

AN

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ANTI-BIAS VISION

FOR THE **NEXT GENERATION**

Report & Recommendations

by the New Jersey Interagency Task Force to Combat Youth Bias to the
Governor & Attorney General



YOUTH BIAS TASK FORCE

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Letter from Task Force Chair, Rachel Wainer Apter

The Interagency Task Force to Combat Youth Bias (Task Force) was created to address the dramatic increase in reported bias incidents in New Jersey, especially among children and young adults, over the past several years. According to the 2017-2018 Bias Incident Report, New Jersey’s children and young adults accounted for 53% of known offenders of bias incidents in 2018, and 45% of victims.¹ And in 2019, 25% of all reported bias incidents occurred in K-12 schools. Given that bias incidents often go unreported, these numbers likely represent only a small fraction of the incidents involving New Jersey’s young people.²

These incidents are not just statistics.³ Recent reports in New Jersey include a student posting a racist video comparing Black men to chimpanzees on TikTok; a swastika found etched in a classroom wall; a noose found hanging in a high school bathroom; and a restaurant vandalized with the words “Go Home China COVID-19.”

As these examples make clear, bias incidents do not only harm individuals. They discriminate, exclude, intimidate, degrade, dehumanize, threaten, or harass, and they label people as “other.” And because bias incidents target people because of what they look like, where they come from, how they worship, and who they love, they terrorize entire communities and tear at the fabric of our democracy.

Our institutions and systems play a role in teaching and perpetuating interpersonal bias. As the hundreds of New Jerseyans who



1 See N.J. Office of the Attorney General, *Bias Incident Report 2017–2018*, at B-8 (2018), https://www.nj.gov/oag/dcr/downloads/2017-2018_Bias-Incident_Report_080719a.pdf. [hereinafter “2017-2018 Bias Incident Report”]. References to “young people” or “young adults” in this report refer to individuals aged 25 or younger.

2 The Department of Justice’s Bureau of Justice Statistics found that more than half (54%) of hate crime victims between 2011 and 2015 did not report the crime. Madeline Masucci & Lynn Langton, U.S. Dep’t of Justice, Bureau of Justice Statistics, *Hate Crime Victimization, 2004-2015* 1 (2017), <https://www.bjs.gov/content/pub/pdf/hcv0415.pdf>.

3 A bias incident is reported to law enforcement as having occurred because of the victim’s actual or perceived race, religion, national origin or ethnicity, gender, sexual orientation, gender identity or expression, or disability.

attended our listening sessions and provided written comments to the Task Force correctly pointed out, prejudice and bias are not new, either in New Jersey or across the nation. This year marks 401 years since enslavers first brought Africans to America, and this country’s plunder of Black people and other marginalized communities did not end with emancipation. Indeed, many of the institutions that shape our country have a long legacy of excluding and degrading people of color, religious minorities, immigrants, women, LGBTQ+ people, and people with disabilities. The Task Force therefore examined institutional bias, systemic bias, and particularly systemic racism as part of formulating recommendations to address interpersonal bias.

The importance of acknowledging systemic bias has only been reinforced by recent events, including the COVID-19 pandemic and the protests in support of racial justice that have taken place around the country and around the world.

COVID-19 has been particularly devastating for our Black and Latinx communities;⁴ Black and Latinx people are disproportionately likely to be exposed to COVID-19 and to die from it. Many Black and Latinx people work in service or production jobs that keep them from working at home, including healthcare, retail, and public transit. Many rely on public transportation, or live in apartments or multigenerational homes where it is difficult to socially distance. And while New Jersey’s schools shifted to remote learning in March, consistently accessing such learning was and is difficult for children who don’t have stable housing, who lack internet access or ready access to computers, or whose working parents cannot supervise their participation each day. The impact of these disparities on young people’s education is dramatic, and in large part remains to be seen.

There are also those who have attempted to use COVID-19 to spread hate and division in New Jersey. There have been countless reports of discrimination and harassment against people who are or are perceived to be Asian based on false claims that they “caused” or are responsible for “spreading” COVID-19. There are also reports of discrimination against those who have or are perceived to have COVID-19. On this we are clear: COVID-19 can never justify racism, xenophobia, or stereotyping based on religion or disability.

As to racial justice, we are at a moment of reckoning in this country. Recent polls show large increases in the percentage of white Americans who believe that racism is “a big problem” in society and that “the nation’s criminal justice system favors white people over black people.”⁵ There have been thousands of peaceful protests, demonstrations, rallies and marches in New Jersey and around the world, largely led by young people, in response to the most recent killings of Black people, namely George Floyd, Breonna Taylor, Dominique Fells, and Ahmaud Arbery. In fact, studies suggest that somewhere between 15

4 The phrase “Latinx” is used to include all people residing in the United States who identify as of Latin American descent. The term “Hispanic” is used to include all people residing in the United States who identify as of Spanish-speaking descent. Although these two terms overlap significantly, they are not interchangeable, in that “Hispanic” does not include people who identify as from Brazil, Guyana, Suriname, or any other Latin American country in which the predominant language is not Spanish, and “Latinx” does not include people who identify as from Spain, Equatorial Guinea, or any other predominantly Spanish-speaking country outside of Latin America. Where this Report refers to data, this Report uses the term used in the data.

5 See Nolan D. McCaskill, “‘A Seismic Quake’: Floyd Killing Transforms Views on Race,” Politico (June 10, 2020), <https://www.politico.com/news/2020/06/10/george-floyds-death-transforms-views-on-race-307575>.

million to 26 million people have participated in these demonstrations in the United States, making them “the largest movement in the country’s history.”⁶ The protests have one goal: to call out and ultimately end systemic racism.

The recommendations in this Report are an important first step in responding to the moral outrage of this historic moment with efforts to dismantle interpersonal and systemic racism and bias. We approached this Report with the purpose of honestly sharing our State’s current reality. We have attempted to appropriately and transparently call out the problems and to recommend solutions that bend the arc of our State sooner towards justice.

The Task Force members are hopeful about the future of our State—young people. We hope to leave readers of this Report hopeful as well. We hope this report is one of many steps in the movement towards equity, power, and a commitment towards anti-bias work statewide. The data, research and personal stories in this report reflect the lived experiences of so many young people in New Jersey. We hope that the report empowers students, parents, legislators, and stakeholders to openly discuss their experiences, confront those who do not validate their voices, and challenge and transform their communities on a personal and systemic level.

Although the ongoing pandemic and the resource constraints that have already resulted for New Jersey may pose challenges to the manner in which the recommendations in this Report can be implemented, as our State begins to rebuild, it is more essential than ever that we make an unprecedented commitment to rebuilding a more just and fair society for all New Jersey residents. That means addressing the impacts of systemic racism and bias on New Jersey’s young people. The Task Force members look forward to partnering with the people of New Jersey in that vital work.

I would like to thank the incredible people from the New Jersey Division on Civil Rights; the New Jersey Department of Education; the New Jersey Office of the Secretary of Higher Education; the New Jersey Department of Children and Families; the New Jersey Office of Homeland Security and Preparedness; the New Jersey State Police; the Division of Criminal Justice; and the Juvenile Justice Commission who participated in this Task Force. The participants from each agency were thoroughly committed to the work and brought a never-ending supply of creativity and passion to the mission of the Task Force. No task was too big or too small, and each individual contributed to this Report in countless ways.

We are also deeply indebted to all those who attended the community listening sessions, submitted written comments, or otherwise followed up with the Task Force to ensure that this Report reflected the full scope of the problem of interpersonal and systemic bias among our young people, and set forth comprehensive recommendations to address it.

And we extend heartfelt thanks to Governor Murphy, Lieutenant Governor Oliver, and Attorney General Grewal for their leadership and support in the vital mission of addressing hate, bias, and prejudice among New Jersey’s children and young adults. This Report is possible because of their commitment.

⁶ Larry Buchanan, Quoctrung Bui & Jugal K. Patel “Black Lives Matter May be the Largest Movement in U.S. History” N.Y. Times (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.



Executive Summary

The rise in reported bias incidents and the normalization of bias among our young people and in our schools and colleges is of the utmost concern. This Report identifies factors that contribute to bias, surveys the existing laws and programs meant to combat bias in New Jersey and their shortcomings, and offers recommendations to help our diverse State root out bias affecting young people.

Part I: Root Causes of Youth Bias

To understand how we got here, the Task Force studied the root causes of bias among New Jersey's young people. We explored how our children develop biased beliefs and how those beliefs manifest as actions. The answer to the first question is strikingly simple: Bias is learned.

The question of where and how it is learned is more complex. Because we live in a society plagued by systemic racism and bias, children learn bias from many sources. They learn it in early childhood from observing the world around them. They learn it in their homes and from the political rhetoric in their communities. And, increasingly, they learn it from social media, where they are being exposed to ever more extreme, radicalized, and hateful content.

Of particular import, children learn bias in school, by taking note of whose stories and histories are taught and valued in the curriculum (and whose are not), whose misbehavior is excused (and whose is policed), and whose academic achievement is supported and expected (and whose is not). In New Jersey, although more than half of students are non-white, more than three-quarters of public-school districts in New Jersey have teaching and professional staffs that are at least 85 percent white, with about 50 of those districts employing no African-American, Hispanic, Asian or other minorities in those jobs. New Jersey also has one of the highest racial discipline gaps in the country. Even though students of all races misbehave at similar rates, Black students are 3.1 times more likely to be suspended than white students.⁷ And students are placed in AP/IB courses at racially disparate rates as well, with white

⁷ Data collected by the New Jersey Department of Education, 2017-18 school year.

students in New Jersey 2.5 times as likely as Black students to be placed in AP classes.⁸

Children decide to act on these learned biases when they believe that the culture around them, either in their peer group, their community, or their country, will view it as socially acceptable to do so. Therefore, as divisive and discriminatory political rhetoric, extremism, and hate group recruitment have risen, so too have bias incidents among New Jersey's young people.

Moreover, our community's words and actions speak volumes to our children, but our silence and inaction sometimes speak louder. In too many instances, when New Jersey's children have witnessed their peers being insulted or stereotyped, either by fellow students or by adults in their community, what has stood out to them most was the silence of those around them. In the face of bias and stereotypes, the failure of bystanders to intervene, of school administrators to address it, and of parents and broader communities to condemn it, can teach children as much about what their community is prepared to tolerate as the act of hate itself.

Part II: Existing State Laws, Regulations and Procedures

Numerous existing laws and regulations address discrimination and bias in schools and among New Jerseyans generally. There are gaps in the existing laws and regulations, however, and they are not always enforced effectively.

Over the last thirty years, the legislature has enacted several laws that require New Jersey's school curriculum to address the historical roots of many of the biases that are manifested today. But the feedback received at the Community Listening Sessions conveyed that too few districts have consistently, effectively, or meaningfully implemented those curricula. Similarly the State's anti-bullying laws have been repeatedly amended in an effort to strengthen school's responses to harassment, intimidation, and bullying, including bias-based harassment. But community members made clear that the law's disproportionate focus on reactively responding to incidents after the fact, rather than proactively preventing the incidents in the first place, has undermined its efficacy. And despite other laws and regulations designed to ensure that all students are afforded equal access to educational programs and services, systemic biases in school policies and practices have too often undermined that goal. Moreover, these efforts have focused predominantly, if not exclusively, on New Jersey's K-12 institutions, yet the data reflect that students on New Jersey's college campuses are also subjected to bias and targeted for hate group recruitment.

The civil and criminal laws meant to address bias incidents among young people, and among New Jerseyans generally, also have been insufficient to stem the rising tide of bias incidents. Bias incidents still too often go unreported to the law enforcement and civil agencies charged with addressing them. For some historically marginalized groups in New Jersey, being subjected to bias has been so commonplace that it has become normalized. For example, one high school principal who spoke at the Task Force's Trenton listening session explained that, "if you are used to not being treated fairly, you are used to

⁸ ProPublica, *Miseducation: Is There Racial Inequality at Your School?*, <https://projects.propublica.org/miseducation/> (last visited May 14, 2020).

the rules being different [for] you, at some point it becomes normalized behavior.” Once this behavior becomes normalized, students are exceedingly unlikely to report it. Even when the incidents are severe enough to consider reporting, mistrust of law enforcement and other State agencies often serves as a significant barrier to reporting.

Moreover, existing laws are ill-equipped to address the growing rise of hate and extremism online and on social media. Existing State laws fall short when it comes to use of online spaces to perpetrate bias crimes, and federal laws significantly impede the ability of the State to address discrimination and harassment that occurs on social media platforms.

Part III: Programs and Strategies Administered by Executive Departments and County Prosecutors

The Task Force took inventory of existing State programs intended to combat bias, and identifies gaps.

Although programs currently exist within various State agencies, there is no State program that provides comprehensive anti-bias education to New Jersey’s children and no State requirement that New Jersey teachers receive such training. In other words, the State does not currently provide comprehensive anti-bias programming through the institutions at which its young people spend the majority of their days, and it does not provide anti-bias training to the authority figures with whom New Jersey’s students spend most of their time.

Part IV: Other Programs, Curricula, and Strategies to Combat Youth Bias in New Jersey

The Task Force also identified individual communities, schools, non-profit organizations, and religious institutions that have attempted to fill the void left by the absence of comprehensive, statewide anti-bias education. A variety of organizations provide curricular resources, teacher trainings, and student-led programming that New Jersey’s schools and educators can make use of if they choose. Many of these programs offer meaningful, quality content derived from best practices. But these programs are usually offered only by individual districts or private organizations and are, ultimately, optional. Except where individual educators, schools, or districts choose to make use of these resources, the majority of New Jersey’s students are never given the education needed to combat racism or bias at a systemic level.

The question then becomes, what actions can New Jersey take to implement meaningful, lasting, and systemic change?

Part V: Recommendations

Although this Report identifies a total of twenty-seven recommendations, the first two recommendations are, by far, the most critical. The Task Force recommends that New Jersey:

1. Require comprehensive anti-bias education for students in public schools through legislation, and develop curricula support materials through DOE; and
2. Require anti-bias training for all public educators and school employees, including training on implicit bias, institutional bias, and structural bias.

These two recommendations were raised at every Community Listening Session, and their importance was reiterated to the Task Force in numerous follow-up conversations with stakeholders as the recommendations were being developed.

The Task Force also recommends the following actions to address youth bias, in the domains of education, enforcement, and public engagement.

Education

3. Address discrimination in the imposition of school discipline.
4. Reconvene the Education-Law Working Group to study potential amendments to the Uniform Memorandum of Agreement to reduce disparities in criminal justice referrals and take meaningful steps to close the school-to-prison pipeline.
5. Address racial disparities in identification of academically advanced students and identification and placement of students with disabilities.
6. Take meaningful measures to diversify educator hiring at both the K-12 and postsecondary levels by reforming certification processes and continuing efforts to diversify New Jersey's teacher pipeline and workforce.
7. Require anti-bias training for student athletes.
8. Fund programs for student-led anti-bias programming and coordinate best practices.
9. Encourage all K-12 school districts to designate a Chief Equity Officer.
10. Require anti-bias policies in colleges and universities.
11. Encourage public and private postsecondary institutions to hire or designate a chief equity officer.

12. Ensure that juveniles in state custody receive the same anti-bias programming as students at other schools.
13. Publish resources for schools, colleges, and universities responding to a bias incident.

Enforcement of Criminal and Civil Laws

14. Improve specificity of bias incident data collection and publicly release data more frequently.
15. Make it easier for residents to report bias incidents to the Attorney General's Office for civil or criminal investigation or other action.
16. Continue aggressive criminal and civil enforcement of New Jersey's bias laws.
17. Strengthen the State's hate crime law.
18. Strengthen the civil and criminal remedies available to victims of bias-motivated conduct.
19. Hold accountable those who weaponize the Internet to harm others.
20. Mandate completion of anti-bias education program for juvenile bias crime offenders.
21. Expand law enforcement training on cyberhate investigations and domestic extremism.
22. Consider investigations related to social media platforms.
23. Study potential amendments to Section 230 of the Communications Decency Act.

Public Engagement

24. Call out public figures who use hateful rhetoric.
25. Launch a statewide campaign to stand up to hate in New Jersey.
26. Implement the plan to establish an Incident Response Team within the Division on Civil Rights.
27. Create resource guides to educate parents, guardians, and educators about how to talk to children about avoiding hate on the Internet and how to recognize signs of radicalization.

Part VI: Implementation Plan

The recommendations outlined in this Report set forth a new vision for New Jersey: One that ensures all students see themselves reflected in their schools, removes systemic barriers to all students' opportunities to learn and thrive, and equips all future generations to combat bias effectively in all its forms.

No one alone can make this vision a reality. Some of the recommendations require legislation; others require action by state agencies; others require the cooperation of schools and school districts; and still others require action by individuals. The final part of this Report identifies those whom the Task Force has identified as principally empowered to implement each recommendation.



Acknowledgments

The Task Force is profoundly grateful to Governor Murphy, Lieutenant Governor Oliver, and Attorney General Grewal for their deep and abiding commitment to addressing both the interpersonal biases and the structural racism and inequality that profoundly impact New Jersey's children and young adults. We are inspired by their vision for a more just and fair New Jersey.

The Task Force and this report benefitted immensely from the contributions of individuals across the State who attended Community Listening Sessions or submitted written comments to the Task Force. Their willingness to share their own personal stories enriched this report in innumerable ways.

We would also like to thank the following subject matter experts and public officials who graciously shared their wisdom with the Task Force: Pastor Mary Guarin; Colin Lewis; Reisa Sweet, Chairperson of the Ocean County Human Relations Commission; JoEllyn Jones; Chanie Jacobowitz, Vice President, Government Affairs and Compliance at Beth Medrash Govoha; Reverend David Gonzalez; Joshua Cohen, Director of Government Relations and External Affairs, Jewish Federations of New Jersey; Assemblywoman Verlina Reynolds-Jackson, (NJ-LD15); Franklin Stebbins, Senior Program Associate for NJ Growth and Strategy, Facing History and Ourselves; Adam Neufeld, Vice President of Innovation & Strategy, Anti-Defamation League; Nicola C. Straker, Education Director, New York/New Jersey at the Anti-Defamation League; Cole Callahan, MA, NCC, Safe Schools Coordinator at Garden State Equality; Ashley Chiappano, Safe Schools & Community Education Manager at Garden State Equality; Alisha De Lorenzo, Interim Deputy Director at Garden State Equality; Dr. Anne Gregory, Ph.D., Professor, Rutgers Graduate School of Applied and Professional Psychology; Lynne Azarchi, Executive Director of Kidsbridge Center; Jim Sues, Executive Director, Council on American-Islamic Relations, New Jersey Chapter; Bridgeton Mayor Albert Kelly; Bridgeton Chief of Police Michael Gaimari; Michael Campion, Chief of the Civil Rights Unit, U.S. Attorney's Office, District of New Jersey; Elissa Zylbershlag, Director of Conflict Resolution and Anti-Bias Initiatives, NJ State Bar Foundation; Alyssa Mandara, Assistant Prosecutor, Ocean County Prosecutor's Office; Kelly Horan Florio, Assistant U.S. Attorney, U.S. Department of Justice; Bradley Billhimer, Ocean County Prosecutor; Dr. Joan Rivitz, Commissioner, NJ Civil Rights Commission and NJ Commission on Holocaust Education; Lynette Whitman, Senior Advisor, Congressman Andy Kim (NJ-3); Timothy G. Hart, Ocean County Historian; Jon Carman, Director of the Ocean County Juvenile Detention Center and Juvenile Services; Ronald C. Lee, Interim Superintendent, Trenton Public Schools; Hope Grant, Principal, Trenton Central High School; Pastor John R. Taylor, Friendship Baptist Church, Trenton; Ruth

Del Pino, Trenton Municipal Alliance Committee; Vernon Addison, Special Agent, FBI; Dr. Evelyn Garcia, Lecturer, Criminal Justice, Fairleigh Dickinson University; Patty Lozano, Assistant Principal, Hackensack High School; Tara Jennings, Detective, Bergen County Prosecutor's Office, Bias Unit; Heather Bradley, Mercer County Prosecutor's Office, Bias Unit; Rabbi Leana Moritt, Temple Beth-El of Jersey City; Carolyn Chang, President of the Association of Black Women Lawyers of New Jersey; Sara Cullinane, Director, Make the Road New Jersey; Retha Onitiri, Director of Community Engagement at New Jersey Institute for Social Justice; Dr. Stuart Green, NJ Coalition for Bullying Awareness and Prevention; Chris Estevez, President, Latino Action Network; Cuqui Rivera, Program Coordinator, Latino Action Network; Jennifer Rich, Assistant Professor, College of Education, Rowan University; Mary Ciccone, Director of Policy/CAP & PAVA Coordinator, Disability Rights New Jersey; Rabbi Aaron Kotler, President, Beth Medrash Govoha, Lakewood, New Jersey; Amol Sinha, Executive Director, American Civil Liberties Union of New Jersey; Jeanne LoCicero, Legal Director, American Civil Liberties Union of New Jersey; Sarah Fajardo, Policy Director, American Civil Liberties Union of New Jersey; Reverend Dr. Charles F. Boyer, Salvation and Social Justice; and Johanna Calle, Director, NJ Alliance for Immigrant Justice.

Finally, we would like to recognize the state agencies that participated on the Task Force and contributed to this report.

Division on Civil Rights

The Division on Civil Rights (DCR) enforces the New Jersey Law Against Discrimination (LAD), the first state-level civil rights statute in the country and still one of the broadest. The law prohibits discrimination and bias-based harassment in employment, housing, and places of public accommodation, including schools, in New Jersey.

The Task Force would like to thank Director Rachel Wainer Apter, who chaired the Task Force; Chief of Strategic Initiatives Aaron Scherzer; Legal Specialists Danielle Thorne, Kaley Lentini, and Derek Fischer; and Policy Advisor Rohit Tallapragada. The Task Force would also like to thank the entire staff of DCR, who work each day toward creating a New Jersey free from discrimination and bias-based harassment, where all people are treated with equal dignity and equal respect.

Department of Education

The New Jersey Department of Education supports schools, educators and districts to ensure all of New Jersey's 1.4 million students have equitable access to high quality education and achieve academic excellence. In support of that mission, the Department shares the Task Force's commitment to supporting the positive and healthy development of K-12 students by eradicating hate, bias, and intolerance in the educational setting.

The Task Force would like to thank Interim Commissioner Kevin Dehmer; former Commissioner Dr. Lamont Repollet; Chief of Staff Kellie LeDet; Deputy Chief of Staff Kim Walker; Executive Legal Affairs Officer Salma Chand; former Deputy Assistant Commissioner for Academics David Greer; Deputy Assistant Commissioner of Early Childhood Education Tonya Coston; Director of the Offices of School

Ethics and Compliance Kathryn Whalen; former Director of the Office of Student Support Services Kelly Williams; Acting Deputy Assistant Commissioner for Academics Tonya Breland; Director of the Office of Standards Beverly Plein; Acting Deputy Assistant Commissioner for Field Services Paula Bloom; Director of the Office of Fiscal and Data Services Kathy Ehling; Director of the Office of Civic and Social Engagement Vanessa Lawson; Director of Public Information Michael Yapple; Acting Assistant Director of the Office of Student Support Services Luiz Pereira; Morris County Supervisor of Child Study Sandra A. Gogerty; and Legislative Liaison Jesse Young.

Office of the Secretary of Higher Education

The Office of the Secretary of Higher Education advocates for and develops policies and programs that provide students from all backgrounds accessible and affordable higher education opportunities that prepare them for success in life after college. The State Higher Education Plan includes a vision for a student bill of rights, which commits to “Every student in New Jersey should feel safe and supported in their learning environment. This means colleges must work to ensure students are not only safe from physical harm, but also included and welcomed on campus.”⁹

The Task Force would like to thank former Secretary Zakiya Smith Ellis, Interim Secretary Diana Gonzalez and Stefani Thachik, Director, Policy and Outreach.

Department of Children and Families

The NJ Department of Children and Families has designed and manages a strong, state-wide network of core services including child protection and child welfare services, children’s behavioral health care, programming to support children with intellectual and developmental disabilities and their families, community-based family strengthening services, specialized educational programming, and services and programming to support and empower women.

The Task Force would like to thank Commissioner Christine Norbut Beyer; Kelley Michalowski, Director, Office of Education; Jennifer Connery, Child Study Team Regional Manager; and Lizette Murray, Deputy Director for the DCF Office of Education.

⁹ Office of the Sec’y of Higher Educ., *NJ State Plan for Higher Education: Where Opportunity Meets Innovation 7* (2019), <https://www.state.nj.us/highereducation/documents/pdf/StateEducationplan.pdf>.

Office of Homeland Security and Preparedness

The New Jersey Office of Homeland Security and Preparedness (NJOHSP) leads and coordinates New Jersey's counterterrorism, cybersecurity, and preparedness efforts while building resiliency throughout the State.

The Task Force would like to thank Director Jared Maples; Maureen Lancaster, Chief of the Intelligence Management Bureau, Division of Intelligence and Operations; and Laurie Doran, Director, Division of Intelligence and Operations.

New Jersey State Police

The New Jersey State Police is committed to protect, preserve, and safeguard the constitutional and civil rights of all citizens through impartial and courteous law enforcement with integrity and professionalism. We shall ensure public safety and provide quality service in partnership with our communities.

The Task Force would like to thank Colonel Patrick J. Callahan, Lieutenant Nevin Mann, and the members of the Office of Community Outreach and Public Affairs. The Task Force would like to extend particular thanks to Lieutenant Nevin Mann for organizing, managing and coordinating the Task Force's five Community Listening Sessions.

Division of Criminal Justice

Formed under the Criminal Justice Act of 1970, the Division of Criminal Justice provides a variety of functions pertaining to the administration of criminal justice. Primarily, the Division is charged with the responsibility to detect, enforce and prosecute the criminal business of the State through the uniform and efficient administration of our criminal laws. In addition to its direct law enforcement operations, the Division provides oversight and coordination within New Jersey's law enforcement community.

The Task Force would like to thank Director Veronica Allende; Christine Hoffman, Deputy Director; Annmarie Taggart, Acting Deputy Director; Adedayo Adu, Deputy Attorney General, Bias Crimes Unit; Andrew Johns, former Bureau Chief, Specialized Crimes; Chief Weldon Powell; Robert Czepiel, Prosecutor's Supervision and Training Bureau Chief; David Leonardis, Training & Outreach Liaison; Counsel Sara Quigley; and Brian Christensen, Bias Unit Detective.

Juvenile Justice Commission

The mission of the Juvenile Justice Commission is to lead the reform of the juvenile justice system in New Jersey as mandated by N.J.S.A 52:17B-169 et seq. Our agency values and expects its employees and residents to demonstrate leadership, integrity, commitment and respect as we work to protect public safety, reduce delinquency and hold youthful offenders accountable for their delinquent actions by partnering with local and county jurisdictions in collaborative efforts to prevent youth from entering the juvenile justice system and intervene with court-involved youth, providing youthful offenders with a continuum of rehabilitative services and sanctions in appropriate settings that promote positive growth and development opportunities; and assisting youthful offenders to achieve successful reentry back to their communities through a network of support services and personal skill development that strengthens their levels of self-sufficiency.

The Task Force would like to thank Acting Executive Director Jennifer LeBaron, Ph.D.; Luis A. Valentin, Chief of Employee Relations and Legal Affairs; and Jim Doone Jr., Ombudsman.



Introduction to the Work of the Task Force

As detailed in the 2017-2018 Bias Incident Report released by the Attorney General, Division on Civil Rights, and New Jersey State Police, reported bias incidents in New Jersey rose from 417 in 2016, to 549 in 2017, to 569 in 2018.¹⁰ And as we detail in a separate report released today, there were 994 reported bias incidents in 2019.¹¹ Anti-Black¹² racism was the most frequent cause of reported bias incidents (371 reported incidents), and anti-Jewish bias was the second most frequent cause (345 reported incidents). Each accounted for more than a third of all reported bias incidents in 2019. And, as noted in the opening letter, there has been a particularly alarming increase in reported bias incidents committed by and against young people.

On the same day as the 2017-2018 Bias Incident Report was issued and in direct response to that report, Acting Governor Sheila Oliver signed Executive Order No. 78 creating the Interagency Task Force to Combat Youth Bias (Task Force). The Order directed the Task Force to:

- ▶ Study the root causes of hate, bias, and intolerance in New Jersey’s schools and universities and among New Jersey’s students and young adults;
- ▶ Examine and evaluate existing programs and strategies that are administered by executive departments and agencies to address hate, bias, and intolerance in schools and among New Jersey’s students and young adults;
- ▶ Review existing law and applicable procedures related to bias in schools and among New Jersey’s students and young adults;

¹⁰ See generally 2017-2018 Bias Incident Report, *supra* note 1.

¹¹ The increase may be the result, in part, of improved reporting facilitated by a new electronic reporting system; the Attorney General’s Revised Bias Incident Investigation Standards, issued in April of 2019; and recent outreach efforts that have raised the awareness of the public and law enforcement regarding the importance of reporting and thoroughly investigating all bias incidents, all discussed further below. Nonetheless, the dramatic increase is deeply troubling and requires a coordinated response from across the State.

¹² “Black” is used here to include all people who identify as African, African-American, Afro-Caribbean, Afro-Latin-x/a/o, or otherwise have African or Black ancestry.

- ▶ Review existing programs, curricula, and strategies that aim to address hate, bias, and intolerance among students and young adults and in schools by creating connections and breaking stereotypes;
- ▶ Recommend any necessary changes to existing programs and strategies that are administered by executive departments and agencies and existing laws and procedures; and
- ▶ Recommend how executive departments, agencies, and schools should act to reduce hate, bias, and intolerance in schools and among New Jersey’s students and young adults.¹³

During the fall of 2019 and spring of 2020, the Task Force engaged in a series of public outreach efforts to ensure that its recommendations would truly reflect the experience and recommendations of people across the State. The Task Force held five public listening sessions in New Brunswick, Toms River, Bridgeton, Hackensack, and Trenton in November and December of 2019. These sessions were attended by hundreds of people and allowed members of the public to speak directly to the Task Force about how hate, bias, and stereotyping manifests among New Jersey’s young people and in schools. The Task Force also solicited and received many written comments, sent representatives to engage directly with student leaders at the New Jersey Association of Student Councils Winter Convention in January of 2020, and held more than thirty follow up meetings and phone calls with students, community members, experts, and state and local officials to solicit input.

Part I of this Report begins by addressing the root causes of bias among young people. Part II reviews existing New Jersey laws related to bias and bias incidents. Parts III and IV describe existing programs aimed at addressing bias among young people that are either administered by New Jersey executive departments and agencies or provided by public schools and non-profit organizations within the State. Part V sets forth the Task Force’s recommendations, which fall into three primary categories: (1) education; (2) enforcement; and (3) public engagement. The education recommendations acknowledge the need for meaningful, proactive measures meant to prevent bias incidents in the first place by educating our young people about how bias manifests in our society and equipping them with tools to combat it. The enforcement recommendations ensure that when bias incidents occur, the State is able to swiftly act to address them and victims of bias incidents are able to obtain a just outcome. And the public engagement recommendations underscore the need for all New Jerseyans to come together to prevent bias among our young people and to denounce manifestations of bias in unambiguous terms whenever and wherever they occur. Finally, Part VI suggests an implementation plan for the Task Force’s recommendations.

13 See generally Acting. Gov. Sheila Oliver, Exec. Order. No. 78 (2019), <https://nj.gov/infobank/eo/056murphy/pdf/EO-78.pdf>.



I. Root Causes of Youth Bias

The 2017-2018 Bias Incident Report identified several factors that scholars and experts believe contribute to the rise in bias incidents over the past several years, including “social media, political rhetoric, and the rise in the number of hate groups.”¹⁴ It did not, however, exhaustively analyze the root causes of bias as to either New Jersey’s population as a whole or New Jersey’s young people specifically. Thus, the work of the Task Force and this Report is intended to pick up where that 2017-2018 Bias Incident Report left off, by analyzing the root causes of youth bias and the rise in bias incidents among New Jersey’s young people in greater detail.

We know that Nelson Mandela was correct when he wrote in his autobiography, *Long Walk to Freedom*: “No one is born hating another person because of the color of his skin, or his background, or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite.” Because bias is a learned behavior, in order to understand and address acts of interpersonal bias, it is first necessary to understand the role that our institutions, organizations, and even governments play in teaching and perpetuating bias. “Institutional bias” refers to the “tendency for the procedures and practices of particular institutions to operate in ways which result in certain social groups being advantaged or favored and others being disadvantaged or devalued” even when bias is not “the result of any conscious prejudice or discrimination but rather of the majority simply following existing rules or norms.”¹⁵ And systemic racism refers to the systems in place that advantage white people and disadvantage people of color, particularly Black people, in nearly every facet of life—in education, healthcare, wealth, employment, housing, the criminal justice system and policing, and access to a healthy environment.

This point was made repeatedly by the hundreds of New Jerseyans who attended our Community Listening Sessions and submitted written comments to the Task Force, and by the subject matter experts and public officials who shared their incredible wisdom and experience with us. Community members and experts alike made absolutely clear that we cannot address interpersonal bias without addressing systemic bias. In every listening session, those who spoke implored the Task Force to reach beyond hateful words to address the systemic biases that inflict daily harm on our students and young adults.

14 See 2017-2018 Bias Incident Report *supra* note 1, at 18.

15 Daniel Chandler & Rod Munday, *A Dictionary of Media and Communication*, Oxford Reference (2011), <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100005347>.

Bias against a person because of what they look like, how they worship, or whom they love are learned behaviors,¹⁶ and behaviors that can be unlearned.¹⁷ Thus, to identify the root causes of hate and bias among young people in New Jersey, we must answer the following questions: (1) where are young people learning and internalizing biased beliefs; and (2) once they have learned and internalized those beliefs, what influences whether, and to what degree, they act on them? The answer to the first question lies not only in overt bias, but also in the biases built into our institutions, social structures, and ways of viewing the world. Section I.A addresses these sources of bias, while Section I.B addresses the factors that promote and normalize the expression of biased behavior.

