

*INVESTIGATION INTO VARIOUS  
COMPLIANCE COMPLAINTS AGAINST THE  
ANTELOPE VALLEY UNION HIGH SCHOOL  
DISTRICT*

*May 2023*

*Jaime E. Hernandez, Ed.D. & Associates, Inc.*

This page left blank intentionally.

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## **Acknowledgement**

This investigation and report would not have been possible without the hard work and dedication of professionals and graduate research assistants. I would like to extend a special thanks to Jay Alleman, Amparo Martinez-Cruz, Erica Liem, Bruce John, Hailey Garibay, Joel Lopez, and Yesica Godinez. A very special thanks to Barrie Burren for editing this report.

I would also like to thank school administrators, central office staff, and other school personnel for their time and participation during the site visits and central office interviews, and in the collection of site level data. A special thanks to Dr. Lisa Schutt for her assistance with organizing site visits and staff interviews and the collection of documents and data.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High  
School District

This page left blank intentionally.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Executive Summary**

On March 28, 2022, Disability Rights California (DRC), Neighborhood Legal Services of Los Angeles (NLSLA), Equal Justice Society (EJS), and Kilpatrick Townsend & Stockton LLP, on behalf of Cancel the Contract-Antelope Valley (CTC) and students V.X., Z.R., L.W., B.Y., and K.D. (Complainants), filed a formal complaint with the California Department of Education (CDE) that included various allegations regarding the disproportionate mistreatment of students with disabilities (SWDs), particularly Black SWDs.

The Complaint alleges that the Antelope Valley Union High School District's (District) policies, procedures, and practices (referred to in the Complaint as "Policies") regarding "discipline, policing, and segregation of students with disabilities violate the Individuals with Disabilities Education Act ("IDEA"), California Education Code Section 56000 et seq., California Education Codes 200 and 220, California Government Code Section 11135, Section 504 of the Rehabilitation Act ("Section 504"), and Title II of the Americans with Disabilities Act ("Title II")" (pp. 4-5). The Complaint petitioned the CDE to investigate the various allegations, order systemic remedies to end racial disparities, and reform its special education system.

The Complaint includes allegations in the following areas:

- disproportionate identification and placement of students with disabilities (SWDs) and Black SWDs in segregated settings, including restrictive and punitive placements such as the special day class – behavior (SDC-B) program and Desert Pathways Special Education Center School
- excessive and disproportionate use of exclusionary disciplinary actions towards SWDs and Black SWDs, including out-of-school and in-school suspensions
- disproportionate expulsion and transfers of SWDs and Black SWDs for disciplinary reasons, and shortcomings with the procedural safeguards (manifestation determination reviews) to prevent SWDs from being inappropriately transferred to more restrictive placements due to behaviors related to their disability
- excessive and disproportionate referrals of SWDs and Black SWDs to law enforcement for disciplinary matters—many that are disability related—that leads to restraint, citation, and arrest
- the role of campus security in addressing student discipline and escalating student behaviors, and their disproportionate and excessive use of traumatic interventions, such as searches, restraints, and citation of SWDs and Black SWDs
- noncompliance with the requirements for addressing, documenting, and reporting emergency behavioral interventions, including restraints and seclusions of SWDs and Black SWDs
- lack of overall positive behavioral supports as well as social emotional and mental health supports and services in IEPs of students who are experiencing behavioral challenges and receive exclusionary disciplinary actions
- inappropriate disciplinary referrals of SWDs to probation officers and law enforcement for students who require threat assessments

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In April 2022, DRC and NLSLA contacted Jaime E. Hernandez, Ed.D. and Associates, Inc., to consult and conduct an independent investigation regarding the Complaint. This report is the result of the investigation into the allegations.

The report is organized into sections to address the various areas of the Complaint and the related allegations of non-compliance, as outlined below. Some allegations have been coupled or reordered in order to present the data in a cohesive manner.

Section 1. Introduction

Section 2. Disproportionality in Special Education Categories and More Restrictive Placements

Section 3. Exclusionary School Discipline of Students with Disabilities, Including Out-of-School Suspensions

Section 4. Exclusionary School Discipline of Students with Disabilities, Including In-School Suspensions

Section 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of Students with Disabilities

Section 6. Referrals to Law Enforcement and Probation Officers, and Restraints, Searches, and Threat Assessments

Section 7. Methods

Section 8. Conclusions and Recommendations

The investigation reviewed various sources of quantitative and qualitative data to determine if the allegations were founded and if these practices were systemic. The investigation reviewed the following data but was not limited to:

- special education enrollment, identification, and placement data of 3,668 SWDs
- out-of-school suspension data reported to the State for 1,725 students and 2,737 suspension events
- out-of-school suspension data reported by school-level documentation of 1,311 students and 1,853 suspension events
- other means of correction data for 1,682 students and 2,804 referral events
- a telephone survey of 59 parents out of a sample of 130 regarding the disciplinary experiences of their child, as well as their perceptions of the effectiveness of the suspension and the equitable treatment of students when administering suspensions
- data for a total of 6,876 referrals to the Student Support Center (SSC) for reassignments, period suspensions, administrative or security holds, and non-disciplinary referrals
- in-school suspension data from school level documentation of students reassigned to the SSC for 934 students and 1,659 events

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- in-school suspension data from school level documentation of students issued a period suspension to the SSC for 1,145 students and 2,342 events
- referral data to the SSC from school level documentation of administrative or security holds for 478 events
- referral data to the SSC from school level documentation of non-disciplinary referrals for 596 students and 2,195 referrals
- in-school suspension data reported to the State for 214 referral events
- expulsion and disciplinary transfer data reported to the State for 54 and 74 students, respectively
- a file review of 101 manifestation determination review (MDR) IEP documents
- a file review of 20 expulsion packets
- law enforcement referral data reported to the Civil Rights Data Collection (CRDC) and school level documentation, totaling 354 referral events
- arrest and school removal data reported to the CRDC and other data sources for a total of 110 arrests and 34 removal events
- restraint data from State reports and school level documentation for a total of 103 restraint events
- a file review of 37 behavioral emergency reports (BERs) and non-BER forms for 31 students

Qualitative data were collected through a series of document reviews as well as site visits and interviews with central and site level staff. This included site visits of four comprehensive high schools, two continuation schools, and the special education center over three days in May 2022. Structured interviews or focus groups with central office staff were conducted over two days (April 2022 and October 2022).

In addition, the investigation reviewed numerous documents including, but not limited to, numerous policies and procedures, training materials, the Comprehensive Coordinated Early Intervening Services (CCEIS) Plan to address disproportionality in long-term suspensions, the services agreement between the Los Angeles County Sheriff's Department and the District, Student Support Center informational materials, the Positive Behavioral Interventions and Supports (PBIS) Fidelity Implementation Checklist, various discipline matrixes and various suspension forms.

This investigation looked into the policies, procedures, and practices in the various areas of the Complaint to determine whether the allegations were founded. Additionally, the investigation aimed to determine whether these problems were indicative of systemic issues contributing to systemic noncompliance. Limitations of the investigation included lack of direct access to data systems and staff, the quality of site level and District data provided by the District, limited access to data for general education students, no access to school resource officers (SROs) and probation officers, and the transparency of District staff during site visits and interviews.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Each allegation is determined to be founded, partially founded, or unfounded. The allegation is founded if quantitative and qualitative data analyzed fully substantiate the claim; the allegation is partially founded if the quantitative and qualitative data support the claim but more information is needed to fully substantiate the allegation; and the allegation is unfounded if the investigation lacked evidence to support the claim.

In addition, data were analyzed to examine if disparities existed for SWDs and Black SWDs and the extent of the overrepresentation found. Although the primary focus was on SWDs, general education student data were also reviewed and analyzed to identify areas of disproportionality for nondisabled students by racial/ethnic groups.

To determine if disproportionate representation exists for different racial/ethnic groups, three measures were used to calculate disproportionality: composition index, relative risk, and relative risk ratio.

The composition index (CI) is a basic measure to indicate whether over or under representation is present. It refers to the proportion of a group with the same characteristics, such as demographics, within a population. The risk or rate is a within group comparison that identifies the risk or odds students within that racial/ethnic group will be identified for special education. The last measure used is the risk ratio, which compares the risk of one subgroup to the risk of all other subgroups. This measure best shows the extent and impact of disparities between racial/ethnic groups experiencing an outcome.

Levels of disproportionality were defined using the following criteria:

- 1.5 to <2.0: at-risk of disproportionate overrepresentation
- 2.0 to <3.0: disproportionate overrepresentation
- $\geq 3.0$ : significant disproportionality

As noted, sections 2 through 6 examine various aspects of the complaint, with the most salient findings included in this executive summary. Due to the large volume of data reviewed and length of this report, it is highly encouraged to read the report in its entirety to better understand the findings, conclusions, and recommendations.

### **Section 2. Disproportionality in Special Education Categories and More Restrictive Placements**

Section 2 examines disproportionality in the identification of students in special education and specific eligibility categories, as well as their placement in more restrictive and segregated settings. The Complaint also alleged that the special day class – behavioral program (SDC-B) uses a behavior management level system that denies students access to their nondisabled peers and school activities, including participation in lunch.

The determination of disproportionate overidentification and placement of students in special education lays the foundation for all of the allegations made in the Complaint.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The review of quantitative data on special education identification and calculation of disproportionality measures found the following:

- The overall rate of special education identification is 16.7%, which is 30.5% higher than the State average of 12.8% and 15.2% higher than the national average of 14.5%.
- The risk ratio of Black students for being identified for special education services (in general) is 1.77, which is indicative of being at-risk for disproportionate identification. Black students make up 15.8% of the District's enrollment and 25.0% of SWDs.
- Black students are three times (risk ratio of 3.12) more likely to be identified with an emotional disturbance (ED) than all other students. This is indicative of significant disproportionality. Similarly, their representation in this eligibility is more than twice that of their enrollment representation (37.0% ED compared to 15.8% enrollment).
- Disproportionate overrepresentation was noted for Black students in the other health impairment (OHI) category. Their risk when compared to all other students makes them two times (risk ratio of 2.05) as likely to be identified with OHI.

The data reviewed showed indications of systemic shortcomings that result in inappropriate identifications. Although the investigation did not examine this in depth, it would be prudent to conduct an analysis of the referral, identification, and placement processes to ensure that students are receiving the appropriate general education supports and interventions prior to a referral, a quality and comprehensive evaluation, and sound and consistent identification and placement determinations.

Overall, the District's least restrictive environment (LRE) profile shows a near equal placement rate of SWDs in the three LRE categories for student integration in the general education classroom as outlined below. Due to the high yet proportionate number of students segregated from each racial/ethnic grouping in each of these categories, disparities were not observed in LRE placement categories. The LRE data found:

- 33.8% of SWDs in the equal to or greater than 80% category
- 34.1% of SWDs in the 40% to 79% category
- 32.1% of SWDs in the less than 40% category

For comparison, the national percentage distributions show much higher levels of student integration in the general education classroom, with:

- 66.0% of SWDs in the 80% or more category
- 17.0% of SWDs in the 40% to 79% category
- 13.0% of SWDs in the less than 40% category

The overall high rate of segregation is alarming and will require extensive training, capacity building, and structural programming changes to effectively move SWDs into general education settings and improve performance in this area. More importantly, this level of segregation, primarily for so many students of color, is worrisome given the known negative

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

outcomes associated with a lack of participation in the general education classroom, access to the core curriculum, and interaction with their nondisabled peers.

The rate of restrictive placements is significant and should prompt a review of the policies and procedures that guide IEP teams when making placement decisions. In particular, the review should explore how IEP teams complied with SELPA procedures requiring the application of the standard issued in *Rachel H.* that established a four-prong test for determining LRE. Based on the LRE data reviewed, it is unlikely that IEP teams have the capacity to adequately implement this LRE standard.

The SDC-B program is for students with emotional and behavioral difficulties, consisting mainly of students eligible with an ED. The classes are self-contained and configured to serve students in a multilevel and multisubject format.

The level system document reviewed claims the goal of the SDC-B program is to prepare students for reintegration into less restrictive settings. Site visits observed classroom visuals that indicated the loss of privileges that limited participation in the general education setting, including school activities such as passing periods and lunch, for students in the lowest levels. The level system incentivizes participation in the general education setting, which implies that these placements are due to behavioral needs that were unmet in other settings, including the general education classroom. If the belief is that students lack the systematic behavioral intervention program needed to be successful in the classroom, these supports should be provided prior to a placement in a more restrictive setting, such as the SDC-B classroom.

### **Section 3. Exclusionary School Discipline of Students with Disabilities, Including Out-of-School Suspensions**

Section 3 focuses on practices related to the exclusionary school discipline of students with disabilities, including out-of-school suspensions.

The review of quantitative data on out-of-school suspensions (OSS) and calculation of disproportionality measures found the following:

- The out-of-school suspension rate is 8.1%, which substantially surpasses the State average of 3.5%.
- Students with disabilities are more than two times (risk ratio of 2.30) as likely to be suspended as their nondisabled peers, meaning two special education students are suspended per one general education student. This is considered disproportionate overrepresentation.
- Black students both with and without disabilities are more susceptible to experiencing exclusionary discipline through an out-of-school suspension compared to all other students.
- Black students represent 17.0% of the District's enrollment yet comprise 44.0% of all suspensions. The rate of suspension or risk for these students is 20.9%, which translates to 21 out of 100 Black students being subjected to at least one suspension.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

This rate is six times higher than the State average. The overall risk ratio (3.83) for Black students exceeds the State's threshold of 3.0 and is indicative of significant disproportionality.

- When disaggregated by disability status, nondisabled Black students are similarly overrepresented and are 3.74 times more likely to experience an out-of-school suspension removal compared to their nondisabled peers from all other racial/ethnic groups. This is consistent with significant disproportionality.
- Black SWDs make up 52.8% of all special education students suspended and demonstrate a suspension rate or risk of 30.6. This is equivalent to approximately 1 in 3 Black SWDs experiencing at least one disciplinary exclusion. Black SWDs are 3.16 times (risk ratio) more likely to be suspended than SWDs from all other racial/ethnic groups, which is indicative of significant disproportionality.
- Although the State has not identified the District as disproportionate in the area of one-time suspensions for Black students and Black SWDs, these data show the overrepresentation exceeds the State's 3.0 risk ratio threshold. Regardless of the CDE's designation, the District must recognize and address these disparities as well as those with risk ratios of over 2.0.

Disparities with long-term removals of 10 days or more are even more problematic for SWDs and for Black students with and without disabilities. For several years, the CDE has designated the District as being Significantly Disproportionate in the area of long-term suspensions for Black SWDs. This means that the District has exceeded the 3.0 threshold for three consecutive years.

- Overall, SWDs make up four out of 10 students who are subjected to these long-term removals and are 3.38 times (risk ratio) more likely to experience a long-term removal than nondisabled students. This is indicative of significant disproportionality.
- Black disabled students are the most vulnerable to these removals and are 5.21 times more likely to experience a long-term removal when compared to all other SWDs, far exceeding the 3.0 threshold set by the State and consistent with significant disproportionality.
- Black general education students are 7.57 times more likely than their nondisabled peers from other racial/ethnic groups to experience a long-term removal. This is indicative of significant disproportionality.

Overall, Black students with and without disabilities are the most vulnerable and are susceptible to both short- and long-term removals, resulting in highly disproportionate overrepresentation when compared to their enrollment and to all other students. These findings are indicative of systemic issues that can be attributed to inequitable policies, procedures, and practices that result in the poor outcomes and mistreatment of Black students.

Long-term removal of students translates to loss of educational opportunities, increasing the achievement gap for students of color and SWDs. During the 2021-22 school year, the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

District logged a loss of 8,363 instructional days due to OSS. This equates to a loss of 46.5 school years in one school calendar year, with a fiscal impact of a loss of attendance apportionments of more than \$530,000.

- Black students with and without disabilities made up 50.0% of the total days lost, whereas White students with and without disabilities accounted for only 5.7% of the total loss.
- SWDs accounted for 35.4% of all instructional days lost, and Black SWDs accounted for 57.8% of the days lost for SWDs. The high rate of lost instructional days should be of serious concern, particularly for a District that fares so poorly academically compared to State and county averages.

The significant use of suspensions and subsequent loss of instructional days contribute to and worsen factors associated with school failure that elicit misconduct. Rather than punishing students by denying them access to the educational environment, the District should mitigate the negative outcomes associated with OSS for students who lack academic readiness and necessary skills. Poorly performing students require better and more consistent direct instruction, not disciplinary removals that will only perpetuate the gaps between their abilities and curricular demands.

Data on the number of days issued and reasons included to justify a suspension suggest that school administrators treat Black students, SWDs, and Black SWDs inequitably and apply more punitive disciplinary actions compared to other students. Analysis on three subjective infractions shows that Black students and Black SWDs are more likely to be punished with an OSS for minor infractions (e.g., profanity/obscenity/vulgarity, disruption/defiance, threat to cause harm).

Moreover, the investigation found that out-of-school suspensions are likely to be underreported, noting inaccurate or no recording of suspension events and/or the number of days issued for a suspension event. Comparisons between site level suspension documentation and reports provided to the State found an additional 74 students representing 83 suspension events that were not reported to the State. This is likely an underestimation of the underreporting.

Data on other means of correction or alternatives to suspension to address misconduct found the following:

- General education Black students accounted for 29.4% of all other means of correction and 39.8% of all suspensions, while general education White students made up 11.2% of other means of correction and 6.5% of all suspensions.
- For students with disabilities, Black students comprised 39.8% of all other means of correction and 52.8% of all students suspended, while White students received 11.1% of all other means of correction referrals and 5.6% of all suspensions.

These findings highlight that school discipline is differentially applied to students with and without disabilities, particularly between Black and White students. Black students in general

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and special education are disciplined with more exclusionary forms of discipline, such as OSS, with higher frequency. On the other hand, White students are afforded less punitive disciplinary actions with higher frequency when compared to OSS. These findings carry several implications for equitable practices that negatively impact Black students, Black SWDs, and all SWDs, including: greater loss of instructional time, less access to social emotional resources, and negative perceptions or biases of administrators when disciplining Black students and SWDs.

Overall, the parent survey provided corroborating evidence for many of the allegations included in the CDE Complaint. Most concerning is the high number of families who reported the use of informal suspensions and those claiming not to have received written notification. Parents also felt administrators were quick to issue suspensions and not open to hearing concerns or disagreements with the removal.

Another concern is the low rate of conferences to discuss the suspension, infraction, and duration of the removal with parents, with only 46% of the families reporting being invited to a meeting. The opportunity for parents to be informed of the incident and foster partnership with school officials in matters of discipline are critical to ensuring an equitable process for suspending students.

Overall, parents' perceptions of the effectiveness of exclusionary discipline for deterring future misconduct and the inequitable treatment of students regarding race/ethnicity and disability show a high level of dissatisfaction with the approach administrators use to apply disciplinary actions.

A review of the District's Comprehensive Coordinated Early Intervening Services (CCEIS) Plan to address significant disproportionality in the long-term suspensions of Black SWDs found that despite including some assertions or evidence (data) that directly correlate with the root causes and associated performance in areas of exclusionary removals, the Plan is based on providing assumptions and assurances instead of taking credible action. The failure to directly address the identified root causes, such as staff biases that contribute to inequitable discipline practices and the perpetual delays in the revision of the Discipline Matrix, are indicative of the District's lack of capacity and organizational will to address these longstanding inequities and disparities.

Some school officials indicated that the Discipline Matrix is not the official discipline policy or a policy at all, citing Board Policy 5144 as the official policy. Team members stated that schools are not required to use it. This was confirmed by the data collection and entry of suspension notice forms as part of this investigation, which identified a variety of suspension notice forms utilized by schools but not one instance of using the matrix. This fact renders the inclusion of revising the matrix as part of the Plan pointless since schools do not use it, nor is it mandated. However, the District lacks uniform discipline procedures, which cause schools to use various forms to guide their decision-making process when suspending students. This variability in practice and absence of clear procedures further exacerbate the basic

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

assumption that school officials engage in inequitable and inconsistent practices due to a lack of a clear policy and procedures to ensure fairness when disciplining students.

Lacking clear and sound procedures is linked to problems with documentation and reporting of OSS and is indicative of systemic issues that contribute to noncompliance and variability in practices. The lack of procedures or a manual to guide administrators through the suspension process is indicative of systemic shortcomings that contribute to the disproportionate use of exclusionary discipline for Black students and SWDs.

Without step-by-step guidance, the District is vulnerable to a wide range and variability of practices among schools as well as by administrators from the same school. Sound and clear policies and procedures are essential for establishing a system that is fair, equitable, and consistent in its use of exclusionary discipline. More importantly, these policies and procedures should discourage the use of OSS and center around a reliance on issuing other means of correction and positive behavioral supports through a well-structured and functioning multi-tiered system of supports (MTSS) in accordance with education code.

