broad authority to regulate both their own internal conditions and parental actions on school grounds in order to preserve safety and order.<sup>18</sup> For example, the 2021-2022 Code of Conduct for the School District of Philadelphia, which is the eighth largest in the country and the largest school district in Pennsylvania, states that "[a]ny parent or guardians who pose a threat or danger to the school community will be reported to the Philadelphia Police Department."<sup>19</sup> Disturbingly, under the section titled "Student and Parent/Guardian Rights" in the subsection relating to "Parent/Guardian Appeals," the Code also specifies that schools are able to ban parents and guardians "without an appointment" due to "threatening or unsafe behavior," but fails to define the specific behaviors that would lead to the issuance of a Parental Exclusion Letter.<sup>20</sup>

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16. See e.g., Robert A. Hummer & Elaine M. Hernandez, *The Effect of Educational Attainment on Adult Mortality in the United States*, 68 POPULATION BULL. 1, 4, 8, 11 (2015); Robert Lee, *Learning Matters: How Education Affects Health*, AAFP, [https://www.aafp.org/news/blogs/leadervoices/entry/learning\\_matters\\_how\\_education\\_affects.html](https://www.aafp.org/news/blogs/leadervoices/entry/learning_matters_how_education_affects.html) [<https://perma.cc/6KH4-KVF8>]; THE NAT'L CHILD TRAUMATIC STRESS NETWORK, ADDRESSING RACE AND TRAUMA IN THE CLASSROOM: A RESOURCE FOR EDUCATORS 1 (2017).
  17. While the term Parental Exclusion Notice is often the codified name for the instrument used to exclude caregivers in school policy, school officials sometimes refer to these notices as "Parental Ban Letters," either formally or informally. Caregivers seeking support from the Education Law Center often use the terms "Parental Ban Letter" and "Parental Exclusion Letter" interchangeably to refer to a school-based caregiver exclusion.
  18. Some measures undertaken to "prevent disruption of the schools" have been recognized as a "substantial" and "legitimate" governmental concern." *Carey v. Brown*, 447 U.S. 455, 464 (1980). School officials "also have the authority and responsibility for assuring that parents and third parties conduct themselves appropriately while on school property." *Lovern v. Edwards*, 190 F.3d 648, 655 (4th Cir. 1999). Courts in Pennsylvania have similarly affirmed the ability of schools to ban caregivers who engage in advocacy on behalf of students. See, e.g., *Smith v. Allegheny Valley Sch. Dist.*, 2017 WL 6279345 (W.D. Pa. Dec. 8, 2017) (where a father was banned from school property, arrested, and charged with criminal harassment and making terrorist threats following his advocacy and multiple demands that the school address and remedy the sexual harassment and assault to which his son was subjected).
  19. THE SCH. DIST. OF PHILA., CODE OF CONDUCT 2021–2022, at 6 (2021) [hereinafter CODE OF CONDUCT].
  20. *Id.* at 7. Under the "Student and Parent/Guardian Rights" section on "Parent Guardian/Appeals," the Code specifies that "Parental exclusion letters- guardians/parents are banned from a school building without an appointment banned from a school building, for a specified amount of time, without an appointment, as a result of threatening or unsafe behavior. Warning letters should be issued to guardians/parents if at all possible." *Id.* The Code of Conduct also spells out "Community Member Expectations and Responsibilities." The section outlining the responsibility of "Parents/Guardians" states that "any parent or guardians who pose a threat or



This language, both in content and ambiguity, bears a striking resemblance to the use of the overly vague term “willful defiance,”<sup>21</sup> a term used to enumerate an undefined category of prohibited behaviors at school. As scholars and activists alike have argued, the codification of highly subjective, discretionary, and racialized terms used in school codes of conduct, coupled with lack of oversight, has contributed to the rise of the school-to-prison pipeline.<sup>22</sup> And, like willful defiance, the absence of criteria<sup>23</sup> allows for structural discrimination and bias to drive the use of criminalization policies and practices. This is particularly harmful in the way that certain historic and contemporary tropes and stereotypes of “angry” or “aggressive” Black girls<sup>24</sup> and women<sup>25</sup> can further the use of these discriminatory and oppressive policies and actions. In the instance of Parental Exclusion Letters, officials are given unchecked discretion to categorize and classify caregivers as “dangerous” or as threats to the school community regardless of their actual behavior. Moreover, the impact of their actions will also go uncalculated as no data will be collected about the issuance of such notices. This silencing of caregivers is acted upon without school officials recognizing or

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danger to the school community will be reported to the Philadelphia Police Department.” *Id.* at 6.