A. How Bias Is Learned

1. Bias Learned in Early Childhood

Research shows that children begin to recognize and unconsciously internalize bias at a very young age, even when the adults in their lives are not deliberately sharing biased views with them. For example, beginning in infancy, children develop the ability to categorize and distinguish people by race and gender.¹⁸ Between ages three and five, children can develop racial and gender biases and begin to demonstrate behavior including social exclusion and self-segregation.¹⁹ In one study, three- to five-year-old children in day care were observed to “use[] racial categories to identify themselves and others, to include or exclude other children from activities, and to negotiate power in their own social/play networks.”²⁰ Another study explored pre-schoolers’ tendency to engage in “gender enforcement” or “gender policing,” in which children “provide critical and straightforward negative feedback to peers who violate gender norms, such as when they engage in cross-gender activities.”²¹

As part of young children’s development, they observe, categorize, and replicate the behaviors of the world around them.²² In a society where race, gender, and other bases of marginalization often exist as observable and significant social categories, children pick up on these existing categories and begin to attach social significance to them, thereby unconsciously internalizing the systemic biases they perceive

16 See, e.g., Brenda Kelley Kim, “Bias in Babies is a Learned Behavior,” Labroots (July 17, 2017), <https://www.labroots.com/trending/neuroscience/6450/bias-babies-learned-behavior>.

17 See Laurie A. Rudman et al., “Unlearning” Automatic Biases: The Malleability of Implicit Prejudice and Stereotypes, 81 J. Personality and Soc. Psychol. 856, 865–66 (2001); Elizabeth Levy Paluck, Peer Pressure Against Prejudice: A High School Field Experiment Examining Social Network Change, 47 J. Experimental Soc. Psychol. 350, 354–56 (2011).

18 Phyllis A. Katz and Jennifer A. Kofkin, “Race, Gender, and Young Children,” in *Developmental Psychopathology: Perspectives on Adjustment, Risk, and Disorder* 51, 54–56 (Suniya S. Luthar et al. eds., 1997).

19 See Erin N. Winkler, *Children Are Not Colorblind: How Young Children Learn Race*, 3 Practical Approaches for Continuing Educ., no. 3, 2009, at 1; May Ling D. Halim et al., *Gender Attitudes in Early Childhood: Behavioral Consequences and Cognitive Antecedents*, 88 Child Development 882, 893 (2017) (finding children began demonstrating gender-biased behavior by age 5).

20 Winkler, *supra* note 19, at 2 (citing Debra Van Ausdale & Joe R. Feagin, *The First R: How Children Learn Race and Racism* (2001)).

21 Sonya Xinyue Xiao et al., *Characteristics of Preschool Gender Enforcers and Peers Who Associate with Them*, 81 Sex Roles 671, 672 (2019).

22 See Meagan M. Patterson & Rebecca S. Bigler, *Preschool Children’s Attention to Environmental Messages About Groups: Social Categorization and the Origins of Intergroup Bias*, 77 Child Development 847, 858 (2006).

in the world, even if they are not exposed to overt displays of bias at home.²³ For example, children who “notice that the people in their families or neighborhoods are all different heights and have different hairstyles, but perhaps almost all have the same skin color . . . may assume that they should avoid or dislike people with different skin colors than their own, even if no adult ever says this to them.”²⁴

Because children learn from the world around them, the research suggests that children growing up in racially segregated environments are particularly likely to recognize race as an important social category from a very early age.²⁵ This can set the stage for the development of bias or prejudice, because “[w]hen children notice these patterns, they often infer that these are norms or rules and that the patterns must have been caused by meaningful inherent differences between groups.”²⁶ This tendency is not limited to racial or ethnic segregation, but is equally applicable to other systemic biases that result in perceptible differences between significant social categories. For example, children who notice that our country’s president has always been a man may infer that only a man can be president.²⁷ Thus, children’s developmental need to observe and categorize can lead them to internalize the biases reflected in our physical communities, power structures, and institutions on the basis of race, religion, national origin, gender, sexual orientation, gender identity or expression, or disability.

It is important to note that much of this bias is internalized unconsciously. Implicit or unconscious bias refers to “the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner” that are “[a]ctivated involuntarily, without awareness or intentional control.”²⁸ Experts emphasize that implicit biases can be either positive or negative, and that “[e]veryone possesses them, even those avowing commitments to impartiality.”²⁹ Moreover, the biases and associations we learned as children “can be ‘unlearned’ and replaced with new mental associations,” but while they exist, they have “real-world effects,” including in employment, education, housing, healthcare, and criminal justice.³⁰

2. Bias Learned at School

Schools are the institutions outside the home in which young people spend the largest portion of their day. Consequently, biases embedded in our schools can have a strong impact on how students see themselves, their peers, and the world. Numerous studies have shown that young people quickly

23 *Id.* at 847-48.

24 Winkler, *supra* note 19, at 3.

25 *Id.* at 2-3.

26 *Id.* at 3 (internal citations and quotation marks omitted).

27 *Id.* at 2.

28 Kirwan Institute for the Study of Race and Ethnicity, State of the Science: Implicit Bias Review 10 (2017), <http://kirwaninstitute.osu.edu/wp-content/uploads/2017/11/2017-SOTS-final-draft-02.pdf>.

29 *Id.*

30 *Id.*

perceive and replicate biased behaviors of adults and teachers.³¹ For example, something as simple as seating students by alternating gender has been shown to markedly increase gender stereotyping amongst students,³² and can make school complicated for students who are transgender, non-binary, or gender non-conforming. This has led some scholars to warn that youth may be particularly sensitive to demonstrations of systemic bias within their schools.³³

Institutional or systemic biases can manifest in a variety of ways, including in curricula, school policies, and educators' own implicit biases. In school curricula, for example, students from historically disadvantaged communities often do not see their own experiences reflected in their history textbooks, do not have the opportunity to read books with protagonists who look like them in their language arts classes, and do not hear about scientists, inventors, and mathematicians who share their identities.³⁴ The Cooperative Children's Book Center reviewed a sample of 3,653 children's books published in 2018 and found that only 28% were "about" Black, Latinx, Asian, or Native American characters. Even fewer, 21.6%, were written by authors of these backgrounds.³⁵ The Task Force received similar feedback regarding a lack of representation of other marginalized communities. For example, children with disabilities, children from the LGBTQ+ community, and children from minority religious communities often do not see their experiences represented either. On the other hand, students from historically-advantaged groups, like those who are white, heterosexual, cis-gender, Christian, or without disabilities tend to see their experience or identities over-represented in their curricula.

School policies can send biased messages as well. Dress codes, for instance, have targeted girls' attire for "distracting" their male classmates³⁶ and penalized Black children for wearing natural or protective hairstyles.³⁷ School policies have barred students from wearing pro-LGBTQ+ attire and

31 Allison L. Skinner, et al., "Catching" Social Bias: Exposure to Biased Nonverbal Signals Creates Social Biases in Preschool Children, 28 Psychol. Sci. 216, 219, 221 (2017); Rebecca S. Bigler, *The Role of Classification Skill in Moderating Environmental Influences on Children's Gender Stereotyping: A Study of the Functional Use of Gender in the Classroom*, 66 Child Development 1072, 1083 (1995).

32 See Bigler, *supra* note 31, at 1073-74.

33 See, e.g., Patterson & Bigler, *supra* note 22, at 856; Bigler, *supra* note 31, at 1084.

34 See Alex Bell, et al., *Who Becomes an Inventor in America: The Importance of Exposure to Innovation*, 134 Q.J. Econ. 647, 653 (2019).

35 "Publishing Statistics on Children's/YA books About People of Color and First/Native Nations and by People of Color and First/Native Nations Authors and Illustrators," Cooperative Children's Book Center (last updated Nov. 21, 2019), <http://ccbc.education.wisc.edu/books/pcstats.asp>.

36 See Jessica Mazzola, "N.J. High Schoolers Protest 'Sexist' Dress Code," NJ.com, (May 14, 2015), https://www.nj.com/essex/2015/05/nj_high_schoolers_protest_sexist_dress_code.html; see also Alyssa Pavlakis & Rachel Roegman, *How Dress Codes Criminalize Males and Sexualize Females of Color*, 100 Phi Delta Kappan 54 (2018).

37 Janelle Griffith, "When Hair Breaks Rules: Some Black Children Are Getting in Trouble for Natural Hairstyles," NBC News (Feb. 23, 2019), <https://www.nbcnews.com/news/nbcblk/when-hair-breaks-rules-some-black-children-are-getting-trouble-n973346>. States like New Jersey have recently taken legislative and regulatory action to make clear such policies constitute unlawful discrimination. See, e.g. N.J.S.A. 10:5-5(vv) (defining "race" to include "traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles"); New Jersey Division on Civil Rights, *Guidance on Race Discrimination Based on Hairstyle 1* (2019), <https://www.nj.gov/oag/newsreleases19/DCR-Hair-Discrimination-Guidance.pdf> (clarifying that the prohibition in New Jersey's Law Against Discrimination barring discrimination based on race "encompasses discrimination that is ostensibly based on hairstyles that are inextricably intertwined with or closely associated with race").

prohibited same-sex couples from attending prom.³⁸ And bathroom policies have prevented transgender, non-binary, or gender nonconforming students from using the bathroom associated with their gender identity or expression.³⁹ Each of these policies communicates to young people that a part of their identity, or that of their peers, is not considered valid or valued by their school.

Educators' implicit biases also play a significant role in reinforcing racist stereotypes. For example, despite evidence that students of all races misbehave at similar rates, many educators subconsciously associate Black students with misbehavior.⁴⁰ Persistent and inaccurate stereotypes that Black students engage in higher rates of misbehavior,⁴¹ can lead to profound and measurable racial disparities in student discipline.⁴² For example, in controlled studies, teachers were more likely to recommend more severe discipline, label students "troublemakers,"⁴³ and anticipate greater future misbehavior⁴⁴ from Black students than white students, despite the behavior being described in identical terms. Another study, utilizing eye-tracking software, found that teachers spent more time observing Black students when told to look for "challenging behavior."⁴⁵ In line with these findings, one analysis of middle school disciplinary referrals found that white students "were referred to the office significantly more frequently for more observable, objective offenses (e.g., smoking, vandalism), while Black students were referred more for behaviors requiring subjective judgment (e.g., disrespect, excessive noise)."⁴⁶

38 See, e.g., Times of Trenton Editorial Board, "Despite Protections, N.J. Teens Still Face Prejudice in High School," NJ.com (Jan. 23, 2019), <https://www.nj.com/opinion/2019/01/despite-protections-nj-teens-still-face-prejudice-in-high-school-editorial.html>.

39 Cf. New Jersey Department of Education, *Transgender Student Guidance for School Districts 7* (2018), <https://nj.gov/education/students/safety/sandp/transgender/Guidance.pdf> (clarifying that, in New Jersey, "[a]ll students are entitled to have access to restrooms, locker rooms and changing facilities in accordance with their gender identity to allow for involvement in various school programs and activities.").

40 U.S. Dep't of Educ., Office of Civil Rights & U.S. Dep't of Justice, Civil Rights Div., *Dear Colleague Letter on Nondiscriminatory Administration of School Discipline*, (Jan. 8, 2014), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>; John M. Wallace, et al., *Racial, Ethnic, and Gender Differences in School Discipline Among U.S. High School Students: 1991-2005*, 59 *Negro Educ. Rev.* 47 (2008), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2678799/>, at 7, 9-11.

41 Claire E. Kunesh & Amity Noltemeyer, *Understanding Disciplinary Disproportionality: Stereotypes Shape Pre-service Teachers' Beliefs About Black Boy's Behavior*, 54 *J. Urb. Educ.* 471, 478-79, 486-91 (2015).

42 Anne Gregory & Gabrielle Roberts, *Teacher Beliefs and the Overrepresentation of Black Students in Classroom Discipline*, 56 *Theory Into Practice* 187, 187-88 (2017).

43 Clifton B. Parker, "Teachers more likely to label black students as troublemakers, Stanford research shows," *Stanford News* (April. 15, 2015), <https://news.stanford.edu/2015/04/15/discipline-black-students-041515/> (describing Jason A. Okonofua & Jennifer L. Eberhardt, *Two Strikes: Race and the Disciplining of Young Students*, 26 *Psychological Sci.* 617 (2015), which "reported on two experimental studies that showed that teachers are likely to interpret students' misbehavior differently depending on the student's race," and "found that the stereotype of black students as 'troublemakers' led teachers to want to discipline black students more harshly than white students after two infractions").

44 Kunesh & Noltemeyer, *supra* note 41, at 484.

45 Walter S. Gilliam et al., *Do Early Educators' Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?*, 5-7 (2016), https://medicine.yale.edu/childstudy/zigler/publications/Preschool%20Implicit%20Bias%20Policy%20Brief_final_9_26_276766_5379_v1.pdf.

46 Russell J Skiba & Natasha T. Williams, *Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior*, The Equity Project at Indiana University (2014), https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/african_american_differential_behavior_031214.pdf (italics omitted).

The impacts of these disparities are profound and far-reaching. Black and Latinx students are deprived of valuable instructional time at a disproportionate rate from their white peers. Worse still, disparities in school discipline contribute to disparities in referrals to the criminal justice system. This phenomenon is often referred to as the “school-to-prison pipeline.” In New Jersey, according to an analysis of the Civil Rights Data Collection performed by the Education Week Research Center, in the 2013-2014 school year, although Black students made up 15.2% of enrolled students, they made up 31.1% of schools’ law enforcement referrals and 33.6% of arrests in schools.⁴⁷ Indeed, according to ProPublica, New Jersey has one of the highest racial discipline gaps in the country.⁴⁸ Although students of all races misbehave at similar rates,⁴⁹ in New Jersey, according to the New Jersey DOE, Black students are 3.1 times more likely to be suspended than white students,⁵⁰ and Hispanic students are 1.4 times more likely to be suspended than white students.⁵¹ These gaps are even more pronounced for Black girls and Black students with disabilities. According to the U.S. Department of Education’s Civil Rights Data Collection, Black girls in New Jersey comprised 50.4% of all out-of-school suspensions amongst female students in the 2013-2014 school year,⁵² while New Jersey DOE enrollment data indicates that they made up only 16.24% of female students altogether during that same time period. Similarly, Black students with disabilities also account for a disproportionate share of all out-of-school suspensions among disabled students. The New Jersey DOE’s data for the 2017-2018 school year indicates that although only 17.8% of students with disabilities were Black, Black students accounted for 36% of suspensions amongst students with disabilities. The disparities among Black students with disabilities also raise significant questions regarding whether Black students with disabilities are consistently being afforded the required manifestation determination.

These disparities also send biased messages to students. Labeling Black children as “troublemakers” for engaging in the same misbehavior as their white peers perpetuates damaging

47 Education Week, “Which Students Are Arrested the Most?” (2017), <https://www.edweek.org/ew/projects/2017/policing-americas-schools/student-arrests.html#/overview>.

48 ProPublica, *Miseducation: Is There Racial Inequality at Your School?*, Discipline, <https://projects.propublica.org/miseducation/state/NJ> (last visited May 14, 2020).

49 Letter, U.S. Department of Education, Office of Civil Rights and U.S. Department of Justice, Civil Rights Division, *Notice of Language Assistance Dear Colleague Letter on Nondiscriminatory Administration of School Discipline* (January 8, 2014), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html#note7> (“[R]esearch suggests that the substantial racial disparities of the kind reflected in the CRDC data are not explained by more frequent or more serious misbehavior by students of color”).

50 Data collected by the New Jersey Department of Education, 2017-18 school year.

51 Data collected by the New Jersey Department of Education, 2017-18 school year.

52 Disha Raychaudhuri et al., *Black Kids in N.J. Schools Are Suspended at a Higher Rate Than White Kids*, *Data Show*, NJ.com (December 2, 2019), <https://www.nj.com/data/2019/11/black-kids-in-nj-schools-are-suspended-at-a-higher-rate-than-white-kids-data-shows.html>; see also U.S. Department of Education Office for Civil Rights, *Civil Rights Data Collection, Data Snapshot: School Discipline* (March 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf> (noting disproportionate rates of suspension nationally amongst adolescent females of color, students with disabilities, and English learners).

and inaccurate stereotypes about Black children being prone to misbehavior.⁵³ This is especially true because racial disparities in discipline have been documented as early as preschool, with one recent study documenting preschool teachers disciplining Black preschoolers more harshly than their non-Black peers.⁵⁴ Black parents who spoke out at the listening sessions echoed these concerns, speaking frequently about the disproportionate discipline and “criminalization” of Black students. As one Black parent at the listening session in Hackensack put it, “Our children are not even seen as children, they’re seen as mini-adults.” That perception is consistent with research demonstrating “that Black boys are generally viewed as older and more culpable than White boys.”⁵⁵ Similarly, Black girls are often “mischaracterized[] and mislabeled because of how they look, dress, speak, and act,” leading to devastating and far-reaching social, economic and academic consequences.⁵⁶

Children pick up on these messages. As one community member at the listening session in Bridgeton stated, “Kids aren’t blind. They understand that I can do something and I have fairer skin . . . and I don’t get as punished the same way my . . . classmate does who has darker skin. That I can get away with certain things.”

School academic placement policies can also send visible messages around race and academic performance. Academic tracking, or “ability grouping” was first designed in the early 1900s by individuals who believed that “[c]hildren of [Spanish-Indian, Mexican, and negro families] should be segregated into special classes” because “[t]hey cannot master abstractions, but they can often be made efficient workers.”⁵⁷ Higher-level tracks, such as honors or college prep, were considered most appropriate for white students, while non-white students were relegated to vocational and remedial courses.⁵⁸ And use of tracking “increased dramatically” after public school segregation was ruled unconstitutional in *Brown v. Board of Education*, as a means of “minimiz[ing] the effects of integration.”⁵⁹

53 See *supra* Part I.A.2; see also Russell J. Skiba et al., *African American Disproportionality in School Discipline: The Divide Between Best Evidence and Legal Remedy*, 54 N.Y.L. Sch. L. Rev. 1071, 1088 (2009/2010) (“[I]nvestigations of student behavior, race, and discipline have yielded no evidence that African American over-representation in school suspension is due to higher rates of misbehavior, regardless of whether the data are self-reported, or based on analysis of disciplinary records. If anything, studies have shown that African American students are punished more severely for less serious or more subjective infractions.” (internal citations omitted)).

54 Walter S. Gilliam et al., *Do Early Educators’ Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?*, [11] (2016), https://medicine.yale.edu/childstudy/zipgler/publications/Preschool%20Implicit%20Bias%20Policy%20Brief_final_9_26_276766_5379_v1.pdf.

55 Gregory & Roberts, *supra* note 42, at 189.

56 Melinda Anderson, *The Black Girl Pushout*, THE ATLANTIC, (Mar. 15, 2016) <https://www.theatlantic.com/education/archive/2016/03/the-criminalization-of-black-girls-in-schools/473718/>, (citing to Monique W. Morris, *Pushout: The Criminalization of Black Girls In Schools* (2018)).

57 See, e.g., Note, Danielle Kasten, *Modern Day School Segregation: Equity, Excellence, and Equal Modern Day School Segregation: Equity, Excellence, and Equal Protection*, 87 St. John’s L. Rev. 201, 204-207, n.39 (2013) (quoting an early proponent of ability grouping as writing that “[c]hildren of [Spanish-Indian, Mexican, and negro families] should be segregated into special classes. . . . They cannot master abstractions, but they can often be made efficient workers. . . . There is no possibility at present of convincing society that they should not be allowed to reproduce, though from a eugenic point of view they constitute a grave problem . . .”).

58 *Id.* at 207.

59 *Id.* at 208.

Even today, “race, and not ability or achievement, is often the defining factor in track placement,”⁶⁰ and Black students and other students of color continue to be over-represented in lower-level courses and under-represented in higher-level courses compared to similarly performing white peers.⁶¹ Among students with high standardized test scores, Black children are half as likely as white children to be chosen for gifted and talented programs.⁶² According to the U.S. Department of Education, for example, in 2015-16 Black students represented 15.4% of public school enrollment nationwide but only 8.5% of students enrolled in gifted and talented programs, whereas Hispanic students made up 25.8% of public school enrollment and 18.1% of students in gifted and talented programs.⁶³

And white students in New Jersey are 2.5 times as likely as Black students to be placed in AP classes.⁶⁴ Course enrollment data collected by the New Jersey Department of Education for 11th and 12th graders in the 2018-2019 academic year show significantly higher percentages of white and Asian students enrolled in AP and IB courses compared to Hispanic and Black students. According to the data, of students in grades 11 and 12, 39.8% of white students and 66.7% of Asian, Native Hawaiian, or Pacific Islander students are enrolled in one or more AP/IB courses, compared to only 23.6% of Hispanic students and 18% of Black students.

Teacher expectations play a meaningful role in this disparity. Research shows that teachers, and particularly non-Black teachers, have significantly lower academic expectations of Black and Latinx students.⁶⁵ Indeed, “Black students are three times as likely to be identified as gifted if their teacher is black.”⁶⁶ Reports shared with the Task Force from individual students corroborated this trend. For example, one Latinx student reported that her guidance counselors repeatedly discouraged her from taking honors and AP courses, even though she had a strong academic record and ultimately enrolled in the courses and excelled, and that high-achieving Black and Latinx classmates experienced similar discouragement. She also stated that when she was either the only student of color or one of only a few students of color in her honors courses, peers regularly remarked with surprise when she received high grades on assignments and made comments like, “if I got beaten by a Latina, I must really be dumb.” She recalled white students making similar remarks to Black classmates in honors as well.

60 *Id.* at 210.

61 See Jeannie Oakes, *Keeping Track: How Schools Structure Inequality* 233 (2005) (finding in a study of three school districts that “African American and Latino students were more likely than their white and Asian peers with the same test scores to be placed in low-track classes”); see also Jason A. Grissom & Christopher Redding, *Discretion and Disproportionality: Explaining the Underrepresentation of High-Achieving Students of Color in Gifted Programs*, 1 (Jan. – Mar. 2016), https://news.vanderbilt.edu/files/Grissom_AERAOpen_GiftedStudents1.pdf (concluding that “Black students indeed are referred to gifted programs, particularly in reading, at significantly lower rates when taught by non-Black teachers” and explaining the mechanisms behind the disparity).

62 Grissom & Redding, *supra* note 61.

63 U.S. Dep’t of Ed., Civil Rights Data Collection, *2015-2016 State and National Estimations*, Gifted and Talented, https://ocrdata.ed.gov/StateNationalEstimations/Estimations_2015_16 (last accessed July 17, 2020)

64 ProPublica, *Miseducation: Is There Racial Inequality at Your School?*, [https://projects.propublica.org/miseducation/\(last visited May 14, 2020\)](https://projects.propublica.org/miseducation/(last%20visited%20May%2014%2C%202020)).

65 See, e.g., Press Release, Johns Hopkins University, Race Biases Teachers’ Expectations for Students (Mar. 30, 2016), <https://releases.jhu.edu/2016/03/30/race-biases-teachers-expectations-for-students/> (citing Seth Gershenson et al., *Who Believes in Me? The Effect of Student-Teacher Demographic Match on Teacher Expectations*, 52 *Econ. Educ. Rev.* 209 (2016)).

66 Naomi Kellogg, “Where Are the Gifted and Talented Black Students?” Center for American Progress (Sept. 27, 2016), <https://www.americanprogress.org/issues/race/news/2016/09/27/144795/where-are-the-gifted-and-talented-black-students/>.

Academic placements may thus send implicit and inaccurate messages to both historically-marginalized and historically-privileged students about their own academic abilities⁶⁷ and those of their peers. Indeed, such systems expose students to a daily, physical representation tying students' race to their purported abilities in a way that implicitly reinforces the racist stereotypes that informed the system's creation.

Racial disparities are even starker when it comes to Black and Latinx students with disabilities. In general, students with disabilities are often met with low expectations of their academic potential, which leads to tangible consequences in their achievement. Although experts estimate that, with proper support, "90 percent of students with disabilities are capable of graduating high school fully prepared to tackle college or a career," only "65 percent of special education students graduate on time," compared to 83 percent students overall.⁶⁸ But the data is significantly worse for Black and Latinx students with disabilities. For example, they are more likely than their white peers to be placed on a track to receive a certificate of completion, which is not recognized by many colleges and employers, instead of a traditional high school diploma. One study showed that Black and Latinx students made up 57% of students who received a certificate of completion rather than a traditional diploma in the 2014-2015 school year, despite making up only 45% of students exiting the special education system that year.⁶⁹ Another study showed that Black students, Asian students, and students from the Pacific Islands, including Hawaii, are less likely than their white peers to be placed in general education classes,⁷⁰ as opposed to out-of-district or segregated classroom placements.

Educators' implicit biases are further compounded by lack of diversity. Although approximately 56% of New Jersey's students are non-white,⁷¹ "more than three-quarters of public-school districts in New Jersey have teaching and professional staffs that are at least 85 percent white, with about 50 of those districts employing no African-American, Hispanic, Asian or other minorities in those jobs."⁷² According to data provided by the New Jersey Department of Education, there are wide gaps between New Jersey's student and teacher populations: Hispanic students account for 29% of the student body, while Hispanic teachers account for only 7% of the teacher workforce; Black students account for 15% of the student body, while Black teachers account for only 7% of the teacher workforce; and Asian students account for 10% of the student body, but Asian teachers account for only 2% of the teacher workforce. On the other hand, white students account for only 44% of the student body, but white teachers represent 84% of the teacher workforce.

67 See Hester de Boer et al., *Sustainability of Teacher Expectation Bias Effects on Long-term Student Performance*, 102 J. Educ. Psychol. 168, 168 (2010).

68 Sarah Butrymowicz & Jackie Mader, "Almost All Students with Disabilities Are Capable of Graduating on Time. Here's Why They're Not," (Nov. 11, 2017), <https://hechingerreport.org/high-schools-fail-provide-legally-required-education-students-disabilities/>.

69 Emmanuel Felton, "Special Education's Hidden Racial Gap," The Hechinger Report (Nov. 25, 2017), <https://hechingerreport.org/special-educations-hidden-racial-gap/>.

70 National Council on Disability, *The Segregation of Students with Disabilities* 25 (2018), https://ncd.gov/sites/default/files/NCD_Segregation-SWD_508.pdf.

71 Colleen O'Dea, "Interactive Map: Stats Show Lack of Diversity in Front of NJ Classrooms," NJ Spotlight (2019), <https://www.njspotlight.com/2019/02/19-02-15-analysis-enrollment-stats-show-lack-of-diversity-in-front-of-nj-classrooms>.

72 *Id.*

These disparities are rooted in systemic racism, as during the last century white communities in New Jersey and across the country mounted strong and often violent opposition to hiring Black teachers to teach white students in integrated schools.⁷³ Indeed, “more than 38,000 out of 82,000 Black educators in America lost their jobs between 1954 and 1972, and 65% of Black teachers suffered some sort of demotion between 1954 and 1965.”⁷⁴ New Jersey did not see a similar decline, but only because Black teachers accounted for only 2% of New Jersey’s education workforce at the time New Jersey began to integrate its schools.⁷⁵

Yet, “schools staffed by leaders and teachers of color expose all students to positive role models and counteract negative stereotypes that misrepresent people of color.”⁷⁶ And when faculty diversity resembles student diversity, numerous benefits flow down to students in the form of better educational outcomes and classroom experiences. Students taught by teachers of the same race may perform better,⁷⁷ be perceived as less disruptive during class,⁷⁸ face suspensions less often,⁷⁹ and even go on to drop out of high school less often than those taught by teachers of other races.⁸⁰

Racial disparities in student achievement and faculty representation are not limited to K-12 public education but persist into postsecondary education as well. For example, there are significant racial disparities in college attrition and retention rates. On a national level, Asian students return after their first year of college at a rate of 84.7%; white students at 78.1%, Hispanic students at 70.4%, and Black students at 66.2%. The rates of return excluding those who transferred to another institution are 72.7% for Asian students, 62.2% for white students, 59.5% for Hispanic students, and 52.1% for Black students.⁸¹

There are also significant racial disparities in graduation rates, although the numbers in New Jersey are significantly better than nationwide. Seventy-two percent of white students in New Jersey

73 See O’Dea, *supra* note 71; See Davison M. Douglas, *The Limits of Law in Accomplishing Racial Change: School Segregation in the Pre-Brown North*, 44 *UCLA L. Rev.* 677, 707-12 (1997), <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1118&context=facpubs>; Madeline Will, *65 Years After ‘Brown v. Board,’ Where Are All The Black Educators?*, *Educ. Week* (2019), <https://www.edweek.org/ew/articles/2019/05/14/65-years-after-brown-v-board-where.html>.

74 See Will, *supra* note 73; see also Mallory Lutz, *The Hidden Cost of Brown v. Board: African American Educators’ Resistance to Desegregating Schools*, 12 *Online J. of Rural Res. & Pol’y* (2017) <https://newprairiepress.org/cgi/viewcontent.cgi?article=1085&context=ojrrp> (finding that more than 38,000 out of roughly 82,000 Black educators in America lost their jobs between 1954 and 1972, and more than 67% of Black teachers suffered some sort of demotion in just 1965).

75 See Douglas, *supra* note 73, at 725 n.176.

76 U.S. Dept. of Educ., *The State of Racial Diversity in the Educator Workforce 1* (2016), <https://www2.ed.gov/rschstat/eval/highered/racial-diversity/state-racial-diversity-workforce.pdf>.

77 See Anna J. Egalite, Brian Kisida & Marcus A. Winters, *Representation in the Classroom: The Effect of Own-Race Teacher Assignment on Student Achievement* (Program on Educ. Pol’y and Governance, Harv. Kennedy Sch., 2015).

78 See Adam C. Wright, *Teachers’ Perceptions of Students’ Disruptive Behavior: The Effect of Racial Congruence and Consequences for School Suspension* (Working Paper, 2015).

79 *Id.*

80 See Seth Gershenson, Cassandra M. D. Hart, Constance A. Lindsay & Nicholas W. Papageorge, *The Long-Run Impact of Same-Race Teachers* (IZA Inst. of Lab. Econ., Discussion Paper No. 10630, Mar. 2017).

81 NSC Research Ctr., *Persistence & Retention* (2019), <https://nscresearchcenter.org/snapshotreport35-first-year-persistence-and-retention/#Figure2>.

graduate, while the numbers are only 54% for Black students and 58% for Latinx students.⁸²

Finally, New Jersey’s colleges and universities continue to reflect meaningful racial disparities among faculty. In fiscal year 2019, only 12.1% of all full- and part-time faculty identified as Black, Latinx/Hispanic, Native Hawaiian, Pacific Islander, American Indian, or Alaskan Native.⁸³ And there is a persistent gap between the diversity of the student body and the diversity of full-time faculty at many New Jersey colleges and universities.⁸⁴ For example, at Rutgers-New Brunswick, Black students are 8% of the student body, while Black professors are only 4% of full-time faculty, and Asian students are 25% of the student body, while Asian professors are only 14% of full-time faculty. The disparities among Hispanic students and full-time faculty are even more stark, at 12% and 2%, respectively.⁸⁵

3. Bias Learned at Home and in the Community

Young people also may be exposed to both explicit and implicit bias at home and in their communities. Young people look to family members for social norms and guidance, and, unsurprisingly, children develop many of the same biases and prejudices as close family members.⁸⁶ These biases are sometimes conveyed through deliberate insults directed at marginalized groups, but more often they are conveyed implicitly. This can take the form of statements that convey stereotypes about other groups. For instance, a white parent who compliments specific Black people as “articulate” but does not compliment similarly articulate white people communicates that they view articulateness as associated with whiteness.⁸⁷

Biases can also be conveyed through parents’ more general belief systems, such as a parent’s preference for hierarchical rather than equal relationships between groups.⁸⁸ For example, studies have shown that a person’s preference for hierarchical rather than egalitarian relationships between groups is a “strong predictor of negative attitudes towards women’s rights,” is “associated with stronger negative attitudes towards [undocumented] immigrants,” and “c[an] be used to predict attitudes towards

82 Konrad Mugglestone & Michael Dannenberg, *Locked Out of the Future* 16-19 (2019), <https://edreformnow.org/wp-content/uploads/2019/01/ERN-New-Jersey-Locked-Out-.pdf>.

83 N.J. Office of the Sec’y of Higher Educ., *Performance Indicators – 2020*, <https://nj.gov/transparency/performance/oshe/pdf/OSHE%20CMs%20KPIs%20FY21.pdf>.

84 Jonathan Lai, “Diversity at Colleges? Not at the Front of the Classroom,” *Phila. Inquirer* (2017), <https://www.inquirer.com/education/inq/diversity-colleges-not-front-classroom-20170110.html-2>.

85 *Id.*

86 Bart Duriez & Bart Soenens, *The Intergenerational Transmission of Racism: The Role of Right-Wing Authoritarianism and Social Dominance Orientation*, 43 *J. Res. Personality* 906, 909 (2009).

87 See NPR, “Microaggressions: Be Careful What You Say (Apr. 3, 2014), <https://www.npr.org/2014/04/03/298736678/microaggressions-be-careful-what-you-say>.

88 Duriez & Soenens, *supra* note 86, at 906.

[members of the LGBTQ+ community].”⁸⁹ It also predisposes their children to believe “legitimizing myths” that undergird institutional biases.⁹⁰

Young people can also absorb biases from their broader communities. For example, segregated communities can perpetuate bias, in part because studies have shown that intergroup exposure is essential to reducing prejudice, promoting intergroup friendship, and increasing empathy toward non-group members.⁹¹

Moreover, children pick up on biased behavior and messages from community members and community leaders, even if the message is unintentional or intended to be innocuous. For example, at the New Jersey Association of Student Council’s annual conference, one student from a Bergen County town explained that tensions in his community over real estate development are often cast in antisemitic terms because many of the developers are Orthodox Jews. When community members talk disparagingly about “developers,” he understands the insults to be directed at Orthodox Jews. Similarly problematic messages can originate in local politics, including elections for municipal leadership and school boards of education. For example, one community member who spoke at the listening session in Bridgeton described local school board members’ rhetoric as “homophobic” and “transphobic,” and explained that when these local leaders “feel free[] to speak out about their feelings towards the LGBTQ+ students and their community” they “mak[e] students feel like they’re not welcomed in school.”