Functional procedures in this area should include guidance such as but not limited to: how to determine if the offense warrants a short-term removal; how to select other appropriate means of corrections; mandatory information to document on suspension notice forms and incident reports; requirements for data entry and maintenance in the student information system; notifications to parents to discuss the incident and to provide formal written notice; and disability related considerations when suspending SWDs.

The data are abundantly clear and available that the use of suspension and long-term removals is a systemic problem that disproportionately impacts Black students, Black SWDs, and SWDs. However, the CCEIS Plan abdicates any real responsibility for the disproportionate use of school discipline on SWDs and Black SWDs, and the District's deniability of these systemic problems further exacerbates the issue. Until school leaders acknowledge the realities experienced by students and families, change and reform will not occur.

The underreporting of suspensions found between the school level documentation and the dataset submitted to the CDE is troublesome. In addition, a high prevalence of informal suspensions exacerbates this underreporting. This carries implications for ensuring SWDs are afforded the procedural protections of IDEA for long-term removals. This also reveals a lack of administrative oversight at the site and District level for ensuring that administrators stay within the authority granted by education code to limit periods of removals to no longer than 5 days and for monitoring the accurate reporting of suspension to parents and the State. Further, the application of informal and long-term removals of SWDs has implications for additional days of lost instruction, ensuring FAPE, and worsening the achievement gap.

Overall, the review of policies and procedures, quantitative and qualitative data, and CCEIS Plan support and corroborate the concerns and allegations made in the CDE Complaint. These findings provide an abundance of evidence that systemic shortcomings and failings

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

contribute to the disproportionate treatment of Black students, Black SWDs, and SWDs related to exclusionary discipline.

Many of this investigation's findings are consistent with the negative and inequitable practices research identified as ineffective and detrimental to students of color and SWDs. This includes a lack of clear and concise policies and procedures, the adoption of zero-tolerance policies, disparities in the application of OSS and days issued, and loss of instructional days. The deniability of the pronounced and persistent problem with the disproportionate removals of Black students, Black SWDs, and SWDs, as well as the lack of understanding of racial inequities seen in the CCEIS Plan and by its Leadership Team, are indicative of systemic and structural biases and shortcomings for dealing with issues of equity and race.

### **Section 4. Exclusionary School Discipline of Students with Disabilities, Including In-School Suspensions**

Section 4 focuses on practices related to the exclusionary school discipline of students with disabilities, including in-school suspensions defined as full-day and multi-day reassignments to the Student Support Center, as well as short-term removals referred to as period suspensions or on-campus detentions.

The review of quantitative data on in-school suspensions and calculation of disproportionality measures found the following:

- Black general education students are 2.25 times more likely to be reassigned to the Student Support Center compared to their non-Black general education peers. This is consistent with disproportionate overrepresentation.
- Students with disabilities (SWDs) are 1.75 times more likely to experience a reassignment compared to their nondisabled peers, which is indicative of being at risk for disproportionate overrepresentation.
- Black SWDs are also at risk of disproportionate overrepresentation for being reassigned, with a risk ratio of 1.68, compared to non-Black SWDs.
- Black general education students are 2.72 times more likely to be issued a period suspension compared to their non-Black general education peers, which is indicative of disproportionate overrepresentation.
- Students with disabilities are at risk of being disproportionately overrepresented in receiving a period suspension, with a risk ratio of 1.81.
- Black SWDs are 2.11 times more likely to experience a period suspension compared to their non-Black general education peers, which is indicative of disproportionate overrepresentation.
- Black students with and without disabilities were overrepresented in referrals for administrative or security holds, with 33.6% of general education and 58.8% of special education Black students showing disparities between their respective representation in these types of referrals and enrollment proportions.

When comparing both in-school and out-of-school suspensions, the data reveal that:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Reassignments of White students with and without disabilities are consistent with their overall enrollment representations (10.9% ISS compared to 11.2% enrollment). However, when compared to OSS, White students make up nearly twice the referrals for an ISS as an OSS (12.2% general education ISS compared to 6.5% OSS, 9.9% special education ISS compared to 5.6% OSS). This comparison indicates that White students are more likely to be issued a less restrictive school discipline removal, showing that administrators rely more on ISS than OSS when disciplining White students with and without disabilities.
- Conversely, Black students with and without disabilities are more likely to be issued more punitive and exclusionary forms of school discipline (25.4% general education ISS compared to 39.8% OSS, 34.9% special education ISS compared to 52.8% OSS).

When examining non-disciplinary referrals (NDR) to the Student Support Center, the best way to interpret this data is to compare NDR referrals to disciplinary referrals, including ISS and OSS.

The most notable referral patterns were observed for White and Black students and SWDs.

- White students with and without disabilities show higher representation in non-disciplinary SSC referrals than their respective enrollments (12.8% general education referrals compared to 9.8% enrollment, 12.5% special education referrals compared to 5.8% enrollment).
- Special education students show the lowest levels of representation in these supports when compared to disciplinary referrals (22.8% NDRs compared to 28.6% ISS, 29.9% period suspension, 32.2% OSS).
- Black students with and without disabilities receive NDRs at lower proportions than all other types of disciplinary actions (22.5% NDRs compared to 26.5% ISS, 30.4% period suspension, and 44.0% OSS).

Despite claims that SSCs provide positive and proactive supports for students, schools primarily rely on SSCs for in-school disciplinary removals. NDRs account for one in four students referred to the SSC, meaning that three out of four referrals to the SSC are for disciplinary reasons.

The review confirmed that the District underreports other means of correction and ISS to the State. A comparison of site level referral information and reports submitted to the State for other means of correction found that at the six comprehensive sites that submitted data, approximately one in three students who received a disciplinary referral to the SSC was not reported to the State. In addition, the ISS report submitted to the State only included a total of 214 referrals for the entire district, with 87% of these removals coming from one school. This raises concern regarding underreporting since all comprehensive sites visited confirmed they refer students for reassignments and period suspensions.

The site visits and focus groups revealed a consistent disconnect between how school officials at all levels perceive in-school disciplinary referrals to the SSC and the realities of the



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

negative associations of these exclusionary practices. Staff overwhelmingly expressed that the role of reassignments and period suspensions was not punitive but rather restorative in nature. All school leaders noted that some staff who service these supervised suspension classrooms are not trained in restorative strategies, nor is data collected or monitored regarding these restorative groups. Based on this fact, the argument that in-school disciplinary referrals are restorative is rendered not credible and is predicated solely on assurances. In addition, the failure to see these removals as punitive and harmful has implications for the decision-making processes utilized by teachers and administrators when removing students from their classrooms. This lack of awareness perpetuates the justification of these removals as positive when in reality they further contribute to widening the achievement gap for the students most impacted, including Black students with and without disabilities and SWDs.

Although all levels of the District reported reviewing SSC referral data periodically, no one could provide a basic estimate of the number of students processed weekly or monthly. Considering the allocation of resources and deprivation of instructional time and opportunities for students who are removed, these data should be at the forefront of the decisions of administrators and staff dedicated to the implementation and oversight of PBIS and student discipline. Their lack of awareness should be of concern to the members of the Board of Education, who rely on school officials to know and accurately report the data around all student outcomes, including exclusionary discipline.

School officials provided assurances that SWDs receive their IEP supports, accommodations, and services while reassigned or during a period suspension. However, only two schools included an IEP indicator as part of the logs. Absent the tracking of this information, it is unlikely that students' IEPs are retrieved to identify the supports specified for each SWD. Furthermore, simply identifying whether a student has an IEP is not a guarantee that the IEP was reviewed or the supports provided. For this to function as intended and ensure accountability, a process would need to ensure that staff list the accommodations, supports, and services provided to the student during their removal.

Staff also rested on the fact that each comprehensive site has one to two special education credentialed teachers serving as mentors, equating their presence with evidence that students' IEPs were being implemented. That is akin to claiming that mere enrollment in a special education day classroom guarantees the implementation of students' IEPs. However, due to the lack of policies and procedures to mandate the implementation of the supports, accommodations, and services specified in students' IEPs while serving a reassignment or period suspension, and the lack of documentation practices to capture these efforts, it can be reasonably assumed that these practices do not consistently occur.

Overall, the documentation practices observed varied widely and were exacerbated by the lack of a uniform format for the tracking mechanisms used at each school. The inability to clearly identify the type of disciplinary referral issued, duration, and reason or infraction that led to the removal is problematic on several levels and carries compliance implications. The

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

lack of clear indicators for these critical variables renders the data unreliable for: identifying patterns of ineffective and inequitable practices, disaggregating data to enable data-driven decision making, and tracking the cumulative duration of the disciplinary removals as required by the IDEA.

The failure to systematically collect information on the interventions provided shows implications regarding the intent of these removals. If the referrals are aimed at teaching prosocial behaviors or offering restorative programs, then these interventions would reflect such efforts to address misconduct. However, many of the interventions listed are simply reassignment to the SSC, which implies a more punitive measure with the aim to simply remove the student from the classroom. The absence of data on specific interventions also lacks credibility on issuing other means of correction and demonstrates the inaccurate reporting of these events.

Overall, the District lacks a concrete procedural manual to define and guide disciplinary referrals to the SSC. The only procedures offered exist within documents related to the tools used to measure the fidelity of implementation and SSC informational materials for staff and parents. The guidance contained in all documents is incomplete and inconsistent, making it vulnerable to inequitable practices when issuing in-school disciplinary removals.

District policy states the Board of Education's commitment to its on-campus suspension program for students whose misconduct does not pose an imminent danger or threat to the school or others and for incidents where an other means of correction failed to bring about acceptable behavior. The policy clearly acknowledges the District's reliance on and use of in-school suspension (ISS) as a method for disciplining students. This is significant and contradicts the statements of many senior and school-level administrators and staff who deny or minimize the use of ISS on campuses.

PBIS is a districtwide initiative that senior officials describe as a framework that is mandated at all schools by the CCEIS Plan. However, the implementation of programs is not mandated at the school or teacher level, so a wide variability of programs exists with no real accountability for staff who refuse to participate. The lack of consistent and equitable practices is unsurprising and evidenced by data. One cornerstone of an effective PBIS program is data-driven decision-making. However, the variability in how data are captured and reported raises the question of the overall effectiveness of the districtwide effort to implement PBIS.

The sections on OSS and ISS show the widespread inequities applied to exclusionary discipline, which are exacerbated by the inconsistency of the District's policies. The procedures necessary to guide consistent and equitable practices are lacking and wholly insufficient. Site level practices are unchecked and, despite overwhelming evidence of the overrepresentation of Black students with and without disabilities and SWDs in exclusionary discipline practices, school officials demonstrate an overall lack of awareness or concern about the extent of the problem. In short, the District has a systemic deficiency and a

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

pervasive accountability problem that will require considerable intervention in order to address and mitigate the harm being perpetuated against its most vulnerable students.

### **Section 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of Students with Disabilities**

Section 5 focuses on practices related to the exclusionary school discipline of students with disabilities, including expulsions and disciplinary removals referred to as voluntary or involuntary transfers. In addition, this section includes findings of file reviews of 101 manifestation determination review (MDR) IEP documents and 20 expulsion packets.

The review of quantitative data on expulsions and voluntary/involuntary transfer data and calculation of disproportionality measures found the following:

- Black general education students make up 14.4% of the nondisabled population and 58.1% of all expulsions issued to general education students. Black general education students are 8.21 times more likely to be expelled than all other non-Black general education students. This is consistent with significant disproportionality.
- Special education students are 3.62 times more likely to be expelled than nondisabled students, which is indicative of significant disproportionality.
- Black SWDs comprise 25.3% of the special education population and 65.2% of all expulsions issued to SWDs. Black SWDs demonstrate a risk ratio of 5.54, which is indicative of significant disproportionality.
- The high rate of expulsions for Black SWDs has a considerable impact on the overall rate of Black SWDs expulsions reported to the State. The District represents 9.7% of all Black SWDs expelled statewide but 1.5% of all Black SWDs enrolled statewide.

Voluntary/involuntary transfers were reported for a total of 74 students, 50 (67.6%) for general education students and 24 (32.4%) for SWDs. The data noted disparities in these disciplinary transfers for SWDs and for Black students with and without disabilities. These findings include:

- SWDs are 2.34 times more likely to receive a disciplinary transfer compared to their nondisabled peers, which is consistent with disproportionate overrepresentation.
- Black students with and without disabilities made up half (51.4%) of these disciplinary removals.
- Black general education students comprise 14.4% of the general education enrollment and 46.0% of disciplinary transfers. Black students were 5.05 times more likely to receive a disciplinary transfer than any other nondisabled student, which is indicative of significant disproportionality.
- Black SWDs make up 62.5% of all transfers issued to SWDs and are 4.93 times more likely to be transferred than any other special education student.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Serious problems were identified with the policies and procedures pertaining to the voluntary and involuntary disciplinary transfer of students, and the placement of SWDs in independent study (IS) programs.

Most notably, the policies and procedures around voluntary transfers are consistent with requirements associated with involuntary transfers and expulsions. There appears to be nothing voluntary about the disciplinary transfers reported. The voluntary transfer policies and procedures even contain language instructing principals to approach these placement changes as they would an expulsion, including adhering to the expulsion timelines. This misunderstanding of the program was also observed in discussions with school principals during site visits, where principals described placement or transfers to alternative campuses as an alternative to expulsion. Additionally, the voluntary transfer policy and contract contain restrictions similar to those of an expulsion, prohibiting students from being at any other District schools or activities, such as athletics. This policy does not reflect the requirements of education code.

Due to the misrepresentation of voluntary transfers, the District has an obligation to review the individual circumstances of these transfers to ensure compliance with the MDR and IEP processes. It also has an obligation to remedy the harmful effects and ensure that SWDs are placed appropriately in the LRE with access to the general education curriculum and nondisabled peers to the maximum extent possible. In addition, parents must be notified immediately of these misrepresentations and presented with legal placement options.

The policy regarding the placement of SWDs in independent study (IS) programs also contains mandates that are inconsistent with education code and the IDEA. The policy calls for placement determinations to be made in an IEP but then imposes an administrative approval process that can overturn the IEP team's decision, which is a violation of the law that requires placement decisions to be made by the IEP team.

The administrative approval process for placement of SWDs in IS programs has set the following entrance criterion: whether the student possess the basic reading proficiency and appropriate work habits to be able to complete coursework independently; if the student has supervision at home; and if the student has transportation to get to the alternative program.

In contrast, education code prohibits the IEP team from determining that a SWD can receive a free and appropriate education (FAPE) in an IS placement because of the student's inability to work independently, the student's need for adult support, or the student's need for special education or related services. This means that SWDs cannot be denied participation and access to these programs and are entitled to the full range of supports and services, including a 1:1 aide and transportation, as if they were attending a physical school.

Lastly, the Independent Study program placement of SWDs document warns schools that IS placement is only appropriate if it can meet the needs of the SWDs and adds that "special education students who require specialized academic instruction and services rarely benefit from an independent study program where the majority of the assigned work is completed on

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

their own.” This general type of statement should be removed as it perpetuates stereotypes about SWDs and promotes discriminatory practices on the basis of disability.

Overall, the policy on the placement of SWDs in IS programs is not in compliance with the requirements of education code. The District has an obligation to review any placement recommendations for SWDs who were denied enrollment in an IS program to ensure these administrative approvals did not result in procedural and/or substantive violations of the IDEA and to remedy these harms as appropriate.

The voluntary and involuntary transfer data further support the notion that these disparities are a result of the systemic shortcomings related to the policies, procedures, and practices reviewed. These disparities are of even greater concern considering the faulty representation of these transfers given that they are utilized as an alternative to expulsion mechanism that does not require manifestation determination reviews or placements to be determined by the IEP team.

The manifestation determination review (MDR) is a procedural protection to ensure that SWDs do not experience discrimination in exclusionary discipline because of their disability related behaviors. The purpose of the MDR is to determine whether the behavior that led to the incident for which a disciplinary removal is being considered was substantially related to the student’s disability or because of the school’s failure to implement the student’s IEP. In instances where the determination is made that the behavior was unrelated to the student’s disability or the school’s failure to implement the IEP, the principal or superintendent may recommend and carry out an expulsion, the same process for nondisabled students. Therefore, the quality, objectivity, and due diligence carried out at MDRs by IEP teams have considerable implications for SWDs. A failure of the MDR process can result in negative outcomes for SWDs for disability related behaviors.

A total of 101 MDR IEPs were reviewed to better understand the composition of the students who were subjected to an MDR; schools’ adherence to compliance indicators, such as the timeliness of the meeting and number of cumulative days of removals at the point of the meeting; practices of MDR teams during the determination process; level of parental agreement with the determination; extent to which students were receiving behavioral supports, such as BIPs and counseling services; and whether a change of placement was recommended.

Of the 101 MDRs reviewed, Black students made up nearly three-quarters (73.3%) of all MDRs. The review found that students with other health impairments (OHI), specific learning disabilities (SLD), and emotional disturbance (ED) comprised 93.0% of all MDRs, with 55.5% of the students showing evidence of an external diagnosis of a comorbid disability or mental health disorder. This included disorders such as attention deficit hyperactive disorder (ADHD), post-traumatic stress disorder (PTSD), autism, oppositional defiance disorder (ODD), mood disorder, bipolar disorder, depression, and anxiety disorder.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The law requires that MDRs are held within 10 days of a decision to remove or suspend a student after more than 10 cumulative days of removals, or when removals constitute a change of placement. A total of 11.9% of the MDRs were not held within the 10-day timeframe and 27.7% were held after 10 days of removals. Both indicate levels of noncompliance.

In 14.9% of MDRs, a parent was not present, which is concerning given the high number of SWDs removed from their schools to alternative campuses through expulsion or voluntary/involuntary transfers based on MDR findings.

The MDRs reviewed identified that in a majority of cases, teams determined the student's behavior was not a manifestation of the student's disability (81.2%) nor the school's failure to implement the IEP (94.0%). These findings show that an overwhelming number of MDRs result in a determination that allows normal disciplinary procedures to proceed. Principals also described a low rate of determinations in which the school affirms the student's misconduct was substantially related to their disability and an even lower rate of teams that found the behavior was a direct result of failure to implement the student's IEP, with one principal stating they had never witnessed such a determination.

Many of the MDRs included generalizations about the symptoms and characteristics of the disability in question and failed to consider the student's individual abilities, circumstances, or needs. In many ways, these determinations were focused on the offense and whether such an act could be explained by a symptom of the disability rather than the overall impact of the disability on the student. This was seen in the general explanations of behavior appearing to be premeditated or whether the student has demonstrated the ability to know right from wrong, understand consequences, or control their behavior.

The analysis found that MDR teams use a range of justifications that appear to be general and circular in nature with a narrow focus on the impact of students' disabilities on the instructional setting. Teams do not appear to consider parents' input, disagreements, or concerns regarding their child's disability when making a determination. This was also reflected in staff interviews with psychologists and school personnel dismissing parents' opinions, noting that school staff know more about disability characteristics and the law. One school official stated that a parent's disagreement did not change the ultimate decision of the school.

The interviews did not reveal any indications that parents are informed of their right to bring professionals or representatives to the MDR. They also did not indicate that parents are informed of their right to due process and an expedited hearing when they disagree with the recommendation. These findings are troublesome since the lack of willingness to consider the parents' rights to bring representatives, take their feedback into consideration, and inform them of their due process rights shows lack of objectivity and impartiality for carrying out the MDR.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

When an IEP team determines the student's behavior was a manifestation of their disability or the direct result of the school's failure to implement the IEP, the law requires schools to conduct a functional behavioral assessment (FBA), unless one was already conducted for the student prior to the behavioral incident, and develop and implement a behavioral intervention plan (BIP) for the student. If a BIP has already been developed, the IEP team must review the plan and modify it as necessary.

In addition, District policy states that an FBA must be completed no later than 10 business days after the student's 10<sup>th</sup> day of removal, even if there is no pattern to the removals that would constitute a change in placement, unless a BIP exists.

Given these legislative and District policy requirements, the rates of BIPs (45.5%) and FBAs (12.9%) are quite low and suggest that students were inadequately supported prior to the behavioral incident that led to the disciplinary removal, as well as after the incident. This is also indicative of schools' noncompliance with District policy related to conducting an FBA for any student with more than 10 days of removals who does not have a current BIP.

The file review found IEPs with statements that appeared to reflect the school psychologist was the individual who made and presented the determination to the team. In addition, at the time of the interviews the director of special education often interjected during this line of questioning to redirect staff from acknowledging the role of the school psychologist as the determining factor or, at best, the team member with the most influence in making the determination.

Many of the MDRs pertained to students with attendance and truancy issues that were documented in the IEP, and these issues were given as explanations for the students not receiving their services. Moreover, the file review found very low frequency and duration of prescribed services, such as counseling or BIPs. For example, only half of the students' IEPs included school-based counseling prior to the MDR, with an additional 12.9% being offered the service at the meeting. Of these, more than half (55.2%) received 30 minutes or less of counseling per month.