21. Sathvik Nori, *Willful Defiance*, COAL. JUV. JUST. (May 21, 2020), <https://www.juvjustice.org/blog/1167> [<https://perma.cc/EGY9-GBSS>].
22. See e.g., *id.*; Laura R. McNeal, *Managing Our Blindspot: The Role of Bias in the School-to-Prison Pipeline*, 48 ARIZ. STATE L.J. 285, 293 (2016); MORRIS, *supra* note 15, at 34; MARK WARREN, *WILLFUL DEFIANCE: THE MOVEMENT TO DISMANTLE THE SCHOOL-TO-PRISON PIPELINE* (2021).
23. For the 2020-2021 school year, the School District of Philadelphia’s Code of Conduct did not require a time limitation or advise that a warning letter should be issued prior to the ban, nor did it define the “inappropriate behavior” that triggered the ban. CODE OF CONDUCT, *supra* note 19, at 7. Instead, it plainly stated that a “parent is banned from a school building as a result of inappropriate behavior,” in the section defining Parental Exclusion Letters. *Id.* The School District of Philadelphia has since changed its section for Parental Exclusion Letters for the 2021–2022 school year to limit the ban to “a specified amount of time” and to issue warning letters beforehand “if at all possible.” *Id.* While these revisions are important and needed, the updated Code still (1) permits banning, (2) lacks a definition for “threatening or unsafe behavior,” (3) does not require data collection, (4) does not specify the maximum duration for which an exclusion can be imposed, and (5) does not utilize automatic appeals process, leaving ample room for continued bias in decision-making. *Id.*
24. See, e.g., Blake et al., *supra* note 15; Jamilia J. Blake, Bettie Ray Butler & Danielle Smith, *Challenging Middle-Class Notions of Femininity: The Cause of Black Females’ Disproportionate Suspension Rates*, in *CLOSING THE SCHOOL DISCIPLINE GAP* 75, 76 (Daniel J. Losen, ed., 2015); MORRIS, *supra* note 15, at 34.
25. See, e.g., Kimberlé W. Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*, 43 STAN. L. REV. 1241 (1991); Crenshaw, *supra* note 9; Alexandra J. Rankin-Wright, *Critical Race Theory and Black Feminist Insights Into “Race” and Gender Equality*, 43 ETHNIC AND RACIAL STUD. 1111, 1115–18 (2020); ReAnna S. Roby & Elizabeth B. Cook, *Black Women’s Sharing in Resistance Within the Academy*, 18 TABOO: J. CULTURE & EDUC. 5, 11, 14 (2019).

alleviating the conditions that necessitate caregivers' often repeated contact with school officials advocating for student's needs.<sup>26</sup>

Formal written letters are not the only form of exclusion that parents like Nyla face. Caregivers also experience verbal notices of exclusion even when their child's school's Code of Conduct explicitly requires written notice. For example, caregivers of children attending school in the School District of Philadelphia have reported to the Education Law Center that they have been told verbally that they have been "banned" from their child's school without receiving the required Parental Exclusion Letter in writing.