4. Bias Learned from Social Media

Increasingly, young peoples’ communities encompass not only their schools, neighborhoods, towns, and religious institutions, but also the communities they participate in online. These online forums have the capacity to bring youth in contact with extremist views and hate groups to which they would not otherwise have had access. Platforms like Reddit, YouTube, and the online streaming platform, Twitch, have become favored forums for those who promote white-nationalist, antisemitic, and anti-feminist rhetoric, frequently aimed at recruiting young, white men.⁹² Other less mainstream platforms,

89 Ian P. Smith, “An Introduction to Social Dominance Orientation,” *Moving Psychology* (Sept. 6, 2012) <https://sites.psu.edu/movingpsychology/2012/09/06/an-introduction-to-social-dominance-orientation/> (citing Patrick C.L. Heaven, *Attitudes Toward Women’s Rights: Relationships with Social Dominance Orientation and Political Group Identities*, 41 *Sex Roles* 605 (1999); Jonathan F. Bassett, *The Effects of Mortality Salience and Social Dominance Orientation on Attitudes Toward Illegal Immigrants*, 41 *Soc. Psychol.* 52 (2010); and Bernard E. Whitley, Jr. & Stefania Aegisdottir, *The Gender Belief System, Authoritarianism, Social Dominance Orientation, and Heterosexuals’ Attitudes Towards Lesbians and Gay Men*, 42 *Sex Roles* 947 (2000)).

90 See Felicia Pratto et al., *Social Dominance Orientation: A Personality Variable Predicting Social and Political Attitudes*, 67 *J. Personality & Soc. Psychol.* 741, 758 (1994); see generally *id.*

91 See Luca Paolo Merlino et al., *More than Just Friends? School Peers and Adult Interracial Relationships*, 37 *J. Lab. Econ.* 663, 686 (2019); Thomas F. Pettigrew & Linda R. Tropp, *How Does Intergroup Contact Reduce Prejudice? Meta-analytic Tests of Three Mediators*, 38 *Euro. J. Soc. Psychol.* 922 (2008).

92 See, e.g., Caitlin Gibson, “‘Do You Have White Teenage Sons? Listen up.’ How White Supremacists are Recruiting Boys Online,” *Wash. Post* (Sept. 17, 2019), https://www.washingtonpost.com/lifestyle/on-parenting/do-you-have-white-teenage-sons-listen-up-how-white-supremacists-are-recruiting-boys-online/2019/09/17/f081e806-d3d5-11e9-9343-40db57cf6abd_story.html; Anya Kamenetz, “Right-Wing Hate Groups Are Recruiting Video Gamers,” *NPR* (Nov. 5, 2018), <https://www.npr.org/2018/11/05/660642531/right-wing-hate-groups-are-recruiting-video-gamers>.

like Gab and Parler, predominantly attract those who traffic in offensive speech.⁹³

Many young people unwittingly encounter extremist content online, including deliberate misinformation about religious, racial, and ethnic minorities.⁹⁴ For example, one study suggested that adolescents “often encounter stereotypic and racist images online, including text and video about people of color, but lack the digital and media literacy skills to determine who produces this material and whether it is legitimate or from a credible source.”⁹⁵ Moreover, hate groups often assign innocuous titles to websites to draw in viewers. For instance, Stormfront, “the first major hate site on the Internet,⁹⁶ maintains a “Stormfront.org for kids website” that may come up in response to a search for weather-related storm information.⁹⁷ Once children click on the site, there is a facially harmless prompt (“Need to do a school report of M.L. King? Visit this website for all your needs: www.martinlutherking.org”) that may direct the user to “a myriad of disparaging articles, speeches, and ‘facts’” about the civil rights leader.⁹⁸

Young people are often not equipped to distinguish such misinformation from fact. As one recent poll found, only 44% of children “feel that they can tell fake news stories from real ones,” while 31% admitted having shared within the previous six months “a story that they later found out was wrong or inaccurate.”⁹⁹ And even when young people are able to identify misinformation, they “frequently lack the meaningful social involvement and educational tools necessary to view the stereotypes they encounter with clarity.”¹⁰⁰

Social media can also promote bias by disinhibiting and anonymizing hate speech. Research and commentary has noted an online disinhibition effect, which suggests that people are willing to engage in certain conduct online that they would not ordinarily engage in were they face-to-face. As a result, people may feel free to express anger, hatred, threats, and prejudice or browse extreme content that they would not typically express or be exposed to in person.¹⁰¹ Moreover, the potential for anonymity on social media platforms and online message boards can exacerbate that trend. For example, in one study of teen chatrooms, participants “had a 19% chance of being exposed to negative remarks about a racial

93 Isaac Saul, “This Twitter Alternative Was Supposed to Be Nicer, But Bigots Love It Already, Forward (July 18, 2019), <https://forward.com/news/national/427705/parler-news-white-supremacist-islamophobia-laura-loomer/>.

94 See Brendesha M. Tynes et al., *Virtual Environments, Online Racial Discrimination, and Adjustment Among a Diverse, School-Based Sample of Adolescents*, 6 Int. J. Gaming & Computer-Mediated Simulations, no. 3, 2014, at 1; cf. Kimberly Grambo, Comment, *Fake News and Racial, Ethnic, and Religious Minorities: A Precarious Quest for Truth*, 21 U. Pa. J. Const. L. 1299, 1299-1303 (2019).

95 Tynes et al., *Virtual Environments*, *supra* note 94.

96 Southern Poverty Law Center, “Stormfront,” (last accessed May 22, 2010), <https://www.splcenter.org/fighting-hate/extremist-files/group/stormfront>.

97 Tynes et al., *Virtual Environments*, *supra* note 94.

98 *Id.*

99 Common Sense Media, *News and America’s Kids: How Young People Perceive and are Impacted by the News*, (Mar. 8, 2017), <https://www.common SenseMedia.org/research/news-and-americas-kids-infographic>.

100 See Annie Steinberg, et al., *Youth Hate Crimes: Identification, Prevention, and Intervention*, 160 Am. J. Psychiatry 979, 983 (2003).

101 See John Suler, *The Online Disinhibition Effect*, 7 CyberPsychology & Behav. 321 (2004).

or ethnic group . . . in monitored chat and a 59% chance in unmonitored chat.”¹⁰² Online anonymity can encourage young people to use words they would never use when speaking to a person face to face, because “they have little fear that victims will retaliate against them or that they will suffer social stigma for their abusive conduct.”¹⁰³ The internet thus “magnifies the dangerousness of group behavior.”¹⁰⁴ Moreover, members of online groups can “affirm each other’s negative views, which become more extreme and destructive.”¹⁰⁵

Finally, it is not an exaggeration to say that hate sells on the internet. Social media platforms make money through advertisements. They land advertisements through engagements: user clicks, likes, shares and comments associated with particular content. Studies suggest that “[p]osts that tap into negative, primal emotions like anger or fear” perform best in user engagement, and thus are proliferated by many of the algorithms underlying major social media platforms, like Facebook and YouTube.¹⁰⁶ In other words, promoting and prioritizing extreme and offensive content, including to children, can be a profitable business model for social media platforms.¹⁰⁷

B. How Bias Is Manifested

All young people are exposed to bias in their daily lives. But what influences whether, and to what extent, young people act on the biases they have learned? While, with the exception of social media, the sources of bias discussed above have remained relatively constant over time, the social forces that influence whether young people act on their biases are more susceptible to change. Each of these factors has had a significant influence on the current rise in bias incidents.

1. Social Norms and Peer Groups

Psychologists have found that people tend to conform to perceived social norms and act in ways

102 Brendesha Tynes et al., *Adolescence, Race, and Ethnicity on the Internet: A Comparison of Discourse in Monitored vs. Unmonitored Chat Rooms*, 25 J. Applied Dev. Psychol. 667 (2004).

103 Danielle Keats Citron, *Cyber Civil Rights*, 89 B.U. L. Rev. 61, 83 (2009).

104 *Id.*

105 *Id.*

106 Amanda Taub & Max Fisher, “Facebook Fueled Anti-Refugee Attacks in Germany, New Research Suggests,” N.Y. Times (Aug. 21, 2018), <https://www.nytimes.com/2018/08/21/world/europe/facebook-refugee-attacks-germany.html>; see also Elizabeth Dwoskin, “YouTube is Changing its Algorithms to Stop Recommending Conspiracies,” Wash. Post (Jan. 25, 2019), <https://www.washingtonpost.com/technology/2019/01/25/youtube-is-changing-its-algorithms-stop-recommending-conspiracies/>.

107 See Katherine J. Wu, “Radical Ideas Spread through Social Media. Are the Algorithms To Blame?,” PBS Nova (Mar. 28, 2019), <https://www.pbs.org/wgbh/nova/article/radical-ideas-social-media-algorithms/>. After a campaign started by the NAACP, ADL, and Color of Change, over 530 companies committed to pause advertising on Facebook during July 2020 in order to encourage Facebook to address the proliferation of misinformation, hate speech, and bias on its platform. See Tonya Riley, “The Technology 202: Here’s What Facebook Ad Boycott Organizers Plan To Tell Mark Zuckerberg,” Wash. Post. (July 2, 2020), <https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2020/07/02/the-technology-202-here-s-what-facebook-ad-boycott-organizers-plan-to-tell-mark-zuckerberg/5efcc6f388e0fa7b44f6c2fd/>.

that they believe will be socially acceptable.¹⁰⁸ Young people are particularly sensitive to social norms, especially when they are displayed by teachers, parents, or peers.¹⁰⁹ Consequently, the implicit and explicit messages around bias, stereotypes, and hate that children receive at home, at school, online, among their peer groups, and in their broader communities influence whether, and to what extent, they view acting on biases as acceptable.¹¹⁰ Research has shown that people are less likely to object to racist, sexist, and otherwise discriminatory speech when they perceive that prejudice against certain groups is “socially acceptable.”¹¹¹ And people are less likely to object to discriminatory conduct after hearing discriminatory speech or jokes from peers.¹¹² Conversely, young people’s peer dynamics can be used to counteract bias.¹¹³ For example, one study found that participants showed less tolerance for racist speech after hearing anti-racist comments from peers.¹¹⁴

2. Political Discourse

Political discourse that is divisive, racist, antisemitic, Islamophobic, homophobic, xenophobic, or misogynistic, or that devalues or dehumanizes people based on protected characteristics, may also increase the likelihood that individuals will act on learned biases.¹¹⁵ And, as the 2017-2018 Bias Incident Report noted, research suggests that extreme political rhetoric, which tends to be amplified during times of political and social change and polarization, may contribute to an increase in hate crimes.¹¹⁶ For example, a study by the Center for the Study of Hate and Extremism compared President George W. Bush’s speech six days after the September 11th attacks declaring that “Islam is peace,” with then-candidate Donald Trump’s call for a Muslim ban five days after the San Bernardino attack in 2015.¹¹⁷ The study found that “anti-Muslim hate crimes dropped dramatically across the country” after President

108 See Margaret E. Tankard & Elizabeth L. Paluck, *Norm Perception As a Vehicle for Social Change*, 10 Soc. Issues & Pol’y Rev. 181, 183, 192 (2016); Taub & Fisher, *supra* note 106.

109 See Karen Franklin, *Antigay Behaviors Among Young Adults: Prevalence, Patterns, and Motivators in a Noncriminal Population*, 15 J. Interpersonal Violence 339, 354 (2000); Maria Benedicta Monteiro, et al., *The Development of Intergroup Bias in Childhood: How Social Norms Can Shape Children’s Racial Behaviours*, 44 Int’l J. Psychol. 29, 31 (2009).

110 See, e.g., Christian S. Crandall et al., *Social Norms and the Expression and Suppression of Prejudice: The Struggle for Internalization*, 82 J. Personality & Soc. Psychol. 359, 363, 373-74 (2002); Fletcher A. Blanchard et al., *Condemning and Condoning Racism: A Social Context Approach to Interracial Settings*, 79 J. Applied Psychol., 993, 995–96 (1994); see also Thomas E. Ford & Mark A. Ferguson, *Social Consequences of Disparagement Humor: A Prejudiced Norm Theory*, 8 Personality & Soc. Psychol. Rev. 79, 91 (2004).

111 Crandall, et al., *supra* note 110, at 363.

112 See, e.g., Blanchard et al., *supra* note 110, at 995–96; Ford & Ferguson, *supra* note 110, at 83, 89-91.

113 See Paluck, *supra* note 17, at 355-56; see also Blanchard, *supra* note 110, at 995-96.

114 Blanchard et al, *supra* note 110, at 997-95.

115 Am. Psychol. Ass’n, “The Psychology of Hate Crimes,” (last accessed Jan. 24, 2020), <https://www.apa.org/advocacy/interpersonal-violence/hate-crimes>.

116 2017-2018 Bias Incident Report *supra* note 1, at 20-21.

117 See Brian Levin, *Special Status Report: Hate Crime in the United States*, Ctr. For Study Of Hate & Extremism Cal. St. Univ., San Bernardino 26-32 (2016), . <http://big.assets.huffingtonpost.com/SPECIALSTATUSREPORTv5.pdf>

Bush's statements of tolerance, while such crimes increased following President Trump's proposal.¹¹⁸ And one study that looked at reported bullying incidents in Virginia found that students in localities that favored President Trump reported higher rates of bullying due to their race or ethnicity after the election, despite no significant difference in rates of bullying prior to the election.¹¹⁹

Social media platforms can help to amplify this divisive political rhetoric. A report by the ADL and the Network Contagion Research Institute about Gab and certain message boards on 4chan¹²⁰ found that antisemitic "slurs and content doubled on these platforms after the election of President Donald Trump."¹²¹ There was also a "dramatic surge in the expression of racism" on those platforms during that same period."¹²²

3. Extremism and Hate Groups

Known hate groups are also encouraging young people to act on bias through active recruitment. According to the New Jersey Office of Homeland Security and Preparedness, between 2018 and 2019, instances of recruitment by white supremacist groups across the State more than tripled, from 46 such incidents in 2018 to 168 reported incidents in 2019.¹²³ The majority of the increase came from recruitment activities by one white supremacist organization that attempted to expand its membership nationally in 2019, and distributed flyers "in cities and on college campuses across the country."¹²⁴ This rise in propaganda distribution in New Jersey reflects a national trend. The ADL reported a 182% increase

118 *Id.*; see also Southern Poverty Law Center, "The Trump Effect," (Feb. 15, 2017), <https://www.splcenter.org/fighting-hate/intelligence-report/2017/trump-effect> (finding that 37% of the 1,094 bias incidents that the Southern Poverty Law Center documented over the first 34 days after the 2016 Presidential election "directly referenced either President-elect Trump, his campaign slogans, or his infamous remarks about sexual assault").

119 Francis L. Huang & Dewey G. Cornell, *School Teasing and Bullying After the Presidential Election*, 48 *Educ. Researcher* 69, 76–77 (2019). In addition, a review of 28,000 news stories found that "Trump's words, those chanted by his followers at campaign rallies and even his last name have been wielded by students and school staff members to harass children more than 300 times since the start of 2016." Hannah Natanson et al., "Trump's Words, Bullied Kids, Scarred Schools," *Wash. Post* (Feb. 13, 2020), <https://www.washingtonpost.com/graphics/2020/local/school-bullying-trump-words/>. One of the most extreme incidents occurred in New Jersey: A 13-year-old told a 12-year-old, Mexican American schoolmate that "all Mexicans should go back behind the wall" and, the next day, assaulted both the schoolmate and the schoolmate's mother, punching the 12-year-old and beating his mother unconscious.

120 Gab is a Twitter-like social network "with fewer restrictions on speech" and 4chan is an "anonymous online messaging board." Craig Timberg & Drew Harwell "Racism and Anti-Semitism Surged in Corners of the Web After Trump's Election, Analysis Shows," *Wash. Post* (Sept. 6, 2018), https://www.washingtonpost.com/technology/2018/09/06/racism-anti-semitism-surged-corners-web-after-trumps-election/?utm_term=.da4b2e92131c. These platforms and 8chan, a completely unmoderated message board, have been used by neo-Nazis, white supremacists, and members of the so-called alt-right. *Id.*; see Network Contagion Res. Inst. & ADL Ctr. on Extremism, *Gab and 8chan: Home to Terrorist Plots Hiding in Plain Sight*. (2019), <https://www.adl.org/resources/reports/gab-and-8chan-home-to-terrorist-plots-hiding-in-plain-sight>.

121 Network Contagion Res. Inst. & ADL Ctr. on Extremism, *supra* note 120.

122 *Id.*

123 New Jersey Office of Homeland Security & Preparedness, 2020 Terrorism Threat Assessment 10 (2020), <https://static1.squarespace.com/static/54d79f88e4b0db3478a04405/t/5e9f332ff92d080928b942f9/1587491645834/2020+Terrorism+Threat+Assessment.pdf>.

124 *Id.*

nationwide in incidents of white supremacist propaganda from 2017 to 2018.¹²⁵

Hate groups have also used online forums to actively recruit young people, and young, white men, in particular. While contemporary hate groups remain “the same ugly movement[s] that [they’ve] always been . . . contemporary participants look prettier and are more tech-savvy than they were 20 or 25 years ago.”¹²⁶ Moreover, they are often fluent in the internet humor and culture of young people, using “jokes and memes as a way to normalize bigotry while still maintaining plausible deniability.”¹²⁷ Using these skills, hate groups generate content designed to reach a broad youth audience online, including, for example, YouTube videos, Reddit and 4chan forums, innocuous-seeming websites, and online memes.¹²⁸ Hate groups have also become experts at using young, white men’s insecurities about masculinity and racial status to recruit them, and often offer “the seductive feeling of being part of a brotherhood, which in turn validates their manhood.”¹²⁹ For example, one study found that “48 percent of white millennials think that discrimination against whites has become as big a problem as discrimination against blacks.”¹³⁰ White supremacist and other extremist groups often target this insecurity and present their ideologies as solutions or explanations.¹³¹

These same forces have led to the development of several youth-centered hate communities online, such as the “incel” (involuntarily celibate) subculture. Composed of a diffuse network of frustrated young teens and men on platforms like Reddit and 4chan, these communities promote the idea that young men “are owed sex but cannot have it because women are shallow.”¹³² These communities tap into common youth insecurities about masculinity, sex, and popularity and offer as a

125 ADL, “White Supremacists Step Up Off-Campus Propaganda Efforts in 2018” (last visited May 25, 2020) <https://www.adl.org/resources/reports/white-supremacists-step-up-off-campus-propaganda-efforts-in-2018>.

126 Eleanor J. Bader, “Former White Supremacist Leader—Here’s How to Stop Hate Groups From Spreading,” Salon (Jan. 7, 2018), https://www.salon.com/2018/01/07/former-white-supremacist-leader-heres-how-to-stop-hate-groups-from-spreading_partner/.

127 Gibson, *supra* note 92.

128 *Id.* (discussing one mother who reviewed her children’s Instagram accounts, finding “[s]exist and racist jokes [for instance, a looping video clip of a white boy demonstrating how to ‘get away with saying the n-word,’ or memes referring to teen girls as ‘thots,’ an acronym for ‘that ho over there’] as well as a meme depicting Adolf Hitler); see also Kamenetz, *supra* note 92 (with respect to the targeting of youth through online-gaming platforms: “recruitment, and even the planning of harassment campaigns, happens not only during in-game chat, but during livestreaming of game play on platforms like Twitch and YouTube).

129 Joanna Schroeder, “Racists Are Recruiting. Watch Your White Sons,” N.Y. TIMES (Oct. 12, 2019), <https://www.nytimes.com/2019/10/12/opinion/sunday/white-supremacist-recruitment.html> (quoting Jackson Katz); see Bader, *supra* note 126 (quoting one former hate-group member: “Actually, I don’t think most people join White supremacist groups because of the ideology or dogma. They gravitate to these groups because they . . . [provide] identity, community, and a sense of individual purpose” that many young men feel they lack.); see also Conor Lynch, “Angry Young White Men, the ‘Incel Rebellion’ and an Age of Worldwide Reaction,” Salon (May 12, 2018), <https://www.salon.com/2018/05/12/angry-young-white-men-the-incel-rebellion-and-an-age-of-worldwide-reaction/> (quoting Michael Kimmel, *Angry White Men*, (2013)).

130 Lynch, *supra* note 129.

131 See Schroeder, *supra* note 129.

132 Zack Beauchamp, “Incel, the Misogynist Ideology That Inspired the Deadly Toronto Attack, Explained,” Vox (Apr. 25, 2018), <https://www.vox.com/world/2018/4/25/17277496/incel-toronto-attack-alek-minassian>.

solution a message of hate and anger toward women.¹³³



This section provides an overview of many of the ways in which young people can learn and absorb biases and several of the factors that may encourage young people to act on those biases. There are undoubtedly additional factors not discussed here. As the research discussed in this section reflects, the root causes of bias are interconnected and complex. The takeaway, however, is straightforward: young people’s biases are learned, and whether they act on them ultimately comes down to whether they perceive it as socially acceptable to do so.

133 See, e.g., Steven Crimando, “Alone Together and Angry: An Incel Revolution,” Security Management (Mar. 1, 2019), <https://www.asisonline.org/security-management-magazine/articles/2019/03/alone-together-and-angry-an-ince-revolution/>; Bruce Hoffman & Jacob Ware, “Incels: America’s Newest Domestic Terrorism Threat,” Lawfare (Jan. 12, 2020), <https://www.lawfareblog.com/incels-americas-newest-domestic-terrorism-threat>; see also State of New Jersey, Office of Homeland Security and Preparedness, “Alone Together and Angry: An Incel Revolution,” Media (Aug. 12, 2019), <https://www.njhomelandsecurity.gov/media/podcast-the-ince-movement> (last visited June 1, 2020).



II. Existing State Laws, Regulations, and Procedures

This section discusses existing laws and applicable procedures that address bias in schools and among New Jersey’s young people. It is not intended to be exhaustive, as there exists a vast constellation of statutes that might indirectly relate to bias in schools to the extent that they address themes of school climate, culture, instruction, staff training, and other education policies that might influence the frequency or nature of bias incidents. Rather, this section is intended to describe the statutes that directly address bias-related curricula or procedures for reporting or responding to acts of bias. This section first reviews laws concerning bias in education, and then reviews New Jersey’s criminal and civil bias laws.

A. Education

1. *Laws Regarding Teaching Bias, Prejudice, Pluralism and Acceptance*

New Jersey’s commitment to reducing bias and promoting diversity, equity, and inclusion in schools is reflected in a series of laws requiring schools to teach students about historically marginalized groups. However, to date the State has not considered how best to seamlessly integrate these requirements in a way that truly educates students about our country’s legacy of and ongoing struggle with systemic racism, bias and prejudice.

In 1994, the Legislature unanimously passed a bill requiring public boards of education to include instruction on the Holocaust and genocides in the curriculum for elementary and secondary school students.¹³⁴ The law requires that the instruction include discussions of prejudice and discrimination and “emphasize the personal responsibility that each citizen bears to fight racism and hatred whenever and wherever it happens.”¹³⁵ To facilitate compliance by local districts, the law also tasked the New Jersey Commission on Holocaust Education, which had been founded in 1991 to promote Holocaust education in New Jersey, with developing curricula guides. These guides are available online and cover age-appropriate lessons on the Holocaust for elementary through high school students. The New Jersey Department of Education (DOE) maintains a district accountability system (Quality Single Accountability Continuum, or QSAC), which now includes the following: The “Holocaust Commission mandates that curricula in kindergarten through grade 12 address issues of bias, prejudice, and bigotry, including

bullying, through the teaching of the Holocaust and genocide.”¹³⁶

In 2002, the Legislature passed the Amistad Bill, which requires the inclusion in curricula of “educational information and other materials on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society.”¹³⁷ The law established the Amistad Commission to, among other things, market and distribute such curricula to educators, administrators, and school districts and ensure that “materials and texts that integrate the history and contributions of African-Americans and the descendants of the African Diaspora” are included in curricula across the state.¹³⁸ New Jersey’s current Student Learning Standards for social studies, which identify standards schools’ curricula should enable students to meet, include indicators potentially relevant to these requirements, such as a requirement that students be able to “[d]escribe how stereotyping and prejudice can lead to conflict, using examples from the past and present”¹³⁹ by the end of grade four, and be able to “[a]nalyze the effectiveness of governmental policies and of actions by groups and individuals to address discrimination against new immigrants, Native Americans, and African Americans,” by the end of grade 12.¹⁴⁰ The DOE’s QSAC also includes that the “Amistad Commission mandates that curricula in kindergarten through grade 12 include the teaching of the African slave trade, slavery in America, the vestiges of slavery in this country, and the contributions of African Americans to this country.”¹⁴¹

Most recently, on January 31, 2019, Governor Murphy signed a bill into law requiring local boards of education to “include instruction on the political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people, in an appropriate place in the curriculum of middle school and high school students as part of the district’s implementation of the New Jersey Student Learning Standards” and to “adopt inclusive instructional materials that portray the cultural and economic diversity of society including the political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people, where appropriate.”¹⁴² These requirements will go into effect in the 2020-2021 school year.

2. The New Jersey Anti-Bullying Bill of Rights Act (ABR)

The principal law governing how a school responds to a specific bias incident among students is the Anti-Bullying Bill of Rights Act (ABR), enacted in 2011. The ABR, which supplemented New Jersey’s 2002 anti-bullying law, prescribes a comprehensive scheme for reporting, investigating, and responding to bias-based student harassment, intimidation, and bullying in New Jersey’s public schools.¹⁴³

136 See N.J.A.C. 6A:30 App. A 12(k).

137 N.J.S.A. 52:16A-87.

138 The New Jersey Amistad Commission, “About Amistad,” <https://www.nj.gov/education/amistad/> (last visited Apr. 22, 2020).

139 NJ Student Learning Standards, Social Studies, Indicator 6.1.4.D.16.

140 NJ Student Learning Standards, Social Studies, Indicator 6.1.12.A.5.b.

141 See N.J.A.C. 6A:30 App. A 12(j).

142 N.J.S.A. 18A:35-4.36.

143 N.J.S.A. 18A:37-13 et seq.

Under the ABR, a “harassment, intimidation or bullying” (HIB) incident has three key components. First, a HIB incident includes any gesture, written, verbal or physical act, or electronic communication “that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic.” Second, the incident must take place on school property, at any school-sponsored function, on a school bus, or off school grounds where it substantially disrupts or interferes with the orderly operation of the school or the rights of other students. Third, at least one of the following conditions must be satisfied: (a) “a reasonable person should know, under the circumstances, [that the conduct] will have the effect of physically or emotionally harming a student or damaging the student’s property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property; (b) [the conduct] has the effect of insulting or demeaning any student or group of students; or (c) [the conduct] creates a hostile educational environment for the student by interfering with a student’s education or by severely or pervasively causing physical or emotional harm to the student.”¹⁴⁴

The ABR requires all public school districts to adopt (and continuously review) detailed and specific anti-bullying policies prohibiting HIB and outlining procedures for promptly investigating complaints of HIB;¹⁴⁵ establish, implement, document, and assess bullying prevention programs or approaches; and provide training on the district’s HIB policies to school employees and volunteers who have significant contact with students.¹⁴⁶ The superintendent of each school district must appoint a district anti-bullying coordinator and each school principal must appoint a school anti-bullying specialist.¹⁴⁷ Each district must also have a “school safety/school climate team” that is required to “develop, foster, and maintain a positive school climate by focusing on the on-going, systemic process and practices in the school and to address school climate issues such as harassment, intimidation, or bullying.”¹⁴⁸

The ABR prescribes a multi-step process that public school districts must undertake whenever a suspected HIB incident occurs. When a school employee witnesses or receives reliable information regarding an HIB incident, the employee must report that incident verbally to the school principal on the same day and follow up with a written report of the incident within two days.¹⁴⁹ The principal is required to inform the parents and guardians of all students involved in the alleged incident.¹⁵⁰ Within one day of the incident being reported, the school must initiate an investigation, to be completed by a school anti-bullying specialist within ten school days.¹⁵¹ Within two days after that, the school must report the results of the investigation to the district superintendent, who then decides upon the appropriate course

144 N.J.S.A. 18A:37-14.

145 N.J.S.A. 18A:37-15; *see also* N.J.A.C. 6A:16-7.7 (laying out minimum policy standards).

146 N.J.S.A. 18A:37-17(a)-(b).

147 N.J.S.A. 18A:37-20(a)-(b).

148 N.J.S.A. 18A:37-21(a).

149 N.J.S.A. 18A:37-15(b); *see also* N.J.A.C. 6A:16-5.3(a) (requiring school employees who witness acts of violence and HIB incidents to file written reports of such acts with the principal).

150 N.J.S.A. 18A:37-15(b).

151 N.J.S.A. 18A:37-15(b)(6)(a).

of action.¹⁵²

A parent may request a hearing before the school board if they are dissatisfied with the school’s investigation, and can appeal the school board’s ultimate decision to the Commissioner of Education.¹⁵³ And victims of HIB can also seek redress under any other available civil or criminal laws.¹⁵⁴ Thus, for example, as discussed below, there are certain circumstances where parents, guardians, and students over 18 may seek redress with the Division on Civil Rights if the school’s response to an HIB incident is unsatisfactory.¹⁵⁵

Finally, the ABR makes clear that a member of a board of education, school employee, student, or volunteer may not retaliate against any victim of, or witness to, an HIB incident.¹⁵⁶ And a Department of Education regulation protects school employees from being fired for reporting such incidents.¹⁵⁷

The Department of Education’s regulations also provide for mandatory reporting of bias incidents. The regulations require school employees to “immediately notify the principal and chief school administrator when in the course of their employment they develop reason to believe a bias-related act has been committed or is about to be committed on school grounds, or has been or is about to be committed by a student on or off school grounds . . . or a student enrolled in the school has been or is about to become the victim of a bias-related act on or off school grounds, or during operating school hours.”¹⁵⁸ The regulations also require school officials to “notify the local police department and the bias investigation officer for the county prosecutor’s office” of such incidents.¹⁵⁹

3. Other Education Laws and Policies Addressing Discrimination and Bias in Schools

Other state statutes and regulations governing public educational institutions are geared directly toward preventing and eliminating discrimination and bias in schools.

State regulations aim to ensure that “all students, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, gender identity or expression, religion, disability, or socioeconomic status, are provided equal access to educational programs and services” in public schools, and school districts are required to adopt and implement equity policies.¹⁶⁰ Equity policies must “[r]ecognize the value and diversity of persons and groups within society and promote the acceptance of persons of diverse backgrounds regardless of” the characteristics listed above, and “[p]romote equal educational opportunity and foster through the policies, programs, and

152 N.J.S.A. 18A:37-15(b)(6)(b).

153 N.J.S.A. 18A:37-15(b)(6)(d)-(e).

154 N.J.S.A. 18A:37-18; *see also* N.J.A.C. 6A:16-7.7(i).

155 N.J.S.A. 18A:37-15(b)(6)(f).

156 N.J.S.A. 18A:37-16(a).

157 N.J.A.C. 6A:16-5.3(b).

158 N.J.A.C. 6A:16-6.3(e).

159 *Id.*

160 N.J.A.C. 6A:7-1.1; N.J.A.C. 6A:7-1.4.

practices of the district . . . a learning environment that is free from all forms of prejudice, discrimination, and harassment.”¹⁶¹ School districts are also tasked with developing “every three years a comprehensive equity plan” to “identify and correct all discriminatory and inequitable educational and hiring policies, patterns, programs, and practices affecting its facilities, programs, students, and staff.”¹⁶² And school districts are required to designate an affirmative action officer and form an affirmative action team, which is tasked with, among other things, implementing the above requirements, coordinating training, and ensuring procedures for filing discrimination complaints are followed.¹⁶³

Reflecting this commitment to equity, the Department of Education recently issued guidance for schools to “take steps to create an inclusive environment in which transgender and gender nonconforming students feel safe and supported.”¹⁶⁴ The guidance defines key terms, reflecting the fact that “[a] safe and supportive environment within a school begins with understanding and respect”; adopts a student-centered approach to gender identity; and provides rules and standards for creating a “safe and supportive learning environment” and ensuring confidentiality and privacy.¹⁶⁵ It also makes clear that “all students must be allowed to participate” in gender-segregated classes or athletic activities and use restrooms and other facilities “in a manner consistent with their gender identity.”¹⁶⁶

State law also requires a number of protections to ensure that students with disabilities are treated equitably with respect to school procedures. For example, if a student with a disability is going to be subject to a change of placement as the result of a long-term suspension, expulsion, or other disciplinary measure imposed due to the student’s violation of a school’s HIB policy or other component of its code of conduct, the student is entitled to what is known as a “manifestation determination,” in which the student’s parent and members of the student’s IEP Team¹⁶⁷ review all relevant information about the incident to determine whether the conduct in question was either “caused by, or had a direct and substantial relationship to, the child’s disability” or “the direct result of the [school]’s failure to implement the IEP.”¹⁶⁸

Regarding special education and related services, pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA, 2004) the NJDOE annually publishes an analysis of the state’s special

161 N.J.A.C. 6A:7-1.4(a).

162 N.J.A.C. 6A:7-1.4(c).

163 N.J.A.C. 6A:7-1.5.

164 N.J. Dep’t of Education, *Transgender Guidance for School Districts 1* (2018), <https://nj.gov/education/students/safety/sandp/transgender/Guidance.pdf>.

165 *Id.* at 1-3.

166 *Id.* at 6-7.

167 An IEP, or “individualized education program,” is a “written plan [for students with disabilities] which sets forth present levels of academic achievement and functional performance, measurable annual goals and short-term objectives or benchmarks, and describes an integrated, sequential program of individually designed instructional activities and related services necessary to achieve the stated goals and objectives.” N.J.A.C. 6A:14-1.3. A student’s “IEP Team” consists of “the group of individuals who are responsible for the development, review and revision of the student’s [IEP].” *Id.*

168 N.J.A.C. 6A:14-2.8 & App. A; see also 20 U.S.C. § 1415(k)(1)(E).

education data, the State Performance Plan/Annual Performance Report (SPP/APR).¹⁶⁹ This data includes two indicators that directly examine disproportionality in representation of racial and ethnic groups in special education and related services. Indicator 9 of the SPP/APR examines the percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. Inappropriate identification is functionally defined as the implementation of policies, procedures, and practices in the general education instructional, behavioral, and intervention process and/or the special education identification, referral, evaluation or eligibility determination process that results in a systemic, pervasive, persistent pattern of inappropriate over-identification of students with disabilities of a specific racial/ethnic group as eligible for special education and related services. Indicator 10 of the SPP/APR represents the percentage of districts with disproportionate representation of racial and ethnic groups in specific disability categories.