Combined, the low service levels and justifications for missed sessions that blame the student reveal a service delivery system that grossly underserves students, particularly students who are experiencing many disciplinary removals and are most vulnerable due to their behavioral, social emotional, low academic functioning, and attendance problems.

During the MDR and expulsion file reviews, the academic progress and standing of these students stood out, with many students having large academic gaps reflected in their GPAs, credits earned compared to credits attempted, and class rank. Many of the students expelled had GPAs under 1.0 and, despite their low ranking, were still ahead of many other students in their grade. For example, one student expelled had a GPA of 0.16 and a class rank of 645 out of 828 students, which means that 183 other students in their class had a lower GPA. In addition, many expelled students were significantly credit deficient.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The findings of the expulsion file review and case studies raise concerns as to the effectiveness of the MDR process in protecting SWDs from being punished and removed from school because of their disability related behaviors. The case studies also highlight the role of security officers and staff in initiating physical interventions rather than attempting to deescalate students and situations.

The findings of the review of 20 expulsion files and case studies are startling considering that 60.0% of students were expelled for non-mandatory offenses. The low rate of supports and services, such as counseling and BIPs, call into question whether principals truly considered other means of correction before making the expulsion determination. In addition, the high rate of students with considerable credit deficits is of greatest concern since many of these students may have disengaged from learning and be vulnerable to more serious acts of misconduct. The patterns observed for the 20 expelled students should be of concern, as they show an extremely vulnerable group of underserved students whose educational opportunities have been further limited.

The high rate of stipulated expulsions is troublesome since many students and parents waive their due process rights and are still subjected to the same consequences of a formal panel hearing expulsion. More importantly, when students and parents choose a stipulated expulsion, they lose the right to appeal the panel hearings decision to the County Board of Education. The incentive for parents to elect a stipulated expulsion appears mostly in favor of the District.

The District appears to have an inadequately designed system in place to afford SWDs an objective, impartial, and consistent review of their misconduct as well as the District's implementation of students' IEPs. The lack of findings that students' IEPs were reasonably calculated for them to achieve meaningful benefit, given the low rate of services offered and prescribed, are inconsistent with the high rates of out-of-school suspensions, in-school suspensions, expulsions, and disciplinary transfers revealed by the data. The disproportionate impact on SWDs and Black students with and without disabilities is egregious and indicative of many structural and systemic failures to support and protect these students from inequitable and discriminatory practices.

### **Section 6. Referrals to Law Enforcement and Probation Officers, and Restraints, Searches, and Threat Assessments**

Section 6 examines issues related to law enforcement and probation referrals, the use of restraints including handcuffing, searches, and threat assessments. In addition, a general cost-analysis of security and mental health related expenditures is included based on a review of the services agreement between the Los Angeles County Sheriff's Department and the District.

The review of quantitative data on law enforcement referrals and calculation of disproportionality measures found the following:



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- 196 law enforcement referrals were reported for the purposes of Civil Rights Data Collection (CRDC), with an additional 209 references to law enforcement referrals found in other sources, such as suspension notice forms, MDR IEP documents, and expulsion packets. Of the school level referrals found, 158 law enforcement contacts did not appear in the CRDC dataset. This review identified a total of 354 unduplicated law enforcement referrals, which is 82.6% more law enforcement referrals than reported as part of the CRDC. This shows a significant underreporting of law enforcement contacts.
- Black students show the highest risk of law enforcement referrals for all nondisabled students and a risk ratio of 3.68, which is consistent with significant disproportionality.
- Students with disabilities fared much worse in law enforcement referrals, with a risk of 3.7%, meaning that almost four out of 100 SWDs are likely to experience a referral to a student resource officer (SRO). This risk, when compared to the risk of general education students (1.2%), results in a risk ratio of 3.19. This is indicative of significant disproportionality.
- Black SWDs make up 61.4% of all law enforcement referrals, with nine out of 100 Black special education students at risk for such referral. Their risk (9.0%) when compared to the risk of all other SWDs from different racial/ethnic groups results in a risk ratio of 4.71, which is consistent with significant disproportionality. Black SWDs are nearly five times more likely to be referred to law enforcement than SWDs from all other racial/ethnic groups.

Districts are required to maintain records when students are arrested, removed from campuses, and taken into custody by law enforcement. The District provided a list of 27 students removed, consisting of 12 general education and 15 special education students.

- The distribution of these removals raised concerns regarding the accuracy of this data. Lancaster HS accounted for 15 of the 27 removals reported, while Antelope Valley HS had one, and Palmdale and Littlerock reported none. Given the high rate of suspensions and law enforcement referrals, it would be reasonable to expect student removals at all schools, and a more comparable number reported across schools.
- A comparison of list provided to show student removals and referrals to law enforcement found discrepancies, with 20 of the students reported as being removed failing to appear on the law enforcement list. Therefore, a total of 34 removals could be verified, with Black students with and without disabilities making up over half (55.9%) of these removals and Black SWDs comprising of 60.0% of all SWDs removed.

The investigation also compiled a list of the number of students arrested, totaling 110 students. Of the 354 total law enforcement referrals identified, arrests were issued for 31.0% of these contacts. Since the review of several sources of site level data contributed to the identification of these arrests and removals, it is likely that further review of additional data, such as incident reports and SRO files, would identify more students both arrested and removed.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Reporting inconsistencies and inaccuracies can further obscure the true practices of schools related to law enforcement referrals, arrests, and removals. For example, one SWD listed on the law enforcement referral file for special education students was listed as having a student conference only; however, the suspension documents included a BER and incident report for this student that indicated the student had been restrained, arrested, and taken into custody for an incident matching the same date of the law enforcement referral list. Although the student appeared on the removal list, it was for an incident in May, but the unreported incident for which he was restrained, arrested and taken into custody occurred in August.

The investigation reviewed and collected data on restraints of SWDs. Due to a lack of comparable restraint data on general education students, disproportionality measures were not calculated.

The restraint data reviewed were equally problematic and found to be considerably underreported. Although the District is required to document the use of physical restraints in a behavioral emergency report (BER), many of the identified incidents lacked such reporting.

- The District submitted a restraint list of 36 SWDs as well as a separate file of 30 BERs. However, 20 of the students with BER forms did not appear on the restraint list. This finding is indicative of poor record keeping and a lack of senior officials' oversight for compiling data for this investigation.
- An additional 13 BERs as well as behavioral restraint or seclusion reports, and incident reports were found in suspension forms, law enforcement referral lists, expulsion files, and manifestation determination review IEPs.
- In total, 103 instances of restraint and one seclusion were found.
- The data for special education students clearly illustrates that Black SWDs experience restraint at much higher rates than SWDs from all other races/ethnicities. Three out of four (76.5%) restraints were carried out on Black SWDs, which is indicative of a clear overrepresentation of Black SWDs.

An analysis of BER and other forms found questionable uses of physical interventions, with only four of the 37 reports including a description of the "risk behavior" that could be deemed as an emergency. The identification of multiple instances of physical holds involving numerous staff is troublesome and calls into question the effectiveness of staff, particularly security personnel, for deescalating situations and determining actual threats or emergencies that would justify the use of physical interventions. While this analysis is based on the documented evidence on BER and other forms, the inconsistent and nonexistent documentation of the use of physical intervention for some students is indicative of poor training and oversight by school administrators for ensuring the use of restraints, including handcuffing of students, only occurs during emergency situations or when students pose a significant risk to themselves, others, or damage to property that may result in significant risk of harm to self or others.

Based on the BERs reviewed, the poor and inconsistent documentation of these events, many instances of restraints with unreported handcuffing, and disproportionate

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

overrepresentation of Black SWDs are clearly indicative of inconsistent and unchecked practices by staff. Even if staff, including campus security officers (CSOs), have participated in the necessary training and hold updated certifications, the de-escalation of situations does not appear to be the priority.

The investigation identified a preponderance of security staff carrying handcuffs on campuses, which is disturbing and not the norm for comprehensive high school campuses. Comprehensive sites have between 8-12 security personnel who use these mechanical restraints without recourse. Although some District staff commented that the use of restraints are investigated, no evidence was found that either mentioned or implied these actions were scrutinized.

Current and former students who shared their experiences during telephone interviews conveyed CSOs searching and handcuffing students is a common occurrence. Staff appear to justify these practices under the pretense of the population the District serves. During the MDR focus group with school psychologists, they were asked whether they had worked on high school campuses in other districts, and then were asked if security personnel carried handcuffs. One participant responded that in her previous district security personnel did not carry handcuffs, adding “but that was a district in San Diego.” These types of responses are indicative of placing the blame for this type of policing on the children and community rather than on the systemic and structural deficiencies and adult failures that lead to the traumatic and violent practices that have become the status quo.

In addition, site level administrators and senior officials’ pervasive denials of the inequities and injustices perpetuated against the District’s students with disabilities and Black SWDs are indicative of a status quo that values the preservation of order and authority over the wellbeing of its most vulnerable students.

The role and presence of the CSO is pronounced and visible. The reliance on CSO for student discipline, restraints, and managing the on-campus detention (OCD) room and SSC creates a negative association with this position. Although site level and senior leadership have provided a more illuminating and positive view of the CSO’s role, it is understandable that students could view CSOs as punitive and hostile. The CSO’s role is not simply to ensure safety but also to take an active role in disciplining students, carrying out investigations, restraining and handcuffing students, responding to misconduct, and escorting students to the on-campus detention room and Student Support Center.

School officials and senior leadership demonstrated variability when describing the role and responsibility of school resource officers (SROs), reporting mechanisms and data tracking, and how referrals are made. These inconsistencies reflect an overall lack of clear policies and procedures to guide schools in the referral of students to the SRO.

A review of the services agreement contract between the District and the Los Angeles Sheriff’s Department found the agreement does not include any details on the actual scope of work or services SROs are to perform. Since the agreement does not contain specific

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

services and functions of the SRO, the vague language used is open to broad interpretation and may not enable the District to obtain services needed or limit the actions and interventions of SROs in school discipline matters.

Establishing parameters as part of a memorandum of understanding (MOU), such as prohibiting SRO referrals and involvement for minor misconduct, mandating specific areas of training, and requiring methods to evaluate the effectiveness of the SRO program, is essential for limiting the criminalization of student misconduct and ensuring SROs are properly trained to respond to the educational needs of students using a non-legal approach as appropriate.

To gain a better understanding of the District's priorities regarding professional behavioral and mental health supports and security and law enforcement programs, an analysis was conducted of the financial commitments made. This analysis compared the number of positions and costs of four groups: school psychologists and mental health therapists, school counselors, SROs, and security personnel.

On average, the \$129K cost of a psychologist is comparable to the \$130K cost of a counselor. On the other hand, the average cost of an SRO is \$180K, while campus security personnel cost an average of \$55K. The total cost the District incurs for security personnel is \$2.84M more (85% higher than) than that of school psychologists. In addition, the cost of the District's 10 SROs equates to 57% of the cost of the District's 26 school psychologists. The cost of SROs is considerably higher than that of professionals who possess more schooling and training in working with SWDs and students with mental health needs.

The allocation of resources to the security program, including the services agreement with the Sheriff's Department, should be reevaluated and scrutinized. The high use of restraints and searches, law enforcement referrals, and school related arrests are not a new phenomenon in the District. The CDE Complaint included data for several years that show a reliance on policing of students by CSOs and SROs that perpetuate high rates of student discipline and criminalized misconduct, fueling the school-to-prison pipeline. The common occurrence of searches and use of handcuffs, as well as other physical interventions, are not reflective of the standard expectation at comprehensive high school campuses in the state or nationally. These practices and negative outcomes are consistent with the research literature on the negative impact SRO programs can have on exclusionary discipline, arrests, and restraints that disproportionately impact students of color and SWDs.

Prioritizing students' behavioral and mental health needs over security and policing will address the root causes of the disproportionate overrepresentation in school discipline, consistent with the intent of the CCEIS and law. In addition, it cannot be stressed enough that the District is low performing in all aspects of academic achievement for its general and special education students. Remedial reading and math programs should be prioritized for students entering the District and those struggling, as well as establishing tutoring opportunities and other educationally related programs aimed at improving academic skills and job readiness for SWDs at all stages of their enrollment.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The data presented in this report, as well as historical data, are indicative of persistent failures to provide positive behavioral supports and a sound instructional program in order to ensure a less hostile environment and safe campuses. Policing by SROs and CSOs has not been an effective solution, despite a considerable financial commitment to these positions. The prioritization of these security programs maintains a culture and status quo of over policing students and placing blame on students and the community rather than on the systemic and structural deficiencies that have failed to address the behavioral and mental health needs of its students, in particular, those from the most vulnerable groups.

Overall, the investigation found quantitative and qualitative data that substantiated the majority of the allegations in the Complaint. The data overwhelmingly show inequitable practices that disproportionately impact students with disabilities and Black students with and without disabilities.

In addition, the special education system and delivery model is highly segregated and fails to provide the adequate behavioral and social emotional supports necessary to ensure free appropriate public education in the least restrictive environment. The current model is failing students and perpetuating the school-to-prison pipeline. The preponderance of SWDs who are failing, low on credits, and subjected to exclusionary discipline are clear signs of the systemic and structural deficiencies of the District. The examination of these issues clearly shows inequitable practices and disproportionate harm to SWDs and Black SWDs.

Overall, the poor quality of data across all aspects of the investigation and the underreporting of events are indicative of systemic problems with data entry and maintenance as well as the oversight of these systems. This also suggests that the current mechanism (i.e., Google Sheets) for tracking many of the District's data outcomes, including referrals to the SSC, restraints, and law enforcement referrals, is wholly inadequate and must be discontinued. The lack of reliance on a centralized data system, such as the SIS, reveals senior leaders' lack of understanding of the importance and value of accurate data for making informed decisions. It also shows a status quo of protecting a decentralized system that preserves the authority of school principals regardless of how ineffectively their school functions.

These findings are indicative of a District that lacks capacity, awareness, and systems to ensure equitable practices that protect students with disabilities from discriminatory practices, whether intentional or not. More importantly, the data support the notion that the District has inadequate monitoring and accountability mechanisms to hold schools and staff accountable for these practices that adversely impact SWDs and Black students with and without disabilities.

Of most concern is that leadership at all levels dismissed or minimized the reality of these inequitable practices. These findings should be a call to action and must be internalized by the Board of Education, Superintendent, senior leadership, and site level administration for reform to occur. The profound systemic inadequacies found will require a methodical reform framework to address inequities and poor practices. Quality data mechanisms must be

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

central to such reform in order to establish robust accountability mechanisms to hold schools and staff at all levels accountable.

Recommendations include but are not limited to:

- develop an LRE framework and districtwide initiative to improve inclusive practices and guide the decision-making process of IEP teams to improve students' access to the general education curriculum and settings
- establish and mandate a uniform out-of-school suspension process and procedures that include step-by-step guidance for suspending students from school
- establish and mandate a uniform in-school process and procedures that include step-by-step guidance for issuing reassignments to the Student Support Center (SSC) and period suspensions
- develop and mandate a manifestation determination review (MDR) process to ensure students are afforded the procedural protections of the IDEA that is objective, impartial, and consistent
- conduct a full audit of relevant data (e.g., suspension notice forms, incident reports) to determine the extent of law enforcement referrals and restraints
- reprioritize resources to address the academic, social emotional, behavioral, and mental health needs of students over campus security and SRO programs
- establish a memorandum of understanding with the Los Angeles Sheriff's Department that defines and limits the scope of SRO responsibilities, mandates relevant trainings, and includes an evaluation and oversight mechanism
- develop a special education policy and procedures manual
- require trainings in various areas, such as crisis response and de-escalation strategies, alternatives to suspensions and restorative practices, data entry procedures, racial bias including implicit bias, disability related-behaviors, and manifestation determination review best practices

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Table of Contents

Section 1. Introduction..... 1

    Background on Antelope Valley Union High School District ..... 3

    Organization of the Report..... 4

    Considerations and Terminology ..... 5

    Key Terms ..... 7

Section 2. Disproportionality in Special Education Categories and More Restrictive Placements..... 11

    Allegation 2. Disproportionality in Special Education Categories and More Restrictive Placements ..... 11

    Review of Literature ..... 12

    Review of Applicable Laws and Regulations and District Policies and Procedures .... 17

*State and Federal Regulations Regarding School Discipline*..... 18

*Review of District’s Policies and Procedures for Identification and Placement in the LRE*..... 26

    Review of Quantitative and Qualitative Data Regarding Disproportionate Identification and Placement..... 31

*Review of Quantitative Identification and Placement Data for 2022-23 School Year..* 32

*Review of Qualitative Data, including Feedback from Site Visits and Interviews with District Staff* ..... 58

    Summary and Conclusions ..... 60

    Allegation Determination..... 66

Section 3. Exclusionary School Discipline of Students with Disabilities, Including Out-Of-School Suspensions ..... 70

    Allegation 3: Out-of-School Suspensions..... 70

    Review of Literature ..... 71

    Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures ..... 74

*State and Federal Regulations Regarding School Discipline*..... 75

*Review of District’s Policies and Procedures for Out-of-School Suspensions* ..... 85

    Review of Quantitative and Qualitative Data..... 91

*Review of Quantitative Suspension Data for the 2021-22 School Year* ..... 91

*Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff*..... 120

    Summary and Conclusions ..... 136

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Allegation Determination..... 145

Section 4. Exclusionary School Discipline of Students with Disabilities, Including In-School Suspensions ..... 148

    Allegation 4: In-School Suspensions ..... 148

    Review of Literature ..... 149

    Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures ..... 153

*State and Federal Regulations Regarding School Discipline*..... 153

*Review of the District’s Policies and Procedures for In-School Suspensions* ..... 158

    Review of Quantitative and Qualitative Data Regarding ISS ..... 168

*Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff.* ..... 180

    Summary and Conclusions ..... 191

    Allegation Determination..... 200

Section 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of SWDs ..... 205

    Allegation 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of SWDs..... 205

    Review of Literature ..... 206

    Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures ..... 213

*State and Federal Regulations Regarding Expulsions, MDRs, and Voluntary/Involuntary Transfers* ..... 213

*Review of the District’s Policies and Procedures for Expulsions, MDRs, and Voluntary/Involuntary Transfers* ..... 225

    Review of Quantitative and Qualitative Data..... 241

*Review of Quantitative Expulsion and Voluntary/Involuntary Transfer Data for the 2021-22 School Year* ..... 241

*Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff* ..... 246

    Summary and Conclusions ..... 283

    Allegation Determination..... 290

Section 6. Policies, Procedures, and Practices Related to Referrals to Law Enforcement and Probation Officers, and Restraints, Searches, and Threat Assessments ..... 295

    Allegation 6: Law Enforcement and Probation Referrals, and Use of Restraints, Searches, and Threat Assessments ..... 295



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Review of Applicable Laws and Regulations, and District Policies and Procedures . 302  
*State and Federal Laws and Regulations Regarding Law Enforcement Referrals, the Role of Campus Security Officers, Restraints, Behavioral Interventions, Searches, and Threat Assessments* ..... 302  
*State and Federal Laws and Regulations Regarding Restraints, Behavioral Interventions, Searches and Threat Assessment* ..... 306

Review of the District’s Policies and Procedures for Law Enforcement Referrals, Restraints, Behavioral Interventions, Searches, and Threat Assessments..... 313

Review of Quantitative and Qualitative Data Regarding Law Enforcement and Probation Referrals, Restraints, Searches, and Threat Assessments ..... 324  
*Review of Quantitative Law Enforcement Referral Data for the 2021-22 School Year* ..... 325  
*Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff* ..... 346

Summary and Conclusions ..... 354

Allegation Determination..... 363

Section 7. Methods..... 369

Enrollment Data for the 2021-22 and 2022-23 School Years..... 369

Disproportionality Measures ..... 374

Statistical Tests..... 376

Site Visits and Staff Interviews..... 377  
*Methods for Each Section of Investigation*..... 378

Section 8. Conclusions and Recommendations ..... 402

Detailed Recommendations Related to Practices or Programs ..... 403  
*Referral, Assessment, Identification and Placement for Special Education Services* 403  
*Placement of Students in the Least Restrictive Environment*..... 404  
*Exclusionary Discipline Including Out-of-School and In-School Suspensions* ..... 408  
*Monitoring and Accountability* ..... 414  
*School Resource Officers (SROs) and Campus Security Programs*..... 416

Broad, Global Recommendations ..... 419

References ..... 421

Appendices..... 434

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## Section 1. Introduction

On March 28, 2022, Disability Rights California (DRC), Neighborhood Legal Services of Los Angeles (NLSLA), Equal Justice Society (EJS), and Kilpatrick Townsend & Stockton LLP, on behalf of Cancel the Contract-Antelope Valley (CTC) and students V.X., Z.R., L.W., B.Y., and K.D. (Complainants), filed a formal complaint with the California Department of Education (CDE) that included various allegations regarding the disproportionate mistreatment of students with disabilities (SWDs), particularly Black SWDs (Appendix 1).