Without a physical letter to corroborate the ban, caregivers face additional hurdles to seeking redress and schools can explain away the exclusion and punishment as a 'miscommunication.' Without a physical letter, it can be very difficult for a caregiver to document previous efforts to seek redress that resulted in their being banned or to substantiate that school personnel engaged in retaliatory behaviors in response to reporting unlawful or health-harming conditions inside of a child's school. In denying a caregiver's truthful report about the circumstances leading to the exclusion, administrators cast doubt on the caregiver's credibility, making it less likely that the caregiver will be believed about the conditions inside of a school that prompted them to contact the school in the first place. For instance, caregivers who are denied truthful accounts of the circumstances leading to a ban have reported to the Education Law Center that they have been branded by school staff as "trouble-makers" who make false reports, which is then used as a justification to fail to investigate subsequent reports that a caregiver makes. This framing of the intention and character of a particular caregiver makes it difficult and, in some cases, impossible to get the school to take action to address a health-harming or illegal conditions without legal representation.

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26. At present in Pennsylvania, there is no accountability or public data tracking mechanisms in state law or local policy specific to the delivery of Parental Exclusion Letters. As such, we can only draw upon the experiences of attorneys at the Education Law Center and others in similar organizations to know that the use of such letters mirrors the well-established patterns of intersectional disproportionality in student discipline and thus that Black caregivers and caregivers of color are disparately impacted.

### III. EXPANDING THE SCHOOL PUNISHMENT FRAMEWORK TO INCLUDE CAREGIVERS

To address the multiplicity of domains in which anti-Black racism is reinforced and rebranded under the guise of protecting students and ordering school communities, it is imperative to acknowledge a fuller picture of school discipline that permeates beyond the schoolhouse doors. Absent this needed layer of analysis and advocacy, the criminalization of caregivers will continue to be invisibilized, unmeasured, and normalized. Nyla's story is a first intervention to disrupt the pervasive framing and naming<sup>27</sup> that casts communities and people—particularly communities and people of color—in harmful ways. A system that allows both historic and evolving tropes to flourish, particularly those about Black mothers, is a dangerous one. And we fear that without oversight<sup>28</sup> and attention from the broader civil rights and education justice communities, schools will continue to mischaracterize caregivers' civil rights advocacy as behavior deserving of punishment and exclusion in the name of law and order.

While we have drawn attention to one practice permitted through caselaw and its informal verbal complement,<sup>29</sup> there are many other education laws and practices at this nexus through Nyla's story that create complex and unique forms of systemic harm and injustice<sup>30</sup>. Each represents an extension of the logic of punitive discipline and zero tolerance coupled with the reinforcement systems of state control and surveillance that demands our collective attention. Similarly, there are many other stories like Nyla's that occur throughout public schools in the Philadelphia area and across Pennsylvania. Caregivers routinely endure

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27. See Crenshaw, *supra* note 25, at 1244 n.8-9 (explaining the importance of “nam[ing] the perspective [and frameworks] from which one constructs her analysis”).

28. The oversight we hope to see includes but is not limited to collecting data on: (1) the alleged conduct that gave rise to the notice, (2) the race and sex of the caregiver being banned, and (3) the impact such a notice has on the caregiver's ability to advocate on behalf of their children or participate in their education.

29. See *supra* note 2.

30. See 24 P.S. §§ 13-1333.1, 13-1333.3 (outlining the possible repercussions for violations of Pennsylvania's compulsory school laws, including fines, community service, and jail time); 24 P.S. § 13-1302(c) (permitting school districts to seek tuition payments, court costs, and the imposition of fines and community service for violations of racialized residency laws that generally determine where children have a legal right to attend public school). In the Education Law Center's experience, the threat of such penalties has been deployed against caregivers of color, particularly Black caregivers, seeking to enroll their children in a school in which they have a legal right to attend. In some cases, districts have sought over \$30,000 in tuition payments from caregivers whose children have a legal right to attend the public school in which they are enrolled and attending.

punishment and exclusion at the hands of school officials through education laws that lie beyond the current discourse of school discipline reform. This must change. A true vision of educational justice exists when anti-Black racism no longer operates to punish, exclude, and police those who stand against the many ways in which schools are failing our children.