When a school district is identified with significant disproportionality, the district must:

- ▶ Conduct a review of policies, procedures and practices related to the area of significant disproportionality;
- ▶ Publicly report on any changes to policies procedures and practices;
- ▶ Reserve 15% of total IDEA allocation (preschool and school age) to provide Comprehensive Coordinated Early Intervening Services (CCEIS);
- ▶ Identify the factors contributing to significant disproportionality; and
- ▶ Use CCEIS funds to address the factors identified in their analysis.

State laws also prohibit discriminatory practices based on certain protected characteristics in admissions, grants, and financial aid in public schools and higher education institutions.¹⁷⁰ Institutions of higher education also may not discriminate against, and must provide reasonable accommodations to, students who are pregnant and students with disabilities, and there are protections against discrimination based on national origin and immigration status when students apply to state scholarships and grants in higher education.¹⁷¹

169 NJ Dept. of Educ., “Special Education Info,” <https://www.nj.gov/education/specialed/info/spp/> (last visited Jul. 17, 2020); *see also* Office of Special Educ. Programs, “About OSEP & MSIP,” <https://osep.grads360.org/#program/about> (last visited Jul. 17, 2020); Office of Special Educ. Programs, *New Jersey: Part B, FFY 2017 9-10* (Feb. 2019), <https://osep.grads360.org/#report/apr/2017B/publicView?state=NJ&ispublic=true>.

170 *See, e.g.*, N.J.S.A. 18A:36-20; N.J.S.A. 18A:38-5.1; N.J.S.A. 18A:71-38; N.J.S.A. 18A:71B-3.

171 N.J.S.A 18A:3B-74; N.J.S.A. 18A:71B-2.1.

4. **Other Laws and Policies Relevant to Assessing Systemic Racism and Bias in Education**

Part I.A identifies numerous profound racial disparities in student discipline, student placement, and educator hiring. This section identifies laws, regulations, and policies relevant to addressing those disparities and provides the historical context necessary to appreciate how racial biases informed their adoption and continue to impact their use.

There are a number of State laws, regulations, and policies that govern student discipline, not all of which are or can reasonably be catalogued here. Given the significant disparities in student discipline and criminal justice referrals addressed in Part I.A.2, however, it is important to understand the precise nature of the relationship between New Jersey’s educational institutions and law enforcement agencies. Since 1988, that relationship has been governed by the “Uniform State Memorandum of Agreement between Education and Law Enforcement Officials” (MOA) entered into by the New Jersey Attorney General and Commissioner of the Department of Education,¹⁷² as well as the various laws and regulations cited therein. The MOA encourages frequent consultation between education officials and law enforcement for various types of student misconduct, governs the use of police officers in schools, outlines conduct that school officials are legally required to report to law enforcement, and sets forth a variety of student misconduct that can be reported to law enforcement even when school officials are not required to do so.¹⁷³

Under the MOA and implementing regulations, there are seven categories of student misconduct and student welfare concerns that schools are required to report to law enforcement officials: (1) possession or distribution of “controlled dangerous substances” or related paraphernalia; (2) possession of firearms or other dangerous weapons; (3) planned or threatened violence intended to cause death, serious bodily injury, or significant bodily injury; (4) crimes involving sexual penetration or criminal sexual contact; (5) assaults on certain school and district employees; (6) bias-related acts; and (7) potentially missing, abused, or neglected students.¹⁷⁴ The MOA also encourages school officials to consult with law enforcement on a variety of matters involving student misconduct that are not required to be reported to law enforcement, but can be (and often are), including harassment, intimidation, and bullying incidents, hazing, cyber-harassment, sexting, and offenses involving computers, the internet, and technology, among others.¹⁷⁵

The MOA also addresses police officers’ presence in schools, including the use of the Safe Schools Resource Officer Program, the patrolling of school grounds by local police departments, the procedures for conducting school-based arrests, and the circumstances under which school officials are required to cooperate with law enforcement investigations. Under the Safe Schools Resource Officer Program, a school district may enter into a separate agreement under which a law enforcement officer is assigned to a school building on a full- or part-time basis at the school district’s expense. The MOA does not require

172 N.J. Dept. of Law & Public Safety & N.J. Dept. of Educ., *A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials*, 6 (2019) <https://www.state.nj.us/education/students/safety/behavior/law/moa/EdLawMOAJanuary2019.pdf>.

173 *Id.* at 7-8.

174 *Id.* 12-13.

175 *Id.* at 28-36.

local school districts to participate in the program, but it sets forth certain training requirements with which all school districts and law enforcement agencies who do participate must comply.¹⁷⁶

The MOA has been revised six times since it was first written in 1988. Most recently, it was amended in 2019 to address, for the first time, “concerns of disproportionality” in discipline of students of color and students with disabilities.¹⁷⁷ The 2019 amendments sought to “clarify the difference between mandatory and non-mandatory reports to law enforcement” and “acknowledge the collaborative efforts of schools and law enforcement and highlight the necessity of [those] relationships.”¹⁷⁸

5. Gaps in Education

In terms of curricula, the Task Force received near unanimous feedback at every Community Listening Session that existing curricula have not been sufficient to actually prevent or address interpersonal bias among young people in New Jersey schools or to address systemic racism, and that the problem is getting worse.

First, the Task Force received substantial feedback from New Jersey students and teachers alike that many districts in New Jersey have not consistently, effectively, or meaningfully implemented either the Holocaust or Amistad curricula, notwithstanding the Student Learning Standards and QSAC indicators discussed above. Educators reported multiple reasons for their district’s failure to implement the Student Learning Standards, including pushback from local administrators or community members, lack of funding, and lack of professional development and resources to equip teachers to effectively teach these topics. Stakeholders from local school districts reported significant and continued resistance among both parents and some educators to full implementation of the Amistad standards. According to educators, some parents have voiced outright opposition to their districts addressing race in the classroom, whereas other districts fail to effectively implement Amistad due to a lack of accountability or resources. Educators reported more meaningful success where on-site trainings by the Amistad Commission had been conducted and where responsibility for implementing the curriculum was clearly assigned at the district and school leadership levels. Similarly, community advocates reported that they are already facing resistance from both parents and educators to implementation of the new LGBTQ+-inclusive curriculum requirements.

With respect to the QSAC indicators, the Task Force received substantial feedback from students, parents, and educators that calls into question whether school districts are meaningfully meeting these requirements or doing so only superficially. Educators involved in completing the QSAC process for local districts echoed this concern, indicating that the QSAC process is used more as a check-the-box compliance process, and less as a driver of curriculum. Moreover, the QSAC process can feel “punitive” to schools in districts where resources are already stretched thin by increasing the pressure to teach to the test and taking up valuable time that teachers and administrators would otherwise have to dedicate

176 *Id.* at 7, 58.

177 *Id.* at 7.

178 *Id.*

to their students. Providing model classroom resources that help school districts more easily incorporate anti-bias education into their schools is key, and is discussed further in the recommendation section.

Second, although the legislature has enacted mandates, there has not been the necessary on-the-ground design and implementation support in schools. For example, there is no law that requires anti-bias or implicit bias training for all New Jersey teachers to enable them to effectively implement existing curriculum requirements. This is a significant gap, and the importance of this type of training is discussed further in Part IV.B and in the recommendations section below. There has also been a lack of coordination between the various mandates. The Holocaust, Amistad, and LGBTQ+ and disability-inclusive statutes were all passed at various points in time, without referencing one another or how they should interact. Educators reported to the Task Force that each new mandate is often perceived as “one more requirement” being added to an already overloaded curriculum. Moreover, according to local educators, many local districts lack a curriculum director or other district- or school-level supervisor charged with coordinating these disparate curriculum requirements.

Third, there is no comprehensive statute that addresses anti-bias education more generally. Meaningful anti-bias education addresses more than historic injustices. It also uses an anti-bias methodology, including a meaningful focus on the historical roots and continued impact of systemic and institutional racism and bias. This provides an overarching framework within which to deliver the existing Holocaust, Amistad, and LGBTQ- and disability-inclusive statutory requirements in a coordinated, integrated way, while addressing other issues and topics relevant to bias seamlessly as well. An anti-bias approach acknowledges that the issue of bias in this country runs deeper than interpersonal expressions of prejudice or marginalization, and addresses the advantages and disadvantages built in to our systems and institutions.¹⁷⁹ An anti-bias approach to education therefore gives students the “tools to navigate the complex issues of identity, diversity, prejudice, and power in their daily lives,” thereby equipping them with the skills needed to address not only issues of interpersonal bias, but also systemic and institutional bias as well.¹⁸⁰ According to feedback the Task Force received, this approach is desperately needed, but not in use, in many schools across the state.

In terms of the ABR, those who provided feedback to the Task Force noted that the law is not as focused on prevention of HIB incidents; it is focused on responding to them. Both the statute itself and the policies and training required under it focus heavily on how schools must respond once a HIB incident has occurred, and offer less guidance to schools on effective preventative measures. And even in terms of a response, the statute focuses primarily on the particular offender rather than a whole-school response to address the systemic issues underlying the particular incident. The need for prevention and a whole-school response to HIB incidents involving bias is discussed further in the recommendation section below. The Task Force also received feedback that schools’ HIB policies do not consistently account for the needs of, and legal protections afforded to, students with disabilities. For example, one parent of a special education student underscored the need for manifestation determinations to be incorporated into schools’ HIB policies and processes.

179 See Louise Derman-Sparks et al., National Association for the Education of Young Children, *Anti-Bias Education for Young Children and Ourselves 3* (2009), https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDFs/resources/topics/Chap1_Anti-Bias%20Education.pdf.

180 *Id.*

Fourth, the State’s existing laws, regulations, and practices have not been sufficient to address the significant race- and disability-based disparities in exclusionary discipline and criminal justice referrals. Although the State’s MOA governing the relationship between education and law enforcement officials has recently been amended to address race- and disability-based disparities in schools’ referrals to law enforcement, those amendments did not address all of the ways in which the MOA and bias—including implicit bias—among educators and law enforcement officials may intersect to drive disparities.

For instance, the data on school-based referrals to law enforcement in New Jersey follow a troubling trend. In the 2015-2016 school year, 76% of all school-based referrals were for low-level offenses (4th degree/disorderly persons).¹⁸¹ And according to NJDOE data, the majority of school-based criminal justice referrals continue to be for student misconduct that does not trigger schools’ mandatory reporting requirements: In the 2017-2018 school year, non-mandatory referrals accounted for 62% of all law enforcement referrals by school personnel.¹⁸² Because research demonstrates that many educators subconsciously associate Black students with misbehavior and tend to refer Black students to law enforcement for more behaviors requiring subjective judgment than they do white students,¹⁸³ it is critical to account for the role of implicit bias when assessing previous amendments to the MOA designed to address the racial disparities in criminal justice referrals.

Other states have taken steps to combat racial disparities in school discipline and address the school-to-prison pipeline. For example, Illinois¹⁸⁴ and Maine¹⁸⁵ have both passed legislation designed to promote use of restorative justice in lieu of exclusionary discipline, and Tennessee passed legislation aimed at minimizing the use of suspensions and expulsions.¹⁸⁶ California has taken particularly strong steps towards eliminating racial disparities by enacting legislation in 2019 that removes certain subjective infractions as a permissible basis for suspension or expulsion.¹⁸⁷ The law prohibits a school district or charter school from suspending a kindergartener or student in grades 1 to 8 for disrupting school activities or willfully defying the valid authority of school personnel, and prohibits expulsion of a student in any grade for such conduct.¹⁸⁸ California has also engaged in targeted enforcement actions against school districts with significant racial discipline gaps.¹⁸⁹

One area that merits further research and discussion is the use of SROs by local school districts. Although the Task Force is not aware of New Jersey-specific studies, national studies have found that the presence of SROs in schools has a significant impact on the likelihood of students being arrested

181 N.J. Dept. of Law & Public Safety & N.J. Dept. of Educ., *supra* note 172 at 6.

182 N.J. Dept. of Educ., Student Safety & Discipline in New Jersey Public Schools [8-9, fig. 7] (2018), <https://www.nj.gov/education/schools/vandv/1718/StudentSafetyDiscipline1718.pdf>.

183

184 See 105 Ill. Compiled Stat. Ann. § 5/2-3.176.

185 . See HP-752, 129th Leg. (Me. 2019); see also 20-A Me. Rev. Stat. Ann. § 1001(15-A).

186 . See H.B. 405, 111th Gen. Assembly (Tenn. 2019); see also Tenn. Code Ann. § 49-6-4109.

187 See S.B. 419 (Cal. 2019).

188 *Id.*; see also Cal. Educ. Code § 48900(k).

189 David Washburn, *Rural California School District with High Suspension Rates Under State Investigation*, EdSource (June 11, 2019), <https://edsources.org/2019/rural-california-school-district-with-high-suspension-rates-under-state-investigation/613568>.

for and charged with non-violent, disorderly persons offenses. According to a report by the United States Commission on Civil Rights, “even after controlling for socioeconomic status and poverty levels, schools with more school resource officers had higher arrest rates for subjective offenses” and “students who attended schools with at least one SRO were almost five times as likely to face a criminal charge for ‘disorderly conduct’” as students who did not.¹⁹⁰ In part because of these disparities, a number of districts across the country have moved to remove police officers, including SROs, from schools,¹⁹¹ and others are considering similar measures.¹⁹² Addressing disparate rates of school discipline and school-based law enforcement referrals is discussed further in the recommendations section below.

Fifth, as identified in Part I.A.2, troubling racial disparities in academic placement in gifted and talented, honors, and AP courses persist, and many local districts continue to uncritically implement placement systems that were built on explicitly racist stereotypes about Black students’ abilities. Other states and individual school districts in New Jersey have begun to address these disparities. For example, school districts in New Jersey and elsewhere have moved to de-track by either reducing the number of tracks or eliminating the use of academic tracking altogether.¹⁹³ Districts that have de-tracked have reported “dramatically narrow[ing] the achievement gap between white and minority students in their districts.”¹⁹⁴ Similarly, some districts, including the New York City School District, have addressed

190 U.S. Comm’n on Civil Rights, *Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities* 45 (Jul. 2019), <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

191 See, e.g., Ryan Faircloth, “Minneapolis Public Schools terminates contract with Police Department over George Floyd’s death,” *Star Tribune* (Jun. 2, 2020), <https://www.startribune.com/mpls-school-board-ends-contract-with-police-for-school-resource-officers/570967942/>; Eder Campuzano, “Portland superintendent says he’s ‘discontinuing’ presence of armed police officers in schools,” *The Oregonian* (Jun. 5, 2020), <https://www.oregonlive.com/education/2020/06/portland-superintendent-says-hes-discontinuing-school-resource-officer-program.html>; Dominic Garcia, “DPS Board Of Education Votes Unanimously To Remove Denver Police From Schools,” *CBS Denver* (Jun. 11, 2020), <https://denver.cbslocal.com/2020/06/11/school-leaders-parents-debate-police-officers-in-denver-public-schools/>. Note that the Task Force did not conduct data analysis to determine whether referrals to the criminal justice system from school districts with SROs in New Jersey are higher than from school districts without SROs, and as stated above, the Task Force is not aware of any such New Jersey-specific analysis having been conducted that could answer that question.

192 See, e.g., Kristen Powers, “Prince George’s school board tables discussion of removing armed officers from schools,” *ABC 7 WJLA* (Jun. 11, 2020), <https://wjla.com/news/local/removing-armed-officers-from-schools-prince-georges-school-board-to-discuss-tonight>; Misha Dibono, “Do police belong in San Diego schools? District weighs changes amid national debate,” *Fox 5 San Diego* (Jun. 24, 2020), <https://fox5sandiego.com/news/local-news/do-police-belong-in-san-diego-schools-district-weighs-changes-amid-national-debate/>; Alissa Widman Neese, “Columbus City Schools to reevaluate use of SROs,” *ThisWeek News* (Jun. 20, 2020), <https://www.thisweeknews.com/news/20200620/columbus-city-schools-to-reevaluate-use-of-sros>. See also The Advancement Project, *We Came to Learn: A Call to Action for Police-Free Schools* (2017), <https://advancementproject.org/wecametolearn/>; NAACP Legal Defense and Educational Fund, Inc. et. al, *Police in Schools are Not the Answer to the Newtown Shooting* (Jan. 2013), https://www.naacpldf.org/wp-content/uploads/Police-in-Schools-are-Not-the-Answer-to-the-Newtown-Shooting-Jan.-2013_Education_.pdf; Dave Steiber, “We protest police in the streets, so why do we let police in our schools?,” *The Chicago Reporter* (Jun. 3, 2020), <https://www.chicagoreporter.com/we-protest-police-in-the-streets-so-why-do-we-let-police-in-our-schools/>.

193 See, e.g., Winnie Hu, “No Longer Letting Scores Separate Pupils,” *The New York Times* (Jun. 14, 2009), <https://www.nytimes.com/2009/06/15/education/15stamford.html>; See generally Carol C. Burris & Delia T. Garrity, *Detracking for Excellence and Equity* (2008).

194 See Kasten, *supra* note 57, at 210.

disparities in gifted and talented placement by eliminating gifted and talented programs.¹⁹⁵ State level efforts often take the form of guidance intended to assist local districts in making reforms. For example, in November 2019, the New York State Education Department released an “Equitable Course Access Guidance” that outlines five guiding principles designed to assist district- and school-level efforts to increase equitable access to so-called “gatekeeper courses (classes that prepare students for advanced coursework).”¹⁹⁶ Although existing data, research findings, and legal requirements provide the State ample information to further explore potential policies and practices available to school districts to reduce racial disparities in identification of academically advanced students and identification and placement of students with disabilities, the State can and must do more to address these disparities. Recommended actions are discussed further in the recommendations section below.

Sixth, there has yet to be a concerted, State-level campaign to increase teacher diversity in K-12 education in New Jersey and undo the damage caused by the intentional exclusion of Black educators from teaching white students in integrated schools, discussed in Part I.A.2. As a result, the racial diversity of New Jersey’s teaching pool lags behind the nation and behind the diversity of New Jersey’s students. As the dean emeritus of Howard University School of Education put it, “We decimated the black principal and teacher pipeline, and we’ve never rectified that It is the unfinished promise of *Brown* that we have not integrated our faculty and school leadership.”¹⁹⁷

Other states have taken meaningful steps to increase diversity in their education workforce. Connecticut, for example, passed a law in 2019 that was designed to address certification- and financial-based barriers to entry and set specific hiring goals. The law reduced and simplified barriers for teacher certification standards, required the state’s Commissioner of Education to enter into reciprocity agreements with other states regarding educator certification, required the hiring of at least 250 educators and administrators of color every year, of which 30% must be men, and provided for mortgage assistance to educators who graduated from universities that traditionally serve minority students.¹⁹⁸ Other states have focused their reforms on building the educator pipeline. For instance, Pennsylvania launched a pilot program, “Aspire 2 Educate,” which creates youth and adult apprenticeship programs and continued development programs for aspiring educators.¹⁹⁹

When it comes to colleges and universities, the laws are not nearly as developed as when it comes to K-12 institutions. For example, there is no state law requiring some colleges and universities to have coordinated campus-wide efforts in combatting bias or even to have anti-bias or anti-discrimination policies in place. According to a review conducted by the Task Force, many colleges and universities

195 School Diversity Advisory Group, *Making the Grade II: New Programs for Better Schools* 31-35 (Aug. 2019), https://docs.wixstatic.com/ugd/1c478c_0e77ac3eed424ed388642b222f0e5c52.pdf.

196 N.Y. State Educ. Dept., *Equitable Course Access Guidance* (Nov. 18, 2019), <http://www.nysed.gov/memo/essa/equitable-course-access-guidance>.

197 Madeline Will, “65 Years After ‘Brown v. Board,’ Where Are All the Black Educators?” *Education Week* (May 14, 2019), <https://www.edweek.org/ew/articles/2019/05/14/65-years-after-brown-v-board-where.html>.

198 Kelan Lyons, “Bill requiring more minority teachers in Connecticut schools goes to Lamont,” *The CT Mirror* (Jun. 4, 2019), <https://ctmirror.org/2019/06/04/bill-requiring-more-minority-teachers-in-connecticut-schools-goes-to-lamont-for-signing/>.

199 Pa. Dept. of Educ., “Aspiring to Educate,” <https://www.education.pa.gov/Postsecondary-Adult/Pages/Aspiring-to-Educate.aspx> (last visited Jul. 14, 2020).

have some form of anti-bias or anti-discrimination policy in place. Not all colleges have specific policies on anti-bias, however, and there is no guide available to institutions of higher education to ensure that the policies in place are comprehensive and transparent. Other states, including New York, currently set minimum statutory requirements for what information their postsecondary institutions must provide to students regarding bias crime prevention.²⁰⁰ New Jersey has no similar requirement, and this gap is discussed further in the recommendations section.

Finally, because the role that our educational institutions play in educating our young people is so profound and long-lasting, it is critical that school districts and postsecondary institutions take intentional and coordinated steps to ensure that their policies and practices are dismantling systemic racism and other systemic bias rather than perpetuating it. And yet, too often, the responsibility for doing so is not centralized. Instead, in the K-12 space, it is often scattered across a patchwork of already incredibly hard-working teachers and school building leaders with no coordination or intentional thought at the district level. And at the postsecondary level, it is often left to student groups or individual professors or departments to drive the conversations, rather than being approached as a coordinated, institution-wide commitment. In recent years, however, there has begun to be some movement at both the K-12 and postsecondary level to centralize responsibility for planning and coordinating diversity, inclusion, and equity related initiatives in a senior-level administrator.

School districts both in New Jersey and around the country have hired district-level administrators to serve as the district's chief equity officer.²⁰¹ The Montclair School District recently hired an Assistant Superintendent for Equity, Curriculum, and Instruction charged with leading the district's Department of Equity, Curriculum, and Instruction. Among other things, that Department is charged with examining "institutionalized practices that have historically underserved certain groups of students," providing professional development, and "monitor[ing] equitable access to the curriculum, instructional programs and extracurricular programs."²⁰² Similarly, the Chief Equity Officer in North Carolina's Orange County Public School District is responsible for recruiting and training a diverse workforce, identifying inequities in access to opportunity and academic barriers, and engaging staff, students, parents, guardians, and the entire district community towards a culture of equity.²⁰³ And the Chicago Public School District's Chief Equity Officer is tasked with "eliminating the unacceptable opportunity gaps that still remain with [the district's] students of color, English Learners, limited-income students, and diverse learners."²⁰⁴

Postsecondary institutions have created similar roles at the university level. Rowan University

200 See, e.g., 16 N.Y. Educ. § 6436.

201 See, e.g., Christina A. Samuels, "The Challenging, Often Isolating Work of School District Equity Officers," Ed. Week (Oct. 22, 2019), <https://www.edweek.org/ew/articles/2019/10/23/the-challenging-often-isolating-work-of-school.html>.

202 Montclair Public Schools, "Equity, Curriculum, & Instruction," https://www.montclair.k12.nj.us/departments/equity_curriculum_instruction (last visited Jul. 14, 2020); see also Montclair Public Schools, "Equity Professional Development Offerings," https://www.montclair.k12.nj.us/departments/equity_curriculum_instruction/equity_commitment/equity_prof_dev (last visited Jul. 14, 2020).

203 Orange County School District, "Orange County Schools Equity Department," <https://www.orangecountyfirst.com/domain/338> (last visited Jul. 14, 2020); see also Rachel Pittman, "OCS Hires First Chief Equity Officer," The News of Orange County (Jun. 12, 2019) http://www.newsfororange.com/education/article_a96022c2-8d25-11e9-86c1-f37be0a4a422.html.

204 Chicago Public Schools, "Office of Equity," <https://cps.edu/equity/Pages/home.aspx> (last visited July 14, 2020).

has a Senior Vice President for Diversity, Equity, and Inclusion, who “is responsible for co-facilitating the Division of Diversity, Equity and Inclusion Council, which includes providing oversight of the DEI strategic action plan, serving as the liaison to Student Affairs and providing leadership of student pipeline and support programs.”²⁰⁵ The College of New Jersey has a Vice President for Inclusive Excellence, who “provides institutional leadership in enhancing respectful, diverse and inclusive work and learning environments.”²⁰⁶ And Ramapo College has a Chief Equity and Diversity Officer who is responsible for “infusing concepts of diversity, inclusion, compliance [and] equity into discussions and decisions about resource allocations, new initiatives, and future priorities of the College.”²⁰⁷ Princeton’s Dean for Diversity and Inclusion is tasked with supervising the directors of certain social-justice oriented centers and serving as one of several administrators who receives and responds to bias incidents.²⁰⁸ And Harvard recently hired a Chief Diversity and Inclusion Officer responsible for implementing the recommendations of the “President’s Task Force on Inclusion and Belonging,” including building an inter-faculty committee focused on organizational change to promote diversity and inclusion and requiring each of Harvard’s school and business units to identify and develop strategies for achieving inclusion and equity goals.²⁰⁹

But New Jersey has yet to take action at the State level to require or incentivize other postsecondary institutions or K-12 school districts within the State to hire or designate an official charged with equity and inclusion to carry out this meaningful work. This gap is addressed further in the Recommendations section.

B. Enforcement

1. *The Law Against Discrimination*

The Law Against Discrimination (LAD), enforced by the New Jersey Division on Civil Rights (DCR) within the Attorney General’s Office, was the first state-level civil rights statute to go into effect, and is still one of the broadest 75 years later. As most relevant here, the LAD prohibits discrimination and harassment against students based on actual or perceived race, religion, national origin, gender, sexual orientation, disability, gender identity or expression, and other protected characteristics in all schools and institutions of higher education, with limited exceptions for religious schools and single-gender institutions.²¹⁰

205 Rowan University, “Diversity, Equity, and Inclusion Leadership,” <https://sites.rowan.edu/diversity-equity-inclusion/leadership.html> (last visited Jul. 10, 2020).

206 The College of New Jersey, “Division of Equity & Inclusion,” <https://diversity.tcnj.edu/> (last visited Jul. 10, 2020).

207 Ramapo College of New Jersey, “Office of Equity, Diversity, Inclusion & Compliance,” <https://www.ramapo.edu/president/files/2014/02/EDIC-Presentation.pdf> (last visited Jul. 10, 2020).

208 Karin Dienst, “LaTanya Buck named dean for diversity and inclusion,” Princeton University News (Apr. 5, 2016), <https://www.princeton.edu/news/2016/04/05/latanya-buck-named-dean-diversity-and-inclusion>.

209 Harvard Univ. Presidential Task Force on Inclusion & Belonging, *Pursuing Excellence on a Foundation of Inclusion* 29-35 (Mar. 27, 2018), https://inclusionandbelongingtaskforce.harvard.edu/files/inclusion/files/harvard_inclusion_belonging_task_force_final_report_full_web_180327.pdf; see also Nate Herpich, “Sherri Ann Charleston named chief diversity and inclusion officer,” Harvard Gazette (Jun. 22, 2020), <https://news.harvard.edu/gazette/story/2020/06/sherri-ann-charleston-named-chief-diversity-and-inclusion-officer/>.

210 N.J.S.A. 10:5-12(f); see also N.J.S.A. 10:5-5(l).

The prohibition on discrimination means that schools, their employees, and school affiliated-entities cannot treat students differently because of a protected characteristic (or because of something inextricably intertwined with a protected characteristic) in a way that would deny them “any of the accommodations, advantages, facilities or privileges” of the school.²¹¹ For example, a school cannot suspend a Black child for identical behavior for which a similarly situated white child was not suspended. In addition, under a disparate impact theory, it could also violate the LAD for a school to impose exclusionary disciplinary practices such as suspension and expulsion in a manner that has a disparate impact on students of color, even if there is no differential treatment.

The prohibition on harassment means that if a school knows or should have known that a student is being subjected to bias-based harassment in a way that is severe or pervasive enough to create a hostile school environment, the school must take action to stop the harassment.²¹² In a 2007 case involving harassment based on sexual orientation, the New Jersey Supreme Court affirmed that the law applies whether the harassment is perpetrated by a school employee or a fellow student.²¹³ The Court explained that holding school districts liable under the LAD “for failing to reasonably address peer-based . . . harassment” would “further the Legislature’s goal of eradicating the invidious discrimination faced by students” in New Jersey and held that the LAD requires “school districts to implement effective preventive and remedial measures to curb severe or pervasive” harassment.²¹⁴ The LAD also prohibits retaliation against a student for reporting discrimination or harassment.²¹⁵

If a student is subjected to bias-based harassment and the school does not take reasonable measures to stop it, the student or their parent (if the student is a minor) may file a complaint with DCR or pursue a lawsuit in court.²¹⁶

If DCR finds that there is probable cause to believe an LAD violation has occurred, the parties are given an opportunity to enter into a conciliation agreement to resolve the matter. If no agreement is reached, DCR will prosecute the action in either the Office of Administrative Law or in Superior Court.²¹⁷ In addition, the Director of DCR has the authority to initiate an investigation of her own accord, so DCR may investigate and seek remedies for suspected LAD violations in a school district even if an individual complaint has not been filed.²¹⁸ Although DCR has historically focused on investigating complaints filed by individuals, it has recently increased its capacity to engage in proactive, Director-initiated investigations as a means of targeted enforcement. Its efforts in this regard are discussed further in the recommendations section.

211 N.J.S.A. 10:5-12(f); see N.J. Office of the Attorney General, Div. on Civil Rights, *Guidance on Race Discrimination Based on Hairstyle* (Sept. 2019), <https://www.nj.gov/oag/newsreleases19/DCR-Hair-Discrimination-Guidance.pdf>; cf. N.J.S.A.10:5-5(vv).

212 *L.W. ex rel L.G. v. Toms River Regional Schools Bd. of Educ.*, 189 N.J. 381, 402-03 (2007).

213 *See id.*

214 *Id.* at 402, 407.

215 N.J.S.A. 10:5-12(d).

216 N.J.S.A. 10:5-8(c); 10:5-12.11.

217 N.J.A.C. 13:4-11.1(b); see N.J.S.A. 10:5-12.16.

218 *See* N.J.S.A. 10:5-8(h).

Remedies against a school or university that has violated the LAD include compensatory damages to the victim (including emotional distress damages), penalties, and attorney’s fees.²¹⁹ DCR can also order broad equitable relief, including requiring schools to adopt or revise policies or curricula, requiring schools to discontinue discriminatory policies or practices, requiring that employees or students undergo anti-bias training or other training on discrimination or implicit bias, requiring climate surveys, or requiring the school to submit to monitoring for future violations.²²⁰

2. Criminal Prosecutions of Bias Crimes

The crime of “bias intimidation” occurs when someone “commits, attempts to commit, conspires with another to commit, or threatens the immediate commission of” certain predicate offenses:

(1) with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity; or

(2) knowing that the conduct constituting the offense would cause an individual or group of individuals to be intimidated because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.²²¹

Predicate offenses include homicide, assault and sexual assault, kidnapping, robbery and burglary, arson and criminal mischief, harassment, and weapons offenses.²²² Bias intimidation offenses range in degree depending on the predicate offense; disorderly persons and petty disorderly persons predicate offenses are fourth degree offenses when they qualify as bias intimidation offenses; otherwise, bias intimidation crimes are generally graded one degree higher than the grade for the predicate offense, resulting in harsher punishment.²²³ On top of applicable fines and prison sentences, sentencing courts may order convicted bias intimidation offenders to complete sensitivity training, undergo counseling, and pay restitution to victims.²²⁴

For a bias incident to be prosecuted as a bias intimidation crime, a predicate offense must exist and law enforcement must be able to prove that the actor’s state of mind satisfied either N.J.S.A. 2C:16-1(1) or (2). But New Jersey law enforcement tracks all bias incidents, defined as any suspected or confirmed violation of the above provision.

219 See N.J.S.A. 10:5-17; 10:5-27.1.

220 See N.J.S.A. 10:5-17.

221 N.J.S.A. 2C:16-1. The Supreme Court of New Jersey previously declared a separate part of the statute unconstitutionally vague. See *State v. Pomianek*, 221 N.J. 66 (2015).

222 See N.J.S.A. 2C:16-1.

223 N.J.S.A. 2C:16-1(c).

224 N.J.S.A. 2C:16-1(f); N.J.S.A. 2C:44-2.

In April 2019, Attorney General Grewal issued revised standards for law enforcement investigations into bias incidents, with the goal of ensuring all State law enforcement agencies worked together to aggressively report, investigate, and prosecute bias crimes.²²⁵ These Bias Incident Investigation Standards require all New Jersey law enforcement agencies to report all suspected or confirmed bias incidents as soon as practicable—but at minimum within 24 hours—to the Attorney General’s designees through an Electronic Uniform Crime Reporting (eUCR) portal.²²⁶ Doing so automatically forwards the report to the Bias Crimes Unit at the Division of Criminal Justice, the New Jersey State Police, the New Jersey Office of Homeland Security and Preparedness, and the appropriate County Prosecutor’s Office.²²⁷ The standards also require County Prosecutor’s Offices to promptly notify the Division of Criminal Justice when a County Prosecutor’s Office seeks to file an accusation or an indictment alleging bias intimidation.²²⁸ As the central repository for bias incident data reported to law enforcement, it is critical that eUCR collect sufficient detail on each bias incident to support robust data analysis. Currently, the eUCR portal includes data on the age of the victim and offender, as well as the location of the incident, including a K-12 institution or a postsecondary institution. In order to allow for more comprehensive analysis of bias incidents among youth and in New Jersey’s schools, there is room for eUCR to collect even more granular data.

Many reported bias incidents and bias intimidation crimes in recent years have involved young people, whether as perpetrators, victims, or both. For example, a twelve-year-old Black boy was subjected to race-based harassment while riding his bicycle, when an 18-year-old and 14-year-old who drove by in a car. One of the individuals hurled racial slurs at the boy, while another threw a cup of liquid and ice at him. The 18-year-old was convicted of bias intimidation, among other crimes; she was sentenced to probation, ordered to pay for the victim’s counseling, and required to undergo sensitivity training. In another case, a 17-year-old wrote a homophobic slur in shaving cream on the steps of the home of a juvenile victim; the perpetrator was charged with harassment and bias intimidation. Additionally, a man recently pleaded guilty to an accusation charging bias intimidation, terroristic threats, and harassment for making religious-based threats at a Sikh student event at a university. Finally, another bias incident occurred when two juveniles in a vehicle were observed yelling and throwing rocks at Jewish individuals (one of whom was hit by a rock), as well as yelling antisemitic slurs. The two juveniles were each charged with three counts of bias intimidation with the underlying offense of simple assault, harassment, and terroristic threats. Both pleaded guilty to third-degree terroristic threats.