The Complaint alleges that the Antelope Valley Union High School District's (District) policies, procedures, and practices (referred to in the Complaint as "Policies") regarding "discipline, policing, and segregation of students with disabilities violate the Individuals with Disabilities Education Act ("IDEA"), California Education Code Section 56000 et seq., California Education Codes 200 and 220, California Government Code Section 11135, Section 504 of the Rehabilitation Act ("Section 504"), and Title II of the Americans with Disabilities Act ("Title II")" (pp. 4-5). The Complaint petitioned the CDE to investigate the various allegations, order systemic remedies to end racial disparities, and reform its special education system.

The Complaint includes allegations in the following areas:

- disproportionate identification and placement of students with disabilities (SWDs) and Black SWDs in segregated settings, including restrictive and punitive placements such as the special day class – behavior (SDC-B) program and Desert Pathways Continuation School
- excessive and disproportionate use of exclusionary disciplinary actions towards SWDs and Black SWDs, including out-of-school and in-school suspensions
- disproportionate expulsion and transfers of SWDs and Black SWDs for disciplinary reasons, and shortcomings with the procedural safeguards (manifestation determination reviews) intended to prevent SWDs from being inappropriately transferred to more restrictive placements due to behaviors related to their disability
- excessive and disproportionate referrals of SWDs and Black SWDs to law enforcement for disciplinary matters—many that are disability related—that lead to restraints, citations, and arrests
- the role of campus security supervisors in addressing student discipline and escalating student behaviors and their disproportionate and excessive use of traumatic interventions, such as searches, restraints, and citation of SWDs and Black SWDs
- noncompliance with the requirements for addressing, documenting, and reporting emergency behavioral interventions including restraints and seclusions of SWDs and Black SWDs
- lack of overall positive behavioral supports as well as social emotional and mental health supports and services in IEPs of students who are experiencing behavioral challenges and receive exclusionary disciplinary actions
- inappropriate disciplinary referrals of SWDs to probation officers and law enforcement for students who require threat assessments

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In April 2022, DRC and NLSLA contacted Jaime E. Hernandez, Ed.D. and Associates, Inc. (Consultant), to consult and conduct an independent investigation regarding the Complaint. This report is the result of the investigation into the allegations.

DRC and NLSLA are non-profit organizations that provide free legal services to people with disabilities. DRC is the protection and advocacy (P&A) agency for the State of California and as such is given the authority to investigate schools to ensure they are treating students with disabilities appropriately and equitably. The data obtained for this investigation were made possible by the access authority granted by the State of California to DRC. This authority requires organizations such as local education agencies (LEAs) and school districts to comply with data requests, including access to staff and sites, when there is cause to believe SWDs are being neglected or abused.

DRC and NLSLA began their investigation into the District in the fall of 2021 and since have made multiple data requests regarding the various allegations. Although some data from previous school years were reviewed, this investigation focused mainly on data and practices from the 2021-22 school year. This allows for an examination of the most recent practices and avoids the lapse and/or irregularities in comparative data in areas that were impacted by school closures and changes in programming caused by the pandemic, such as school suspensions.

Due to difficulties with obtaining an accurate enrollment file for the 2021-22 school year, the investigation used 2022-23 enrollment data to examine areas around the identification and placement of students in special education, specific eligibility categories, and more restrictive placements.

This investigation looked into the policies, procedures, and practices in the various areas of the Complaint to determine whether the allegations were founded. Additionally, the investigation aimed to determine whether these problems were indicative of systemic issues contributing to systemic noncompliance. Limitations of the investigation included a lack of access to data systems, the quality of site level and District data provided by the District, limited access to data for general education students, no access to SROs and probation officers, and a lack of transparency of District staff during site visits and interviews<sup>1</sup>.

The Complaint includes allegations of disproportionate treatment of SWDs and Black SWDs. However, where possible, the investigation also examined available data for general education students in order to examine if disparities related to race/ethnicity and disability status exist and the extent of the disproportionality. However, since P&As authority is limited to SWDs, the primary focus of the data were for SWDs. The report primarily addresses issues that pertain to SWDs but, when appropriate, references the impact of policies, procedures, and practices on general education students, in particular Black students.

---

<sup>1</sup> All interactions with District staff, both centrally and at the site level, included the participation of at least two District attorneys. In addition, site level visits included central office administrators who oversee programs and staff.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The investigation included the following data collection efforts: site visits at seven schools, including four comprehensive schools, two continuation schools, and a special education center; interviews with central office and site level staff; review of policies and procedures; file reviews; data analyses; and a telephone survey of randomly selected parents of students who received at least one out-of-school suspension.

It is important to note that during the course of the investigation, the CDE responded to the March 28, 2022, Complaint and found the District to be in compliance with all areas of the Complaint, noting it had compliant policies in place (Appendix 2). In addition, on January 19, 2023, DRC, NLSLA, EJS, and Kilpatrick Townsend & Stockton, LLP provided the District a letter outlining these concerns and allegations to which the District Superintendent responded and dismissed the concerns as systemic (Appendix 3).

### **Background on Antelope Valley Union High School District**

The Antelope Valley Union High School District is located 70 miles northeast of Los Angeles and serves the cities of Palmdale and Lancaster and the surrounding areas. It contains eight comprehensive and three alternative school sites, SOAR—an early college school located on the Antelope Valley College campus, one charter school (Academy Prep Junior High), as well as online and adult education programs.

The CDE website<sup>2</sup> notes that during the 2021-22 school year, the District had a student population of approximately 22,000, comprising 66.7% Hispanic, 16.2% Black, 9.8% White, 4.4% two or more races, and 2.9% other races<sup>3</sup>. Two-thirds of the students are considered socioeconomically disadvantaged, 17.3% are students with disabilities, 10.7% are English learners, 2.1% are foster youth, and 0.4% are homeless. Within the population of SWDs, 57.2% are Hispanic, 25.1% are Black, 9.7% are White, 5.9% are two or more races, and 1.6% are from other racial or ethnic groups.

The CDE website reports an 85% graduation rate and a suspension rate of 7.1%. Overall, the District is academically underperforming compared to State and county averages, with the California Assessment of Student Performance and Progress (CAASPP) reporting 32.8% of all District students meet or exceed grade level standards for English language arts (ELA), while only 8.5% meet or exceed the math grade level standards. Performance for SWDs in the District is considerably worse, with only 6.0% having met or exceeded the ELA grade level standards, while less than one percent (0.8%) met or exceeded the math grade level standards.

Table 1.0 provides comparison data of the percentages of students meeting or exceeding grade 11 standards on the Smarter Balanced Summative Assessments from the District, County, State, the Los Angeles Unified School District (LAUSD), and Kern County High School District. These comparisons illustrate the large achievement gaps for all groups of District students compared to similar cohorts of students in the county, State, and two

---

<sup>2</sup> DataQuest, School Dashboard, and CAASPP Reports

<sup>3</sup> American Indian, Asian, Filipino, and Pacific Islander

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

selected districts. Although achievement gaps are observed for all groups in the District, Black students and SWDs show the largest and most notable gaps within the District as well as for those in the comparison groups. Conversely, White students in the District show academic performance levels higher than the overall District average (in ELA, White: 44.9% compared to 31.7% overall; math, White 15.4% compared to 7.7% overall)

**Table 1.0**

*Comparison Data of Smarter Balanced Summative Assessment by District, County and State*

Test and Ethnic Group	District	LA County	Statewide	LAUSD	Kern HSD
ELA –Overall	31.7	54.4	54.8	47.1	47.0
Math – Overall	7.7	25.6	27.0	18.9	16.2
ELA – Special Education	5.2	16.1	15.4	12.8	10.0
Math – Special Education	0.7	4.1	3.9	2.9	1.1
ELA – Black	17.4	37.3	36.8	36.2	33.8
Math – Black	2.6	11.1	11.3	10.7	9.1
ELA – Hispanic	31.6	45.5	48.2	43.9	43.8
Math – Hispanic	6.7	15.2	16.8	15.1	12.1
ELA – White	44.9	69.7	66.9	66.7	56.5
Math – White	15.4	43.1	39.2	38.8	25.9

### Organization of the Report

This report is organized into sections to address the various areas of the Complaint and the related allegations of non-compliance, as outlined below. Some allegations have been coupled or reordered in order to present the data in a cohesive manner.

Section 1. Introduction

Section 2. Disproportionality in Special Education Categories and More Restrictive Placements

Section 3. Exclusionary School Discipline of Students with Disabilities, Including Out-of-School Suspensions

Section 4. Exclusionary School Discipline of Students with Disabilities, Including In-School Suspensions

Section 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of Students with Disabilities

Section 6. Referrals to Law Enforcement and Probation Officers, and Restraints, Searches, and Threat Assessments

Section 7. Methods

Section 8. Conclusions and Recommendations

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Appendices are included to provide data collection instruments, various documents, and exhibits. In some instances, the same documents are referenced in multiple sections of the report but are included in only one appendix. Documents with a link to the Gamut website are not included in the appendices, with links provided in the methods section.

Sections 2 through Section 6 contain the data and analysis used for making determinations regarding whether the specific allegations were founded. Each of these sections is organized as follows:

- CDE Complaint Allegations
- Review of Literature
- Review of Applicable Laws and Regulations, and District Policies and Procedures
- Review of Quantitative and Qualitative Data
- Summary and Conclusions
- Allegation Determination

Section 7 describes the methods used for each area of inquiry. Although a description of the methods used for particular areas of inquiry are included in the discussion of each respective section, in some instances, a more detailed explanation of the data collection and analysis efforts can be found in Section 7. This detailed information is intentionally included near the end of the document to enable the reader to focus on the allegations, data analysis, and findings of the investigation.

### **Considerations and Terminology**

It is important for readers to review the entirety of the report to best understand the full context of the findings, conclusions, and recommendations. Additional considerations and terms important for interpreting the provided information are outlined below.

- This report references the March 28, 2022, various compliance complaint filed against the District as the CDE Complaint or Complaint.
- Allegations in the investigation were combined and reordered to address primary and secondary level allegations and for the cohesiveness of this report and may differ in organization and verbiage from the March 28, 2022, CDE Complaint.
- For ease of reporting and due to the small number of events that impact specific racial/ethnic groups, certain sections group two or more racial/ethnic groups and refer to this combined group as “Other.” In some cases, even though students were grouped as “Other,” the discussion may include information related to the impact on a specific group(s).
- Included race/ethnicity designations were based on the most reliable data source available. Challenges and the presence of conflicting information were noted related to the coding of race/ethnicity for many students when comparing various data sources; therefore, in some sections, the most reliable indicator was determined to be the information listed on the source document. For example, Section 2 examines out-of-school suspensions, but the dataset did not include any students identified as

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

multiracial; therefore, this section used the code reported in the suspension file and removed multiracial students from the enrollment population used as a denominator for calculating disproportionality.

- The state and federal government use the term “two or more races” to code individuals who identified as being multiple races. This report uses the term “multiple races” in data tables and “multiracial” when describing students. Similarly, the term “other Pacific Islander” has been abbreviated to “Pacific Islander.”
- Although the District includes a small percentage of enrolled students who attend middle school classes, the majority of data and discussion focuses on secondary aged students in grades 9 through 12.
- The investigation examines the use of exclusionary discipline, such as out-of-school suspensions and expulsions and the processes and procedures utilized by the District in carrying out these disciplinary actions, to ensure compliance with District policy and state and federal laws. The analysis and criticism of such functions should not be construed in any way as condoning any acts of violence or misconduct that violates the education code.
- The majority of data are reported to include one decimal place with the exception of risk ratios that use two decimal places, which is a best practice.
- The use of rounding may result in totals that fall slightly below or above the 100% threshold (i.e., 99.9%, 100.1%). For ease of reporting, all percentage totals are shown as 100% and do not include a decimal place.
- Disproportionate representation or disproportionality can be observed for a group of students who are either overrepresented or underrepresented in a specific area. Due to the nature of the Complaint that alleges the overrepresentation of SWDs and Black SWDs in various areas, the use of the term disproportionality primarily refers to the overrepresentation of a specific group. In cases where disproportionate under identification was found, the report indicates this distinction.
- Each allegation is determined to be founded, partially founded, or unfounded. The allegation is founded if quantitative and qualitative data analyzed fully substantiate the claim; the allegation is partially founded if the quantitative and qualitative data support the claim but more information is needed to fully substantiate the allegation; and the allegation is unfounded if the investigation lacked evidence to support the claim.
- Statistical tests were run on key indicators to determine if a statistically significant relationship existed between a specific event, such as an out-of-school suspension, and two groups of students. The investigation primarily focused on differences between students with disabilities compared to nondisabled students, and Black students (with and without disabilities) compared to all other students combined.
- For the purpose of this report, disability status distinguishes between students with and without disabilities or those who are categorized as general education compared to special education.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Students with disabilities (SWDs) is used synonymously with special education students or students with IEPs and refers to any student eligible under the IDEA and Section 504 with a qualifying disability.
- In discussions that only pertain to SWDs, such as regarding manifestation determination reviews (MDRs), the term students is used with the assumption and implication that all included students have an IEP, Section 504 Plan, and/or disability.
- Nondisabled students is used synonymously with general education students.
- Parent and/or parent/guardian refers to all possible individuals that fit such criteria under law, including educational rights holders, as well as students who have reached the age of majority (18) and act as their own educational rights holder.
- School officials refers to site level administrators and staff, such as teachers and campus security personnel. Senior officials refers to administrative personnel assigned to the central office for management and administrative purposes.
- Law enforcement referrals refers specifically to the Los Angeles County Sheriff's Department Deputy assigned at each school, also referred to as the school resource officer or SRO.
- The use and capitalization of District refers to the Antelope Valley Union High School District, while the use and capitalization of State refers to the State of California or the California Department of Education (CDE).

### Key Terms

The below definitions are provided for reference and based on established definitions from a variety of sources including federal and state Department of Education websites or documents, nonprofit organizations, or literature. The report uses some terms synonymously and/or expands on legal definitions, as described in this list:

**Accountability:** An acceptance of responsibility for honest and ethical conduct towards others. It implies a willingness to be transparent, allowing others to observe and evaluate one's performance.

**Behavioral Intervention Plan (BIP):** A systematic plan designed to change, replace, modify, or eliminate a targeted behavior.

**CALPADS:** The California Longitudinal Pupil Achievement Data System is a longitudinal data system used to maintain individual-level data including student demographics, course data, discipline information, assessments, staff assignments, and other data for state and federal reporting.

**Composition index:** A basic measure to indicate whether over or under representation is present. It refers to the proportion of a group with the same characteristics, such as demographics or discipline outcomes, within a population.

**DataQuest:** The CDE's web-based data reporting system for publicly reporting information about California students, teachers, and schools. It includes a wide range of reports, such as



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

school performance, test results, student enrollment, graduation and dropout, school staffing, course enrollment, and student misconduct data.

**Data Indicators:** Data that provides information about progress towards a desired goal or outcome.

**Disproportionality:** The overrepresentation of a specific race or ethnicity identified in one or more of four areas: identification of a disability in general; identification of a specific race or ethnicity in a specific disability category; discipline; and placement.

**Duplicated and unduplicated count:** Duplicated counts include all instances of an event for the same student, compared to unduplicated, which accounts for individual students regardless of the number of instances.

**Ethnicity:** An identification of origin falling into the category of Hispanic or Latino, or the category of not Hispanic or Latino.

**Exclusionary discipline:** Any type of school disciplinary action that removes or excludes students from their usual educational setting. This typically refers to in-school suspension, out-of-school suspension, or expulsion.

**Free and Appropriate Public Education (FAPE):** An individualized education program (IEP) designed to meet a student's unique needs and from which the student receives educational benefit and is prepared for further education, employment, and independent living, provided in the least restrictive environment, and at public expense.

**Functional behavioral assessment (FBAs):** A process for gathering information about behaviors of concern, whether the behaviors are academic, social or emotional. FBAs are rooted in the theory that behavior is functional (meaning it has a purpose), predictable and changeable. Understanding the underlying function or purpose of a student's behavior can help a school team develop a plan to teach the student more appropriate replacement behaviors.

**Inequity:** Differences in well-being that disadvantage one individual or group in favor of another. These differences are systematic, patterned and unfair but can be changed. Inequities are not random; they are caused by past and current decisions, systems of power and privilege, policies, and the implementation of those policies.

**In-school suspension:** A disciplinary measure that in lieu of removing a student from school with an out-of-school suspension, they are assigned to a supervised suspension classroom for the entire period of suspension if the student poses no imminent danger or threat to the campus, other students, or staff, or if an action to expel the student has not been initiated. Students assigned to a supervised suspension classroom are separated from other students at the school site for the period of suspension in a separate classroom, building, or site for students under suspension.

**Individualized education program (IEP):** A plan for students who are eligible for special education that describes the student's current educational performance, creates goals for development, and identifies services that will be provided to support the student. At a minimum, the plan must be updated once per year.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Implicit bias:** A form of bias that occurs automatically and unintentionally that nevertheless affects judgments, decisions, and behaviors.

**Least restrictive environment (LRE):** The requirement in federal and state law that students with disabilities receive their education with nondisabled peers to the maximum extent possible. The intent of LRE is that students with disabilities should not be removed from regular classes unless, even with supplementary aids and services, education in the regular classes cannot be achieved satisfactorily.

**Local educational agency (LEA):** A local entity involved in education including but not limited to school districts, county offices of education, direct-funded charter schools, and special education local plan areas (SELPA). This report uses LEA synonymously with school district(s).

**Multi-tiered system of supports (MTSS):** An integrated, comprehensive framework that focuses on Common Core State Standards, core instruction, differentiated learning, student-centered learning, individualized student needs, and the alignment of systems necessary for all students' academic, behavioral, and social success.

**Organizational Capacity:** The ability of the organization to use resources effectively and efficiently to achieve its goals.

**Out-of-school suspension:** Instances in which a student is temporarily removed from their regular school to another setting (e.g., home, behavior center) for disciplinary purposes.

**Policies:** The system of guidelines adopted by a government or organization to guide decisions and achieve desired outcomes. A policy is a statement of intent which is then implemented through procedures.

**Positive Behavioral Interventions and Supports (PBIS):** An approach that focuses on the emotional and behavioral learning of students, which leads to an increase in engagement and a decrease in problematic behavior over time. It assists the LEA in adopting and organizing evidence-based behavioral interventions that improve social and emotional behavior outcomes for all students.

**Procedures:** An established approach to carrying out policies that guide organizational behaviors and practices necessary to comply with and achieve the desired outcome of a stated policy.

**Race:** For purposes of data reporting, race data are collected for a minimum of five groups: White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or other Pacific Islander. Respondents may also report more than one race.

**Risk or Rate:** The number of outcomes for a group, divided by the group's population multiplied by 100. This describes the likelihood of a particular outcome (identification, placement, or disciplinary removal) for a specified racial or ethnic group (or groups).

**Risk ratio:** A measure that indicates whether the risk or rate for a target group and the risk or rate of a comparison group differ. Differences indicate whether an over- or -under-representation exists for the target group compared to the comparison group.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Risk ratio threshold:** a threshold, determined by the State, over which disproportionality based on race or ethnicity is significant. States must use “reasonable” sound judgement when determining thresholds based on the racial and ethnic composition of the state, enrollment demographics, and factors associated with various disabilities or disability categories. California has designated a risk ratio of 3.0 to indicate significant disproportionality.

**Significant disproportionality:** In California, this refers to a risk ratio of 3.0 or over. This term is also used in the identification of an LEA with disproportionality for three consecutive years in the same indicator and category of disproportionality.

**School-to-prison pipeline:** A set of policies and practices in schools that make it more likely for students to face criminal involvement with the juvenile courts than attain a quality education.

**State educational agency (SEA):** The agency primarily responsible for the state supervision of public elementary schools and secondary schools. The State Board of Education is the SEA for federally funded education programs.

**Structural or systemic inequalities:** Bias built into the structure of organizations, institutions, governments, or social networks. Structural or systemic inequality occurs when the fabric of organizations, institutions, governments, or social networks contains an embedded bias that provides advantages for some members and marginalizes or produces disadvantages for other members.

## **Section 2. Disproportionality in Special Education Categories and More Restrictive Placements**

The investigation sought to validate the CDE Complaint’s allegations related to the disproportionate overrepresentation of Black students in more restrictive placements, including the special day class for students with behavioral needs (SDC-B), and in segregated settings, such as Desert Pathways, which serves as the District’s only special education center. Although the Complaint did not include allegations of disproportionate overidentification of students in any eligibility categories, identification data were examined. The disproportionate overidentification and placement of students in special education is the foundation for all allegations made in the Complaint.

