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March 20, 2018

Rep. Bob Goodlatte  
Chairman  
Judiciary Committee  
2138 Rayburn House Office Bldg.  
Washington, DC 20515

Rep. Jim Sensenbrenner  
Chairman  
Subcommittee on Crime, Terrorism,  
Homeland Security, & Investigations  
2138 Rayburn House Office Bldg.  
Washington, DC 20515

Dear Chairmen Goodlatte and Sensenbrenner:

On behalf of the Congressional Black Caucus, I write to urge you to abandon the misguided direction of today's subcommittee hearing entitled, "*Preventable Violence in America: An Examination of Law Enforcement Information Sharing and Misguided Public Policy.*"

We understand that this hearing will focus on the 2014 ED-DOJ Discipline Guidance that Republican Members of Congress and the Trump Administration blame for the tragic school shooting at Marjory Stoneman Douglas in Parkland, Florida. Blaming this guidance for this school shooting is not only factually incorrect, but also discriminatory. This deliberate misinformation campaign has no evidentiary basis and exploits a tragedy to advance a political agenda. Carrying out a hearing to further expand the narrative that the discipline guidance led to this tragic school shooting is wrong, discriminatory, and harmful to all students.

The discipline guidance provides necessary tools to schools and school districts to ensure they fully comply with federal civil rights law, including their legal obligation to employ discipline policies and practices without discriminating on the basis of race, color, or national origin. Further, the guidance was much-needed, as decades of evidence showed students of color were being overdisciplined and systematically excluded from educational opportunities. Our nation's schools needed the tools and resources to begin dismantling the school-to-prison pipeline exacerbated by zero-tolerance policies created in the wake of school shootings and a perception of increased violence.

As zero-tolerance policies became more popular over the past several decades, the use of out-of-school suspensions and expulsions rose with higher rates of use on

students of color and students with disabilities.<sup>1</sup> Black, Native American, and Latino students were most often subjected to exclusionary discipline under zero tolerance policies, after controlling for income.<sup>2</sup> Further, due to these disparities in policies, students of color lose substantial instructional time, limiting their likelihood of graduating and inhibiting their success post-high school. In one recent study, Black students lost an average of 62 days of instruction per 100 days enrolled, as compared to all students, who lost 18 days of instruction.<sup>3</sup> As civil rights experts have opined, “Eliminating harm to children from unjustified discipline policies is at the heart of the guidance.”<sup>4</sup>

We find it offensive that the Trump Administration,<sup>5</sup> Congressional Republicans,<sup>6</sup> and conservative think tanks<sup>7</sup> suggest that the only way to prevent school shootings is to discriminate against students of color. We will continue to urge the Department of Education and the Department of Justice to maintain the guidance ensuring students of color have equitable opportunities to participate in our educational system. We strongly urge the Trump Administration and Congressional Republicans to abandon this misguided attempt to scapegoat students of color to advance their own agenda.

Sincerely,



Cedric Richmond  
Chair, Congressional Black Caucus

Cc: Judiciary Committee Ranking Member, Rep. Gerry Nadler  
Crime, Terrorism, Homeland Security, & Investigations Subcommittee Ranking Member, Rep. Sheila Jackson Lee  
Attorney General, Jeff Sessions  
Department of Education Secretary, Betsy DeVos

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<sup>1</sup> See, Marieka Schotland, Harriet MacLean, Karen Junker, & Jean Phinney, *From Punitive to Restorative: One School's Journey to Transform Its Culture and Discipline Practices to Reduce Disparities*, (2016); Russell J. Skiba, Mariella I. Arredondo, Chrystal Gray, & M. Karega Rausch, *What Do We Know About Discipline Disparities? New and Emerging Research* (2016); and Aishatu R. Yusuf, Angela Irvine, & James Bell, *Reducing Racial Disparities in School Discipline: Structured Decision-Making in the Classroom*, (2016).

<sup>2</sup> See, Anne Gregory & Dewey Cornell, “Tolerating” Adolescent needs: *Moving Beyond Zero Tolerance Policies in High School*, (2009).

<sup>3</sup> See, Daniel J. Losen & Amir Whitaker, *Lost Instruction: The Disparate Impact of the School Discipline Gap in California*, (2017).

<sup>4</sup> See, Dan Losen, *Don't Walk Back Needed Discipline Reform*, (2018).

<sup>5</sup> See, Erica L. Green, “Trump Finds Unlikely Culprit in School Shootings: Obama Discipline Policies,” *The New York Times*, (Mar. 13, 2018).

<sup>6</sup> See, Sen. Rubio letter to Secretary DeVos (Mar. 5, 2018), available at [https://www.rubio.senate.gov/public/\\_cache/files/19f88f3d-0f3c-4753-babc-43890c1bf7fa/6FE29ECD9BE495D655650802F6B5160F.18.03.05.-letter-to-sec-devos-and-ag-sessions-2014-ed-directive-final.pdf](https://www.rubio.senate.gov/public/_cache/files/19f88f3d-0f3c-4753-babc-43890c1bf7fa/6FE29ECD9BE495D655650802F6B5160F.18.03.05.-letter-to-sec-devos-and-ag-sessions-2014-ed-directive-final.pdf).

<sup>7</sup> See, Heritage Foundation discussion, “Federal School Discipline Directives,” (Mar. 12, 2018), available at <https://www.c-span.org/video/?442394-1/panelists-discuss-federal-school-discipline-directives>.