3. Gaps in Enforcement

Although New Jersey’s civil and criminal laws are strong, they are not without gaps. For example, there are several offenses associated with bias incidents, such as initiating a false alarm and cyber-harassment, which are not currently predicate offenses on which a bias intimidation charge can be based. Recent amendments to the false alarm statute underscore the importance of making it a

225 See Memo from Gurbir S. Grewal, Attorney General of New Jersey, to All Law Enforcement Chief Executives, Revised Bias Incident Investigations Standards Attorney General’s Law Enforcement Guideline (Apr. 5, 2019), https://nj.gov/oag/newsreleases19/Bias-Invest-Standards_040519.pdf.

226 *Id.* at 3-4.

227 *Id.* at 3.

228 *Id.* at 4.

predicate offense to a bias intimidation charge. Legislation enacted in August 2020 amended N.J.S.A. 2C:33-3, making it a third degree offense to “knowingly place[] a call to a 9-1-1 emergency telephone system with the purpose to intimidate or harass an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.”²²⁹ This legislation is responsive to a recent surge in the reporting of incidents in which someone reports a person, commonly a Black person, to authorities under false pretenses, often in order to have them physically removed from a public space. For example, Amy Cooper, a white woman who was walking her dog in Central Park, called 911 and stated that an “African-American man” was threatening her life, after Christian Cooper, a Black male birdwatcher, asked her to put her dog on a leash. Ms. Cooper was ultimately charged with filing a false report. The criminal charge “appears to be among the first that a white person in the United States has faced for wrongfully calling the police to make a complaint about a Black person.”²³⁰ Yet these “living while Black” incidents are a longstanding reality for members of the Black community, whose very existence and presence are often challenged.²³¹ Amendments to the bias intimidation statute to account for this reality are discussed further in the Recommendations section.

Additionally, the bias intimidation statute should be amended to explicitly codify that an offender can be charged when they target a victim not because the victim belongs to a protected class, but because the victim is associated with someone who does. Other states already make this type of protection explicit in their bias crime statutes. For example, in California, a hate crime includes a criminal act “committed, in whole or in part,” because of “association with a person or group with one or more of” the defined protected classes. Association can mean “advocacy for, identification with,” or even proximity to people of the defined characteristics.²³² Iowa state law contains a similar provision, defining hate crime as including a public offense “against a person or a person’s property” because of “the person’s association with a person of” a protected characteristic.²³³

There is also room to enhance the civil and criminal remedies available to victims of bias incidents. Under current civil law, it can be challenging for victims to recover damages when a bias incident results in property damage, such as when graffiti needs to be removed from a structure, because the damages are often too low to outweigh the cost of pursuing a lawsuit to recover them. And although courts may currently impose criminal restitution in certain circumstances,²³⁴ imposition of restitution is discretionary, must be proven, and may be reduced based on the defendant’s ability to pay. Because restitution only addresses financial cost to the victim, restitution will also be nominal where the monetary cost of the crime to the victim is low, despite the high social cost of such crimes.

229 Press Release, N.J. Governor’s Office, Governor Murphy Signs Legislation Criminalizing a False 9-1-1 Call Based on Race or Protected Class (August 31, 2020), <https://nj.gov/governor/news/news/562020/approved/20200831b.shtml>.

230 Jan Ransom, “Amy Cooper Faces Charges After Calling Police on Black Bird-Watcher,” The New York Times (Jul. 6, 2020), <https://www.nytimes.com/2020/07/06/nyregion/amy-cooper-false-report-charge.html>.

231 See Taja-Nia Henderson, “Living While Black: How Black People Are Policed Just for Being in Public Spaces,” Teen Vogue (July 8, 2020), <https://www.teenvogue.com/story/living-while-black-racism>.

232 Cal. Penal Code § 422.55.

233 Iowa Code Ann. § 729A.2.

234 N.J.S.A. 2C:44-2.

State law also must be modernized to comprehensively address new forms of criminal activity that begin online, such as “doxing” and “swatting.” “Doxing” (sometimes spelled “doxxing”) is a term used to describe the act of publishing someone’s personal identifying information online (sometimes in the form of documents or “docs”) with the intent or expectation that the disclosure will be used by a third party to cause harm to the person whose information is disclosed. Doxing is associated with online networks whose members often seek to remain anonymous, including platforms where hate speech proliferates. Doxing therefore provides one pathway by which online hate translates into real-world violence and other unlawful conduct.

New Jersey has no generally applicable criminal law that explicitly prohibits doxing.²³⁵ Individuals involved in doxing still may be prosecuted in some circumstances, but the charges typically relate only indirectly to the doxing itself. For example, when the facts allow it, prosecutors may charge someone with having unlawfully acquired the personal identifying information that they later used for doxing. State law must be modernized to directly criminalize this conduct.

Another form of online conduct that State law should more comprehensively address is “swatting.” Swatting occurs when a person files a false report of an ongoing emergency or threat of violence to prompt an immediate law enforcement response.

In response to swatting incidents across the country, which can result in devastating consequences for the people reported, some states have responded by enhancing criminal prohibitions for swatting. In 2013, California enacted a law deeming swatting a misdemeanor or felony, punishable by imprisonment and/or fines up to \$10,000.²³⁶ In 2017, Connecticut passed a law making swatting a Class D felony, and providing that offenders may be held responsible for financial restitution to the state or municipal agencies that provided the emergency responses.²³⁷

Seattle, Washington developed an innovative solution to swatting: a swatting registry. Members of the public who fear that they may be swatting targets may sign up on the online portal Rave Facility.²³⁸ This registry serves as a resource for law enforcement to assess the veracity of incoming 911 calls. While sending law enforcement to a particular location in response to an emergency call, 911 dispatchers look up that location on the registry. If the address has been registered as a potential target of swatting, the dispatcher will alert the emergency responders who are on their way, so that these responders know to

235 Although N.J.S.A. 2C:20-31.1 makes it a crime to knowingly, with purpose to expose another to harassment or risk of harm to life or property, or in reckless disregard of the probability of such exposure, post or publish on the Internet the home address or unpublished home telephone number of any retired law enforcement officer, law enforcement officer or spouse or child of a law enforcement officer, it offers no protection to those outside the law enforcement community.

236 Cal. Penal Code § 148.3; *see also* Jeff Black, “California Governor Signs Bill to Crack Down on Celebrity ‘Swatting,’” NBC News (Sept. 10, 2013), <https://www.nbcnews.com/news/us-news/california-governor-signs-bill-crack-down-celebrity-swatting-flna8C11126441>.

237 Connecticut Public Act 17-72, An Act Concerning Swatting, 2017-2018 Legislative Session, <https://www.cga.ct.gov/2017/ACT/pa/2017PA-00072-R00SB-00026-PA.htm>.

238 Seattle Police Department, “Protect Yourself from Swatting,” <https://www.seattle.gov/police/need-help/swatting> (last visited May 18, 2020).

approach the situation with caution.²³⁹ Wichita, Kansas has adopted a similar registry in response to its own swatting incidents.²⁴⁰

Swatting is currently a crime in New Jersey under the false alarm statute, N.J.S.A. 2C:33-3, and existing law allows victims to recover criminal restitution.²⁴¹ It also makes any person who is convicted of swatting liable for either a civil penalty up to \$2,000 or actual costs incurred by or resulting from the law enforcement and emergency services response.²⁴² However, there is room to further strengthen the penalties associated with this conduct, as discussed in the recommendations section below.²⁴³

Another major challenge under existing law is determining how to combat young people’s exposure to bias, hate, and extremist groups online. As discussed further in Part I, hate speech and bias-based harassment online, including on social media platforms, has exploded, and was identified as one of the main factors contributing to the recent increase in bias incidents. However, existing federal law makes combatting hate speech on social media platforms exceedingly difficult. Specifically, Section 230 of the federal Communications Decency Act, 47 U.S.C. § 230, states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider,” *id.* § 230(c)(1), and that “[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section,” *id.* § 230(e)(3). Courts have interpreted Section 230 to grant online service providers immunity from liability “for decisions relating to the monitoring, screening, and deletion of content from its network – actions quintessentially related to a publisher’s role.” *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003). Section 230 therefore leaves room for enforcement actions against individual users who engage in criminal conduct or unlawful harassment in online communities, but presents a significant obstacle to holding social media platforms accountable when their action or inaction enables such conduct to continue. This is discussed further in the recommendations section.

There is also room for the State to streamline reporting when a bias incident can be both a crime and a violation of the Law Against Discrimination. Until recently, existing laws and procedures required victims to navigate two separate and uncoordinated systems for reporting such violations to the Attorney General’s Office by reporting the crime to the Division of Criminal Justice and then separately contacting the Division on Civil Rights to initiate an investigation into the potential violation of the Law Against Discrimination. The State recently took action to streamline this reporting, which is discussed further in the recommendations section.

Finally, state laws cannot be enforced if bias incidents are not reported, and many bias incidents continue to go unreported notwithstanding the efforts to facilitate reporting discussed above. The

239 *Id.*; Olivia Solon et al., “Trolls turned 911 into a Weapon. Now Cops Are Fighting Back.,” NBCNews.com (Dec. 22, 2019), <https://www.nbcnews.com/news/all/trolls-turned-911-weapon-now-cops-are-fighting-back-n1105991>.

240 “Wichita Police Department Launches ‘Swatting Alert System,’” KWCH12 (Aug. 23, 2019), <https://www.kwch.com/content/news/Wichita-Police-Department-launches-swatting-alert-system-558028101.html>.

241 N.J.S.A. 2C:44-2.

242 N.J.S.A. 2C:33-3, 2C:33-3.2.

Department of Justice’s Bureau of Justice Statistics found that more than half (54%) of hate crime victims between 2011 and 2015 did not report the crime. The most common reasons cited for not reporting to police were that the victimization was “handled another way” (41%), the victim did not believe police “would” or “could” help (23%), or the victim believed that what occurred was “not important enough” to report (19%).²⁴⁴ These same themes came across in direct feedback the Task Force received from stakeholders.

Many members of our State’s historically-marginalized communities are particularly hesitant to report bias incidents to law enforcement. There are several reasons for this reluctance. First, for many Black and brown people, being subjected to bias has been so commonplace that it has become normalized. For example, one high school principal who spoke at the Trenton listening session raised the concern that bias incidents have become “normalized” for Black and brown children. As she put it, “if you are used to not being treated fairly, you are used to the rules being different [for] you, at some point it becomes normalized behavior.” This anecdote is confirmed by the data on reported bias incidents in New Jersey. In 2018, only one bias incident was reported in Trenton,²⁴⁵ Camden, and Newark each,²⁴⁶ although there were obviously far more incidents of bias and discrimination in each city.

Students reported similar experiences with respect to sexual harassment, explaining that derogatory gender-based or sexual remarks are so commonplace in schools, especially middle and high schools, that students rarely report them. Data bear this out. One study found that 48% of middle- and high-school students between ages 12 to 18 had been sexually harassed at least once during the 2010-2011 school year,²⁴⁷ yet very few reported it to their school or anywhere else.

Second, some historically-marginalized communities also have a profound discomfort with law enforcement that can prevent them from coming forward to report even when they have experienced bias. For example, our State’s immigrant communities may be afraid to come forward because they fear having themselves or a family member turned over to ICE. This is especially true in the current era of federal immigration enforcement. To address this issue, New Jersey has tried to build strong police-community relationships, including in immigrant communities. For example, Attorney General Grewal issued an Immigrant Trust Directive in 2018.²⁴⁸ That Directive prohibits all law enforcement officers in New Jersey from stopping, questioning, arresting, searching, or detaining any individual based solely on actual or suspected immigration status and limits the voluntary assistance that state and local law enforcement agencies can provide to federal immigration authorities in enforcing federal civil immigration law.²⁴⁹ Despite these important efforts, however, the fear or mistrust of law enforcement is

244 Madeline Masucci & Lynn Langton, U.S. Dep’t Of Justice, Bureau Of Justice Statistics, Hate Crime Victimization, 2004-2015, at 1, 5 (June 2017), <https://www.bjs.gov/content/pub/pdf/hcv0415.pdf>.

245 2017-2018 Bias Incident Report *supra* note 1, at B-17.

246 *Id.* at B-14, B-15.

247 Erin Siegal McIntyre, “School Sexual Harassment: Underreported and Ignored,” Women’s Media Center (Sept. 6, 2016), <https://www.womensmediacenter.com/news-features/school-sexual-harassment-underreported-and-ignored>.

248 See Memo from Gurbir S. Grewal, Attorney General of New Jersey, to All Law Enforcement Chief Executives, Directive Strengthening Trust Between Law Enforcement and Immigrant Communities (Rev. Sept. 27, 2019), https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2018-6_v2.pdf.

249 *Id.*

still very real for many New Jerseyans.

Similarly, fears of police brutality and legitimate mistrust of law enforcement in Black and brown communities can serve as a significant deterrent to reporting, as community members sometimes view law enforcement as perpetrators of bias rather than partners in combatting it.²⁵⁰ One community member raised this concern to the Task Force at the Bridgeton listening session, asking whether the Task Force intended to address bias by local police towards community members. This is discussed further in the recommendation section below.

Other historically-marginalized communities face additional obstacles to reporting bias incidents. Of the 569 bias incidents reported in 2018, only 4 were reported in which an individual was targeted based on their disability.²⁵¹ Yet advocates were correct to point out to the Task Force that individuals with disabilities experience bias far more often than that. Both mental and physical disabilities may serve as obstacles to reporting for a number of reasons, including inadequate accommodations, a fear of reporting to law enforcement, and inability to report. For example, individuals with disabilities who are nonverbal often are unable to report. And individuals with disabilities who need the support of a family member or caregiver may be hesitant to report bias by that person out of a fear of retaliation or fear of being institutionalized without their support.²⁵² These barriers can be reduced by ensuring that educators, law enforcement officers, healthcare providers, and community caretakers receive proper training to help them communicate effectively with individuals with disabilities, especially individuals who are nonverbal,²⁵³ and recognize behavioral signs that young people with disabilities might exhibit if they are being subjected to bias. This is discussed further in the recommendation section.

C. Public Engagement

There are no state laws or policies regarding engaging with members of the public to prevent or address bias. This is a significant gap, discussed further in the recommendation section below.

250 Matthew Desmond, “Police Violence and Citizen Crime Reporting in the Black Community,” 81 *Am. Soc. Rev.* 857, 858, 868, 870 (2016); *see also* Nikole Hannah-Jones, “Yes, Black America Fears the Police. Here’s Why.,” *ProPublica* (Mar. 4, 2015), <https://www.propublica.org/article/yes-black-america-fears-the-police-heres-why>.

251 2017-2018 Bias Incident Report *supra* note 1, at B-7.

252 National Center on Criminal Justice and Disability, *The Arc, Violence, Abuse and Bullying Affecting People with Intellectual/Developmental Disabilities: A Call to Action for the Criminal Justice Community* 6 (2015), https://thearc.org/wp-content/uploads/forchapters/NCCJD%20White%20Paper%20%231%20Violence%20Abuse%20Bullying_5.pdf.

253 *Id.*



III. Programs and Strategies Administered by Executive Departments and County Prosecutors

New Jersey’s executive departments and agencies have developed numerous programs designed to educate state employees, community members, and young people about bias; collect and share data about bias incidents in the state; and address the challenges of youth bias through community engagement. Additionally, the various county prosecutors’ offices around the State offer programs designed to prevent and address bias at the local level. However, none of the programs comprehensively address systemic racism or bias, which is a significant gap discussed further below.

A. Education

Many executive departments and agencies conduct training and educational programs designed to prevent bias, both for their employees and for New Jersey residents. These efforts are geared toward building environments of equity and inclusion within state entities and in the State as a whole, but most of them do not impact young people directly. Several departments and agencies provide their staff and staff at other government entities with implicit bias training. For example, the Division of Criminal Justice (DCJ) manages the Community-Law Enforcement Affirmative Relations (CLEAR) Continuing Education Institute to train state police, assistant and county prosecutors, deputy attorneys general, and DCJ detectives on implicit bias and sensitivity in interactions with community members of different cultures and faiths. In 2019, law enforcement personnel from the Division of Criminal Justice, New Jersey State Police, and all 21 County Prosecutors offices were also required to take an advanced implicit bias training. Similarly, DCR and the Juvenile Justice Commission provide their employees with implicit bias training. The Division of Child and Family Services (DCF), provides trainings to teach employees how to sensitively engage with LGBTQ+ young people served by the child welfare system, and DCR trains its staff on how to respectfully interact with people who are transgender, non-binary, and gender non-conforming. Although such internal trainings are valuable, these programs are not targeted to address bias among children and young adults, and there is no similar implicit bias training program for teachers in New Jersey, which is a significant gap discussed further in the recommendations section.

Some executive departments work directly with students in school. The Department of Military and Veterans Affairs runs the New Jersey Youth ChalleNGe Academy, an alternative education program

for at-risk 16- to 18-year-olds that is part of the National Guard Youth ChalleNGe Program,²⁵⁴ which uses English, history, and life skills curricula to teach students how to handle bias situations in their everyday lives. And DCF's Office of Education works with its own schools to run workshops for students, teaching young people about character, respect, fairness, and citizenship, with an eye toward creating environments of responsibility and caring as part of its intensive 12-month educational services and supports to certain children and young adults ages 3 through 21. Similarly, JJC's Office of Education is responsible for providing students in JJC's secure facilities and residential community homes with access to educational instruction, but does not provide anti-bias education.

Currently, the Division of Criminal Justice, with the County Prosecutors' Offices, provide additional, comprehensive bias training to law enforcement on interactions with historically-marginalized communities and on how to handle bias crime investigations. For example, the Division of Criminal Justice partnered with numerous law enforcement and community stakeholders to create advanced elective courses for law enforcement officers to be taken in 2020 and 2021 through the CLEAR Institute. These courses include law enforcement interaction with the Sikh, Jewish, Orthodox Jewish, LGBTQ, Black, Asian, Latinx, Muslim, and Hindu communities. There is room to further improve on this training, however, by ensuring that it addresses and equips law enforcement to appropriately handle investigations involving the proliferation of cyber-hate. Non-profit organizations already offer training programs on this topic, such as the Anti-Defamation League's "Security Briefing on Hate Groups in Cyberspace," and some local law enforcement agencies in the State avail themselves of those opportunities.

In addition to internal trainings and educational programs, state departments and agencies engage in community education to address issues of bias with relevant constituencies across New Jersey. For example, after an investigation into an incident in which a high-school wrestler who identifies as mixed-race had his locs cut on the mat prior to a match, DCR reached an agreement with the New Jersey State Interscholastic Athletic Association (NJSIAA) pursuant to which all officials and staff involved in high school sports across New Jersey will receive implicit bias training before the end of the 2020-2021 school year.²⁵⁵

However, no state law or program exists requiring or providing any type of anti-bias training for high school student athletes. This is a serious gap, as reports of bias-based harassment in high school

254 See New Jersey Youth Challenge Academy, "Accept the ChalleNGe," <https://njyca.org/> (last visited May 19, 2020).

255 Memorandum of Agreement between the N.J. Interscholastic Athletic Association and the New Jersey Division on Civil Rights (Sept. 18, 2019), <https://www.nj.gov/oag/newsreleases19/DCR-NJSIAA-Executed-Agreement.pdf>; see also Press Release, N.J. Office of the Attorney General, After Investigation of Hair-Cutting Incident at Buena Wrestling Match, AG Grewal Announces Statewide Guidance on Hairstyle Discrimination (Sept. 18, 2019), <https://www.nj.gov/oag/newsreleases19/pr20190918a.html>.

sports are extraordinarily common in New Jersey.²⁵⁶ In fact, the frequency of these incidents led DCR to sign a Memorandum of Understanding with the NJSIAA in 2013, and a new Agreement last year. In addition, during the Community Listening Session in Trenton specifically, several people spoke to how student athletes are regularly subjected to race and national-origin based harassment while attending away games. In one example, after students on the Lakewood High School football team reported that they were subjected to racial and ethnic slurs while attending away games, an attorney from DCR went to the high school and trained the team and their coaches on the LAD and what they can do if they witness or are subjected to bias based harassment in sports. The need to engage in proactive measures to prevent bias in student athletics is discussed further in the recommendation section below.

County Prosecutors also do significant work in educating students on bias and related issues. For example, the Morris County Prosecutor's Office has developed a presentation educating children on bias and the consequences of committing bias crimes; the Cumberland County Prosecutor's Office presents to students on bullying and bias; and Prosecutor's Offices regularly present on cyberbullying and cyber safety.

Finally, New Jersey's Safe and Inclusive Learning Environment Working Group, composed of stakeholders across higher education and the community, has been working on a number of initiatives aimed at ensuring that all college campuses are safe, supportive, and inclusive, meaning students are "not only safe from physical harm, but also included and welcome on campus."²⁵⁷ The Working Group, announced in New Jersey's State Higher Education Plan, which was released in Spring 2019, has developed an implementation guide for colleges on the recommendations set forth by the 2017 Task Force on Campus Sexual Assault, an inventory of campus climate surveys designed to measure diversity and inclusion (including harassment and discrimination), and sample policies for diverse campuses intended to address anti-harassment, hate, and bias-related crimes. In spring of 2020, the working group developed resources for use by institutions of higher education to promote the use of campus climate surveys and establish best practices and policies for creating campus safety and inclusive environments.²⁵⁸ In addition, New Jersey's Research, Innovation, and Talent Working Group reviewed, among other things, "effective methods for attracting and supporting diverse faculty and staff" at New Jersey postsecondary institutions.²⁵⁹

256 See, e.g., Jenna West, "New Jersey High School Basketball Player's Family Accuses Opposing School of Using Racial Slurs," *Sports Illustrated* (Feb. 20, 2019), <https://www.si.com/more-sports/2019/02/20/high-school-basketball-player-subjected-racial-slurs-lenape-valley-wallkill-valley-high> (mother reporting her son was subjected to racial slurs, "including the use of the N-word, taunting and monkey noises" during a high school basketball game); Mark Tribble, "Haddonfield Cancels Lacrosse Season Amid Racial Slur Allegation," *Courier Post* (May 11, 2018) <https://www.courierpostonline.com/story/news/local/south-jersey/2018/05/11/racial-slur-alleged-haddonfield-memorial-high-school-nj-track-meet/603084002/> (high school lacrosse season ended early after allegations that players told a ninth-grade track competitor to "'get off the track' and called the girl the N-word."

257 State of New Jersey, Office of the Secretary of Higher Education, *Where Opportunity Meets Innovation: A Student-Centered Vision for New Jersey Higher Education* 7 (Feb. 2019), <https://www.state.nj.us/highereducation/documents/pdf/StateEducationplan.pdf>; see also Gov. Philip Murphy, Exec. Order 61 (2019), <https://nj.gov/infobank/eo/056murphy/pdf/EO-61.pdf>.

258 See generally State of New Jersey, Office of the Secretary of Higher Education, *Safe and Inclusive Learning Environment Working Group*, (Mar. 25, 2020), <https://www.state.nj.us/highereducation/documents/pdf/workinggroups/SafeandInclusiveLearningEnvironment-FullDocument.pdf>.

259 See State of New Jersey, *supra* note 258, at 40.

However, none of these programs comprehensively address either interpersonal or systemic bias for children or teachers throughout the state. This important gap was brought to the Task Force’s attention repeatedly at all of the community listening sessions, and is discussed further in the recommendation section below.

B. Enforcement

State programs to enforce the criminal law focus on providing training on how to properly identify, address, report and prosecute bias-related incidents. For example, DCJ provides a Bias Crime Incident Training to educate all police officers at the local, county, and state levels on how to recognize, respond to, and report bias incidents per the Attorney General’s guidelines. It also provides training to all bias crime liaisons in the County Prosecutor’s offices.

Each County Prosecutor’s Office has a Bias Crimes Unit that is responsible for investigating and prosecuting bias crimes. These units also work to prevent bias, including youth bias, by examining trends, creating programs to address those trends, and conducting trainings. Members of these units meet with students to better understand youth bias issues and regularly engage local community organizations in their outreach efforts in order to strengthen their approach to bias incident prevention. These relationships help Bias Crime Unit members better understand and prevent bias incidents, and comport with the victim- and community-centered approach to bias crimes featured in the Attorney General’s April 2019 enhanced Bias Incident Investigation Standards. Each county also has a bias crime liaison that coordinates with DCJ. DCJ’s Prosecutors Supervision & Training Bureau (PS&TB), in conjunction with the Specialized Crimes Bureau (Bias Crimes Unit), communicate with, schedule meetings for, and coordinate efforts between the state and county bias crime liaisons.

Multiple county prosecutors and bias-crime liaisons informed the Task Force of one particularly effective anti-bias education program for youth involved in bias incidents that has been run in Monmouth, Middlesex, and Ocean Counties since 2005. The program, titled “Consequences of Hate and Bias in Our Community” is a 12-week, weekly course run by the Center for Holocaust, Human Rights, and Genocide Education (CHHANGE) at Brookdale Community College. Since its inception in 2005, 83 juveniles have completed the program; not a single one has committed another bias-based offense.²⁶⁰

Juveniles can be referred to the program by school resource officers, police departments, or the court system.²⁶¹ If a suspected bias crime is reported to local police, local police may either give the juvenile an opportunity to resolve the matter through a so-called “stationhouse adjustment” or move forward with filing a formal complaint. A “stationhouse adjustment,” is an agreement not to file charges so long as the juvenile completes certain requirements. Thus, at the “stationhouse adjustment” stage, police can make completing the program mandatory. If, on the other hand, a formal complaint is filed, the complaint can either be diverted or adjudicated in court. Much like a “stationhouse adjustment,” if

260 Center for Holocaust, Human Rights & Genocide Education, Brookdale Community College, “Consequences of Hate and Bias in Our Community: A Program for Juvenile Offenders,” <https://www.chchange.org/programs/consequences-of-hate-and-bias> (last visited May 19, 2020).

261 *Id.*

the complaint is diverted, various conditions can be imposed, and the complaint is dismissed if these conditions are satisfied. Completion of the program can therefore also be made a mandatory condition at the diversion stage. If a case is adjudicated in court and the juvenile is found guilty, completion of the program may be made a mandatory condition of sentencing.²⁶² Finally, if a bias incident occurs in school and the school does not report to local police (but see below), school resource officers may nonetheless refer the student to the program.²⁶³ Efforts to implement this or a similar program on a state-wide level are discussed further in the recommendations section.

Efforts also exist within state departments and agencies to collect, analyze, and share information on bias incidents across the state. The prioritization of accurate data collection on bias incidents and resulting data sets are essential for enforcing the criminal law. The Electronic Uniform Crime Reporting (eUCR) portal is discussed in Part II above. The New Jersey Office of Homeland Security and Preparedness (OHSP) also operates several data collection and dissemination programs, such as the New Jersey Suspicious Activity Reporting System (NJSARS), which collects and shares terrorism-related suspicious activity reports (SARs) with law enforcements partners throughout the State. OHSP also reviews the bias incident reports filed through eUCR to ascertain whether the incidents meet a SAR threshold, and then shares that information with DCJ. Both bias incidents and SARs can be queried by law enforcement officers and analysts throughout the State for trends, patterns, and analysis. Additionally, OHSP's Annual Threat Assessment Program focuses primarily on ideologically motivated attacks, disrupted plots, threats of violence, and incidents of weapons stockpiling involving any group's ideologies found in the threat assessment. OHSP also conducts intelligence analysis, producing publicly-available unclassified intelligence products related to domestic terrorism to inform the public of various state and nationwide incidents.

C. Public Engagement

Many state agencies engage with the public to prevent and address youth bias, but they do not do so in a coordinated or comprehensive fashion across state government.

For example, the Office of Homeland Security and Preparedness (OHSP) manages the Interfaith Advisory Council (IAC), a network designed to facilitate the sharing and dissemination of information with faith-based groups around the State. The IAC allows OHSP and State leadership to maintain an ongoing dialogue with all faith-based groups, across all 21 counties in New Jersey, wishing to participate. All faith-based groups and related nonprofit organizations have been offered inclusion into the IAC. IAC members receive information about potential physical and cybersecurity threats, bias incidents, COVID-19-related guidance, training, and federal and State grant opportunities. Recommendations regarding how the IAC can be used more are discussed in the recommendation section below.

NJSP also coordinates closely with religious leaders to engage in dialogue with community members, including young people, about how to respond to and report bias incidents. Its representatives attend community outreach events to facilitate broader discussions on bias. DCJ conducts similar

²⁶² *Id.*

²⁶³ *Id.*

work, helping to educate community, faith, and education leaders on bias and how to combat it. And DCR participated in nearly 100 events on the Law Against Discrimination and the dangers of bias and prejudice in 2019, reaching more than 5,000 people.

Other New Jersey state departments and agencies have established programs to convene community members and youth in an effort to address bias in our state, including by creating safe spaces for dialogue, providing support to victims and potential victims of bias, and by fostering leadership among young people to tackle bias in their own communities.

The Department of Health facilitates a number of evidence-based programs that strive to engage youth and create safe and accepting communities that resist bias. For example, the Division of Family Health Services, Child and Adolescent Health Program helps implement the Wyman’s Teen Outreach Program (TOP) in over 50 New Jersey schools. The nationally-replicated program includes discussion of topics related to bias, including race discrimination, police brutality, and LGBTQ+ inclusion. Groups of 20-25 students meet weekly with trained adult facilitators for lessons that address building personal skills, connecting with others, and learning about oneself. Lessons weave in discussions of hate, bias, and intolerance, providing teens with the space to critically think about issues that impact their growth and development.

DCJ and DCR also facilitate community work to combat bias in schools and communities. For example, DCJ and DCR are working on several programs to counteract the rise of antisemitism in Ocean County, including in towns such as Lakewood, Toms River, and Jackson. DCJ, DCR, and the Ocean County Prosecutor’s Office have partnered with the United States Department of Justice’s Community Relations Service to facilitate community reconciliation events where leaders from the local religious, education, public service, and business communities meet to discuss ways to eradicate bias and foster relationships among individuals and communities.

County Prosecutor’s Offices engage in community outreach to improve police-community relations by promoting awareness, trust, and mutual respect between law enforcement and the communities they serve. In winter 2018-2019, as part of Attorney General Grewal’s “21 County, 21st Century Community Policing Project” initiative (“21/21”), each of New Jersey’s 21 County Prosecutors hosted discussions between leaders from the Office of the Attorney General, DCJ, DCR, local law enforcement officials and community stakeholders on bias incidents. Beyond the 21/21 initiative, County Prosecutors work to engage community partners by hosting bias-related events and meeting with members of the public.

However, there is no resource guide or other similar resource available to help schools access any of these programs either in order to prevent or respond to a bias incident. There is no single place that a school can turn to for help. And there is no comprehensive list of which agencies are currently doing what. All of this makes it very difficult for schools trying to deal with issues of bias, prejudice and stereotyping in real time. These gaps are addressed further in the recommendation section below.



IV. Other Programs, Curricula, & Strategies to Combat Youth Bias in New Jersey

Communities, schools, non-profit organizations, and religious institutions in New Jersey are engaging in important work to combat systemic racism and interpersonal hate, bias, and intolerance among students and young adults by creating connections and breaking stereotypes. Their efforts are comprised of school- and community-based initiatives that educate and empower students, teachers, and residents to work together to challenge and dismantle bias. We review some of those programs, curricula, and strategies here. However, one of the significant gaps is that there is no state mechanism for schools or community groups to learn from each other or to access resource guides or best practices when they engage in this type of work. This is discussed further in the recommendation section below.

A comprehensive review of all curricula, programs, activities, organizations, and other resources addressing bias is beyond the scope of this report, and the resources discussed in this section are not exhaustive. The information included in this section, unless otherwise indicated, was gathered from individuals who spoke at the listening sessions, at two workshops the Task Force held at the New Jersey Association of Student Councils' Winter Conference, from individuals who submitted written comments to the Task Force, and through follow-up conversations the Task Force had with community members and experts.

Please be advised that these resources are provided for informational purposes only. Neither the Interagency Task Force to Combat Youth Bias, nor any agency that served thereon, nor the officers, employees, nor agents of any agencies that served thereon, specifically endorse these resources or any entities providing these programs or resources. The Interagency Task Force to Combat Youth Bias has not validated the materials related to these resources.

A. Curricula for Students

A number of non-profit organizations provide curricula to educate students about systemic and interpersonal bias. These curricula can generally be broken down into two categories: (1) curricula and courses that directly analyze systemic bias and inequities; and (2) curricula that integrate a discussion of bias into existing core content areas, such as history, language arts, science, and math.

The Task Force is not aware of any school that has instituted a mandatory, semester- or year-long course focused on systemic or interpersonal bias. It is also not aware of any school that has comprehensively woven a discussion of systemic or interpersonal bias into all existing core content areas, such as history, language arts, science, and math. This significant gap is discussed in the recommendations section below. However, this section focuses on existing programs provided by non-profits to achieve these goals, and how many New Jersey schools take advantage of these resources.

1. Anti-Bias Classes and Lesson Plans

Several New Jersey schools dedicate portions of some mandatory classes to discussing bias. For instance, one New Jersey high school requires new students to take a Freshman Seminar in which teachers lead lessons on bias, among other topics.

Other high schools offer elective courses that focus on systemic or interpersonal bias. One school offers an Urban Studies course where students have the opportunity to discuss, analyze, and challenge their own stereotypes based on race and ethnicity. Other schools offer a Sociology elective which includes analyses of bias and structural inequity. Another offers a Race and Representation in Literature course, which uses texts from a diverse array of authors to analyze systemic racism in the United States. Graduates who took the course organized a peaceful protest after the murder of George Floyd to speak out against systemic racism and discriminatory policing.

One reported challenge with the elective model is that it is sometimes difficult to get students from historically-privileged groups to opt into the courses. For example, the Race and Representation in Literature course has not attracted significant interest from white students. Yet both students who took these courses and students who did not consistently cited implementation of a mandatory anti-bias curriculum as one of the anti-bias interventions they believe would be most impactful.