The review also aimed to determine whether the District’s policies, procedures, and practices were consistent with state and federal laws and if systemic problems existed that contributed to noncompliance.

This section includes the following regarding the disproportionate identification of Black students in special education and the disproportionate segregation of these students in special education classrooms and in segregated settings: various allegations made in the CDE Complaint; review of literature; review of applicable laws and regulations, and District policies and procedures; review of quantitative and qualitative data; summary and conclusions; and allegation determination.

### **Allegation 2. Disproportionality in Special Education Categories and More Restrictive Placements**

The CDE Complaint includes the following allegations regarding more restrictive placements:

- Allegation 2.1            The District segregates students with disabilities from nondisabled peers at rates far exceeding the targets set by the State. Less than one-third of SWDs are placed in the general education setting for the majority of the day—approximately one-half the target rate set by the State.
- Allegation 2.2            The District segregates Black SWDs into more restrictive placements, in particular the special day class – behavior program (SDC-B) as well as its special education center (Desert Pathways), without first considering supports, such as behavior intervention plans (BIPs) or counseling.
- Allegation 2.3            The District implements a behavioral program in all its SDC-B classrooms, referred to as the “level system.” The level system relies on teachers assigning students to a “level” from one to four, with levels one and two for students who have not met behavioral expectations. Students in levels one and two are denied access to their peers during lunch and passing periods, resulting in a punitive rather than positive approach to behavioral support and further removing them from their least restrictive environment (LRE). Since the level system is built into

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the SDC-B program, all students are subject to this system of support, even if it is not appropriate for their individual needs.

**Allegation 2.4** The SDC-B program is configured to deliver different subject matters for students attending the same period. This limits the ability to provide direct instruction, with most teachers providing students independent work, such as packets.

### Review of Literature

The historic landmark desegregation case *Brown v. Topeka Board of Education* challenged the practice of school segregation based on race, establishing the principle of equal education opportunities for students with disabilities (SWDs). This ruling enabled parents of SWDs to bring forth discrimination lawsuits against school districts through claims that their children were excluded and segregated because of their disability. *Brown* set the groundwork for two subsequent cases, *PARC v. Commonwealth of Pennsylvania* and *Mills v. Board of Education of District of Columbia*.

*PARC* was brought forth on behalf of 14 developmentally disabled students who were denied access to a public school without any due process protections. *PARC* established a precedent that SWDs deserved a public education on par with their non-disabled peers, processes for ensuring parent participation in making placement decisions, and mechanisms for dispute resolution (Wright).<sup>4</sup>

*Mills* addressed the inappropriate use of exclusionary practices of suspending, expelling, reassigning, and transferring students with cognitive, emotional, behavioral, or physical disabilities from their regular classes without affording them due process, citing the high cost of educating these students. The courts ruled that districts have an obligation to educate SWDs regardless of the severity of their disability. It noted that the inadequacies of a school system, whether due to limited funding or administrative inefficiencies, could not be allowed to account for discriminatory practices.

These three cases influenced the passage and contents of the 1975 *Education for all Handicapped Children Act (EHA)*, also known as Public-Law 94-142, the predecessor of the Individuals with Disabilities Education Act (IDEA) (Herzick, 2015). This law was also enacted to support states and local education agencies (LEAs) in protecting the rights of, meeting the individual needs of, and improving outcomes for SWDs and their families. At that time, Congress noted that poor Black students were overrepresented in special education, a problem that continues today.

Disproportionality has been a persistent, well-researched, and documented phenomenon spanning more than 60 years, yet the complexity of the problem is not fully understood (Sullivan & Artiles, 2011). Agencies such as the Office of Civil Rights (OCR) and Office of

---

<sup>4</sup> <https://www.wrightslaw.com/law/art/history.spec.ed.law.htm>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Special Education Programs (OSEP), along with civil rights groups, have reported the persistent problem of overrepresentation of minority children in certain disability categories since the 1970s.

Scholars have offered many insights and theories into the complex problem and causes of disproportionality. Sullivan and Artiles (2011) note that the phenomenon is inextricably tied to conceptualizations of difference, susceptible to local conditions, and shaped by macro-level forces. Due to the multidimensional factors that contribute to this phenomenon, the following theories are summarized to offer context of the nature of the problem and potential areas to target interventions.

Theories to explain the disproportionate identification and placement of students generally fall into four categories: sociodemographic issues associated with poverty; unequal education opportunities for disadvantaged and minority students; a general pattern of discrimination and bias in society reflected within school systems; the special education referral, identification, and placement process itself (Hernandez et al., 2008; Artiles & Trent, 1994; National Research Council Committee on Minority Representation in special education; Skiba et al., 2003).

Harry and Klingner (2006) identify the roots of the problem within three phases of the special education process – children’s opportunity to learn prior to referral, the decision-making processes that led to special education placement, and the quality of the special education placement (p. 173).

Cultural factors also contribute to disproportionality. Judgmental or subjective disabilities, such as intellectual disabilities (ID), learning disabilities (LD), and emotional and behavioral disorders (EBD), have been longstanding areas of disproportionality and are considered a primarily cultural phenomenon (Annamma, 2015; Connor, 2008; Collins et al., 2016; Harry & Klingner, 2014). Since cultural factors have shaped how disability is characterized for educational purposes, this can result in the marginalization of students through stereotyping and “ableism,” perpetuating a system of discrimination and exclusion used to segregate SWDs (Connor, 2008; Hehir, 2005).

Scholars have also noted that for some disadvantaged students and students of color, factors associated with cultural bias, racial discrimination, or cultural incompetence and ignorance are the primary causes of the disproportional identification (Artiles, 2011; Artiles et al., 2010; Codrington & Fairchild, 2012; Collins et al., 2016; Connor, 2008; Harry & Klingner, 2014; Losen et al., 2014).

Cultural deficit perspective can also explain factors that contribute to overrepresentation. Cultural deficit thinking attributes students’ failure to presumed deficiencies in their socioeconomic status, families, and cultures.

In some ways, cultural deficit thinking misplaces the onus of the problem on the students the system is intended to serve while abdicating responsibility of the structural inefficacies of the school. This was succinctly stated by English (2002):

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The low success rate of minority students in our schools has too often been portrayed as individual failures of students instead of institutional failures of the system based on false notions of objectivity shrouded in the mantle of impartial tests of ability. (p. 307)

Conversely, negative outcomes associated with the convergence of cultural deficit thinking and inappropriate identification and placement of students in special education can be mitigated by school processes (Ahram et al., 2011).

Structural theory as a means of understanding racial inequities in special education also offers insights into the role of systemic factors that affect the experiences of the minority group (Oswald et al., 2001) by locating the basis of racial inequity in the structure of society and racialized social systems rather than in the beliefs or actions of individuals (Sullivan & Artiles, 2011; Conyers, 2002; Essed, 1991; Omi & Winant, 1986).

Sections 618 and 616 of the IDEA have placed the focus of disproportionality on the result of an inappropriate identification, albeit with some controversy regarding the methods for determining such. This requires states to identify school districts that have significant disproportionality or disproportionate representation that is a result of inappropriate identification or false positives, respectively (Skiba et al., 2016).

Despite specific IDEA regulations, the consequences of overrepresentation due to inappropriate identification can lead to a host of negative outcomes for the children from vulnerable populations who have been systemically marginalized over time (Skiba et al., 2016; Miles, 2016; Togut, 2011), including lowered academic achievement and poor postschool outcomes (Wagner et al., 1992).

The inappropriate identification and overrepresentation of students of color have implications for group misinterpretation, stigmatization, and the potential perpetration of racial segregation (Skiba et al., 2016). The issue of disproportionate placement of students in special education has been characterized as a mechanism for segregating minority students (Losen, 2002) and as political and cultural tools to maintain racial segregation within schools (Collins et al., 2016), particularly if it is not applied to all cultural groups in proportion to their group's percentage of the general education population of students (Kaufman & Anastasiou, 2019; Condrynton & Fairchild, 2012; Losen, 2002; Sullivan & Artiles, 2011).

Although one of the IDEA's main tenets is to provide SWDs with a free and appropriate education (FAPE) in the least restrictive environment (LRE), the overrepresentation of Black students placed in more restrictive settings has led some to view LRE as a loophole that contributes to two largely separate and unequal education systems: general education and special education (Ferri & Connor, 2005; Miles, 2016).

Smith and Kosleski (2005) expand on the impact of overrepresentation on ensuring LRE, noting that "Disproportionality is manifested not only in who is placed into special education, but once in special education, in who has access to general education environments and curriculum" (p. 276).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Miles notes that generally White students are placed in more restrictive settings when they require intensive services. However, for students of color, placements in a more restrictive settings have been found likely to occur regardless of whether the students require intensive services (Parrish, 2002).

Negative outcomes associated with the segregation of students in special education classrooms include a lack of access to the general education curriculum and their nondisabled peers, and lowered teacher expectations. These poor-quality placements can negatively impact students by reducing the likelihood they will graduate from high school with a diploma, which limits their employment opportunities and contributes to the increased likelihood of poverty (Ferri & Connor, 2005).

Two reauthorizations of IDEA (2004 and 2014) aimed to address disproportionality by directing states to establish definitions for identifying and monitoring disproportionality, as well as authorizing broad discretion for imposing sanctions. These sanctions require districts identified as being disproportionately overrepresented to reserve 15% of their annual special education budget for coordinated early intervening services (CEIS).

The 2004 reauthorization allowed states to define disproportionality, which led to considerable criticism and under identification of districts as disproportionately overrepresented. The Government Accountability Office (GAO) found that the definitional and monitoring processes of the federal government were too lax and noted a wide variation in definitions among the 16 states selected for review, concluding that some states' definitions were preventing them from identifying disproportionality (Skiba et al., 2015; Herzik, 2015). One critique for this under identification was that states were wary to identify districts as being overrepresented since it would result in a portion of their limited special education budget being allocated for early intervention services.

In December 2016, new IDEA disproportionality regulations were released after years of criticism and prolonged public commentary. The regulations had three primary components: requiring states to use a standard methodology for determining significant disproportionality, broadening the scope of CEIS to include preschool students and SWDs, and requiring districts to identify and address the root causes of disproportionality (Sullivan & Osher, 2019).

The standard methodology requires states to use a relative risk ratio value for determining disproportionality; however, states were able to establish their own thresholds, cell sizes or the minimum number of students per group required for inclusion in the calculation, and timeframes for identifying significant disproportionality, based on the notion of reasonableness. This has led to a wide variation in the thresholds selected, prompting some to call for the U.S. Department of Education (ED) to establish a national definition.

Herzik (2015) argues that the ED should develop a nationwide standard for determining disproportionality to achieve consistency in understanding and results for reducing the overrepresentation of minority students in special education. She proposes the ED adopts a relative risk ratio of 2.0, similar to that adopted by Louisiana, and cited the ED's reported



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

stance on a risk ratio of 1.5 as being indicative of overrepresentation as argued in the *Blunt v. Lower Merion School District*.

California has a threshold of 3.0 relative risk ratio, meaning students from one particular race can be overrepresented three times more than students from all other races. For example, to be considered disproportionate, Black students would need to be identified for special education three times as often as all other students. This threshold is especially high given the consequences of disproportionality for impacted students.

Scholars have provided various definitions of overrepresentation over the years, noting cut off ranges from a risk ratio value greater than or equal to 1.2, 1.5 (Skiba et al., 2005; Sullivan & Artiles, 2011), and 2.0 (Parrish, 2002).

Sullivan and Osher (2019) noted after the 2016 regulations that:

If previous patterns hold, however, many states' thresholds and other requirements will be set to minimize findings of disproportionality, thus continuing to negate the potential effect of regulations. Nonetheless, schools without designations of "significant discrimination" may still be culpable for discrimination, as suggested by cases and OCR complaints reviewed here. (p. 404)

Sullivan and Osher (2019) also question the notion that schools have the capacity to identify root causes of disproportionality and remediate them through the CEIS process, given the continued controversy among scholars about disproportionality's root causes in systemic, institutional, or historic factors associated with inappropriate practices and procedures.

Disproportionality is a matter of investigation by two primary groups, OSEP and OCR. A distinction in how overrepresentation is addressed by each agency is that OSEP maintains a focus on numerical indication of overrepresentation or the risk ratio thresholds, while OCR is broadly concerned with disparate treatment and individuals' rights. Regardless, school systems have specific obligations related to each (Sullivan & Osher, 2019).

In many ways, the phenomenon of disproportionality challenges the assumption on the effectiveness of special education identification and placement in these programs. Although special education provides some students with the necessary support to make progress in the general education setting and curriculum, this may not be the case for others. The concern of disproportionate overrepresentation is not driven by the question of whether students of color are achieving positive outcomes because they are getting their fair share of quality services, but rather the high preponderance of negative outcomes associated with special education identification and placements. Therefore, these failures for students of color disproportionately identified and placed must be examined from a systemic and structural lens.

The shortcomings and realities of the systemic and structural impacts of special education programs are summarized in the following three excerpts:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Most troubling is the finding that special education, although conceived as a way to provide support and access for previously excluded students, has paradoxically participated in maintaining rather than minimizing obvious inequities (Ferri & Connor, 2005).
- Whether we are talking about desegregation, immigration, compulsory attendance laws, or increased referrals to special education in response to statewide testing, special education has always served as a place for students who cannot or will not be assimilated (Heubert, 2002).
- Thus, although special education may be seen as benevolently serving students with disabilities, it also serves the larger educational system, which demands conformity, standardization, and homogenization (Hehir, 2002).

Although the literature around disproportionality is vast and rich, many questions remain as to why it occurs and how to remedy the problem. One scarce area of research is on the individual or systems-based research aimed specifically at reducing disproportionate rates of special education referral (Skiba et al., 2012).

One large longitudinal intervention applied in the Los Angeles Unified School District has provided promise and insights into addressing structural and systemic weakness for reducing disproportionality of Black students in the ED category, as part of federal court oversight in the *Chanda Smith Modified Consent Decree*. The intervention was developed based on findings of the systemic shortcomings identified from an examination of local level referral, identification, and placement processes. The intervention focused on improving the quality of ED referrals and identification for all students, thereby resulting in a reduction of inappropriate identifications, including those of Black students (Hernandez et al., 2008). This required a standardization of practice through the implementation of a checklist that guided schools through the referral, identification, and placement process to ensure that all students received a comprehensive evaluation as well as consistent and equitable consideration of supports and services during the referral, identification, and placement phases. One critical component was the ongoing compliance monitoring efforts by the court monitor and district to ensure fidelity of implementation.

### **Review of Applicable Laws and Regulations and District Policies and Procedures**

The following discussion reviews applicable education code requirements as well as federal statutes and regulations, such as the Individuals with Disabilities Education Act (IDEA), associated with the disproportionate representation of students in special education and specific eligibility categories, as well as the least restrictive environment (LRE). Select sections of the education code and IDEA are included and summarized to provide context of the findings and conclusions.

A review of the District's policies and procedures submitted as part of this investigation was conducted to analyze alignment with applicable laws and regulations and to identify shortcomings that might contribute to the disproportionate identification and placement of students in special education.

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## ***State and Federal Regulations Regarding School Discipline***

The sections of federal and state laws and regulations included in this discussion are not considered comprehensive. In addition, the policies and procedures reviewed represent the documents provided or retrieved online as part of the investigation. Due to the limited scope of the allegations in the area of disproportionate identification in the CDE Complaint, very few documents were received or found on the District website. Therefore, in some areas it is not possible to determine the adequacy of the policies and procedures to address the inappropriate identification of students into special education programs and/or specific eligibility categories.

### **Education Code Requirements on Disproportionality.**

Education Code (EC) Section 56600.6 requires that student and program performance results are monitored at the state and local level by evaluating students' performance against key performance indicators. As part of the state's monitoring and enforcement obligations, the use of quantifiable and qualitative indicators is required to adequately measure performance in the indicators established under Section 300.600(d) of the IDEA, such as the provision of a free and appropriate education (FAPE) in the LRE and the disproportionate representation of racial and ethnic groups in special education and related services to the extent the representation is the result of inappropriate identification.

For LEAs identified as Significantly Disproportionate in one or more of the following special education categories of discipline (suspension and expulsion), placement, identification in general, and identification in specific eligibility categories, a district is required to reserve 15% of IDEA funds to develop and implement a CCEIS Plan and provide CCEIS services. To support LEAs in developing this system-level intervention to remediate disproportionality, the CDE created the State Performance Technical Assistance Project (SPP-TAP) (Harrison, 2020).

Pursuant to Section 300.647(b)(d), the CDE has determined that the threshold of 3.0 would be used for both disproportionality and significant disproportionality. The minimum cell sizes for the analysis group are 10 for the numerator and 20 for the denominator.

### **Education Code Least Restrictive Environment Requirements.**

EC Section 56040.1 LRE regulations state that each public agency shall ensure the following to address the least restrictive environment for individuals with exceptional needs:

- To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled.
- Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occur only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### **Federal Regulations Regarding Disproportionality.**

The regulations of the Individuals with Disabilities Act (IDEA) primarily dictate responsibilities and obligations of states and local education agencies (LEAs) to identify, report, and address the disproportionate over- and under-representation of racial/ethnic groups in various areas. In addition, Title VI and Section 504 are two anti-discrimination civil rights laws to protect individuals from discrimination on the basis of race, color, or national origin, and disability.

### **The IDEA Regulations on Disproportionality.**

The IDEA regulations contain various requirements for states and local education agencies (LEAs) regarding the identification, reporting, and remediation of racial disparities for SWDs.

Section 616(a)(3)(C) requires states to identify districts with disproportionate representation of racial and ethnic groups in special education and related services that is a result of inappropriate identification.

Sections 618(d) and 300.646 requires states to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring within the state and the LEAs of the state in regards to:

- the identification of students with disabilities in general,
- the identification of students with disabilities in a particular disability category,
- the placement of students in particular educational settings, or
- the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

When a determination of significant disproportionality is made in any of the four categories listed above, districts must provide for annual review and, if appropriate, revision of the policies, practices, and procedures used in identification or placement in particular education settings, including disciplinary removals, to ensure that the policies, practices, and procedures comply with the requirements of the IDEA. Revisions to policies, practices, and procedures must be publicly reported.

For districts that have been identified as significantly disproportionate, the state or the Secretary of the Interior shall require any LEA identified to reserve the maximum amount of funds under section 613(f) of the IDEA to provide coordinated early intervening services (CEIS) to address factors contributing to the significant disproportionality. In implementing CEIS a district may carry out activities that include professional development and educational and behavioral evaluations, services, and supports.

As part of CEIS, the district must identify and address the factors contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality.

When implementing CEIS, the district must also address any policy, practice, or procedure identified as contributing to the significant disproportionality, including any that result in a failure to identify, or in the inappropriate identification of, students of a racial or ethnic group (or groups).

Lastly, the regulations prohibit a state or district from developing or implementing policies, practices, or procedures that result in actions that violate the requirements of these regulations, including requirements related to Child Find—as mandated by IDEA—and ensuring that a free appropriate public education (FAPE) is available to all eligible children with disabilities. This means that in efforts to address and reduce disproportionate overrepresentation, a state or district cannot establish policies that would limit or deny a student from being identified under a specific eligibility category where disproportionality is identified.

Section 300.646 also requires states to apply the methods in Section 300.647 to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state.

Section 300.647(b)(d) require all states to use a standard methodology of risk ratios for analyzing disparities for seven racial or ethnic groups, comparing each to all other children in 14 different categories. This regulation allows states to determine the thresholds above which the risk ratio in each category indicates significant disproportionality and offers the following definitions:

- Risk is the likelihood of a particular outcome (identification, placement, or disciplinary removal) for a specified racial or ethnic group (or groups), calculated by dividing the number of children from a specified racial or ethnic group (or groups) experiencing that outcome by the total number of children from that racial or ethnic group (or groups) enrolled in the LEA.
- Risk ratio is a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk for children in all other racial and ethnic groups within the LEA.
- Risk ratio threshold is a threshold determined by the state over which disproportionality based on race or ethnicity is significant under Section 300.646(a) and (b). States must use “reasonable” sound judgement when determining thresholds based on the racial and ethnic composition of the state, enrollment demographics, and factors associated with various disabilities or disability categories.

In determining whether significant disproportionality exists in a state or LEA under Section 300.646(a)(b), the state must apply the risk ratio threshold or thresholds determined to risk ratios or alternate risk ratios, as appropriate, in each category of the following racial and ethnic groups:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Hispanic/Latino of any race; and, for individuals who are non-Hispanic/Latino only;
- American Indian or Alaska Native;
- Asian;
- Black or African American;
- Native Hawaiian or Other Pacific Islander;
- White; and
- two or more races.