If education justice continues on its present course, predominantly acknowledging only a student-centered focus to school (de)criminalization, it will continue to fail to capture the full breadth and cycle of harm that education laws and policies perpetrate against Black communities and communities of color. For example, the current framing and naming of school (de)criminalization misses the ways in which the punishment, exclusion, and policing of caregivers creates a compound effect for students like Nyla's daughter who are not only forced to endure rights violations themselves, but must also witness the violation of their caregivers rights in the name of a school community.<sup>31</sup> Rather than learning in her classroom, the lesson to Nyla's daughter was that when Black women draw attention to injustices in schools and advocate for their children, they are treated as criminals who must be removed by the police in the name of safety for all.

### CONCLUSION

Exclusion and punishment are not the lessons our schools should be teaching, but they are nonetheless the lessons that many children learn because of these abusive and discriminatory policies. To address this crisis of unchecked intersectional systemic discrimination, we argue for the expansion of the current school discipline movement to include dismantling education laws, policies, and practices that reinforce the oppressive narrative that students and families of color are expendable members of the school community.

This white supremacist narrative should not be tolerated, replicated, or sustained. We underscore the imperative need for new collaborative, transformative, intersectional, and inclusive frameworks for civil rights attorneys and education justice advocates and scholars alike. In the face of renewed white

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31. In addition to the harms that Nyla's daughter experienced, research shows that gendered racial oppression negatively harms Black women's physical and mental well-being. See, e.g., Jioni A. Lewis et al., *Applying Intersectionality to Explore the Relations Between Gendered Racism and Health Among Black Women*, 64 J. COUNSELING PSYCH. 475 (2017).

nationalism<sup>32</sup> and the attacks on critical race theory<sup>33</sup>, we must remain grounded in a commitment to counteract the systems, laws, policies, and anti-Black norms that have long fueled discrimination, perpetuated racial inequities, and manifested racialized harms.

For Nyla, the many that have come before her, and those likely to come after, the time has come to expand the landscape of education law and policy reform. When asked, Nyla has clarity as to what an equitable educational future means for both her daughter and for her community:

We need to grab ahold not only of our children, but we need to grab and pull and hold our system accountable to make sure our children are getting the proper education . . . . We need to strive to become like a village. Without that, these kids and parents will feel like I feel; that we failed our children because of how the system is set, and because [caregivers] don't know their rights. Without unity and this village, we cannot help this system.<sup>34</sup>

In her visioning, Nyla also dreams for her daughter, "I want the best along with the better."<sup>35</sup> So must we.<sup>36</sup>

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32. See generally Nicole Austin-Hillery & Victoria Strang, *Racism's Prominent Role in January 6 US Capitol Attack*, HUM. RTS. WATCH (Jan. 5, 2022, 4:54PM), <https://www.hrw.org/news/2022/01/05/racisms-prominent-role-january-6-us-capitol-attack> [<https://perma.cc/ZZ98-DBUZ>]; Robert A. Pape, *The Jan. 6 Insurrectionists Aren't Who You Think They Are*, FOREIGN POL. (Jan. 6, 2022, 6:43AM), <https://foreignpolicy.com/2022/01/06/trump-capitol-insurrection-january-6-insurrectionists-great-replacement-white-nationalism/> [<https://perma.cc/YZG9-S5ZK>]; Erin Waters, *The Rise of Violent White Nationalism in the US*, ASPEN INST. (July 3, 2019), <https://www.aspeninstitute.org/blog-posts/the-rise-of-violent-white-nationalism-in-the-us/> [<https://perma.cc/U8AT-QKBL>].
  33. See generally Marokey Sawo & Asha Banerjee, *The Racist Campaign Against 'Critical Race Theory' Threatens Democracy and Economic Transformation*, ECON. POL. INST. (Aug. 9, 2021, 9:35AM), <https://www.epi.org/blog/the-racist-campaign-against-critical-race-theory-threatens-democracy-and-economic-transformation/> [<https://perma.cc/T6JN-GS4S>].
  34. Interview with Nyla, *supra* note 2.
  35. The client upon whom Nyla's story is most proximately drawn, told her story in her own words captured here. While her words reflect her lived experience and reality the grave harm caused by Parental Exclusion Letters is similar to other the ways other clients of Education Law Center have framed their experiences as well.
  36. *Id.*