Many national and international organizations, such as Facing History and Ourselves (Facing History) and the Anti-Defamation League (ADL), create materials schools can use to teach students about both interpersonal and systemic bias. Facing History provides middle and high school educators with curricular materials that explain the roots and lasting effects of bias, with the goal of helping students stand up to bigotry and hatred in everyday life.²⁶⁴ For example, in one set of lesson plan materials, Facing History seeks to help teachers draw connections between Bloody Sunday in Selma, Alabama in 1965 and modern struggles around civil rights, voting rights, and human rights.²⁶⁵ Over the past two years, 98 New Jersey middle and high schools have used Facing History's resources in their schools. They also offer a comprehensive framework, "From Reflection to Action: A Choosing to Participate Toolkit," designed to foster "a meaningful civic education experience" that includes materials on identity and marginalization. The toolkit provides a flexible model of reflection and action that can range from one class period at the

264 See generally Facing History and Ourselves, "About Us," <https://www.facinghistory.org/> (last visited May 19, 2020).

265 Adam Strom, "Reconsidering Selma: Teaching the Stories Behind a Pivotal Moment in History," Facing History and Ourselves (Jan. 8, 2015), <https://facingtoday.facinghistory.org/reconsidering-selma-teaching-the-stories-behind-a-pivotal-moment-in-history> (linking to lesson plan materials).

end of a Facing History unit to a semester-long elective or independent civic action project.²⁶⁶

The ADL has created three separate curricula for elementary, middle, and high school teachers that are intended to address bias through social and emotional learning and development. The lessons involve a number of interactive activities including directed discussions (in pairs, small groups, or among the whole class) to help students evaluate their own feelings and opinions on bias, and role-playing exercises that are intended to challenge students to empathize with different perspectives. Topics discussed include “Everyday Bias,” “Experiences with Race and Racism,” “Slurs, Offensive Jokes and How to Respond,” and “Swastikas and Other Hate Symbols,” among others.²⁶⁷

2. Integration of Anti-Bias Education into Existing Curricula

While there is no law that requires comprehensive anti-bias education, as noted above, New Jersey public schools are currently required by law to integrate into their curricula instruction on the Holocaust and genocides; the African slave trade, slavery in America, vestiges of slavery in this country, and the contributions of African-Americans to our society; and, as of the 2020-2021 school year, the contributions of LGBTQ+ people and people with disabilities. However, as discussed above, the Task Force heard from many parents, students, and teachers at the Community Listening Sessions that these requirements are not being met.

Several organizations offer models for integrating anti-bias curricula into multiple subject areas. For example, Facing History offers to assist schools in diversifying their Language Arts curricula through memoirs connecting students with pivotal moments in history. They also have a science-related guide with resources educators can use to discuss the impact of eugenics and other pseudosciences related to the biology of race and the link to the historical legacy of racism. And to support implementation of the recent legislation regarding the contributions of LGBTQ+ individuals, Garden State Equality (GSE) is currently piloting LGBTQ+ inclusive curriculum in 12 New Jersey public schools. By September, they will make available, for free, 100 lesson plans on the political, economic, and social contributions of lesbian, gay, bisexual, and transgender people for use in fifth through twelfth grades. Lessons are meant to be integrated into existing history, language arts, science, math, and other subject areas to highlight the contributions of LGBTQ+ individuals and normalize their presence in classroom materials.

Teaching Tolerance, whose mission is to “help teachers and schools educate children and youth to be active participants in a diverse democracy,” offers ready-to-use anti-bias classroom lessons that are designed to be integrated into existing courses on reading and language arts, social studies, history, economics, and civics.²⁶⁸ According to Teaching Tolerance, the lessons “span[] essential social justice topics,” such as race and ethnicity, religion, ability, class, immigration, and gender and sexual identity.²⁶⁹ Facing History offers similar educator resources ranging from “primary sources and streaming videos to

266 Facing History and Ourselves, “From Reflection to Action: A Choosing to Participate Toolkit,” <https://www.facinghistory.org/resource-library/reflection-action-choosing-participate-toolkit> (last visited May 19, 2020).

267 Anti-Defamation League, “Lessons,” <https://www.adl.org/education-and-resources/resources-for-educators-parents-families/lessons> (last visited May 19, 2020).

268 Teaching Tolerance, “Lessons,” <https://www.tolerance.org/classroom-resources/lessons> (last visited May 19, 2020).

269 *Id.*

teaching strategies, lesson plans, and full units,” all of which are designed to equip teachers to integrate anti-bias discussions of historical and current events into existing content areas.²⁷⁰ Topics addressed include “Race in US History,” “Antisemitism and Religious Intolerance,” and “Global Immigration,” among others.

Other states have taken steps towards integrating anti-bias education in their public schools and developing the necessary curricular support materials to make sure this is done effectively. For example, the New York State Education Department developed a Culturally-Responsive Sustaining Education Framework with guidance regarding an inclusive curriculum.²⁷¹ The document encourages teachers to “identify, discuss and dismantle implicit bias in curriculum and assessment,” “identify gaps where the current curriculum does not address multiple perspectives, cultures, and backgrounds,” and “[a]dvocate for fair representation of . . . absent perspectives.”²⁷² Vermont recently took initial steps towards amending their curriculum by establishing the Ethnic and Social Equity Standards Advisory Working Group to review state educational standards and curriculum and recommend updates “to recognize fully the history, contributions and perspectives of ethnic groups and social groups.”²⁷³ The 2019 law requires the working group to recommend standards to eradicate racial bias in the state curriculum and allow students to explore questions of identity, racial equality, and racism.²⁷⁴

B. Teacher Training

Because teachers play such a significant role in students’ experiences, professional development for teachers is an essential strategy for combating bias in schools. As discussed above, there is no legal requirement that New Jersey teachers receive any type of anti-bias training, and most do not. This significant gap is discussed further in the recommendation section below.

Some New Jersey schools, however, offer implicit bias training that helps train educators to recognize and disrupt their own unconscious biases. A few others provide training on how to incorporate anti-bias lessons into the curriculum (discussed in Part 2.A. above), and to create positive classroom spaces that dismantle institutional and systemic biases.

Many bias-related professional development programs for teachers focus on implicit bias. Implicit bias training for educators encourages teachers and other educational professionals to examine their own unconscious biases so that they can attempt to mitigate their impact. For example, the Poorvu Center for Teaching and Learning at Yale University suggests that instructors “consider a variety of strategies . . . for revealing and addressing implicit bias, both in themselves and their students,”

270 Facing History, “Educator Resources,” <https://www.facinghistory.org/educator-resources> (last visited May 20, 2020).

271 New York State Education Department, Culturally Responsive-Sustaining Education Framework 23, 28, 34, 39, 42 (Jan. 14, 2019), <http://www.nysed.gov/common/nysed/files/programs/crs/culturally-responsive-sustaining-education-framework.pdf>.

272 *Id.* at 23.

273 State of Vermont Agency of Education, “Ethnic and Social Equity Standards Advisory Working Group,” <https://education.vermont.gov/state-board-councils/ethnic-and-social-equity-standards-advisory-working-group> (last visited May 20, 2020).

274 *Id.*

including taking implicit bias self-assessments, cultivating inclusive classroom climates and inclusive teaching practices to mediate biased attitudes, and soliciting feedback from objective observers and students themselves.²⁷⁵ Some New Jersey public school districts are offering implicit bias training to their teachers. Some schools also coordinate with non-profit organizations to provide such trainings. For example, as part of its LGBTQ+-inclusive curriculum pilot program discussed in Part IV.A.2 above, Garden State Equality offers its Cycle of Prejudice Training to teachers at the 12 pilot schools, which includes instruction in implicit bias.

Other professional development programs train teachers to incorporate an anti-bias approach into their overall educational framework by teaching educators how to create space for empathy and critical reflection within organic classroom dialogues. Teaching Tolerance describes what an anti-bias approach to teaching can look like in action: A first-grade teacher was reading from a book, in which the protagonist tells a friend he does not want to play baseball with her because she “throws like a girl.” The teacher then paused the reading to lead a discussion that addressed why the character’s statement was not only hurtful, but also sexist, and how bias-based insults can have an even greater impact than other insults might. The teacher also explored how peers could have intervened to support the girl who had been insulted as well as ways the protagonist could meaningfully apologize.²⁷⁶

Non-profit organizations offer a number of professional development programs designed to teach educators how to have these conversations in their classrooms. For example, Teaching Tolerance produces anti-bias webinars, podcasts, and other professional development materials intended to help educators “create civil and inclusive school communities where children are respected, valued and welcome participants.”²⁷⁷ Teaching Tolerance also offers intensive, in-person skills workshops designed to help educators foster “learning conditions that honor all identities and reflect diversity, equity and justice,” “[d]evelop skills and confidence for engaging in and facilitating conversations about race and other critical topics,” and “[r]eflect on personal assumptions and learned biases and recognize their impact on classroom practice.”²⁷⁸ Facing History offers a number of similar professional development resources, including live webinars, instructional videos, and in-person courses and seminars on topics

275 Poorvu Center for Teaching and Learning, Yale University, “Awareness of Implicit Biases,” <https://poorvucenter.yale.edu/ImplicitBiasAwareness> (last visited May 20, 2020).

276 Bret Turner, “Teaching Kindness Isn’t Enough,” Teaching Tolerance (Fall 2019), <https://www.tolerance.org/magazine/fall-2019/teaching-kindness-isnt-enough?fbclid=IwAR0q8xNQplJMc-pwe106yBjwKX8JkSDjZdZF7G8HkwFMq0v5TO7kqOrB63c>.

277 Teaching Tolerance, “About Teaching Tolerance,” <https://www.tolerance.org/about> (last visited May 19, 2020); Teaching Tolerance, “Professional Development,” <https://www.tolerance.org/professional-development> (last visited May 19, 2020).

278 Teaching Tolerance, “Professional Development,” <https://www.tolerance.org/professional-development> (last visited May 19, 2020); Teaching Tolerance, “Social Justice Teaching 101: A Teaching Tolerance Workshop (Annapolis, MD),” eventbrite, <https://www.eventbrite.com/e/social-justice-teaching-101-a-teaching-tolerance-workshop-annapolis-md-tickets-93958890571> (last visited May 19, 2020); Teaching Tolerance, “Facilitating Critical Conversations: A Teaching Tolerance Workshop (Las Vegas, NV),” eventbrite, <https://www.eventbrite.com/e/facilitating-critical-conversations-a-teaching-tolerance-workshop-las-vegas-tickets-93960752139> (last visited May 19, 2020).

such as “Apartheid and its Legacies,” and “Exploring Immigration.”²⁷⁹ Educators from 77 middle and high schools in New Jersey have attended Facing History’s in-person professional development programs or workshops over the last two years. Similarly, ADL’s “A Classroom of Difference” program “offers anti-bias training programs for pre-K through 12th grade school communities,” including educators, administrators, youth, and families, and offers an option to implement accompanying curricula.²⁸⁰ Ten trainings have been conducted in connection with the Classroom of Difference program this year, but no schools have yet implemented the study guides associated with the program.

New York has mandated teacher training aimed at addressing institutionalized and implicit bias. The New York State Education Department’s Culturally-Responsive Sustaining Education Framework also provides guidance to aid educators in developing a learning environment that, among other things, “affirm racial, linguistic and cultural identities; prepare students for rigor and independent learning; develop students’ abilities to connect across lines of difference; elevate historically marginalized voices; and empower students as agents of social change.”²⁸¹ A component of that framework is ongoing professional learning and support, including diversity, equity, and inclusion training that examines implicit bias.²⁸²

School districts and schools in other states are also mandating trainings about implicit bias and cultural sensitivity. For example, the Cleveland Heights-University Heights City school district in Ohio began mandating implicit-bias training, training on stereotypes and microaggressions, and training on the historical marginalization of students of color for all teachers in 2016.²⁸³ A public middle school in Cambridge, Massachusetts requires weekly cultural proficiency seminars for predominantly white teachers to discuss race, white privilege, and their own biases to improve their relationships with their mostly Black and Latinx students and challenge individual and systemic racism.²⁸⁴ Similarly, Boston Public Schools added cultural proficiency into schools’ annual accountability reports in 2016 and provides

279 Facing History, “Educator Resources,” <https://www.facinghistory.org/educator-resources> (last visited May 21, 2020); Facing History, “Teaching Mockingbird,” <https://www.facinghistory.org/mockingbird> (last visited May 21, 2020); Facing History, “Teaching About the Violent Past: Apartheid and its Legacies,” <https://www.facinghistory.org/professional-development/ondemand/teaching-about-violent-past-apartheid-and-its-legacies> (last visited May 21, 2020); Facing History, “Exploring Immigration: A Conversation with Journalist Sonia Nazario,” sharemylesson, <https://event.on24.com/eventRegistration/EventLobbyServlet?target=reg20.jsp&referrer=&eventid=2090152&sessionid=1&key=4887AE20768FAA004624213AC05447A7®Tag=&sourcepage=register> (last visited May 21, 2020).

280 ADL, “A Classroom of Difference,” <https://www.adl.org/who-we-are/our-organization/signature-programs/a-world-of-difference-institute/classroom> (last visited May 21, 2020).

281 New York State Education Department, Culturally Responsive-Sustaining Education Framework 12 (Jan. 14, 2019), <http://www.nysed.gov/common/nysed/files/programs/crs/culturally-responsive-sustaining-education-framework.pdf>.

282 *Id.*

283 Sarah Shwartz, “Next Step in Diversity Training: Teachers Learn to Face their Unconscious Biases,” Education Week (May 14, 2019), <https://www.edweek.org/ew/articles/2019/05/15/next-step-in-diversity-training-teachers-learn.html>.

284 Amadou Diallo, The Hechinger Report, “How Schools Can Help Teachers Understand and Address Racial Bias,” MindShift, KQED (April 29, 2019), <https://www.kqed.org/mindshift/53512/how-schools-can-help-teachers-understand-and-address-racial-bias>; see also Cambridge Street Upper School, Cambridge Public Schools, “Cultural Proficiency at CSUS,” https://cambridgestreet.cpsd.us/about_our_school/cultural_proficiency_at_csus (last visited May 21, 2020).

professional development trainings and toolkits on bias to educators.²⁸⁵

C. Student-Led Programming

Some New Jersey public schools are taking steps to combat youth bias by collaborating with students to develop effective programming, including guided peer-to-peer activities and after-school clubs. Many nonprofit organizations offer resources in this regard. One significant gap here is that there is no collection of resources to help schools encourage student-lead programming and no mechanism for schools to share information about the programs they create, in terms of what works and what does not. We share some of that information here, and discuss this further in the recommendations section below.

One New Jersey high school hosts a Peer Leader Mentorship program that recruits juniors and seniors to help shepherd freshman into high school. Students at the school raised the program as an example of how to foster a positive environment in which bullying and exclusion are preempted and discouraged. A similar program in another district invites ten students from each high school and middle school in the district for a student-lead dialogue on various topics related to bias. The student-driven dialogue has covered topics such as Black Lives Matter and diversity awareness.

Schools also encourage and support student-run clubs that can be vehicles for combating bias and prejudice. For example, one North Jersey high school hosts the Student Leadership Organization club, which facilitates dialogue among students about the history of racial, religious, and gender bias. Students frame the historical struggles through the lens of their own experiences. Teachers supervising the meetings also encourage students to lead the discussion and feel comfortable sharing their own experiences. Many other schools host a variety of cultural organizations, including Chinese-American Club, Korean-American Club, and Black Diaspora Club. In some cases, schools support such student clubs by encouraging each club to run an assembly that the entire school attends. Programs at the assemblies include dance performances, educational sessions, and food from the club's respective country or culture. In this way, these clubs have extended beyond the occasional after-school meetings by embedding themselves into the school culture itself and by engaging students of all backgrounds. The student-led nature of these assemblies is a critical component to their success. The Task Force received feedback from multiple students that when they felt their schools or districts hosted assemblies because they "had to," those assemblies were largely ineffective at reaching the student body. On the other hand, the Task Force received much more positive feedback about student-driven programming.

In terms of non-profit resources, the ADL offers many peer-to-peer activities to allow students to lead anti-bias trainings for their peers and create open dialogue about bias, prejudice and stereotyping. For example, the ADL offers a three-day, eighteen-hour interactive session that trains young people to become ADL student facilitators, which was utilized in one New Jersey school this year. The program brings students together in conversations that allow them to examine their own identities and what

285 Amadou Diallo, The Hechinger Report, "How Schools Can Help Teachers Understand and Address Racial Bias," MindShift, KQED (April 29, 2019), <https://www.kqed.org/mindshift/53512/how-schools-can-help-teachers-understand-and-address-racial-bias>; Boston Public Schools Office of Opportunity Gaps, *Culturally and Linguistically Sustaining Practices Continuum* (Nov. 1, 2016) <https://www.bostonpublicschools.org/cms/lib/MA01906464/Centricity/Domain/2218/OG%20CLSP%20Continuum.pdf>.

unique perspectives they each bring to the table. The program encourages participants to dissect the meanings of the words they use related to bias and develop a common language with which to honestly confront issues. According to the ADL, program participants are trained, using videos, hypothetical scenarios, and discussions, to notice the explicit and implicit effects of bias in their day-to-day lives and to challenge the interpersonal and systemic bias they see. After the training, students become Peer Trainers and are charged with developing and leading lessons and workshops to educate other students on bias and related issues throughout the school year.

D. School- and District-Wide Initiatives

There is no legal requirement that schools foster anti-bias school cultures, and no easy resource guides available to them if they would like to attempt to do so. Yet some schools are making important strides to create coherence among, and lend authority to, their anti-bias efforts.

One school is engaged in a number of coordinated initiatives that aim to create an anti-racist and anti-bias culture. For example, that school's Be Bold, Be Yourself program was developed as a "student-driven, diversity, awareness, sensitivity and anti-bullying" effort and engages all students in an anti-bias dialogue through an entire network of events, fundraisers, and promotional materials, including pins that students wear on their backpacks. Through the initiative, students have coordinated with teachers to designate certain classrooms as "safe havens," places where students can go to talk to someone about bias, bullying, or other issues. Teachers, administrators, and other school staff also participate in these efforts through School Culture and Climate meetings held every few months. The meetings include discussions of bias within the school's environment and provide school employees with a space and time to discuss how bias manifests in the school's culture, systems, and practices and develop intentional reforms and measures meant to counteract those biases.

Non-profit organizations also offer resources to help in this regard. For example, the ADL's No Place for Hate program has assisted forty New Jersey schools in creating a year-long plan to challenge bias. Participating schools create a committee of relevant stakeholders, including administrators, teachers, parents, and students, and outline three programs that impact the school and engage with students on anti-bias lessons. The ADL reviews and provides input on the plans and assists in their implementation throughout the course of the school year. The programs can be as varied as rallies, marches, or school workshops—anything that teaches anti-bias through a collaborative, interactive, and whole-school approach. Because this program is administered by ADL through grant funding, there is no cost to a school or district to participate. A local, New Jersey-based non-profit, The Kidsbridge Tolerance Center (Kidsbridge), offers mobile outreach programs that utilize small group activities to help students develop social-emotional skills on a number of topics intended to promote acceptance, including bias and stereotype awareness; empathy, UPstander Behavior, and empowerment; and media literacy and

memes.²⁸⁶

Some districts have sought to address systemic bias by revising district or school policies. For example, a few school districts are replacing traditional disciplinary practices that disproportionately impact students of color and students with disabilities, such as suspension and expulsion, with restorative justice methods. Restorative justice “is a philosophy and a theory of justice that emphasizes bringing together everyone affected by wrongdoing to address needs and responsibilities, and to heal the harm to relationships as much as possible.” Such methods “offer[] a more equitable and respectful alternative for dealing with disciplinary infractions” than traditional disciplinary measures.²⁸⁷ For instance, a school practicing restorative justice might bring the student who committed a bias offense or other infraction together with the students they harmed, their parents, and other community members, with the help of a trained facilitator, to encourage the student to acknowledge the harm they caused to themselves and others through their actions. Several New Jersey school districts have begun implementing restorative justice practices, and their experience demonstrates the dramatic reduction in discipline that can follow. In one district, for example, after rewriting their discipline code to implement a restorative justice model, disciplinary referrals at their high school and middle school plummeted from 2,754 to 748 at the high school and 788 to 134 at one middle school.²⁸⁸

Although individual New Jersey districts have taken steps to address bias in their schools, there is no state-level mechanism to coordinate these efforts across districts. A resource guide or similar resource for local districts and schools to use to guide their efforts and share information regarding what worked and what did not would significantly improve the ability of local districts to engage in anti-bias initiatives. Other states have taken steps to provide such guides. For example, the Pennsylvania Department of Education developed the Pennsylvania Equity and Inclusion Toolkit to “help[] educators address and eliminate bias, discrimination, and harassment and promote equity and inclusion

286 Other New Jersey schools and/or school districts are experimenting with programs on mindfulness. For example, in one school, fifth graders take 10 to 15 minutes after lunch and recess each day to sit down on the floor, close their eyes, and meditate, which may “help students learn to focus, regulate their emotions and manage stress in a healthy way.” Danielle DeSisto, “Local Schools Using Mindfulness, Mediation and Yoga to Ease Student Stress,” Burlington County Times (June 3, 2018), <https://www.burlingtoncountytimes.com/news/20180603/local-schools-using-mindfulness-meditation-and-yoga-to-ease-student-stress>. Similarly, after the shooting at a synagogue in Poway, California, the Poway Unified School District introduced a “Mindful Minute,” where all students begin each morning with sixty seconds to focus their mind on something positive, calming, or quieting. See Black Mountain Middle, “Mindful Minute,” <https://www.powayusd.com/en-US/Schools/MS/BMMS/parent-Resources/Mindful-Minute> (last visited May 19, 2020).

287 Oakland Unified School District, Restorative Justice Implementation Guide: A Whole School Approach 2, <https://www.ousd.org/cms/lib/CA01001176/Centricity/Domain/134/BTC-OUSD1-IG-08b-web.pdf>; see also Lara Bazelon, “Oakland Demonstrates Right Way to Use Restorative Justice with Teens,” YouthToday (Jan. 3, 2019), <https://youthtoday.org/2019/01/oakland-demonstrates-right-way-to-use-restorative-justice-with-teens/>.

288 See Hannan Adely, “Student Suspensions Plummeted in this New Jersey District. Here’s How They Did It,” northjersey.com (June 24, 2019), <https://www.northjersey.com/story/news/education/2019/06/24/new-approach-student-suspensions-plummet-nj-district-morris-restorative-justice-trauma/1456281001/>; cf. Montclair Board of Education et al., *Restorative Justice Montclair* (Jan. 14, 2019), https://www.montclair.k12.nj.us/UserFiles/Servers/Server_889476/File/District/Board%20of%20Education/Board%20Reports/RJBoardPresentation1.14.19.pdf; Maplewood Middle School, *Maplewood Middle School Student Handbook and Restorative Justice Overview 2019-2020*, <https://www.somds.k12.nj.us/maplewood/mdocs-posts/mms-student-handbook-and-restorative-justice-overview/>.

in schools.”²⁸⁹ The Toolkit includes strategies for assessing school climate and preventing a crisis, responding to a crisis that has been triggered by a bias incident, and recovering from a crisis.²⁹⁰

E. Colleges and Universities

The Task Force received feedback that college and university administrators’ responses to bias incidents can significantly impact the degree to which students feel safe and included on campus. Some colleges and universities in New Jersey have begun instituting bias incident response teams. For example, one New Jersey university has both a Bias Incident Response Team and a Bias Prevention and Education Committee.²⁹¹ The former is “a group of University employees charged with investigating reported bias incidents; following the protocols detailed in [the University’s policy]; and reporting information and making recommendations to the Bias Prevention and Education Committee.” The Bias Prevention and Education Committee then “reviews information provided by the BIRT to identify and examine issues and trends affecting campus climate” and “make[s] recommendations for educational programming and initiatives.”²⁹² Another New Jersey university allows students to submit reports of bias incidents through an online portal,²⁹³ and has a Bias Response Team that “centralizes and facilitates the College’s efforts to track bias incidents, identify trends, collect aggregate data, plan campus educational responses to benefit the community, and connect individuals affected by bias incidents with supportive resources.”²⁹⁴

Notwithstanding the existence of these response teams, student feedback underscored the need for all administrators to deal effectively and holistically with bias incidents when they arise. For example, one transgender student shared that when her university implemented “trans-friendly bathrooms” on campus, signs announcing the new policy were torn down. That was intimidating and signaled to the student that members of her school community did not want her to feel welcome on campus. Although the administrator to whom she reported the incident made sure the signs were put back up, the student felt the administrator did not adequately acknowledge or otherwise address the bias that led to the incident in the first place. Conversely, other students reported that their institution and its administration set a clear tone that bias would not be tolerated on campus, that they expected fellow students to be active upstanders by intervening and reporting bias incidents that occurred, and that any bias incidents that occurred would be swiftly and completely addressed.²⁹⁵ Their feedback underscored the importance

289 Commonwealth of Pennsylvania Department of Education, *Pennsylvania Equity and Inclusion Toolkit 3* (April 2017), <https://www.education.pa.gov/Documents/K-12/Safe%20Schools/EquityInclusion/PA%20Equity%20Inclusion%20Toolkit.pdf>.

290 *Id.*

291 Rutgers Division of Student Affairs New Brunswick, “Bias Prevention,” <http://studentaffairs.rutgers.edu/for-students/bias/> (last visited May 21, 2020).

292 *Id.*

293 See The College of New Jersey, “Public Report Form,” https://tcnj-advocate.symplicity.com/public_report/index.php/pid580247? (last visited May 21, 2020).

294 The College of New Jersey, Office of Institutional Diversity, Equity, and Inclusion, “Bias Response Team,” <https://diversity.tcnj.edu/bias-response-team/> (last visited May 21, 2020).

295 An “upstander” is “a person who speaks or acts in support of an individual or cause, particularly someone who intervenes on behalf of a person being attacked or bullied.” See Facing History & Ourselves, “Upstander,” <https://www.facinghistory.org/upstander> (last visited July 15, 2020).

of administrators' perceived sincerity in supporting anti-bias and equity initiatives on campus.

Many New Jersey colleges and universities also have a variety of student-led initiatives related to bias. For example, most colleges or universities have a variety of student organizations aimed at supporting students from historically-marginalized communities, such as the Black Students Union,²⁹⁶ Latin American Student Organization²⁹⁷ or Union Latina,²⁹⁸ PRISM: Queer-Straight Alliance,²⁹⁹ Asian Cultural Society³⁰⁰ or South Asian Student Association,³⁰¹ Differently Abled Student Union,³⁰² and a myriad of other organizations and clubs. At least one university also has student centers intended to support historically-marginalized communities, including Chabad House,³⁰³ the Center for Islamic Life,³⁰⁴ the Paul Robeson Cultural Center,³⁰⁵ the Asian American Cultural Center,³⁰⁶ the Center for Latino Arts and Culture,³⁰⁷ and the Center for Social Justice Education and LGBT Communities.³⁰⁸ On campuses where these student-led organizations are active, they often work to prevent or combat bias on campus. While New Jersey's biggest universities have a wide array of student-led programming related to bias and historically-marginalized communities, many of New Jersey's smaller colleges and campuses have far

296 Rutgers Student Affairs Camden, Office of Student Involvement, "Clubs by Interest: Multicultural," <https://oci.camden.rutgers.edu/student-organizations/multicultural> (last visited May 21, 2020); Montclair State University, Student Government Association, "Clubs and Organizations: Class One Organizations," <https://www.montclair.edu/student-government-association/organizations-clubs/> (last visited May 21, 2020); The College of New Jersey, "Clubs and Activities," <https://campuslife.tcnj.edu/organizations/> (last visited May 21, 2020).

297 Rutgers Student Affairs Camden, Office of Student Involvement, "Clubs by Interest: Multicultural," <https://oci.camden.rutgers.edu/student-organizations/multicultural> (last visited May 21, 2020); Montclair State University, Student Government Association, "Clubs and Organizations: Class One Organizations," <https://www.montclair.edu/student-government-association/organizations-clubs/> (last visited May 21, 2020).

298 The College of New Jersey, "Clubs and Activities," <https://campuslife.tcnj.edu/organizations/> (last visited May 21, 2020).

299 *Id.*

300 Rutgers Student Affairs Camden, Office of Student Involvement, "Clubs by Interest: Multicultural," <https://oci.camden.rutgers.edu/student-organizations/multicultural> (last visited May 21, 2020).

301 Montclair State University, Student Government Association, "Clubs and Organizations: Class One Organizations," <https://www.montclair.edu/student-government-association/organizations-clubs/> (last visited May 21, 2020).

302 Essex County College, "List of Clubs & Organizations," <http://www.essex.edu/studentlife/co/list/> (last visited May 21, 2020).

303 See Rutgers University Chabad House, "About Us," <https://chabadrutgers.com/about-as/> (last visited May 21, 2020).

304 See Center for Islamic Life at Rutgers University, "About Us," <http://www.cilru.org/religious-organization-about-us> (last visited May 21, 2020).

305 Rutgers Student Affairs, "Paul Robeson Cultural Center: Overview," <http://prcc.rutgers.edu/about-us-2/overview/> (last visited May 21, 2020).

306 Rutgers Student Affairs, "Asian American Cultural Center: About Us," <http://aacc.rutgers.edu/about-us/> (last visited May 21, 2020).

307 Rutgers Student Affairs, "Center for Latino Arts and Culture: About Us," <http://clac.rutgers.edu/about-us/> (last visited May 21, 2020).

308 Rutgers Student Affairs, "The Center for Social Justice Education and LGBT Communities," <http://socialjustice.rutgers.edu/about-us/> (last visited May 21, 2020).

fewer such organizations.³⁰⁹

F. Community Efforts

Communities in New Jersey and around the country have come together to create and implement their own anti-bias initiatives, often in response to serious bias incidents. These efforts, including city-wide campaigns to support community members affected by bias, programs uniting individuals with different backgrounds and experiences, and community conversations about systemic racism and bias, reach beyond school boundaries to include all residents. Although such initiatives may not specifically target young people, they foster a community culture in which bias-based harassment, discrimination, and intimidation are viewed as unacceptable. In this way, efforts to address and eliminate bias at the community level help to reduce youth bias as well.

One example of such a community effort comes from Billings, Montana. In 1992, the town of roughly 80,000 residents experienced a wave of bias incidents. As part of a coordinated campaign to make Montana and other western states a “white homeland,” white supremacists spread hateful flyers and messages and directed racial slurs and death threats at the town’s Jewish, Latinx, Native-American, Black, and LGBTQ+ communities.³¹⁰ So the people of Billings came together to stand up to hate. When an interracial couple’s home was defaced with crude words and a Swastika, members of the painters union repainted the house for free. When attackers threw a cinderblock through a child’s window decorated with a Hanukah menorah, the town newspaper printed a full-page graphic of a menorah, and thousands of residents cut out the pictures and taped them to their own windows.³¹¹ Community members put up a billboard that read, “Not In Our Town! No Hate, No Violence. Peace on Earth.”³¹² After a documentary about Billings aired in 1995, the filmmakers launched a national “movement to stop hate, racism and bullying, and build safe, inclusive communities for all” under the name “Not In Our Town.”³¹³ The Not In Our Town organization continues to inspire and empower local communities to combat hate and prejudice at the local level.³¹⁴ Today, several New Jersey communities participate in the Not In Our Town movement. For example, the Princeton chapter of Not In Our Town aims “to promote the equitable treatment of all, and to uncover and confront white supremacy” through awareness and activism campaigns.³¹⁵

Other communities in New Jersey impacted by bias have staged similar whole-community

309 See, e.g., Rowan College at Burlington County, “Student Clubs & Campus Labs,” <https://www.rcbc.edu/campus-labs> (last visited May 21, 2020); Sussex County Community College, “Clubs and Groups,” <https://www.sussex.edu/campus-life/clubsorganizations/clubs-and-groups/> (last visited May 21, 2020); Essex County College, “List of Clubs & Organizations,” <http://www.essex.edu/studentlife/co/list/> (last visited May 21, 2020).

310 Facing History, Resource Library, “Reading: Not In Our Town,” <https://www.facinghistory.org/resource-library/not-our-town-0> (May 21, 2020).

311 *Id.*

312 *Id.*

313 See Not in Our Town, <https://www.niot.org/> (last visited May 22, 2020); Not In Our Town, “Not In Our Town: History,” <https://www.niot.org/history> (last visited May 22, 2020).

314 See Not In Our Town, “About Us,” <https://www.niot.org/about-us> (last visited May 22, 2020).

315 Not In Our Town Princeton, “Welcome,” <https://niotprinceton.org/> (last visited May 22, 2020).

responses. In Ocean County, which has experienced a spike in antisemitic hate crimes, a Jewish woman and a Muslim woman founded Ocean County RAFT (Reaching Across Faith Traditions) to help neighbors of different faiths better understand each other. As part of the organization’s Fabric of the Community project, county residents met once a week to make quilts that illustrate something important in their lives. The quilts were stitched together, and the completed canvas was unveiled in October of 2018.³¹⁶ A group of Orthodox Jewish women in Ocean County facilitated similar community-building by hosting a “Knead Kindness” event in early 2019. Over 100 women of all faiths gathered to make challah, bread eaten on the Jewish sabbath. A Jackson resident of 30 years said: “I feel like I’m part of something special. There’s so much talk about ‘us’ and ‘them.’ This is like, ‘we.’”³¹⁷ A member of the Missionary Pentecostal Church of God in Lakewood agreed: “I think it’s always been important (to come together), now more than ever because there’s a lot of division, not just in town but in the nation,” she said. “We’re all neighbors and we’re all equal.”³¹⁸

Toms River UNITED (Uniting Neighbors in Town Everyday) shares the same goal. It was organized by Toms River Police Chief Mitchell Little to encourage community members to get to know their neighbors as individuals. With a growing set of individual and organizational members and an expanded network of committees and sub-committees, the group organizes events and initiatives to bridge divides in the town and bring residents together. In September 2019, Toms River UNITED organized the first Around the World in Toms River Festival to celebrate world heritage and culture and embrace diversity. Attendees were encouraged to learn about different cultures and traditions by receiving a stamp in their “passports” at each table they visited.³¹⁹

Still other groups meet regularly to build relationships. For example, New Jersey members of the international Sisterhood of Salaam Shalom are uniting Muslim and Jewish women to learn about each other’s faiths and engage in volunteer work. The goal of the organization is to “build trust, respect, and relationships between American Muslim and Jewish women” as a means to combat anti-Jewish and anti-Muslim sentiment.³²⁰

One significant gap here is that there is no resource guide for communities to consult if they would like to engage in these types of activities, and no way for different towns or communities to share their experiences with other towns and communities.