The regulations require states to calculate the risk ratio for each LEA for each racial and ethnic group with respect to:

- the identification of children ages 3 through 21 as SWDs in general; and
- the identification of children ages 3 through 21 as students with the following impairments:
  - intellectual disabilities (ID);
  - specific learning disabilities (SLD);
  - emotional disturbance (ED);
  - speech or language impairments (SLI);
  - other health impairments (OHI); and
  - autism.

Lastly, for each district states must calculate the risk ratio for each racial and ethnic group with respect to the following placements into specific educational settings, including disciplinary removals for:

- SWDs ages 6 through 21 inside a regular class less than 40 percent of the day;
- SWDs ages 6 through 21 inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools;
- SWDs ages 3 through 21 with out-of-school suspensions and expulsions of 10 days or fewer;
- SWDs ages 3 through 21 with out-of-school suspensions and expulsions of more than 10 days;
- SWDs ages 3 through 21 with in-school suspensions of 10 days or fewer;
- SWDs ages 3 through 21 with in-school suspensions of more than 10 days; and
- SWDs ages 3 through 21 with disciplinary removals in total number of days, including in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer.

The state must identify as having significant disproportionality based on race or ethnicity under Section 300.646(a)(b) any LEA that has a risk ratio for any racial or ethnic group in any of the categories described above that exceeds the risk ratio threshold set by each particular state for that category.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The regulation authorizes each state to define all risk ratio thresholds, minimum cell sizes, minimum n-sizes, and standards for measuring reasonable progress and must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the state is appropriately analyzing and identifying LEAs with significant disparities based on race and ethnicity in the identification, placement, or discipline of children with disabilities.

A state is not required to identify an LEA as having Significant Disproportionality based on race or ethnicity under Section 300.646(a)(b) until:

- the LEA has exceeded a risk ratio threshold set by the state for a racial or ethnic group in a category described in paragraph (b)(3) or (4) of this section for up to 3 prior consecutive years preceding the identification; and
- the LEA has exceeded the risk ratio threshold and has failed to demonstrate reasonable progress, as determined by the state, in lowering the risk ratio or alternate risk ratio for the group and category in each of the 2 prior consecutive years.

The designation of an LEA with Significant Disproportionality, meaning they have exceeded the threshold to determine significant disproportionality for 3 consecutive years, indicates sanctions have been imposed requiring the district to reserve up to 15% of their special education budget for coordinated early intervening services that are implemented in the general education program.

20 U.S. Code 1416(b)(2)(c)(ii), Section 616 and Section 300.602 include state and LEA requirements on various indicators, including the disproportionate representation (over and under) of racial/ethnic groups in the four general areas of overall disability, specific disability categories, placement, and discipline. The mechanisms for this public reporting are the State Performance Plan (SPP), Annual Performance Report (APR), and CCEIS Plan.

The SPP/APR requires the reporting of “disproportionate representation” of racial and ethnic groups in special education and related services that is a result of inappropriate identification. As part of the SPP/APR, the state establishes targets on 17 special education compliance and performance indicators that LEAs must meet. Furthermore, it also uses the term “significant discrepancy” if the districtwide average rate for suspension and expulsion exceeds the statewide rate. In contrast, the CCEIS Plan only applies for areas identified as significantly disproportionate, meaning that the district has exceeded the risk ratio threshold met by each state for 3 consecutive years.

### ***Title VI and Section 504 of the Rehabilitation Act Regulations on Disproportionality.***

The over- and under- identification of students of color and belated evaluation to determine whether they have disabilities and need special education services can violate Title VI and Section 504. In doing so, these events cause harm to students’ civil rights to an equal educational opportunity.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Title VI requires that students of all races, colors, and national origins have equitable access to general education interventions and a timely referral for special education assessment under the IDEA or Section 504. Title VI also requires that students of all races and national origins be treated equitably in the evaluation process, in the quality of special education services and supports they receive, and in the degree of restrictiveness of their educational environment.

Title VI also addresses disproportionality and nondiscriminatory assessment, and prohibits discrimination based on race, color, or national origin in connection with, but not limited to, any:

- over-identification of students of color as having disabilities based on age-appropriate behaviors that are unrelated to disability;
- under-identification of students of color who do have disabilities;
- unlawful delays in evaluating students of color or English learners for a disability;
- failure to use valid and reliable assessments, including behavioral assessments, for students who are English learners that appropriately measure the student's achievement or aptitude for the skill being measured, rather than measuring the student's ability to speak English; and
- failure to consider the language needs of English learners who have a disability (pp 7-8).

Title VI also contains a two-prong test for determining if a school's conduct resulted in unlawful discrimination based on race. The first is if the student was treated differently based on race, color, or national origin. The second is whether a school implements a "facially race-neutral" criterion, policy, practice, or procedure that results in a disparate impact on the basis of race.

### **Section 504 and IDEA Free and Appropriate Education, Evaluation and Placement, and Least Restrictive Environment Requirements.**

Section 504 and the IDEA contain several foundational tenets to protect students from inappropriate identification and placement in special education. Some of these laws and regulations serve as procedural safeguards to ensure parents are informed and participate in the identification and placement process.

Free and appropriate public education (FAPE) and least restrictive environment (LRE) evaluation and assessment procedures are fundamental aspects of ensuring FAPE, and these principles of the law apply to all of the issues related to this investigation, which include identification and placement of SWDs, school discipline and disciplinary removals, expulsions and disciplinary transfers, and law enforcement referrals. In addition, the behavioral supports and services offered to students have a direct impact on FAPE.

Section 504 and the IDEA requires that LEAs provide a free and appropriate education to SWDs. Under Section 504, FAPE is the provision of general or special education related aids and services that are designed to meet the needs of SWDs in a comparable manner to those



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

of students without disabilities. It also ensures procedural requirements related to educational setting, evaluation and placement, and procedural safeguards are satisfied.

Section 104.33 states that FAPE should be provided to each qualified SWD regardless of the severity of their disability. It also defines an appropriate education as the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of a SWD as adequately as the needs of nondisabled peers are met and (ii) are based upon adherence to procedures that satisfy the requirements of Sections 104.34, 104.35, and 104.36.

Section 104.34(a) states that schools must attempt to educate the student in the general education environment with the use of supplementary aids and services before moving to a more restrictive setting.

Section 104.35 evaluation and placement requires schools to evaluate a student prior to determining if the student's behavior leads to a significant change in placement. This requirement applies to the cases where a student has received removals that constitute a change in placement.

Section 300.114 of the IDEA includes LRE requirements that mandate each public agency ensures that:

- to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Section 301.101(a) establishes requirements for a free appropriate public education (FAPE), specifying that it must be made available to all children ages 3 through 21 residing in the State, including SWDs who have been suspended or expelled from school, as provided for in Section 300.530(d).

Section 301.101(c) requires that schools ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination of eligibility and placement must be made by the IEP team with participation and input from the parent.

Section 300.304 sets the requirement for carrying out evaluation procedures. Schools must provide a notice to the parents of a SWD that describes any evaluation procedures the agency proposes to conduct. When conducting an evaluation, the school must use a variety of assessment tools and strategies to gather relevant functional, developmental, and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

academic information about the child, including information provided by the parent, that may assist in determining:

- whether the child is a child with a disability under Section 300.8; and
- the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities)

Schools may not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child and must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Assessments must be nondiscriminatory on a racial or cultural basis and are to be provided in a student's native language or other mode of communication to yield accurate information regarding the child's academic, developmental and functional abilities, unless not feasible to do so.

Assessments or measures are to be valid, reliable, and administered by trained, knowledgeable personnel in accordance with any instructions provided by the producer of the assessments. Assessment and other evaluation materials should address areas of specific education need and rely solely on standardized measures.

Students are to be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. An evaluation needs to be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified. Assessment tools and strategies must provide relevant information that directly assists the IEP team in determining the educational needs of the child.

Section 300.306 establishes requirements to guide teams in the determination of eligibility. It states that upon completion of the assessment and other evaluation measures, a group of qualified professionals and the parent of the child (the IEP team) determine whether the child is a child with a disability, as defined in Section 300.8.

The regulations include a special rule for eligibility determination for IEP teams to consider exclusionary factors that might explain the student's difficulties to potentially rule out the presence of a disability. It states that a child must not be determined to be a child with a disability if the determinant factor for that determination is due to:

- a lack of appropriate instruction in reading, including the essential components of reading instruction
- lack of appropriate instruction in math; or
- limited English proficiency; and
- if the child does not otherwise meet the eligibility criteria under Section 300.8(a).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The procedures for determining eligibility and educational need require IEP teams to draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior and ensure that information obtained from all of these sources is documented and carefully considered.

If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Sections 300.320 through 300.324. The IEP becomes the mechanism for ensuring FAPE in the LRE.

Section 300.305 includes additional requirements for evaluations and reevaluations, in particular to determine if any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

### ***Review of District's Policies and Procedures for Identification and Placement in the LRE***

The CDE's Complaint's primary focus was on the disproportionate overrepresentation of SWDs and Black SWDs in more restrictive placements, exclusionary discipline including suspensions and expulsions, disciplinary transfers, law enforcement referrals, and restraints. Although the Complaint does not allege overrepresentation of SWDs in special education (generally) or in specific disability categories, the investigation reviewed relevant data to determine if disproportionality exists in all of the areas legally identified. The overrepresentation of students of color in special education and in specific disability categories are the foundation of many of the other allegations that stem from the disproportionate overrepresentation of specific racial/ethnic groups.

This discussion will focus on policies and procedures related to placement in special education settings (LRE) and the level behavioral system used in the SDC-B classrooms. Policies are defined as "the system of guidelines adopted by a government or organization to guide decisions and achieve desired outcomes." A policy is a statement of intent which is then implemented through procedures. Procedures are an established way of carrying out policies that guide organizational behaviors and practices necessary to comply with and achieve the desired outcome of the stated policy.

The following documents were analyzed:

- Least Restrictive Environment (LRE) – Antelope Valley SELPA (2018)
- Board Policy 6159 – Least Restrictive Environment (LRE) – Revised June 4, 2003
- AVUHSD Positive Behavior Level System
- SDC-B Job Alike Session Agenda from the 2021 Special Education Virtual Conference (PowerPoint)

In the review of District policies and procedures, two primary documents related to placement were submitted. The main source of information came from the Antelope Valley SELPA

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Procedures, and the second source was a Board Policy on LRE. The District did not provide a special education policies and procedures manual or documents related to the referral, assessment, and identification processes. While policies on the placement of SWDs at continuation schools and independent study programs were provided, there does not seem to be a similar type of document for LRE. Further, an online search also failed to yield any additional policies or procedures on this topic. This is concerning given that it is common practice for school districts to make policies and procedures related to the identification and placement of SWDs available online for parents and the public.

The LRE document appears to be part of a procedural manual created by the Antelope Valley Special Education Local Plan Area (SELPA). The SELPA dictates that it shall be the policy of districts within the SELPA that SWDs in public or private institutions or other care facilities are educated alongside nondisabled peers to the maximum extent possible. The document lists legal references to LRE in the education code as well as the federal statute of the IDEA.

The document describes the intent of LRE with language consistent with regulations from Section 300.114 of the IDEA and EC Section 56040.1, which identify the need to educate SWDs with nondisabled children to the maximum extent possible.

Furthermore, it implies that oversight will occur to ensure IEP teams first consider the general education classroom for each student and cites the *Sacramento Unified School District v. Rachel H.* ruling as the parameters to be used by IEP teams when making LRE placement decisions. It states:

To support this at an individual level, the requirements of legally compliant individualized education program (IEP) meetings will be reviewed, including the responsibility to first consider the general education classroom for each student. The four-part full inclusion test (listed below), as outlined by the 9<sup>th</sup> Circuit Court of Appeals in *Sacramento Unified School District v. Holland*, is the guiding principle to be used by LEAs and IEP teams. Under this test, IEP teams must consider:

- the educational benefits available to the student in the general education classroom, supplemented with appropriate aids and services, as compared with the educational benefits of a special education classroom;
- the non-academic benefits of interaction with students who are not disabled;
- the effect of the student's presence on the teacher and other students in the classroom; and
- the cost of mainstreaming the student in a regular (general) education classroom.

It instructs districts to first consider general education settings at a student's school of residence with supplementary aids and services and to specify the extent to which a student will be removed from the general education setting.

If schools cannot serve a student at their school of residence, IEP teams are to document why a different school is necessary and why the resident school could not serve the student.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

It also provides basic guidance for students being transitioned from their school of residence, requiring a timeline and the activities needed to support the transition.

It notes that districts engaging in new construction of facilities must follow the accessibility provisions of the American with Disabilities Act (Title II).

The policy requires IEP teams to include two statements regarding the student's LRE determination:

- a statement of supplementary aids and services that the student needs to ensure participation in the general education environment and
- a statement indicating that the student will participate in a general education environment with non-disabled peers unless the student's full-time involvement and progress in the general education curriculum is precluded by the nature and severity of the disability.

Overall, the document includes some beneficial language that explains the principles and standard for determining LRE; however, it lacks clear guidance for IEP teams to determine a student's placement in the LRE. For instance, the document does not include further information regarding how IEP teams will be guided for making LRE determinations based on the four-factor balancing test set by the 9<sup>th</sup> Circuit Court in *Rachel H.* Without a better description and process for understanding how this standard is applied during IEP meetings, teams are unlikely to implement this test consistently and correctly.

Additionally, the language regarding the requirement for accessibility in new school construction is important and shows an understanding of how accessibility impacts LRE.

The outdated BP Policy 6159 regarding LRE contains the following statement:

The Board of Trustees desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free, appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

In addition, it references 11 other components of the policy which were not provided during this review:

- Comprehensive Local Plan for Special Education
- Uniform Complaint Procedures
- Transportation for Students with Disabilities
- Special Education Staff
- Suspension and Expulsion/Due Process (Students with Disabilities)
- Differential Graduation and Competency Standards for Students with Disabilities
- Procedural Safeguards and Complaints for Special Education
- Nonpublic, Nonsectarian School and Agency Services for Special Education

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Appointment of Surrogate Parent for Special Education Students
- Identification of Individuals for Special Education
- Identification and Education under Section 504

The policy concludes with the following:

The Superintendent or designee shall develop administrative regulations regarding the appointment of the individualized education program team (IEP), the contents of the IEP and the development, review and revision of the IEP. To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

This Board Policy is considerably outdated, having been written one year prior to the 2004 reauthorization of the IDEA. Moreover, it lacks an adequate explanation of the principles of LRE and the legal authority both at the federal and state level for ensuring LRE. It is unclear why some policy components are listed in this document since many are not related to the requirements of LRE. Overall, this policy is inadequate, outdated, and contains nonviable information to promote one of the most fundamental tenets of the IDEA.

In response to the allegation regarding the use of the behavioral level system in the SDC-B program, the district provided two documents.

The first is a one-page grid titled AVUHSD Positive Behavior Level System. The document includes four columns to indicate the aspects of the program, including Review 360, Token Economy System, Least Restrictive Environment (LRE), and Funding Accountability. Review 360 is the software program that maintains the active plans for each student in the SDC-B classroom. These plans are managed by the case carrier and require the documentation of the behavioral score, effectiveness of the intervention, and frequency of the target behavior for each period. Students are supposed to receive a blank score sheet each day and keep track of their behavior. This data is to be reviewed and compared between the student and teacher at the end of each day or period as part of a reliability check.

Summary reports from Review 360 are to be provided to parents as part of the behavior goals at each IEP meeting, with the data to be used in the assessment of the student's present levels of performance and for the development of behavior goals.

Token Economy System offers positive reinforcement incentives for students. The introductory document indicates that students should be able to earn points regardless of their level. Reinforcements are to be student driven, with a clear exchange system or parameters for when and how students can obtain these reinforcers. A process is to be established to help students manage their points, with schools encouraged to use the Token Economy System accounting features of Review 360. Community trips and onsite activities are encouraged as reinforcers to help students transition goals and support post-secondary transition.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The LRE column implies that when students reach or maintain level four, they can engage in level out chats. This could trigger an IEP meeting to potentially change a student's placement for one to five periods in the LRE per the IEP team's decision. LRE monitoring is to be carried out quarterly, and collaboration between general and special education teachers is required to ensure support for a student's success in the general education setting.

Schools are provided \$500 each semester to support the Token Economy System for classes that are fully implementing the level system. A Google Form is used to track expenditures and it is presumed this mechanism pertains to the funding accountability aspect of the program.

The second document provided was a presentation titled SDC-B Job Alike Session Agenda from the 2021 Special Education Virtual Conference hosted by the District. Five of the program expectations are:

- Full implementation of the positive behavior level system/Boy's Town
- Use of Review 360 Purple module, with classes who demonstrate complete and accuracy use of this module eligible to receive \$500
- Motivational system such as points, tokens and exchange system with preferred student items
- Behavior and social emotional goals that must be developed, implemented and progress monitored, with quarterly reporting using the Review 360 summary report
- Social emotion learning (SEL) using programs like ONEder and/or Habitudes that encourage attendance, participation and academic and SEL success

The presentation notes that the SDC-B program goals are for students to obtain a high school diploma, to create a safe learning environment, and to promote academic, behavioral, and social emotional skills so students can participate in the LRE, or presumably the general education setting.

The program uses four levels, with four being the highest indicator of a student meeting their goals and demonstrating positive behaviors and offering the highest level of privileges. Level one is the lowest, with a higher level of supports provided, including more restrictions to student store access and free time privileges. The document notes that each school and classroom can "run specific details" and implement their programs independently.

A slide on the use of Review 360 Purple module features notes that teachers and paraprofessionals are to track behavior using data sheets every period, every day, and for every incident. It also offers some contradictory information, such as presenting that the level system contains five levels rather than four. It indicates that student goals are required for behavior but not for academic areas, and students can be assigned goals different than what is in their IEP, yet another bullet point mentions that the student's needs should be linked to those specified in the behavior goals of the IEP. Lastly, it allows schools and classrooms to define classroom rules based on their expectations.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The program requires staff to determine the severity of the incident when scoring a student's behavior, including for classes when a "student is out in the general education population." It states that plans should be for six periods unless the student is on a modified day, with rewards driven to shape a student's behavior. Staff are required to update the Review 360 plan for a student when a change in the IEP's behavior goals have occurred.

This information provides a good overview of how the level system is to be implemented in SDC-B programs. However, it does not provide any guidance on how behaviors are scored or what constitutes more severe behaviors, and it only states that the severity of an incident is left to the judgment of the teacher or paraprofessional. This subjectivity is problematic since each staff member's interpretation of the behavior is likely to result in inconsistent and inequitable application of scores. Further, there is no guidance as to incentives or actions to progress students from the lower levels up to the more acceptable levels three and four.

The requirements for implementation are quite high, including scoring behavior for each student every period of every day. Although, this should be the expectation, no information is provided on how to ensure this information is tracked in the Review 360 program and the methods for auditing the accuracy and completion of data other than quarterly reports.

Lastly, participation in the general education setting and with nondisabled peers, the least restrictive environment, appears to be a motivating factor for students to improve their behavior. Although the goal of any segregated placement should be to assist the student with moving towards increased participation in the general education setting, these incentives are indicative of a placement that removed the student from other settings based on behaviors alone. In essence, the placement determination appears to be punitive and centered around a student's behavioral and social emotional difficulties that may or may not have been appropriately supported in their previous placement. With the SDC-B program's goal of returning a student to or increasing a student's time in the general education setting, this placement appears to be driven by disciplinary reasons rather than programmatic features that cannot be offered in other less restrictive placements.

### **Review of Quantitative and Qualitative Data Regarding Disproportionate Identification and Placement**

This section will examine quantitative and qualitative data regarding the identification and placement of SWDs and Black SWDs. It will first explore quantitative data, including but not limited to general and special education enrollment as well as special education identification and placement data for the 2022-23 school year. Disproportionality measures were used to calculate whether disproportionality exists in the identification of students in special education, in specific eligibility categories, and in placement within the three LRE categories.

Qualitative data were obtained from interviews with site level and senior level staff during site visits, primarily regarding placement in more segregated settings, such as the SDC-B classroom, and the level system used for behavior management.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Review of Quantitative Identification and Placement Data for 2022-23 School Year***

The investigation mainly focuses on the events and data from the 2021-22 school year. However, due to the District's inability to produce accurate enrollment data after four attempts, a decision was made to use data from the current school year. Therefore, the general and special education enrollment as well as special education identification and placement data presented in this section reflect the 2022-23 school year. Enrollment numbers for general and special education will differ after this section.

Disproportionality measures were used to calculate whether disproportionality exists in the identification of students in special education, among SWDs in specific eligibility categories, as well as in placement within the three LRE categories, as required by law.

For the purposes of the investigation, disproportionate overrepresentation was identified when a risk ratio threshold met or exceeded 2.0. The term significant disproportionality is utilized for thresholds that meet or exceed the State's 3.0 target. Due to the focus of the Complaint on problem areas related to overrepresentation, the investigation did not seek to examine or address areas of underrepresentation.

National averages, as well as CDE targets set for the APR indicators associated with LRE, are used for comparison and context of the District's performance in respective areas, if available.

For ease of reporting, as well as due to the small number of students in the Asian, Pacific Islander, and American Indian/Alaska Native groups, these students have been grouped and categorized as "Other" in some tables. Areas of concern related to specific groups will be included in the discussion as appropriate.

#### **Data on Identification Rates and Distribution Percentages of Students with Disabilities.**

To gauge if overrepresentation in special education exists for students of color, the enrollment composition of the District was examined by racial/ethnic groups and disability status (students with and without disabilities). This enables a basic view of how students in a specific racial/ethnic group in special education compare to their overall enrollment, providing insights into over- and under- identification of disability for that group.

Hispanic students account for the highest enrollments (67.7%) of the population (Table 2.1). However, their special education enrollment is 59.7%, showing an underrepresentation when compared to the overall enrollment. Asian and Pacific Islander students also appear to be underrepresented in special education. White, multiracial, and American Indian/Native Alaska students are near or proportionately represented in special education in relation to their overall enrollments.

Conversely, Black students account for 15.8% of the overall population and 25.0% of the special education enrollments, showing a considerable overrepresentation. Furthermore, their

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

overall representation in general education suggests underrepresentation (general education 14.0% compared to 15.8% total enrollment).

**Table 2.1**

Distribution of District Enrollment for General and Special Education Students by Race/Ethnicity

Race/Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	3,483	15.8	2,567	14.0	916	25.0
Hispanic	14,901	67.7	12,712	69.2	2,189	59.7
White	2,082	9.5	1,742	9.5	340	9.3
Asian	230	1.0	216	1.2	14	0.4
Pacific Islander	316	1.4	289	1.6	27	0.7
American Indian/ Alaska Native	59	0.3	44	0.2	15	0.4
Multiple Races	954	4.3	787	4.3	167	4.6
Total	22,025	100	18,357	100	3,668	100

The rates of identification, also known as the risk, is a within-group comparison that measures the likelihood of an event occurring, such as a special education identification. The rates of special education identification were calculated and compared to state and/or national<sup>5</sup> averages for each racial/ethnic group to provide perspective on the District's standings.

The overall rate of special education identification is 16.7%. This means that an average of 17 out of 100 students are made eligible to receive special education services. This identification rate is 30.5% higher than the State average of 12.8%<sup>6</sup> and 15.2% higher than the national average of 14.5%.

Black students demonstrate the highest special education identification rate (26.3%) compared to all other racial/ethnic groups (multiracial: 17.5%, White: 16.3%, Hispanic: 14.7%) (Table 2.2). This means that 26 out of 100 Black students, or an average of one in four, are identified as having a disability. This rate is 56.5% higher than the national average of 16.8%. Statistical differences were found in the special education identification rates for Black students compared to non-Black students ( $p = < .001$ ).

American Indian/Alaska Native students have the second highest rates of identification (25.4%), which is of concern. As noted above, these students have overall special education designations near their enrollment representation (i.e., composition index) and therefore will

<sup>5</sup> Comparisons were made using 2019-20 NCES National Data for students 14-21 years of age.

<sup>6</sup> As reported by DataQuest for the 2020-21 school year.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

not appear overrepresented; however, school officials should review their IEPs and determine if a comprehensive evaluation was conducted to ensure an appropriate identification.

White and multiracial students also show higher rates compared to national averages, but this is likely due to the overall high rates of special education identification in the District.

**Table 2.2**

*District Enrollment and Rates of Special Education Identification by Race/Ethnicity*

Race/Ethnicity	Combined		General Education		Special Education		National Average
	n	%	n	%	n	%	%
Black	3,483	100	2,567	73.7	916	26.3	16.8
Hispanic	14,901	100	12,712	85.3	2,189	14.7	14.1
White	2,082	100	1,742	83.7	340	16.3	14.9
Asian	230	100	216	93.9	14	6.1	7.6
Pacific Islander	316	100	289	91.5	27	8.5	11.6
American Indian/Alaska Native	59	100	44	74.6	15	25.4	18.6
Multiple Races	954	100	787	82.5	167	17.5	15.0
Total	22,025	100	18,357	83.3	3,668	16.7	14.5

Table 2.3 shows the distribution of students in the five racial/ethnic groups<sup>7</sup> by their primary eligibility with comparison data of the national percentage distribution averages of students aged 14-21 served under IDEA for the 2019-20 school year.

Overall, students eligible to receive special education services under the eligibility of specific learning disability (SLD) are in line with the national average for secondary aged students. White, multiracial, and Other students are demonstrably underrepresented in the SLD category when compared to the national average. Black (51.1%) and Hispanic (52.5%) students with SLD are slightly higher compared to students nationally (47.2%).

Eligible students with autism are considerably higher than the national average (15.1% compared to 9.5% national). Of these, students in the Other (33.9%), multiracial (22.8%), and White (22.4%) groups make up the highest proportion of students receiving services in this category.

---

<sup>7</sup> For the purposes of reporting and due to the small number of SWDs in the Asian, Pacific Islander, and American Indian/Alaska Native categories, these groups were collapsed into the “Other” category. Specific groups within the Other group are referenced in the narrative as necessary.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Of concern is the percentage of Other students served with intellectual disabilities (ID) (12.5% other compared to 8.4% national average). Although this number is relatively small, with 12 out of 27 (44.4%) of this group consisting of Pacific Islander (PI) students receiving special education services, this finding should warrant a closer look at the assessment reports and IEPs of these students to determine if comprehensive evaluations were conducted to ensure an appropriate identification.

Overall, the rates of students with an emotional disturbance (ED) are less than half of those served nationally (4.0% District versus 8.4% nationally). Multiracial (6.6%), White (6.5%), and Black (5.9%) students show the highest rates of those served under the ED eligibility.

Speech and language impairments (SLI) are comparable to national percentages; however, this issue will be examined further with the analysis that explores secondary eligibility assigned to students.

**Table 2.3**

*Percentage Distribution of Students Served by Primary Eligibility<sup>8</sup> and Race/Ethnicity (n= 3,668)*

Race/Ethnicity	Total	SLD	OHI	Aut	ID	ED	SLI	MD	DHH	OI	TBI	VI
Black	100	51.1	19.2	12.4	7.0	5.9	0.7	0.6	0.9	0.0	0.6	0.4
Hispanic	100	52.5	15.4	14.1	8.7	2.6	2.1	1.7	1.4	2.0	1.0	0.1
White	100	36.8	21.8	22.4	6.7	6.5	2.4	2.4	0.0	0.6	0.3	0.3
Other	100	28.6	10.7	33.9	12.5	1.8	3.6	0.0	7.1	0.0	0.0	1.8
Multiple Races	100	38.9	15.6	22.8	7.2	6.6	3.0	2.4	0.6	1.8	0.6	0.6
Total	100	49.7	16.9	15.1	8.1	4.0	2.1	1.5	1.0	0.7	0.5	0.3
National Average %		47.2	18.7	9.5	8.6	8.4	2.6	2.1	1.1	0.5	0.6	0.5

Table 2.4 shows the distribution of students by race/ethnicity in each of the main disability categories. This view shows the composition of each category by racial/ethnic representation and allows for a comparison with the overall special education enrollment for that group. For example, Black students make up 37.0% of all students identified with an emotional disturbance (ED) yet make up 25.0% of all SWDs, showing an overrepresentation in this eligibility category.

White students comprise 9.3% of the special education population, 15.1% of those eligible with ED, and 13.7% of those with autism, which is indicative of overrepresentation. Multiracial students show high levels of representation in the categories of autism and ED compared to their overall special education enrollment.

<sup>8</sup> Two eligibility categories, Deaf and Hard of Hearing, were combined.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Statistical differences were found for the following identification rates: Black students identified with OHI compared to non-Black students ( $p = < .05$ ); Black students identified with ED compared to non-Black students ( $p = < .001$ ); and, non-Black students identified with autism compared to Black students ( $p = < .05$ ). The latter indicating that Black students are less likely to be identified with autism than non-Black students.

**Table 2.4**

*Distribution of SWDs by Race/Ethnicity in the Main Disability Categories (Primary Eligibility) (n=3,668)*

Race/ Ethnicity	Total	SLD		OHI		Autism		ID		ED		Other	
	%	n	%	n	%	n	%	n	%	n	%	n	%
Black	25.0	468	25.7	176	28.4	113	20.4	64	21.5	54	37.0	41	18.1
Hispanic	59.7	1,149	63.0	338	54.5	309	55.7	191	64.3	58	39.7	144	63.4
White	9.3	125	6.9	74	11.9	76	13.7	23	7.7	22	15.1	20	8.8
Other	1.5	16	0.9	6	1.0	19	3.4	7	2.4	1	0.7	7	3.1
Multiple	4.6	65	3.6	26	4.2	38	6.8	12	4.0	11	7.5	15	6.6
Total	100	1,823	100	620	100	555	100	297	100	146	100	227	100

A total of 964 students (26.3%) eligible to receive special education support and services had two eligibilities listed on their IEPs (Table 2.5). Although this practice is common, the comorbidity of certain eligibilities can raise concerns on the appropriateness of the secondary eligibility as well as shed more insight into the true number of students designated under certain categories.

For example, the analysis of secondary eligibilities found 479 additional students with SLI, while only 78 students were noted with this listed as their primary eligibility. The representation of students with an SLI is 2.0% when using only their primary eligibility but jumps to 15.2% when combined with the secondary eligibility counts, demonstrably higher than the national average for secondary aged students (2.6%). Although it can be expected to have students with a secondary eligibility of SLI, or more appropriately stated, require speech and language services, particularly for students with moderate to severe disabilities who might present with more global cognitive and developmental deficits that would likely include language deficits, trends tend to show decreases in SLI eligibility as students age. Therefore, the percentage of students with an SLI eligibility for a high school district appears high.

In addition, the comorbidity of SLI and some other eligibility categories may raise some concerns on the appropriateness of these identifications. For instance, there are 171 students with a primary eligibility of SLD and a secondary eligibility of SLI. Although this can be expected for some students, SLD is considered a high incidence or milder disability, requiring children to demonstrate an average range of cognitive abilities. Given an average range of

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

cognitive abilities, it is reasonable to expect these students to have remediated their speech and language difficulties by high school.

Similarly, 70 students with a primary designation of OHI have a secondary eligibility of SLI. The OHI eligibility category is most commonly used for students with an attention deficit and hyperactivity disorder (ADHD). This disability type is also unlikely to significantly impact an older child's speech and language abilities. Although some students with more moderate to severe disabilities can qualify under OHI, this would tend to be an exception.

Although deficits in areas of executive functioning, attention, working memory, and processing speed that are common in students with LD and/or OHI may impact communication and higher-order language skills, the prevalence of these rates of SLI identification should be examined more closely.

Another possible explanation for the high rate of students eligible for SLI is that the level and quality of these services have failed to remediate these language deficits, therefore requiring students to continue to be eligible.

The IDEA permits students who qualify under any eligibility to access related services, as long as the child shows a need and the IEP team designates the related service as part of their IEP, such as speech and language services or school counseling, regardless of their eligibility category upon an IEP team's decision. For instance, autism is a social, communication, and language-based disorder with many students experiencing difficulties with pragmatic language. Therefore, it would be appropriate for an IEP team to offer speech and language services to a student with autism under their primary eligibility, without the need for a secondary SLI designation.

Some combined disabilities also raise the question of the appropriateness of the determination since the eligibility criteria are incompatible. For example, a student with SLD must show an average to low average cognition to qualify, while a student with ID has a subaverage general intellectual functioning with concurrent deficits in adaptive behaviors or skills, such as those required for self-care or to promote independent living. Although only one student is noted to qualify for both with ID and SLD, these eligibilities are incompatible by definition and should not occur.

Another example is the eligibility category of multiple disabilities (MD) with OI. For students to be eligible with MD, they must show concomitant impairments, such as intellectual disabilities and orthopedic impairments, that significantly impact their adaptive behavior, academics achievement, and intellectual abilities. Students with MD have impairments where the multiplicity of the disabilities is such that a primary disability cannot be determined (Nebraska Department of Education, 2021). For example, a student may have intellectual, orthopedic, and speech and language impairments due to their multiple disabilities and would qualify under the umbrella of MD and not a combination of designations under ID, OI, and SLI.

Lastly, the use of autism and ED categorizations should be carefully reviewed. EC Section 3030 (a)(1)(A) states "autism does not apply if a child's educational performance is adversely

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

affected primarily because the child has an emotional disturbance.” This prohibits the use of autism for students whose IEP team determines that ED is the primary disability impacting their educational progress. In addition, autism is a spectrum disorder that has a wide range of behaviors that might resemble some of the criteria under ED, such as demonstrating inappropriate types of behavior or feelings under normal circumstances. However, for a child with autism, these behaviors are associated with their autism and not an emotional disturbance. Therefore, it is inappropriate and stigmatizing to add an additional label to describe behaviors associated with the disability related behaviors of autism.

Although the frequency of these anomalies is low, the incongruencies in identifications are indicative of inappropriate identification and lack of training and/or safeguards to prevent multiple designations. Senior leadership should monitor identification data to ensure schools are appropriately identifying SWDs. This oversight can also help identify schools and IEP teams who may need additional training and support.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.5**

*Distribution of Students with a Primary and Secondary Disability*

Primary Eligibility			Secondary Disability <sup>9</sup>										
	Total	%	Aut	ED	DHH	ID	OI	OHI	SLD	SLI	TBI	VI	None
Autism	555	15.1	0	8	3	41	1	34	21	142	0	1	304
Deaf	6	0.2	0	0	0	0	0	0	0	0	0	0	6
ED	146	4.0	1	0	1	0	0	41	14	2	0	0	87
HH	37	1.0	1	0	0	1	0	2	3	11	0	0	19
ID	297	8.1	12	0	3	0	5	20	1	90	0	3	163
MD	55	1.5	0	0	4	0	38	1	0	4	0	1	7
OI	24	0.7	0	0	0	5	0	4	2	1	2	1	9
OHI	620	16.9	9	5	3	2	2	0	70	56	0	0	473
SLD	1,823	49.7	4	3	2	0	2	90	0	171	0	2	1,549
SLI	78	2.1	1	0	0	0	0	2	4	0	0	0	71
TBI	17	0.5	0	0	0	1	3	3	0	2	0	0	8
VI	10	0.3	1	0	0	0	0	0	1	0	0	0	8
Total	3,668	100	29	16	16	50	51	197	116	479	2	8	2,704
Total (%)			0.8	0.4	0.4	1.4	1.4	5.4	3.2	13.1	0.1	0.2	73.7

**Disproportionality in Special Education and Eligibility Categories.**

The disproportionate identification of students of color and those from historically marginalized groups in special education carries negative associations with social and academic outcomes of students. Students with disabilities have outcomes generally lower in areas of academic achievement, GPA, attendance, as well as a greater likelihood of course failure and retention in school (Herzik, 2015). Students in special education also have greater achievement gaps, higher rates of exclusionary discipline, and lower graduation rates when compared to their general education peers. In addition, these students are often segregated in inferior classrooms that lack equitable access to the general education curriculum and their general education peers.

The CDE Complaint does not include specific allegations related to the disproportionate identification of Black students or other students of color. However, it does allege the disproportionate placement of Black students in segregated settings. Despite the lack of allegations regarding disproportionality in the identification of students of color in special education, it is essential to determine if disproportionality exists since this is the foundation

---

<sup>9</sup> Deaf and Hard of Hearing were combined, and multiple disabilities was not reported because no students had this listed as a secondary eligibility.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

for the overrepresentation of Black students and SWDs in all other aspects of the Complaint, such as suspensions, expulsions, and law enforcement referrals.

The CDE defines disproportionality as the overrepresentation of a specific race or ethnicity identified in one or more of four areas: identification of a disability in general; identification of a specific race or ethnicity in a specific disability category; discipline; and placement.

This section focuses on disproportionality in identification in general, in specific disability categories, and in placement. The State set the relative risk ratio threshold for determining significant disproportionality at 3.0. This means that students from a specific racial/ethnic group must be three times more likely to be identified with a disability than all other students. In addition, the State considers Significant Disproportionality as the identification of disproportionality for 3 consecutive years in the same indicator and category of disproportionality.

The term significant disproportionality used in lower case refers to risk ratios that meet or exceed the 3.0 threshold. The capitalized use of the term Significant Disproportionality refers to the State's designation of an area (e.g., identification in ED eligibility or one-time suspensions) that has been at the 3.0 threshold or higher for 3 or more consecutive years. For the purpose of this investigation, findings of risk ratio thresholds of 2.0 are referred to as disproportionate overrepresentation.

To determine if disproportionate representation exists with special education identification for different racial/ethnic groups, three measures were used to calculate disproportionality: composition index, relative risk, and relative risk ratio.

The composition index (CI) is a basic measure to indicate whether over or under representation is present. It refers to the proportion of a group with the same characteristics, such as demographics, within a population.

The risk or relative risk is a within group comparison that identifies the risk or odds students within that racial/ethnic group will be identified for special education.

The last measure used is the relative risk ratio, which compares the risk of one subgroup to the risk of all other subgroups. This measure best shows the extent and impact of disparities between racial/ethnic groups experiencing an outcome, in this case, a special education identification. For a more precise view of disproportionate overrepresentation, risk ratios are reported to two decimal places.

This investigation applies the Washington Department of Education's<sup>10</sup> thresholds to identify disproportionate over- and under- representation and significant disproportionality. These thresholds are also consistent with literature that identifies risk ratios of 2.0 and over as being disproportionate (Parrish, 2002).

---

<sup>10</sup> <https://www.k12.wa.us/student-success/special-education/program-improvement/significant-disproportionality>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Disproportionate underrepresentation: less than or equal to 0.5
- At risk for disproportionate underrepresentation: >0.5 to <0.67
- No disproportionate representation:  $\geq 0.67$  to  $\leq 1.5$
- At risk for disproportionate overrepresentation: >1.5 to <2.0
- Disproportionate overrepresentation: greater or equal to 2.0 to <3.0
- Significant disproportionality: >3.0

Table 2.6 shows the composition indices, risk, and risk ratios for special education identifications by race/ethnicity. The overall rate of special education identification in the District is 16.7%, meaning that on average 17 of 100 students will be found eligible to receive special education services under the IDEA.

Black students make up 15.8% of the student population and 25.0% of students eligible for special education. This composition index is indicative of overrepresentation in special education. Black students have the highest risk of being identified with a disability, with 26.3% of all Black students enrolled eligible to receive special education services. When their risk is compared to the risk of all other students combined, they demonstrate a relative risk ratio of 1.77, which is at risk for disproportionate overrepresentation in special education identifications.

White, multiracial, and Hispanic students do not show disproportionate representation. Students in the Other category demonstrate risk ratios indicative of being at risk for disproportionate underrepresentation in special education programs.

**Table 2.6**

*Composition Index, Risk Index, and Relative Risk Ratio for Special Education Identification by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified	3,668	916	2,189	340	167	56
Composition Index (%)		25.0	59.7	9.3	4.6	1.5
Risk (%)	16.7	26.3	14.7	16.3	17.5	9.3
Risk Ratio		1.77	0.71	0.98	1.05	0.55

The IDEA and states require LEAs to examine racial/ethnic disproportionality in the following disability categories: emotional disturbance (ED), specific learning disabilities (SLD),

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

intellectual disabilities (ID), speech and language impairments (SLI), other health impairments (OHI), and autism.

This investigation found that the overall risk of being identified with ED in the District is 0.7% (Table 2.7). White students demonstrate a risk of 1.1% and a composition index higher than their enrollment representation (15.1% compared to 9.5% enrollment). Compared to the risk of all non-White students, they present a risk ratio of 1.70 which is indicative of being at-risk for disproportionate overrepresentation.

Black students are three times (risk ratio 3.12) more likely to be identified with ED than all other students. This is indicative of significant disproportionality and exceeds the CDE’s 3.0 threshold. Similarly, their representation in this eligibility is more than twice that of their enrollment representation (37.0% ED compared to 15.8% enrollment) illustrating overrepresentation.