316 See Jean Mikle, “New Toms River Group’s Aim: Reduce Community Tension, Battle Stereotypes,” Asbury Park Press (Sept. 6, 2018), <https://www.app.com/story/news/local/communitychange/2018/09/04/new-toms-river-group-aims-reduce-community-tension-battle-stereotypes/977984002/>.

317 Stacey Barchenger, “Orthodox Jewish Women Connect with Ocean County Neighbors by Baking Challah Bread,” Asbury Park Press (Mar. 13, 2019), <https://www.app.com/story/news/2019/03/13/toms-river-nj-orthodox-jewish-women-challah-bake-unity/3096460002/>.

318 *Id.*

319 See Karen Wall, “Toms River Labor Day Festival To Celebrate Culture, Community,” Patch (Aug. 31, 2019), <https://patch.com/new-jersey/tomsriver/toms-river-labor-day-festival-celebrate-culture-community>.

320 Sisterhood of Salaam Shalom, “What We Do,” <https://sosspeace.org/what-we-do/> (last visited May 22, 2020).



V. Recommendations

As many community members correctly noted to the Task Force, the issue of bias is not new and is a necessary, historical context in which to situate all recommendations. Although there has been a dramatic increase in reported bias incidents since 2015, there has never been a time in our State’s history when marginalized communities have been free from bias-based harassment, discrimination, or structural racism and inequality.

Successfully combatting youth bias in New Jersey requires more than teaching our young people to be more kind to others. As one Teaching Tolerance article explains, “Young children are not only developing a sense of morality; they are developing a sense of who they are. This includes their race, gender, class and more. These identities have never been treated or represented equally in our society, so when we teach about love, acceptance and kindness without addressing this inequity, we gloss over crucial differences in the ways our students experience the world.”³²¹ Thus, to truly tackle the issue of bias among our young people, New Jersey must take meaningful action to: educate our entire community to recognize and challenge implicit, explicit, and systemic biases; begin dismantling the biases imbedded in our State’s institutions; and protect New Jersey’s historically-marginalized residents.

Our recommendations are broken into three sections: Education, Enforcement, and Public Engagement.

A. Education

1. *Require Comprehensive Anti-Bias Education in Public Schools and Develop Curricular Support Materials*

As discussed above, since bias is learned, the solution lies in what we, as a community, teach our children. Although existing state law requires that our children be taught about the Holocaust, African-American slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans to our country, as well as political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people, those requirements alone do not equip our young people to recognize and counteract bias in their daily lives. And, as discussed

in Part II above, those requirements are uncoordinated and lack an overarching framework to guide their implementation. Because anti-bias education focuses on institutional manifestations of bias, implementing a comprehensive anti-bias education requirement will give our students the tools to contextualize lessons about historically-marginalized groups, and will give teachers an overarching framework with which to deliver existing curricula requirements.

Anti-bias education acknowledges that the biases our children encounter run deeper than personal hostility by a single teacher or peer. Rather, anti-bias education acknowledges that our society “has built advantage and disadvantage into its institutions and systems,” and that “[t]hese dynamics of advantage and disadvantage are deeply rooted in history [and] . . . continue to shape the degree of access children have to education, health care, security—in a word, access to the services necessary for children’s healthy development.”³²² Anti-bias education then equips students with the tools “to navigate the complex issues of identity, diversity, prejudice, and power in their daily lives.”³²³ In today’s age of information, where social media and other online platforms regularly disseminate biased content and misinformation that can be difficult to distinguish from legitimate content,³²⁴ it is increasingly critical that students be taught how to use these skills to navigate not only their relationships and institutions, but also the information they digest online.³²⁵

The Task Force heard repeatedly from parents and students who believed that their local schools were not doing enough to educate students about bias from an early age. The Task Force also heard from some high-school students who received education on racism, bias, prejudice, and stereotyping. The feedback from those students, in particular, was clear. They valued the anti-bias education they received, and they were uniformly frustrated that they had not received it earlier in their educational experience. At the New Brunswick Community Listening Session, Frank Stebbins from Facing History shared one student’s powerful message: “I’ve had 13 math classes, 20 English classes, 6 or 7 science classes, art, PE, Spanish . . . but in all the time I’ve been in school, I’ve only had one class about being more human.” Several students from around the State echoed a similar message, and both those students who had never been taught an anti-bias curriculum and the students and educators who have seen anti-bias education in action called for it to be made a mandatory and integral part of all students’ educational experience in New Jersey. This recommendation was, by far, the most explicit and consistent request stakeholders made of the Task Force.

There is no current statutory authority which specifically authorizes the Department of Education to mandate anti-bias education for all students. The Task Force therefore recommends that the New Jersey Legislature enact legislation requiring comprehensive, age-appropriate anti-bias education for all elementary and secondary students in public schools in New Jersey. The Task Force recommends that

322 See Louise Derman-Sparks et al., National Association for the Education of Young Children, *Anti-Bias Education for Young Children and Ourselves 3* (2009), https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDFs/resources/topics/Chap1_Anti-Bias%20Education.pdf.

323 *Id.*

324 See *supra* Part I.

325 See Annabelle Timsit, “In the Age of Fake News, Here’s How Schools Are Teaching Kids to Think Like Fact-Checkers,” Quartz (Feb. 12, 2019), <https://qz.com/1533747/in-the-age-of-fake-news-heres-how-schools-are-teaching-kids-to-think-like-fact-checkers/>; Eliza Mackintosh, “Finland Is Winning the War on Fake News. What It’s Learned May Be Crucial to Western Democracy,” CNN Special Report (2019), <https://edition.cnn.com/interactive/2019/05/europe/finland-fake-news-intl/>.

the legislation include, at a minimum, the following components:

- a. Model learning activities and classroom resources.* Require DOE, in consultation with DCR and outside experts and stakeholders, to develop model anti-bias classroom resources for all grades and, based upon the review undertaken by the State Board pursuant to subsection a. of NJSA 18A:7F-46, ensure that the New Jersey Student Learning Standards require schools to include in their curriculum anti-bias education for all K-12 students, that:

 - I. Addresses both interpersonal and institutional bias, including systemic racism, stereotyping, prejudice, and implicit bias; emphasizes the values of diversity and pluralism; and addresses bias-based harassment, including sexual harassment;
 - II. Coordinates existing statutory requirements by incorporating education on the Holocaust; African-American slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans to our country; and the political, economic, and social contributions of persons with disabilities and lesbian, gay, bisexual, and transgender people;
 - III. Acknowledges many different forms of bias and their institutional manifestations, including, but not limited to, racism, antisemitism, Islamophobia, homophobia, misogyny, and xenophobia;
 - IV. Includes critical thinking skills to enable students to identify misinformation and biased content in both print and online media;
 - V. Integrates the above themes into multiple subject matters in an interdisciplinary way, including history and language arts;
 - VI. Relies on evidence-based best practices for anti-bias education.
- b. School liaisons.* Require each school or school district to designate an existing administrative-level staff member as a liaison for anti-bias education.
- c. Definition.* Include in the legislation a definition of anti-bias education that makes clear that such education examines the historical, systemic, and institutional disadvantages impacting members of groups who have been historically-marginalized based on their actual or perceived race, religion, national origin, gender, sexual orientation, gender identity or expression, or disability and the accompanying historical, systemic, and institutional advantages experienced by historically-privileged groups, as well as interpersonal manifestations of bias caused by or stemming from those advantages and disadvantages.

If the Legislature requires this type of comprehensive anti-bias education as part of the New Jersey Student Learning Standards, schools will, through the system, be required to (a) either adopt the model classroom resources or use other curricula that meets the baseline requirements set forth in the New Jersey Student Learning Standards discussed above; (b) have their compliance monitored through Quality Single Accountability Continuum (QSAC), which is the DOE's monitoring and district self-

evaluation system for public school districts used to track district accountability.³²⁶

The Legislature should also fund a program for DOE and DCR to partner with one or more research institutions to study the effectiveness of anti-bias education used in New Jersey schools by conducting a pre-study to obtain a baseline against which to measure the success of the curriculum and a poststudy to assess efficacy following a sufficient period of implementation.

2. Require Anti-Bias Training for Educators and School Employees

New Jersey’s educators must receive the training and support necessary to build inclusive school communities and develop an active, anti-bias culture in our schools. As discussed in Part IV above, although individual educators can and do take the initiative to develop a fluency in anti-bias pedagogy by voluntarily enrolling in one or more of the courses available through non-profit organizations, far more teachers never receive this essential training. And while New Jersey requires that its State police officers, county prosecutors, and many other state employees receive implicit bias training, there is no parallel requirement for the school employees who most directly impact our young people.

In order for the education-based recommendations in this Report, including the recommendation to provide anti-bias education to students, to be successful, our educators must receive the anti-bias training necessary to enable them to implement that requirement effectively. Anti-bias training will help educators build a literacy and comfort level with talking about bias, provide them with a toolkit for addressing these topics in age appropriate terms with their students,³²⁷ and teach them how to recognize and address both interpersonal bias and stereotyping among students and the systemic and structural biases that perpetuate inequities within our schools and broader communities.³²⁸ This type of training allows participants to identify and challenge “the unfair policies, the differences in opportunities and inequitable treatment that allow bias to persist.”³²⁹ Moreover, by providing all educators with this type of professional development, it will empower them to be able to incorporate anti-bias lessons into their core-content curricula across subject areas. Effective anti-bias training will also equip teachers to recognize and address their own implicit biases, and appreciate that implicit bias impacts all of our behavior, regardless of our intentions. And it must also equip teachers to identify signs of bias-based bullying among students who may be hesitant to or unable to report.

The need for such comprehensive anti-bias training is not limited to teachers. Rather, school board members, administrators, school resource officers, para-professionals, guidance counselors,

326 See State of New Jersey Department of Education, “New Jersey Quality Single Accountability Continuum (NJQSAC),” <https://www.state.nj.us/education/genfo/qsac/> (last visited May 22, 2020).

327 See *supra* Part IV.B.

328 See *supra* Part IV.B; see also Janice Gassam, “Your Unconscious Bias Trainings Keep Failing Because You’re Not Addressing Systemic Bias,” *Forbes* (Dec. 29, 2019), <https://www.forbes.com/sites/janicegassam/2020/12/29/your-unconscious-bias-trainings-keep-failing-because-youre-not-addressing-systemic-bias/#5e7c84b11e9d> (discussing the need to address both unconscious bias and systemic and structural issues that “allow biases to be perpetuated”).

329 See Janice Gassam, “Your Unconscious Bias Trainings Keep Failing Because You’re Not Addressing Systemic Bias,” *Forbes* (Dec. 29, 2019), <https://www.forbes.com/sites/janicegassam/2020/12/29/your-unconscious-bias-trainings-keep-failing-because-youre-not-addressing-systemic-bias/#5e7c84b11e9d>.

nurses, athletic directors, and other adults within the school building who interact with students also need to be trained in how to address bias among students and how to recognize and challenge their own biases and the biases imbedded in our institutions of learning. Nor is the need for such training limited to our elementary and secondary institutions. Faculty and staff at our colleges and universities also need training on how to implement an anti-bias framework in order to comprehensively address bias among our young adults.

The Task Force therefore recommends that all New Jersey school employees who interact with students at the state’s public educational institutions be required to participate in anti-bias training, including a meaningful focus on implicit bias, institutional bias, and structural bias on an annual basis. The requirement should apply to both K-12 public schools and public colleges and universities within the State.

There is no current statutory authority that specifically authorizes the Department of Education to mandate implicit- and anti-bias training for all K-12 educators and school staff. Thus, to implement this recommendation, the Task Force recommends that the Legislature enact legislation, including an appropriation, requiring such training for all educators and school staff in K-12 schools and requiring DOE, in consultation with DCR, to promulgate any required implementing regulations. There is similarly no current statutory authority to require such training for staff at public colleges and universities. Thus, the Task Force recommends that the Legislature enact legislation requiring such training for staff at public colleges and universities within the State as well. The Task Force also recommends that the Legislature enact legislation requiring all teacher certification programs at public colleges and universities in the State to include a mandatory, anti-bias education course as part of their curriculum.

New York City recently committed \$23 million of its 2019 city executive budget to provide this type of anti-bias training to education department employees who work with students.³³⁰ The anti-bias training, facilitated in part by research and training experts from the Perception Institute and leadership experts from Safe Places for the Advancement of Community and Equity, is mandatory for roughly 125,000 employees.³³¹

3. Address Discrimination in the Imposition of School Discipline

As discussed in Part II above, despite the LAD’s protections against discrimination and other

330 Monica Disare, “Funding for New York City Homeless Students, Universal Literacy in de Blasio’s Executive Budget,” Chalkbeat (Apr. 26, 2018), <https://chalkbeat.org/posts/ny/2018/04/26/funding-for-new-york-city-homeless-students-universal-literacy-in-de-blasios-executive-budget/>.

331 Christina Veiga, “Carranza Aims to Speed Up Anti-bias Training for Educators, Calling It a ‘Cornerstone’ of School Improvement,” Chalkbeat (Aug. 15, 2018) <https://chalkbeat.org/posts/ny/2018/08/15/carranza-aims-to-speed-up-anti-bias-training-for-educators-calling-it-a-cornerstone-to-school-improvement/>; Alex Zimmerman et al., “NYC’s Anti-bias Training for Educators is Contentious — And Behind Schedule. Some Advocates Say That’s Not a Bad Thing,” Chalkbeat (May 31, 2019), <https://chalkbeat.org/posts/ny/2019/05/31/nycs-anti-bias-training-for-educators-is-contentious-and-behind-schedule-some-advocates-say-thats-not-a-bad-thing/>.

state laws requiring that students be afforded equal educational opportunities, Black students are subjected to unacceptable discipline disparities that reflect and perpetuate racial bias. New Jersey must take meaningful steps to eliminate these racial disparities in school discipline. Because research has demonstrated that teacher professional development reduces racial disparities in discipline,³³² the Task Force’s recommendation regarding implicit and anti-bias professional development for educators is critical. Reducing schools’ reliance on exclusionary disciplinary practices is also likely to reduce these disparities. To this end, the Task Force recommends that DOE monitor the results of the recently enacted Restorative Justice in Education Pilot Program and consider working with schools to expand that program if successful.³³³

The Task Force also recommends that DCR, in consultation with DOE, issue guidance that assists school districts in meeting their legal obligations under the LAD and other state laws and regulations to administer student discipline without discriminating on the basis of race, national origin, gender, or disability. The guidance should: (1) explain the relevant legal requirements, including the requirements pertaining to the disciplinary procedures for students with disabilities; (2) identify research-based best practices to eliminate disparities, including allowing suspensions and expulsions only for certain objective, rather than subjective, offenses; (3) explain potential consequences for a school’s failure to address racial disparities in discipline. Similar to the approach taken in California, discussed in Part II, the Task Force also recommends that DCR actively enforce the LAD in this regard.

4. *Reconvene the Education-Law Enforcement Working Group to Discuss Amending the Uniform Memorandum of Understanding to Reduce Disparities in Criminal Justice Referrals*

As discussed in Parts I and II above, Black students are not only subjected to racial disparities in school discipline, but also in school-based criminal justice referrals. New Jersey must take meaningful action to close the school-to-prison pipeline. The Task Force’s recommendation regarding implicit and anti-bias professional development should help to accomplish that goal. But educators’ individual actions in referring students gets at only part of the problem. Where systemic racism has been identified, anti-racism requires not only retraining the actors within the system, but also revisiting the structure of the system itself. Here, that includes reimagining the respective roles of law enforcement and educational professionals in addressing student misconduct and actively encouraging educators to address low-level student misconduct in schools.

The Task Force therefore recommends that the Attorney General and Commissioner of the Department of Education reconvene the Attorney General’s Education-Law Enforcement Working Group. The Working Group should explore potential amendments the Uniform State Memorandum of Agreement between Education and Law Enforcement Officials. Potential amendments that the Working Group should consider include (1) clarifying that the use of school resource officers is left up to local

332 Gregory & Roberts, *supra* note 42, at 191. (“[T]eacher professional development has been shown to reduce racial disparities in discipline.”).

333 N.J.S.A. 18A:37-39; *see also* “Turner, Singleton Bill to Pilot Restorative Justice Programs in Schools Becomes Law,” InsiderNJ (Jan. 21, 2020), <https://www.insidernj.com/press-release/turner-singleton-bill-pilot-restorative-justice-programs-schools-becomes-law/>.

school districts and ensure that the language of the agreement neither encourages nor discourages such use; (2) clarifying the offenses that require mandatory reporting, with a particular focus on clarifying the circumstances under which possession of over-the-counter and prescription medications trigger mandatory reporting (and when they do not); (3) maximizing local control over referrals for non-mandatory offenses by minimizing the degree to which the MOA encourages schools to rely on law enforcement to deal with routine student misconduct; and (4) ensuring adequate training of school leaders and law enforcement officials in schools on the implementation of the MOA's provisions regarding mandatory reporting of offenses to law enforcement.

5. Reduce Racial Disparities in Identification of Academically Advanced Students and Identification and Placement of Students with Disabilities

As discussed in Parts I and II above, despite the LAD's protections against discrimination and other state laws requiring that students be afforded equal educational opportunities, Black, Latinx, and other students of color are disproportionately excluded from gifted and talented programs, honors-level classes, and AP courses, and disproportionately recommended for special education placements, rooted in a system that both reflects and perpetuates pernicious racial stereotypes about their academic abilities. New Jersey must act urgently to not only address these disparities, but to reform the academic placement practices that drive them.

To the extent that educators' judgments of a student's academic potential, "giftedness," or behavior influence that student's likelihood of being identified for advanced academic tracks such as gifted and talented programs, the various types of implicit biases discussed throughout this report systematically reduce access to these programs for students of color. As discussed in Section I.A.2, Black students are three times more likely to be identified as gifted if their teacher is Black. Because teacher recommendations play a significant role in these placements,³³⁴ the Task Force's recommendations regarding implicit and anti-bias professional development for educators and diversifying educator hiring are critical. But calling upon teachers to be more conscious of and intentional about their placement recommendations is not sufficient. It is also necessary to encourage schools to critique their academic practice systems to identify racial and other biases they may be perpetuating and to institute change. For example, Dr. Ronald L. Ferguson found in a 2016 study for the Urban Institute, the switch from a teacher referral-based screening system to a universal screening system for elementary gifted and talented programs increased gifted assignment for Black students by 80% and for Latino students by 130%.³³⁵

To this end, the Task Force recommends that DOE, in consultation with DCR, develop guidelines for reducing racial disparities in identification of academically advanced students and identification and placement of students with disabilities. These guidelines should provide strategies available to school districts to: (1) help ensure equitable access to advanced learning opportunities, such as gifted and talented programs or enrollment in AP courses, for students of color, including but not limited to, by ensuring compliance with the recently enacted "Strengthening Gifted and Talented Act" (P.L.2019,

334 See *supra* Part I.A.2.

335 Ronald F. Ferguson, *Aiming Higher Together: Strategizing Better Educational Outcomes for Boys and Young Men of Color* 48 (2016), <https://www.urban.org/sites/default/files/publication/80481/2000784-Aiming-Higher-Together-Strategizing-Better-Educational-Outcomes-for-Boys-and-Young-Men-of-Color.pdf>.

c.338); (2) remove barriers for students of color to enroll in gifted, honors, and advanced placement courses; (3) reduce disproportionality in the identification and placement of students with disabilities based on race or ethnicity, in a manner consistent with policies and procedures required under IDEA; and (4) develop professional learning activities and trainings that include culturally responsive practices and bias.

The Task Force also recommends that DCR, in consultation with DOE, issue guidance that assists school districts in meeting their legal obligations under the LAD and other state laws and regulations to administer academic placement policies without discrimination on the basis of race, national origin, gender, or disability. The guidance should explain the relevant legal requirements and the potential consequences for a school's failure to address disparities in academic placement. The Task Force also recommends that DCR actively enforce the LAD in this regard.

6. *Take Meaningful Measures to Diversify Educator Hiring at Both the K-12 and Postsecondary Levels*

As discussed in Parts I and II above, educators of color continue to be significantly under-represented in both New Jersey's K-12 public schools and New Jersey's institutions of higher learning. Eliminating these disparities will require intentional action on the part of the State, local K-12 school districts, and individual postsecondary institutions.

The New Jersey Department of Education has already convened a working group to focus on increasing educator diversity in New Jersey's K-12 schools, and has identified several ongoing policy initiatives designed to increase the ethno-racial diversity of the educator workforce. These policies are guided by the Department's goal that by 2025, all New Jersey public school students will have access to high quality novice teachers (0-4 years of teaching experience) that reflect the race/ethnicity of the PreK-12 student population of New Jersey. The working group is focusing on increasing the number of novice teachers of color over the next few years by working to address systemic issues that hinder diversity in the teacher "pipeline" (i.e., the number of students of color graduating college with majors in education or graduating from teaching certification programs) and looking at systemic barriers in the certification process, including addressing testing biases and creating multiple pathways for teachers to demonstrate content knowledge and readiness to teach. The Task Force applauds this goal and the NJDOE's ongoing related initiatives, and for reasons discussed above, recognizes the power of educator diversity to reduce the harms of bias on students. Consistent with these goals, the Task Force recommends that DOE:

- a. Reform certification processes and practices.* Implement improvements to certification policies and practices to ensure that all candidates have equitable, fair, and purposeful opportunities to becoming an educator. These improvements should address all aspects of the experience for certification candidates and more equitable certification requirements that focus on clinical preparation and practices that lead to improved outcomes for students.
- b. Continue efforts and initiatives to diversify New Jersey's teacher pipeline and workforce.* This might include:

- I. Making educator demographic data readily available to school districts;
- II. Developing guidance on programs which have demonstrated success in encouraging students of color to join the New Jersey educator workforce, such as “Grow your Own” programs that facilitate partnerships between school districts, educator preparation programs, and community organizations to usher residents of the school district through the teacher pipeline; and
- III. Facilitate sharing of best practices by exemplar school districts that have had success recruiting, mentoring, and retaining educators of color.

With respect to diversity among professors in the State’s institutions of higher learning, New Jersey has already convened the Research, Innovation, and Talent Working Group to, among other things, “determin[e] effective methods for attracting and supporting diverse faculty and staff.” The Task Force therefore recommends that OSHE, in consultation with DCR, build on the work of the Working Group to issue guidance that outlines best practices for diversifying their faculty bodies, including hiring and tenure committees and processes, with a particular focus on best practices for systemic change.

7. Require Anti-Bias Training for Student Athletes

As discussed above, New Jersey’s student athletes are too often subjected to racial and ethnic slurs or other forms of discrimination while participating in high school sports. DCR has been very involved in this area, but the reports continue.

In addition to the implicit bias training required under DCR’s Memorandum of Agreement with the NJSIAA, the Task Force recommends that DOE, in consultation with DCR, create a training presentation, which will be made available online, that school districts can utilize to provide live, in-person training to student athletes. The DOE may work in consultation with DCR, and the NJSIAA as appropriate, to draft guidance for implementing that training. Such training should include instruction in bystander intervention, as well as instructions on how to report any unlawful harassment that occurs while engaging in interscholastic athletic activities.

8. Fund Programs for Student-Led Anti-Bias Programming And Coordinate Best Practices

Students, educators, and experts all emphasized the importance of peer-to-peer programs in addressing bias and stereotyping and creating connections among students. Because, as discussed in Part I, young people’s peer groups have significant influence over whether, and to what extent, they view acting on biases as socially acceptable,³³⁶ student-led peer-to-peer programming is highly impactful. Students at the New Jersey Association of Student Council’s annual conference from schools where such programs exist had high praise for their schools’ existing peer-to-peer programs.³³⁷ They also reported that comprehensive peer-to-peer programming contributed to an overall climate and culture of equity and inclusivity within their schools. The impact of peer-to-peer programming is not limited to elementary and secondary schools. Rather, peer-to-peer programming can also be an effective tool for

336 See *supra* Part I.

337 See *supra* Part IV.C.

building a culture of equity and inclusivity at postsecondary institutions as well. Despite the numerous model programs being implemented by public schools and non-profit organizations throughout the State, however, too many students reported that their school had no such programs.

Accordingly, the Task Force recommends that the New Jersey Legislature fund a pilot program to encourage effective peer-to-peer programming at the elementary, secondary, and postsecondary level to address bias and stereotyping in schools. The program should be funded by the Legislature and administered by DOE and OSHE, and should include appropriations to study the efficacy of the piloted programs for future statewide expansion. The pilot program should also include a mechanism for schools to share best practices and feedback, as a group, regarding what worked and what did not work with their students.

Finally, DOE and DCR should work together to create or curate a resource guide for K-12 institutions with best practices and information for schools that are looking to create such peer-to-peer programs, and OSHE and DCR should work together to create or curate a similar resource guide for postsecondary institutions.

9. Encourage K-12 Districts to Consider Designation of a Chief Equity Officer in Each School District

As discussed above, it is essential that New Jersey’s local school districts implement a coordinated, anti-racist and anti-bias framework. School districts need to ensure that students of color are validated and valued when they enter educational spaces, be willing to confront racial/cultural biases, and promote high expectations for the academic success of all students. Educators need to develop the capacity to meet the learning and social emotional needs of their diverse populations, address inequities that perpetuate barriers for marginalized students, establish an inclusive environment for all students, and dismantle biased policies and practices.

This task cannot reasonably be accomplished by individual educators, or even individual school building leaders. Rather, strong, district-level leadership is necessary to develop, coordinate, and achieve critical buy-in for each district’s anti-bias vision. While the recommendations throughout this report suggest anti-bias actions tailored to specific, individual education program areas, a goal as wide-ranging as reducing the harms of bias in education requires an equally wide-ranging strategy. Indeed, ensuring equity and reducing bias cannot be limited to a list of discrete proposals; rather, meaningful, systemic change with a comprehensive, Culturally Responsive³³⁸ policy framework that grounds and connects academic, social, and behavioral interventions in a common purpose, fueled by common expertise, and supported by culturally responsive leadership and implementation structures.

338 Culturally Responsive practices (CRP) examine “instructional philosophy and practice critically, both acknowledging and searching for the presence of historical forms of oppression embedded in curriculum, instruction, and approaches to teacher-student relationships. [CRP’s] critical lens has been applied to curriculum, classroom design, instruction, home-school relationships, disciplinary policies, and school-wide initiatives to promote equity, social justice, community outreach, improvements to school climate, and academic achievement.” Evan M. Johnston, Pamela D. Montalbano, and David E. Kirkland, *Culturally Responsive Education: A Primer for Policy and Practice* 11 (2017).

The Task Force therefore recommends that as part of their review and update of their comprehensive equity plans, required every three years pursuant to N.J.A.C. 6A:7-1.4(c), school district boards of education consider designating an individual employed by the board to be the district's Chief Equity Officer. The Chief Equity Officer could act as the liaison for anti-bias education discussed in Recommendation 1.b. A Chief Equity Officer's other duties might include: (1) In consultation with diverse community stakeholders, identifying, developing, and implementing policies and practices to mitigate inequities and systemic racism; (2) Addressing lack of diversity in curriculum, disproportionality in honors, gifted, AP and IB courses, CTE or work-based learning opportunities, special education, and any other program or offering; (3) Identifying, developing, and implementing policies and practices to eliminate race-, gender-, and disability-based disparities in use of exclusionary and/or punitive discipline, referrals to law enforcement, use of restraint or seclusion, and other potentially harmful discipline practices; (4) Fostering school climates and cultures that acknowledges, affirms, and celebrates different races, religions, national origins, genders, sexual orientations, gender identities, gender expressions, and disabilities; (5) Promoting a culture of anti-racism, and anti-bias actions in the pursuit of equity; and (6) Any other responsibilities deemed appropriate by the district board of education. A school district Chief Equity Officer should be delegated the authority, resources, and autonomy necessary to efficiently develop and implement equitable policies and practices within the scope of their duties.

10. *Require Anti-Bias Policies in Colleges & Universities*

Under the New Jersey Law Against Discrimination, all students attending a college or university in New Jersey have the right to receive an education free from discrimination or harassment based on race, gender, sexual orientation, national origin, disability, gender identity or expression, and other protected characteristics. Yet, as discussed in Part I above, acts of bias and bias-based harassment are common on college campuses, and active hate group recruitment on college campuses is also on the rise. As discussed in Part II, while some public and private postsecondary institutions have comprehensive and transparent policies that address discrimination, harassment, and bias incidents in place, others either do not have them or do not make them easily accessible.

Accordingly, the Task Force recommends that the New Jersey Legislature enact legislation to require all colleges and universities in the State to disseminate to students a policy that meets certain minimum standards, including: (1) prohibiting unlawful discrimination and harassment and explaining the definition of same, and the definition of a bias incident, under state law; (2) identifying multiple avenues for students to report to the college or university if they experience discrimination, harassment, or a bias-incident; and (3) upon receiving a report, requiring the college or university to complete a neutral investigation and take prompt remedial action as warranted.

11. *Encourage Public and Private Postsecondary Institutions to Hire or Designate a Chief Equity Officer*

New Jersey's institutions of higher learning play a critical role in combatting systemic racism and bias among our young adults through implementation of strong, anti-racist, anti-bias campus policies and cultures. Yet, as discussed in Parts II and IV above, these efforts are often left to students

or individual faculty or departments to coordinate. In the same way that dismantling systemic racism and bias in the State’s K-12 schools requires coordinated action on the district level, accomplishing that goal within New Jersey’s postsecondary institutions requires a commitment from the most senior administrators within each college and university to critically review institutional practices, survey campus culture, investigate bias incidents, and meaningfully address racial disparities in student achievement and race- and gender-based gaps in faculty recruitment and retention. To that end, the Task Force recommends that public and private postsecondary institutions hire or designate a Chief Equity Officer to coordinate the institution’s equity and anti-bias efforts, including addressing racial and gender gaps in academic performance, and analyze how the institution’s policies and practices may perpetuate those disparities.

12. *Ensure That Juveniles in State Custody Receive the Same Anti-Bias Programming As Students in Other Schools*

Juveniles in facilities run by the Juvenile Justice Commission, the Department of Corrections, and the Department of Children and Families should receive the full benefit of the above recommendations. Thus, the recommendations to implement mandatory, anti-bias education for K-12 students and implicit- and anti-bias training for educators should apply to all students and school employees at facilities run by the Juvenile Justice Commission, the Department of Corrections, and the Department of Children and Families.

13. *Publish Resources for Schools, Colleges, and Universities Responding to a Bias Incident*

As discussed in Part III above, in the wake of bias incidents, school and campus leadership often lack a roadmap for how to respond effectively. An effective response must involve the entire school community in meaningfully addressing the underlying issues and working towards equity. In the K-12 setting, that means involving not only students and teachers, but also parents, guidance counselors, staff, and administrators. At the collegiate level, that means coordinating a response that includes participation not only by the individuals involved in the incident itself, but the entire campus community, including student leaders, faculty, and staff. Yet administrators often lack the tools necessary for a complete whole-school or whole-campus response, and existing laws, such as the ABR, tend to focus disproportionately on consequences for the individuals involved in the incident itself, rather than on proactive measures administrators can take to prevent future incidents and to affirmatively create a culture of equity and inclusion.

The Task Force therefore recommends that DCR work together with DOE and OSHE to publish or curate resource guides for K-12 schools and postsecondary institutions, respectively, on how to affirmatively create a culture of equity and inclusion in schools and how to respond to a bias incident, either on or off campus. The K-12 guide should focus on a whole-school or whole-district response and the postsecondary institutions guide should focus on a whole-campus response. Both guides should include a discussion of, among other things, school climate surveys, programs planned by students or with student input, faculty and staff participation, and restorative justice frameworks. As discussed in Part IV above, states and school districts around the country have created similar resources for schools responding to bias incidents.

B. Enforcement

14. Improve eUCR Bias Incident Data Collection and Public Access to Data

As discussed in Part II, the Attorney General’s new Bias Incident Investigations Standards significantly improved and standardized bias incident reporting in the State. However, as discussed in Part III, there is still more to be done to improve the collection, analysis, and reporting of bias incidents by local law enforcement agencies through eUCR. For example, currently the eUCR data only separates reported bias incidents by whether they occurred at (1) a college or university, or (2) any other school (including elementary and secondary). The Task Force therefore recommends that the eUCR system be updated to collect more granular data on bias incidents in schools, including distinguishing between incidents at K-8 schools and at high schools.

The Task Force also recommends that the New Jersey State Police make data on bias incidents publicly available every two weeks, and that the Division on Civil Rights and the New Jersey State Police continue to issue annual bias reports that analyze the data for each year and discuss relevant trends. As one congressional representative observed when federal legislation regarding collection of hate crimes data was passed in the early 1990s, “The more we know about these crimes of hate, the better chance we have to prevent them. Accurate data on when, where and how often these crimes occur will help.”³³⁹

15. Make It Easier for NJ Residents to Report Bias Incidents to the Attorney General’s Office

As discussed in Part II, there is a need to streamline the reporting of bias incidents to the Attorney General’s office. Until recently, DCJ’s Bias Crime Unit had only a phone number and an email address to which individuals can report bias crimes, while the Division on Civil Rights accepted complaints of bias-based harassment in person or over the phone. Because there can be overlap between bias crimes and violations of the Law Against Discrimination, the Attorney General’s office recognized the need to coordinate these disparate reporting processes and make the process easier for victims to navigate.

DCJ and DCR undertook to design an online reporting system to allow them to accept and investigate reports of bias incidents in one place. The system, which will be launched shortly, consists of two parts: a public-facing portal to allow victims to report bias crimes and civil rights incidents (acts of discrimination and bias-based harassment in employment, housing and places of public accommodation), and an internal system to process and investigate the civil rights complaints received. The public-facing portal will now allow victims to submit supporting documentation (including photographs, videos, and lists of witnesses), check on the status of their complaints, provide DCJ or DCR with additional information, and contact the investigator investigating their case. The system will also be searchable in many different ways, allowing DCJ and DCR to pull data regarding alleged bias and civil rights incidents by location, type of incident, and the basis of the harm (race, religion, national origin, gender, sexual orientation, gender identity or expression, disability etc.).

339 Ken Schwencke, “Why America Fails at Gathering Hate Crime Statistics,” ProPublica (Dec. 4, 2017), <https://www.propublica.org/article/why-america-fails-at-gathering-hate-crime-statistics>.

Use of an online reporting system may also help facilitate reporting from members of historically-marginalized communities. For example, when a community’s fear of local law enforcement or ICE is as an obstacle to approaching local police to report a bias incident, the ability to report a bias incident to the Attorney General’s Office through an online portal may enable community members to report that incident. Online reporting may also be a helpful alternative where reporting by phone or in-person would be challenging for an individual with a disability.

California’s equivalent of DCR, the Department of Fair Housing and Employment (DFEH), already uses a similar portal. Its “Cal Civil Rights System,” or CCRS, allows residents to file and track their complaints online, contact investigators, and upload relevant materials.³⁴⁰

The Task Force recommends that DCR widely publicize the launch of the new system and, once it has been fully implemented, use the more granular data analysis that the portal makes available to prioritize its enforcement and public education efforts by pursuing Director-initiated investigations and public education campaigns strategically aimed at driving down trends reflected in the data.

16. Continue Aggressive Criminal and Civil Enforcement of NJ’s Bias Laws

It is also critical that the Division on Criminal Justice and the Division on Civil Rights continue to aggressively enforce New Jersey’s bias laws.

DCJ has been working to aggressively enforce NJ’s bias laws through standards, training, and enhanced reporting. DCJ was integrally involved in implementing the Attorney General’s new Bias Incident Investigation Standards discussed in Part III above. DCJ fully briefed both NJSP and the County Prosecutors’ offices on these amended Standards in order to reinforce uniform law enforcement procedures for reporting and investigating bias incidents. In conjunction with NJSP, DCJ also trained all NJ eUCR users in bias recognition and proper eUCR reporting to ensure that all eUCR users understand the importance of reporting a bias incident within 24 hours. DCJ conducted a mandatory train-the-trainer program for all 21 County Prosecutors’ Offices’ Bias Crimes Liaisons on recognizing bias incidents and proper reporting through the eUCR. The County Prosecutors’ Offices’ Bias Crimes Liaisons were then tasked with training their local law enforcement officers on recognizing and reporting bias incidents through the eUCR. DCJ also trained every NJ State Police Trooper through their in-service training in 2019. DCJ also engaged in significant public outreach throughout various New Jersey communities to ensure that citizens were able to recognize bias crimes and understood how to report such incidents. In 2019, DCJ saw an increased number in reported bias crimes, which can be at least partially attributed to the increase in DCJ trainings on reporting bias crimes.

In addition to its efforts to improve bias incident reporting, DCJ has been working to ensure these serious crimes are thoroughly reviewed. Every bias incident that is reported to DCJ is reviewed by both prosecutors and detectives. Because the new Bias Incident Reporting Standards ensure that DCJ is timely notified of new bias incidents, they are able to conduct more thorough reviews of these cases. Thus, DCJ

340 See generally State of California Department of Fair Employment and Housing, *CCRS User Guide*, <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/11/CCRS-Public-Portal-User-Guide.pdf>.

has been able to assist counties and municipalities in numerous criminal bias crime cases throughout the State because of the timely reporting from municipalities, and it has enabled DCJ to get involved close to the inception of the bias crime investigation to assist.

DCR has significantly expanded its enforcement of the Law Against Discrimination in the past year. For example, DCR accepted 521 new complaints and completed 598 investigations in 2019, compared to 423 complaints accepted and 504 investigations completed in 2018, for an increase of 23% and 19% respectively. DCR issued findings of probable cause to believe that a violation of the LAD had occurred in 52 cases, compared to 17 findings of probable cause in 2018, for an increase of 205%. And in 2019, DCR collected almost \$1 million dollars in damages for victims of bias and discrimination.

As discussed further in Part II above, DCR has also dramatically expanded its proactive efforts to “prevent and eliminate” discrimination in New Jersey. DCR successfully resolved a number of Director-Initiated investigations in 2019, including investigations into elementary school trainings based on gender stereotypes, and race discrimination in student athletics (discussed above). DCR has also issued new guidance documents to inform the public about the LAD’s requirements, and new materials explaining protections against discrimination and harassment in school. DCR has also worked with other organizations, community groups, and state agencies to bring people together to address bias-based harassment and stereotyping.

The Task Force recommends that DCR and DCJ continue to engage in such aggressive enforcement of New Jersey bias laws. The Task Force further recommends that future trainings for law enforcement on bias recognition include training on how to recognize indications that an individual who is nonverbal or who has an intellectual disability that serves as an obstacle to reporting might exhibit if they are being subjected to bias as well as how to effectively interview and communicate with victims with disabilities.

17. Strengthen the State’s Hate Crime Law

Although New Jersey has a strong hate crimes or “bias intimidation” law, N.J.S.A. 2C:16-1, the law was weakened when the Supreme Court of New Jersey declared part of it unconstitutionally vague in *State v. Pomianek*, 221 N.J. 66 (2015). The Task Force recommends a number of changes to strengthen the law consistent with the limitations imposed by the Supreme Court.

Specifically, the Task Force recommends amending the list of predicate offenses to add initiating a false alarm, N.J.S.A. 2C:33-3, computer theft, N.J.S.A. 2C:20-25, and cyber-harassment, N.J.S.A. 2C:33-4.1. The Task Force also supports deleting the specific provision declared invalid in *Pomianek*. Although there is no bill currently pending that would accomplish all of these goals, some of the changes the Task Force recommends are included in already-pending legislation, including A682, which includes an amendment to add cyber-harassment to the list of predicate offenses, and A724,³⁴¹ which would add initiating a false alarm to the list of predicate offenses. The Task Force also welcomes the recent

341 A-724 has passed in the New Jersey General Assembly, but has not yet been voted on in the Senate. See A-724, 219th Leg. (N.J. 2020); S-1265, 219th Leg. (N.J. 2020).

amendment of the statute to include false incrimination or filing a false police report, N.J.S.A. 2C:28-4, among the predicate offenses.³⁴²

In addition to these changes, the Task Force recommends further amending N.J.S.A. 2C:16-1 to add a provision codifying that a person may be guilty of the crime of bias intimidation when the person acts with the purpose or knowledge that their conduct will intimidate a person based on their association with an individual who is a member of or is perceived to be a member of a protected class. As discussed in Part III, codifying this holding will ensure, for example, that no offender who targets a parent because their child belongs to a protected class can argue that the bias intimidation statute does not apply to their conduct. The Task Force also recommends clarifying N.J.S.A. 2C:16-1 to codify courts' holdings that when a person has the purpose or knowledge to intimidate an individual or group because of an actual or perceived protected characteristic, it is permissible that the person may have had an additional conscious objective to engage in conduct of that nature or cause that result.

18. Strengthen the Civil and Criminal Remedies Available to Victims of Bias-Motivated Conduct

In addition to strengthening New Jersey's bias crime laws, the Task Force recommends expanding the non-criminal and criminal remedies available to victims harmed by bias-motivated conduct. First, the Task Force recommends that the Legislature pass legislation allowing plaintiffs in civil litigation to recover treble damages from defendants for any tort involving physical injury or property damage when the plaintiff can show by a preponderance of the evidence that the defendant's actions were motivated by bias or hate. Treble damages under this proposal would supplement whatever punitive damages might be available under current law.³⁴³ Second, the Task Force recommends that the Legislature pass legislation codifying that civil litigants who seek recovery under N.J.S.A. 2A:53A-21 need only prove each element by a preponderance of the evidence, including the element that the defendant "engage[d] in conduct that is an offense under the provisions of . . . Title 2C."³⁴⁴

Although, as discussed in Part II, one of the criminal remedies available to victims harmed by bias-motivated conduct is restitution, the Task Force proposes enacting a specific criminal penalty for those convicted of bias crimes, in addition to any ordered restitution, to further deter individuals from engaging in such conduct.

342 The same bill amended N.J.S.A. 2C:33-3 to make it a third degree offense to "knowingly places a call to a 9-1-1 emergency telephone system with the purpose to intimidate or harass an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity," but it did not add 2C:33-3 to the list of predicate offenses.

343 N.J.S.A. 2A:15-5.12.

344 See N.J.S.A. 2A:53A-21.

19. Hold Accountable Those Who Weaponize the Internet to Harm Others

The Task Force recommends the adoption of targeted legislation to impose criminal penalties for “doxing”. As discussed in Part II above, legislation specifically designed to criminalize doxing in cases where no victim is associated with law enforcement would make it easier for New Jersey to deter and prevent doxing, and to prosecute individuals who engage in this conduct. In an era where online hate groups regularly seek to incite real world violence, it is essential that the State be able to penalize such conduct. The Task Force therefore recommends amending the cyber-harassment statute, N.J.S.A. 2C:33-4.1, to include doxing conduct.

The Task Force also recommends legislative and non-legislative action to prevent and punish false alarms commonly referred to as “swatting.” Because the goal of those who engage in swatting is typically to incite law enforcement’s use of force to harm the target of the swatting attack, the Task Force supports enhancing the criminal penalties for swatting attacks that result in serious bodily injury or death as a result of law enforcement’s use of force. The Task Force also recommends that the Legislature pass legislation enhancing the remedies available to targets of swatting attacks in civil litigation by allowing victims of swatting to recover treble damages and other appropriate relief in addition to the criminal restitution available under existing law.

In addition to these legislative changes, the Task Force recommends that New Jersey review and consider initiating a statewide swatting registry, similar to the one created in Seattle. Such a registry would allow New Jersey residents who believe they face a heightened risk of swatting to place themselves on a law enforcement registry, so that law enforcement agencies can take additional precautions before responding to any report of an incident at the person’s address.

20. Mandate Completion of Anti-Bias Education Program for Juvenile Bias Crime Offenders

When young people engage in bias incidents or bias crimes it is critical that the community send them the resounding message that such conduct is unacceptable.³⁴⁵ It is also critical, however, to implement evidence-based responses that focus on preventing recidivism. Because bias incidents and bias crimes result from learned behavior, anti-bias education is often the most effective response.³⁴⁶ For example, as discussed in Part III above, one educational program for young people who had engaged in bias incidents has had more than 80 people complete the program, and not a single participant has engaged in another bias incident.

The Task Force therefore recommends that the Attorney General convene a task force to develop an intensive, county-based, anti-bias education program to which juvenile offenders can be referred. The task force should be charged with developing the curriculum, identifying funding sources, and launching a pilot program that, if successful, can be implemented in an educational setting (i.e., a county college or library) in each county and can receive referrals from schools, police departments, probation officers, and the courts. The task force should be instructed to look to the CHHANGE program, discussed further

345 See *supra* Part I.

346 See *supra* Part I, Part V.1.

in Part III, as one potential model, and to identify other models with a similarly high track record of efficacy. The task force should also be charged with collaborating with the Administrative Office of the Courts to make them aware of the pilot program and to encourage them to make referral to the program a condition of any diversion or sentence for any juvenile charged with an alleged crime with a bias component.

The Task Force also recommends that once the county-based programs are running, the Attorney General consider issuing a law enforcement directive concerning the use of anti-bias education programs in connection with stationhouse adjustments.

21. *Expand Law Enforcement Training on Cyberhate Investigations and Domestic Extremism*

As discussed further in Parts I, II, and III, given the proliferation of hate group activity and other bias crime online, the Division of Criminal Justice can play a vital role in ensuring that law enforcement in New Jersey receive meaningful training on how to appropriately handle cyber-hate investigations. The Task Force therefore recommends that the Division of Criminal Justice address cyber-hate investigations in the bias training it already provides to law enforcement. The Task Force also recommends that the Division of Criminal Justice provide law enforcement with information on upcoming trainings available through outside agencies and non-profit organizations to enable law enforcement's voluntary participation in additional education on the topic of cyber-hate. Capitalizing on these trainings, while also enhancing the bias training provided by the Division of Criminal Justice will increase law enforcement's understanding and handling of bias crimes in the cyber-realm. Finally, the Task Force recommends that OHSP develop an online training for law enforcement on extremist trends and signs of radicalization.

22. *Consider Investigations Related to Social Media Platforms*

As discussed in Part I above, young people encounter extremist content on social media and other internet platforms all too often, which can be used to spread disinformation and sow bias and hate. Curation decisions and algorithms exacerbate the problem by amplifying extremist content that may or may not be immediately identifiable as hate speech.

Accordingly, the Task Force recommends that in addition to investigating individual users who engage in criminal conduct or unlawful harassment online, the Attorney General and DCR consider, in appropriate cases, investigating how social media platforms are used to facilitate violations of New Jersey anti-discrimination laws like the LAD. The Task Force also recommends that the Attorney General and DCR consider, in appropriate cases, investigating how social media platforms and the algorithms on which they rely can fuel and amplify bias.

23. *Study Potential Amendments to Section 230 of the Communications Decency Act*

The Task Force recommends that the New Jersey Attorney General continue to work with other state attorneys general to advocate for appropriate amendments to Section 230 of the federal Communications Decency Act, 47 U.S.C. § 230 to better enable New Jersey and other states

to hold social media platforms accountable for the proliferation of hate speech and harassment online, particularly when their algorithms and other affirmative corporate actions contribute to that proliferation. As discussed further in Part II, the grant of immunity in Section 230 of the federal Communications Decency Act, 47 U.S.C. § 230 leaves online service providers, including many social media platforms, without strong legal incentives to monitor hate speech, harassment, or other abhorrent and unlawful conduct by third-party users of their services, and to eliminate such harmful content from their platforms. While Section 230 has merits, those merits must be balanced against the law’s contributions to the proliferation of hate speech, bias-based harassment, and unlawful conduct online.

State and territorial attorneys general have occasionally advocated changes to Section 230 to limit the extent to which Section 230 preempts enforcement of state law. On May 23, 2019, for instance, a coalition of 47 attorneys general, including Attorney General Grewal, asked congressional leaders to amend Section 230 to clarify that the statute should not be construed to impair the enforcement of state or territorial criminal laws. The Task Force recommends that New Jersey remain actively involved in these efforts.

C. Public Engagement

Combatting youth bias in New Jersey must be a whole-state and whole-community endeavor. If we are to ask our students and educators to combat bias in our schools, we must also be willing to do so together in our homes, in our churches, synagogues, and mosques, and in our community centers and public places. The Task Force recommends the following.

24. Call Out Public Figures Who Use Hateful Rhetoric

Public figures in New Jersey must continue to call out hateful rhetoric when they hear it. Particularly in the age of the Internet and social media, public figures enjoy access to platforms that allow their words and actions to reach huge audiences. They serve as role models for young people, and should conduct themselves as such. When they fall short—and in particular when they intentionally or unintentionally use language that dehumanizes people, undermining our equal dignity—other public figures and community members must make clear this type of rhetoric is unacceptable. Silence can equal support or complicity.

The Task Force accordingly recommends that public figures in New Jersey strive to ensure that they are serving as positive role models for our young people, and that they continue to call out hateful and biased rhetoric when they hear it. Public figures in New Jersey must be united in declaring that there is no place for hate in our State and in standing together against bias and prejudice.

25. Launch a Statewide Campaign to Stand Up to Hate in New Jersey

Ultimately, the State needs to foster a culture in which New Jersey residents view it as a shared responsibility to stand up to hate whenever and wherever we see it, and to teach our children to strive towards a more just and equal society. Indeed, standing up to hate must be a whole-state and whole-

community project, similar to the Not in Our Town Model from Billings, Montana discussed above.

The Taskforce recommends a whole-state campaign with several parts: (1) a public campaign to take a strong stance that hate has no place in New Jersey; (2) community events to bring people together; and (3) an extended partnership with religious leaders and religious institutions.

The public campaign should allow students to create and submit a slogan/hashtag and other creative work about standing up to hate and prejudice in New Jersey. The winning entry or entries would become the basis of a state-wide campaign, including artwork that any New Jersey resident could download and use as a lawn sign, button, pin, or poster in their home or place of business and resources for schools, universities, community organizations, and faith leaders to participate in the campaign in their communities.

The State should also launch a series of community events to engage people in meaningful dialogues to challenge stereotypes person to person. It is easy to stereotype a “group” that a person can define, from a distance, as “other.” But stereotypes break down when people encounter each other, in a meaningful way, face to face. Individual conversations allow people to connect on a personal level as human beings, not as “groups.” Recently, in Brooklyn, after a series of violent, antisemitic attacks,³⁴⁷ local leaders launched an initiative called Breaking Bread, Building Bonds, which initially aimed to hold one hundred dinners across the city, with ten people from various ethnicities, identities, and faiths coming together to eat and talk.³⁴⁸ Due to the coronavirus pandemic, the program subsequently relaunched in a virtual format.³⁴⁹ The Task Force recommends that the Division on Civil Rights work with nonprofit organizations and community groups to organize a similar initiative of more than 100 small group conversations (either in person or virtually) across the state. The purpose is simple: to sit down and speak about the issues that concern us.

Finally, the campaign should include an initiative for religious leaders and religious institutions. As Dr. Martin Luther King Jr. said, and as was reiterated to the Task Force by Reverend John R. Taylor, pastor of Trenton’s Friendship Baptist Church, “the most segregated hour of Christian America is 11 o’clock on Sunday morning.”³⁵⁰ And numerous community members and faith leaders described bias incidents in which young people were targeted because of their faith.

The Task Force recommends that the State continue using OHSP’s Interfaith Advisory Council (IAC) as the primary mechanism for regularly communicating with faith leaders about ongoing threats.

347 Corey Kilgannon, “Anti-Semitic Attacks Put New York on Edge,” N.Y. Times (Dec. 31, 2019), <https://www.nytimes.com/2019/12/31/nyregion/nyc-anti-semitic-attacks.html>.

348 Office of the Brooklyn Borough President Eric Adams, “Breaking Bread, Building Bonds: Fighting Hate One Meal at a Time,” <https://www.brooklyn-usa.org/breaking-bread/> (last visited May 26, 2020).

349 *Id.*

350 See Zenitha Prince, “Eleven O’clock on Sundays Is Still the Most Segregated Hour in America,” The Louisiana Weekly (June 15, 2016), <http://www.louisianaweekly.com/eleven-oclock-on-sundays-is-still-the-most-segregated-hour-in-america/>.

The Task Force also recommends that the IAC encourage faith leaders to take a “No Hate in Our State” pledge, inspired by Dr. Mohammad Ali Chaudry’s Stand Up Pledge, which asks those who take it to commit to “stand up for the other and speak up to challenge bigotry in any form.”³⁵¹ Under the IAC pledge, religious leaders would commit to:

- a. Stand up to racism and other forms of hate wherever they see it or hear it, including in their own congregations;
- b. Preach the universal human values of “love your neighbor as yourself” and “all humans are entitled to equal dignity and equal respect” from the pulpit on a certain weekend(s) each year; and
- c. Plan at least four interfaith events with other local congregations each year.

The Division on Civil Rights should provide assistance to OHSP in launching this campaign.

26. *Implement the Plan to Establish an Incident Response Team within the Division on Civil Rights*

As discussed in Parts II and III, there are a number of State programs, programs implemented by local school districts, and programs offered by non-profit organizations that are available to address and prevent bias among young people. However, there is currently no single point of contact within State government tasked with helping local communities to stand up to systemic and interpersonal bias, to respond to civil rights incidents when they occur, and to develop strategies to prevent their occurrence in the first instance. To ensure that each New Jersey community has the tools to address bias and prejudice proactively, the Task Force therefore endorses the establishment of a bias-incident response team within the Division on Civil Rights, which Governor Murphy and Attorney General Grewal announced in June 2020.³⁵² The team is tasked with serving as the State’s initial community outreach group when a school or local community experiences a civil rights incident. The team will work with community leaders to bring people together, and will be equipped to deploy resources to conduct trainings, facilitate small group discussions, implement a restorative justice model, recommend resources for speakers, strategies, and programs, and provide other assistance. Finally, the team will prepare resource guides with recommended resources for schools and communities seeking to respond to bias incidents.

As discussed further in Part II above, many historically-marginalized groups also do not feel sufficiently comfortable reporting bias incidents or are unable to do so. The Incident Response Team should engage in outreach to communities that are hesitant to report to ensure that people understand the resources that are available to prevent bias incidents from occurring and to address them when they

351 Stand Up for the Other, “Pledge to Stand Up for the Other,” <http://standupfortheother.org/client/index.php?cidlp=1> (last visited May 26, 2020).

352 See Press Release, N.J. Office of the Attorney General, Governor Murphy and AG Grewal Announce Continued Progress and New Measures to Strengthen Police-Community Trust (June 2, 2020), <https://www.nj.gov/oag/newsreleases20/pr20200602a.html>.

do occur, and feel empowered and safe in reporting incidents. The Incident Response Team should also engage in outreach to those who regularly interact with individuals with disabilities, including educators, healthcare providers, and community caretakers, to help educate them on the behavioral signs that young people with disabilities might exhibit if they are being subjected to bias and ensure that they are equipped to connect such young people and their parents or guardians to the appropriate state agencies and other resources available to prevent and address bias incidents.

27. *Create Resource Guides to Educate Parents, Guardians, and Educators about How to Talk to Children About Avoiding Hate on the Internet and How to Recognize Signs of Radicalization*

As discussed in detail in Part I, hate groups are actively recruiting our children, teens, and young adults on the internet. It is therefore essential that we take steps to educate our young people about the dangers of being exposed to hate online. Unfortunately, for the reasons explained in Part II and in connection with Recommendations 17 and 18 above, existing law limits the degree to which the State can take action to hold online platforms accountable for this online content. Thus, to supplement its enforcement efforts aimed at social media platforms discussed above, the State must also take steps to educate parents and young people about how to engage safely in online forums.

The Task Force therefore recommends that DCR, OHSP, and DOE create a resource guide to educate parents on how to talk to their children about online hate group recruitment tactics, how to avoid viewing, posting, and proliferating content that promotes bias, stereotypes, or hate, and how to recognize the difference between real and fake news online. The resource guide should also provide information to parents on extremist trends and signs of radicalization. The Task Force also recommends that DCR, OHSP, and DOE create a similar resource guide to equip educators to recognize extremist trends and signs of radicalization among their students.



VI. Implementation Plan

The Task Force’s members are all committed to ensuring that the Task Force’s recommendations are implemented as soon as possible. Accordingly, the Task Force has put together an implementation plan of which stakeholders will be responsible for each of the twenty-two recommendations discussed above. The discussion that follows lists each of the relevant stakeholders, followed by the recommendations that each stakeholder will be responsible for (as discussed in the recommendations section, some recommendations will require coordination from multiple stakeholders, and that is also set forth in the section below):

State Legislature & Governor

A number of the recommendations described above can only be enacted with statutory changes and designated funding, and so the Task Force recommends that the State Legislature pass, and the Governor sign, legislation that comprehensively addresses the rise in youth bias incidents across New Jersey. Generally speaking, the legislative proposals can be divided into two groups: those addressing anti-bias education, and those strengthening enforcement of the state’s civil and criminal anti-bias laws.

Legislation Regarding Anti-Bias Education

The first bill (or package of bills) would expand the use of anti-bias training and education programs. This bill would:

- ▶ Require all public schools in New Jersey to provide comprehensive, age-appropriate anti-bias education; require DOE to develop model classroom resources and learning standards; and fund a program to study the effectiveness of these anti-bias efforts. (**Recommendation #1**)
- ▶ Require anti-bias training for all educators, faculty, and staff who interact with students in secondary and postsecondary institutions; and require DOE, in consultation with DCR, to promulgate any required implementing regulations. (**Rec. #2**)

- ▶ Fund a pilot program, administered by DOE, to encourage peer-to-peer programming at the elementary, secondary, and postsecondary level to address bias and stereotyping in schools. **(Rec. #8)**
- ▶ Require all colleges and universities in the State to disseminate to students a policy prohibiting unlawful discrimination and harassment. **(Rec. #10)**

Legislation Regarding Civil & Criminal Enforcement

The second bill (or package of bills) would provide additional tools to enforce New Jersey’s civil and criminal laws to combat bias, including among youth. This bill would:

- ▶ Strengthen the State’s hate crime law by (a) updating its language in light of *State v. Pomianek*; (b) amending the list of predicate offenses; (c) adding a provision codifying court rulings on associational bias incidents; and (d) codifying court rulings that mixed-motive offenses violate the statute. **(Rec. #17)**
- ▶ Expand civil and criminal remedies available to victims harmed by bias-motivated conduct by (a) allowing victims to recover treble damages for physical injuries or property damage motivated by bias or hate; and (b) enacting a criminal penalty, in addition to restitution, to be imposed on defendants convicted of bias-motivated crimes. **(Rec. #18)**
- ▶ Hold accountable those who weaponize the Internet to harm others by (a) criminalizing doxing; and (b) allowing victims of swatting to seek treble damages in civil litigation. **(Rec. #19)**

Attorney General

As the state’s chief law enforcement officer and chief legal officer, the Attorney General has broad authority to implement statewide policies to address the rise in youth bias incidents. As noted above, the Attorney General oversees a number of divisions and offices who can advance meaningful policy changes, including the Division on Civil Rights, the Division of Criminal Justice, the New Jersey State Police, and the Juvenile Justice Commission. In addition to ensuring implementation of recommendations directed specifically to those agencies, the Attorney General can also take a number of additional actions to implement the Task Force’s recommendations:

- ▶ Reconvene the Attorney General’s Education-Law Enforcement Working Group to amend the Uniform State Memorandum of Agreement between Education and Law Enforcement Officials **(Rec. #4)**
- ▶ Convene a law enforcement task force, including County Prosecutors and the Division of Criminal Justice, to develop an intensive, county-based, anti-bias education program to which juvenile offenders can be referred. Once the county-based programs are running,

issue a law enforcement directive requiring all police departments to mandate completion of an anti-bias education program as a condition of any stationhouse adjustment. **(Rec. #20)**

- ▶ Continue to work with other state attorneys general to advocate for appropriate amendments to Section 230 of the federal Communications Decency Act. **(Rec. #23)**
- ▶ In public events, promote a DCR-led public campaign celebrating New Jersey's diversity and take a strong stance that hate has no place in New Jersey. **(Rec. #25)**

Division on Civil Rights

The Division on Civil Rights has broad authority to enforce the Law Against Discrimination and take action to address bias and prejudice, including by initiating enforcement actions, promulgating regulations, and working directly with communities. DCR can implement the above recommendations by taking the following actions:

- ▶ Assist DOE with the implementation of legislation, if enacted, addressing anti-bias education, including by assisting with the development of classroom resources. **(Rec. #1)**
- ▶ Assist DOE and OSHE with the implementation of legislation, if enacted, addressing anti-bias training for teachers, faculty, and staff at secondary and postsecondary institutions. **(Rec. #2)**
- ▶ Issue guidance, in consultation with DOE, to assist school districts in meeting their legal obligations under the LAD to administer student discipline without discriminating on the basis of race, national origin, gender, or disability. **(Rec. #3)**
- ▶ Issue guidance, in consultation with DOE, that assists school districts in meeting their legal obligations under the LAD to administer student placement without discriminating on the basis of race, national origin, gender, or disability and assist DOE in developing guidelines for reducing racial disparities in identification of academically advanced students and identification and placement of students with disabilities. **(Rec. #5)**
- ▶ Assist OSHE in developing guidance that outlines best practices for diversifying faculty bodies, including hiring and tenure committees and processes, with a particular focus on best practices for systemic change. **(Rec. #6)**
- ▶ Assist DOE with the creation of an anti-bias student-athlete training presentation, which will be made available online, that school districts can utilize to provide live, in-person training to student athletes. **(Rec. #7)**
- ▶ Work with partners in drafting and publishing resource guides on peer-to-peer programming for K-12 (with DOE) and postsecondary institutions (with OSHE) **(Rec. #8)**; on campus responses to bias incidents (with OSHE) **(Rec. #13)**; how parents can talk to their children

about online hate group recruitment tactics (with OHSP and DOE) (**Rec. #27**); and to equip educators to recognize extremist trends and signs of radicalization among their students (with OHSP and DOE). (**Rec. #27**)

- ▶ Continue work with the Attorney General and the New Jersey State Police to issue annual bias reports that analyze the bias incident data for each year and discuss relevant trends. (**Rec. #14**)
- ▶ Launch an online portal that will make it easier for both residents and investigators to submit information regarding alleged bias incidents. Once the portal launches, use the data available through the portal to better deploy DCR’s resources in enforcement and public education efforts. (**Rec. #15**)
- ▶ Continue to engage in aggressive civil enforcement of New Jersey’s bias laws. (**Rec. #16**)
- ▶ In coordination with the Attorney General, consider, in appropriate cases, investigating how social media platforms and the algorithms on which they rely can (1) fuel and amplify bias; and (2) facilitate violations of New Jersey anti-discrimination laws like the LAD. (**Rec. #22**)
- ▶ Work with the Attorney General on the public campaign to celebrate New Jersey’s diversity; work with nonprofit organizations and community groups to bring people together, including by organizing an initiative of more than 100 small group meals across the State to bring people from various ethnicities, identities, and faiths together to eat and talk; work with OHSP and the Interfaith Advisory Council to encourage faith leaders to take a “No Hate in Our State” pledge, inspired by Dr. Chaudry’s “Stand Up Pledge.” (**Rec. #25**)
- ▶ Work with the Attorney General to create a civil rights-incident response team within DCR. (**Rec. #26**)

Division of Criminal Justice

- ▶ Assist DCR in launching an online portal that will make it easier for both residents and investigators to submit information regarding alleged bias incidents. (**Rec. #15**)
- ▶ Continue to engage in aggressive criminal enforcement of New Jersey’s bias laws. (**Rec. #16**)
- ▶ Revise existing statewide law enforcement training on bias incidents to include a module on investigating bias crimes that occur on the internet. Incorporate into the training any of the statutory amendments described above. (**Rec. #21**)

New Jersey State Police

- ▶ Update the eUCR system to collect more granular data on bias incidents in schools, including distinguishing between incidents at K-8 schools and at high schools. Work with DCR to continue to issue annual bias reports that analyze the bias incident data for each year and discuss relevant trends. **(Rec. #14)**
- ▶ Review and consider a statewide swatting registry, similar to one created in Seattle. **(Rec. #19)**

Juvenile Justice Commission

- ▶ Ensure that the recommendations to implement mandatory, anti-bias education for K-12 students and implicit- and anti-bias training for educators are implemented for all students and school employees at facilities run by the Juvenile Justice Commission. **(Rec. #12)**

Department of Children & Families

- ▶ Ensure that the recommendations to implement mandatory, anti-bias education for K-12 students and implicit- and anti-bias training for educators are implemented for all students and school employees at facilities run by the Department of Children and Families. **(Rec. #12)**

Department of Education

- ▶ Implement legislation, if enacted, addressing anti-bias education, including by assisting with the development of classroom resources **(Rec. #1)** and anti-bias training for teachers and school staff **(Rec. #2)**, as well as the funding of peer-to-peer programming **(Rec. #8)**.
- ▶ Develop, in consultation with DCR, guidelines for reducing racial disparities in identification of academically advanced students and identification and placement of students with disabilities. **(Rec. #5)**
- ▶ Consult with DCR on the school discipline guidance discussed above. Monitor the results of the recently enacted Restorative Justice in Education Pilot Program and consider working with schools to expand that program if successful. **(Rec. #3)**
- ▶ Consult with DCR on the academic placement guidance discussed above. **(Rec. #5)**

- ▶ Implement improvements to certification policies and practices to ensure that all candidates have equitable, fair, and purposeful opportunities to becoming an educator and continue efforts and initiatives to diversify New Jersey’s teacher pipeline and workforce. **(Rec. #6)**
- ▶ In consultation with DCR, create a training presentation, which will be made available online, that school districts can utilize to provide live, in-person training to student athletes. **(Rec. #7)**
- ▶ Draft and publish resource guides on peer-to-peer programming (in consultation with DCR) **(Rec. #8)**; how parents can talk to their children about online hate group recruitment tactics (with OHSP and DCR) **(Rec. #27)**; and to equip educators to recognize extremist trends and signs of radicalization among their students (with OHSP and DCR) **(Rec. #27)**.

Office of Homeland Security & Preparedness

- ▶ Work with the Interfaith Advisory Council to encourage faith leaders to take a “No Hate in Our State” pledge, inspired by Dr. Chaudry’s “Stand Up Pledge.” **(Rec. #25)**
- ▶ Work with DCR and DOE to create one resource guide on how parents can talk to their children about online hate group recruitment tactics and a separate resource guide to equip educators to recognize extremist trends and signs of radicalization among their students (with DCR and DOE). **(Rec. #27)**

Office of the Secretary of Higher Education

- ▶ Issue guidance, in consultation with DCR, that outlines best practices for diversifying faculty bodies, including hiring and tenure committees and processes, with a particular focus on best practices for systemic change. **(Rec. #6)**
- ▶ Draft and publish, in consultation with DCR, resource guides on peer-to-peer programming **(Rec. #8)** and campus responses to bias incidents **(Rec. #10)**.
- ▶ Implement legislation, if enacted, requiring all colleges and universities in the State to disseminate to students a policy prohibiting unlawful discrimination and harassment. **(Rec. #10)**
- ▶ Disseminate statewide campaign materials for statewide campaign to stand up to hate in New Jersey to postsecondary institutions and encourage postsecondary leaders to participate in and reproduce the campaign on their campuses. **(Rec. #25)**

All Public Figures in New Jersey

- ▶ Strive to ensure that they are serving as positive role models for our young people, and that they continue to call out hateful and biased rhetoric when they hear it. **(Rec. #24)**

All K-12 School Districts in New Jersey

- ▶ Consider, as part of their review and update of their comprehensive equity plans, required every three years pursuant to N.J.A.C. 6A:7-1.4(c), designating an individual employed by the board in the role of assistant superintendent or its equivalent to be the district's Chief Equity Officer **(Rec. #9)**

All Public and Private Postsecondary Institutions in New Jersey

- ▶ Hire or designate a Chief Equity Officer to coordinate the institution's equity and anti-bias efforts, including addressing racial and gender gaps in academic performance, and analyze how the institution's policies and practices may perpetuate those disparities **(Rec. #11)**