**Table 2.7**

*Composition Index, Risk Index, and Risk Ratio for ED Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with ED	146	54	58	22	11	1
Composition Index (%)	4.0	37.0	39.7	15.1	7.5	0.7
Risk (%)	0.7	1.6	0.4	1.1	1.2	0.2
Risk Ratio		3.12	0.32	1.70	1.70	0.24

The risk of being identified with a SLD is 8.3%, meaning that eight of out 100 students are made eligible under this category (Table 2.8). Black students have the highest risk (13.4%) compared to all other students. Black students’ risk ratio of 1.83 is at risk of being disproportionately overrepresented, with these students almost twice as likely to be identified with a SLD as all other students. Hispanic, White, and multiracial students show proportionate representation.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.8**

*Composition Index, Risk Index, and Relative Risk Ratio for SLD Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with SLD	1,823	468	1,149	125	65	16
Composition Index (%)	49.7	25.7	63.0	6.9	3.6	0.9
Risk (%)	8.3	13.4	7.7	6.0	6.8	2.6
Risk Ratio		1.84	0.82	0.71	0.82	0.31

The following calculations include students who have a primary or secondary eligibility of ID. This was done due to the high number of additional students (n=50) with a secondary eligibility of ID (Table 2.9).

Black students demonstrate levels of overrepresentation based on their composition index, as well as their risk of being identified with ID (22.8% compared to 15.8% enrollment). When their risk is compared to the risk of all other students, Black students' risk ratio (1.57) falls in the at-risk level for being disproportionately overrepresented.

**Table 2.9**

*Composition Index, Risk Index, and Relative Risk Ratio for ID Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with ID	347	79	218	27	15	8
Composition Index (%)	9.5	22.8	62.8	7.8	4.3	2.3
Risk (%)	1.6	2.3	1.5	1.3	1.6	1.3
Risk Ratio		1.57	0.81	0.81	1.00	0.84

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

As noted earlier in the discussion, the majority of students eligible with SLI are identified under a secondary eligibility. Therefore, to account for all students in this category, these calculations include primary and secondary eligibilities of SLI.

Although no disproportionate representation was found for any of the racial/ethnic groups, the primary concern regarding this eligibility is the high percentage of secondary aged students showing this eligibility, with 15.2% of the student population having either a primary or secondary SLI designation (Table 2.10). In comparison, the NCES data notes 2.6% of students ages 14-21 were served under the IDEA with an SLI eligibility. Although the national rate is likely based on students with SLI as their primary or sole eligibility, comparative data of secondary aged students would help provide insights on the appropriateness of the percentage student's eligible with SLI.

In addition, the high use of the SLI category for eligibilities such as autism and ID may not be necessary since these students can receive these entitlements under their primary eligibility. Furthermore, the high number of students with mild/moderate primary disabilities, such as SLD and OHI, is troublesome since these students have average cognitive abilities that would enable them to remediate speech impairments related to areas of articulation, and most are unlikely to experience a moderate language-based disorder at this age.

**Table 2.10**

*Composition Index, Risk Index, and Relative Risk Ratio for SLI Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with SLI	557	109	349	53	30	16
Composition Index (%)	15.2	19.6	62.7	9.5	5.4	2.9
Risk (%)	2.5	3.1	2.3	2.5	3.1	2.6
Risk Ratio		1.30	0.80	1.01	1.26	1.05

Overall, OHI makes up approximately 17% of all primary eligibility categories and is closely aligned to the 18.7% national average (Table 2.11). Black students make up 27.8% (composition index) of all students in the OHI category, and when compared to their enrollment representation (15.8%) appear overrepresented. Their risk when compared to all other students makes them two times (risk ratio 2.05) as likely to be identified with OHI, which is consistent with disproportionate overrepresentation.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

White students also show levels of overrepresentation based on their risk and composition indices. Though near the categorization boundary, the risk ratio for White students is not indicative of disproportionate overrepresentation.

**Table 2.11**

*Composition Index, Risk Index, and Relative Risk Ratio for OHI Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with OHI	817	227	428	110	42	10
Composition Index (%)	22.3	27.8	52.4	13.5	5.1	1.2
Risk (%)	3.7	6.5	2.9	5.3	4.4	1.7
Risk Ratio		2.05	0.53	1.49	1.20	0.44

Students with autism make up 15.1% of the special education population, which is considerably higher than the 9.5% national average. All groups except Hispanic students have composition indices higher than their enrollment populations, which is consistent with the high rate of students identified with autism (Table 2.12). Multiracial (1.62) and White (1.52) students have risk ratios that represent being at-risk for disproportionate overrepresentation.

Conversely, Hispanic students demonstrate a composition index, risk, and risk ratio indicative of being at-risk for disproportionate underrepresentation.

As noted earlier, 12 out of 27 (44.4%) PI students in the combined Other group are eligible for special education services based on autism identifications, which raises concerns. Their risk of identification is 5.4% and double the overall risk of 2.5%. The risk ratio for these students is 7.23, meaning that a PI student is seven times more likely to be identified with autism than students from all other racial/ethnic groups, which is indicative of significant disproportionality.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.12**

*Composition Index, Risk Index, and Relative Risk Ratio for Autism Eligibility by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Enrollment	22,025	3,483	14,901	2,082	954	605
(%)	100	15.8	67.7	9.5	4.3	2.7
Students Identified with Autism	555	113	309	76	38	19
Composition Index (%)	15.1	20.4	55.7	13.7	6.8	3.4
Risk (%)	2.5	3.2	2.1	3.7	4.0	3.1
Risk Ratio		1.36	0.60	1.52	1.62	1.26

**Data on Placement Rates and Distribution Percentages of Students with Disabilities.**

One of the cornerstone tenets of IDEA is the least restrictive environment (LRE). The principles of LRE extend beyond the physical placement of students and also involve making decisions about the programs and supports a student needs and how and where these services and supports will be provided. The LRE requirement dictates that:

- Students with disabilities should receive their education alongside their peers without disabilities to the maximum extent possible.
- Students should not be removed from the general education classroom unless learning cannot be achieved even with the use of supplementary aids and services.<sup>11</sup>

Maintaining students in the LRE has many important implications for ensuring equitable access to the general education curriculum, and students realize positive associations and benefits from learning in the LRE, such as increased motivation, higher self-esteem, improved communication and socialization skills, and greater academic achievement (LRE Coalition).

The District offers several more restrictive special education placements, including the SDC-A or academic, SDC-B or behavior or ED (as commonly referred), SDC-Pre-Vocational, autism, and SDD (not defined). The SDC-A offers students who are on a diploma track a general education curriculum core instruction and accommodations in a small class setting. The SDC-B program is also a diploma-based program that offers core curriculum instruction

<sup>11</sup> [https://iris.peabody.vanderbilt.edu/wp-content/uploads/pdf\\_info\\_briefs/IRIS\\_Least\\_Restrictive\\_Environment\\_InfoBrief\\_092519.pdf](https://iris.peabody.vanderbilt.edu/wp-content/uploads/pdf_info_briefs/IRIS_Least_Restrictive_Environment_InfoBrief_092519.pdf)

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

in a small class setting, along with the behavioral level system and access to a modified curriculum. This program does not fulfill the A-G requirements needed for students to apply to a four-year California College or University. SDC-Pre-Vocational is a certificate track program for students who will receive a certificate of completion, and the curricular focus is on functional academics. The autism and SDD programs appear to be for students with moderate to severe impacts and on track for a certificate of completion. The least restrictive program is the resource specialist program (RSP), where students are supported for a few specific content areas in a smaller instructional setting. No information was provided on any full inclusion programs where special education teachers or paraprofessionals assist and provide services to students in the general education classrooms, commonly referred to as a “push-in” model or program.

The IDEA requires states to determine significant disproportionality in placement by examining data for the following educational environment categories:

- inside a regular class less than 40% of the day
- inside a regular class no more than 79% of the day and no less than 40% of the day
- separate schools and residential facilities.

The State also set targets for monitoring LRE categories but differs slightly from those required by the IDEA. For example, the CDE monitors the most and least segregated categories of less than 40% and 80% or more in the general education class and excludes the mid-range category of 40-79% in the general education setting.

This discussion will examine if disparities exist for students from different racial/ethnic groups in the LRE placement categories. It will also review enrollments in segregated sites, such as continuation schools. Lastly, it will identify areas of possible inaccurate reporting of LRE data.

### ***Placement in LRE Categories by Race/Ethnicity.***

As noted above, states must examine and report LRE data in the two more restrictive categories of less than 40%, and 40% to 79% in the regular or general education classroom. These categories translate into students being educated in special education classrooms alongside disabled peers for the majority or a considerable part of the day. Students in the less than 40% category are typically those students assigned to special day classrooms (SDC) or segregated schools. Students in the 40% to 79% category most commonly represent students who are in the general education classroom for a portion of the day and receive specialized academic instruction (SAI) through a pull-out model referred to as the resource specialist program (RSP), or students enrolled in a SDC who are mainstreamed into general education classrooms for part of the day. Conversely, students who fall into the 80% or more LRE category spend all or the majority of their day in the general education classroom with minimal pull-out time for special education services.

Overall, the profile shows a near equal placement rate of SWDs in the three LRE categories (33.8% in the equal to or greater than 80% category; 34.1% in the 40% to 79% category; 32.1% in the less than 40% category). For comparison, the national percentage distributions



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

show much higher levels of student integration in the general education classroom, with 66.0% in the 80% or more category, 17.0% in the 40% to 79% category, and 13.0% in the less than 40% category.<sup>12</sup> This means that the District is much more segregated when compared to national LRE data.

Table 2.14 provides a within group look to identify which racial/ethnic groups have higher rates of segregation in the less than 40% category. Students in the Other and multiracial groups have the highest rates of being segregated in special education classrooms (44.6% Other and 43.7% multiracial) while Hispanic students have the lowest rate (29.7%).

Black and Hispanic students have the highest rates of being moderately segregated in the 40% to 79% LRE category compared to other and multiracial students (36.2% Black and 34.9% Hispanic compared to 23.2% Other and 25.1% multiracial).

White and Hispanic students have the highest rates of being most included in the general education setting compared to Black students (36.5% White and 35.4% Hispanic compared to 29.7% Black).

Lastly, statistically significant differences were found for Black students in the LRE category of more than 80% in the general education setting, compared to non-Black students ( $p < .05$ ).

---

<sup>12</sup> NCES 2020 School Year LRE Data can be viewed at:

<https://nces.ed.gov/fastfacts/display.asp?id=59>

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.14**

*Placement Rates of SWD in LRE Categories by Race/Ethnicity*

Race/Ethnicity	Special Education Population		Equal to or Greater than 80%		40% to 79%		Less than 40%	
	n	%	n	%	n	%	n	%
Black	916	100	272	29.7	332	36.2	312	34.1
Hispanic	2,189	100	774	35.4	765	34.9	650	29.7
White	340	100	124	36.5	99	29.1	117	34.4
Other	56	100	18	32.1	13	23.2	25	44.6
Multiple Races	167	100	52	31.1	42	25.1	73	43.7
Total	3,668	100	1,240	33.8	1,251	34.1	1,177	32.1
National Averages <sup>13</sup> (%)	96%		66.0		17.0		13.0	

Table 2.15 examines the representation of racial/ethnic groups in the LRE categories compared to their special education enrollment. Black students show underrepresentation in the equal to or greater than 80% category or in placements that are primarily in the general education classroom when compared to their overall special education enrollment (21.9% compared to 25% enrollment). Conversely, Hispanic and White students have higher levels of representation in the most integrated settings than their respective enrollments (62.4% Hispanic compared to 59.7% enrollment, 10.0% White compared to 9.3% enrollment).

Hispanic students are the only group to have less representation in the more segregated LRE category of less than 40% compared to their enrollment (55.2% compared to 59.7% enrollment).

---

<sup>13</sup> NCES Totals equal 96%

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.15**

*Distribution of SWDs in LRE Categories by Race/Ethnicity*

Race/Ethnicity	Total		Equal to or Greater than 80%		40 to 79%		Less than 40%	
	n	%	n	%	n	%	n	%
Black	916	25.0	272	21.9	332	26.5	312	26.5
Hispanic	2,189	59.7	774	62.4	765	61.2	650	55.2
White	340	9.3	124	10.0	99	7.9	117	9.9
Other	56	1.5	18	1.5	13	1.0	25	2.1
Multiple Races	167	4.6	52	4.2	42	3.4	73	6.2
Total	3,668	100	1,240	100	1,251	100	1,177	100
(%)	100		33.8		34.1		32.1	

To examine placement in more depth, three instructional settings were disaggregated by race/ethnicity in the LRE categories. This analysis also sheds light on potential data inaccuracies as specified in students' IEPs and reported to the State. Notably, no students were identified as being fully included in the general education program. All had some indicator of a special education program placement of either RSP or one of the various SDC settings. This finding is concerning since it would be assumed some students are fully integrated into the general education classroom with only related supports and services.

In secondary schools, the RSP program is generally a self-contained classroom where students spend one or more periods with a special education teacher and receive core instruction in a smaller class size setting alongside other disabled peers. Another model typically used is referred to as "push-in," which offers supports in the general education program where the special education teacher provides students support and/or engages in a co-teaching model. These classes are typically paced to the regular curriculum and enable students to have the maximum access to the general education classroom.

The most salient finding of this analysis is that 64 students (4.5%) have an instructional setting of RSP but are in the general education setting less than 40% of the day (Table 2.16). For the most part, students in RSP require minimal support and removals from the general education classroom and should not be expected to be in a special education self-contained classroom for the majority of the day. These two phenomena are incongruent, and while an exception is possible, it is unlikely that all 64 students fall into this scenario. The most likely explanation is data inaccuracies derived from the LRE time and program information in students' IEPs. It is plausible that either the program (RSP) or LRE time is incorrect.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.16**

*Distribution of SWDs in RSP Instructional Setting by LRE Categories and Race/Ethnicity*

Race/Ethnicity	Total Students		Equal to or Greater than 80%		40 to 79%		Less than 40%	
	n	%	n	%	n	%	n	%
Black	311	22.0	238	22.0	57	21.4	16	25.0
Hispanic	886	62.7	681	62.9	171	64.3	34	53.1
White	139	9.8	108	10.0	25	9.4	6	9.4
Other	20	1.4	14	1.3	5	1.9	1	1.6
Multiple Races	56	4.0	41	3.8	8	3.0	7	10.9
Total	1,412	100	1,082	100	266	100	64	100
(%)	100		76.6		18.8		4.5	

The SDC-B class is a self-contained classroom designed for students with ED and/or behavioral difficulties. The data show that the majority of students in these classes are segregated for the majority of the day, with 78% accessing the general education classroom for 40% or less of the day (Table 2.17).

Black students show overrepresentation in these placements when compared to their overall special education enrollment (39.1% ED classroom compared to 25% special education enrollment).

Eleven students (6.0%) show LRE placement data of greater than 80% of the day in the general education class. Again, it is unlikely this data accurately reflects the students' programming since students with such a high level of integration would not be designated in the SDC-B program. And while it may be possible to see some cases where students have mainstreaming plans that increase their time in the general education setting, these students would likely be integrated incrementally and over time. To achieve 80% or more participation in the general education setting, best practices would likely dictate a change in placement. Therefore, these instances are most likely due to data inaccuracies.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.17**

*Distribution of SWDs in SDC-B Instructional Setting by LRE Category and Race/Ethnicity*

Race/Ethnicity	Total Students		Equal to or Greater than 80%		40 to 79%		Less than 40%	
	n	%	n	%	n	%	n	%
Black	72	39.1	4	36.4	12	40.0	56	39.2
Hispanic	88	47.8	6	54.5	15	50.0	67	46.9
White	14	7.6	0	0.0	1	3.3	13	9.1
Other	1	0.5	0	0.0	0	0.0	1	0.7
Multiple Races	9	4.9	1	9.1	2	6.7	6	4.2
Total	184	100	11	100	30	100	143	100
(%)	100		6.0		16.3		77.7	

Similarly, the pre-vocational classes are for students with moderate to severe disabilities educated in self-contained classrooms. The majority of students (88.3%) in the SDC-Pre-Vocational programs are segregated for 60% or more of their school day (Table 2.18). While mainstreaming into the general education program is a desired outcome for all students enrolled in these classes, it is unlikely the data for the eight students (1.8%) with LRE categories of 80% or more of the day accurately reflect their actual placement.

**Table 2.18**

*Distribution of SWDs in Instructional Setting – Pre-Vocational by LRE Categories and Race/Ethnicity*

Race/Ethnicity	Total Students		Equal to or Greater than 80%		40 to 79%		Less than 40%	
	n	%	n	%	n	%	n	%
Black	110	22.4	2	25.0	13	26.5	95	21.9
Hispanic	297	60.6	4	50.0	30	61.2	263	60.7
White	49	10.0	1	12.5	3	6.1	45	10.4
Other	15	3.1	1	12.5	2	4.1	12	2.8
Multiple Races	19	3.9	0	0.0	1	2.0	18	4.2
Total	490	100	8	100	49	100	433	100
(%)	100		1.6		10.0		88.4	

To better understand placement practices for students by race/ethnicity, class enrollments were examined by the various instructional settings offered. The RSP instructional setting is

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the least restrictive placement and generally offered for a small portion of the day in a self-contained classroom. A special day class is also provided in a self-contained environment and can offer access to the general education core curriculum or alternate curriculums for more moderate to severely disabled students. SDCs can have configurations that include students from different grade levels and different subject matters during the same periods. Although SDC programs are not necessarily categorical, meaning a student's eligibility dictates the programs, some classes, such as those designated Autism and SDC-B, are mainly composed of students with eligibilities of Autism or ED, respectively.

Table 2.19 breaks down the distribution of placements in the instructional programs by race/ethnicity. This allows for a comparison of placement decisions for each racial/ethnic group.

Black, Other, and multiracial students have the lowest rates of RSP placements compared to Hispanic and White students (Black 34.0%, other 35.7%, multiracial 33.5% compared to Hispanic 40.5%, White 40.9%). This means that Hispanic and White students have higher rates of less restrictive placements that provide greater access to the general education curriculum and nondisabled peers.

The SDC-A program is considered to be a more academic focused self-contained special education class. Black students (43.1%) and multiracial students (40.1%) have the highest rates of participation in these classrooms. Similarly, Black students (7.9%) and multiracial students (5.4%) show the highest rates of enrollment in the SDC-B program, a self-contained classroom with a focus on students with ED and/or behavioral difficulties. This means that students from these two racial/ethnic groups show the highest rates of being placed in these restrictive settings.

The SDC-Pre-Vocational is generally for students with moderate to severe disabilities, including students with autism and ID. These students are not considered to be on a diploma track and tend to have minimal access to the general education curriculum and nondisabled peers. Students in the Other racial/ethnic category demonstrate the highest rates of placement in these classes; however, due to the low number of students, this should be interpreted with caution. The breakdown of students in the SDC-Pre-Vocational classes are presented in Table 2.19.

The autism SDC classrooms also show students in the Other and multiracial categories have the highest rates of enrollment. A curious finding is that 86 students are enrolled in these autism SDC classes, yet there are a total of 555 students whose primary eligibility is autism.

The SDD classroom is another program for students with moderate to severe disabilities, with Hispanic students making up nearly two-thirds (63.8%) of enrolled students. These classrooms mainly consist of the following eligibilities: MD 62.1%, ID 20.7%, autism 5.2%, OI 5.2%, TBI 5.2%, OHI 1.7%.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Lastly, DHH programs are for students with eligibility of deaf or hard of hearing. Only 14 students (0.4%) are enrolled in these classrooms.<sup>14</sup>

**Table 2.19**

*Distribution of SWDs by Instructional Setting and Race/Ethnicity*

Race/ Ethnicity	RSP		SDC-A		Pre-Voc		SDC-B (ED)		Autism		SDD	
	n	%	n	%	n	%	n	%	n	%	n	%
Black (n=916)	311	34.0	395	43.1	110	12.0	72	7.9	17	1.9	8	0.9
Hispanic (n=2,189)	886	40.5	835	38.1	297	13.6	88	4.0	37	1.7	37	1.7
White (n=340)	139	40.9	114	33.5	49	14.4	14	4.1	16	4.7	8	2.4
Other (n=56)	20	35.7	13	23.2	15	26.8	1	1.8	5	8.9	0	0.0
Multiple Races (n=167)	56	33.5	67	40.1	19	11.4	9	5.4	11	6.6	5	3.0
Total (n=3,668)	1,412	38.5	1,424	38.8	490	13.4	184	5.0	86	2.3	58	1.6

The District has a total of 555 students with autism and only 86 in programs for students with autism. During the site visits, school officials at some sites referenced the pre-vocational classes as placements for students with autism. To gain a better understanding of these placements, enrollments were disaggregated by primary eligibility and race/ethnicity (Table 2.20).

The majority of these classes consists of students with two eligibilities, ID (50.0%) and autism (34.7%). The analysis found students with primary eligibilities that do not appear consistent with this level of restrictiveness. For example, 15 SLD, 23 OHI, one HH, and two SLI students were enrolled in these classes. The findings call into question the validity of placement decisions since students in these classes tend to demonstrate lower cognitive and adaptive skills, which is inconsistent with the less impacted primary eligibilities listed above.

---

<sup>14</sup> DHH were not reported due to the low numbers and to accommodate the necessary table formatting.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.20**

*Distribution of SWDs in SDC – Pre-Vocational Class by Race/Ethnicity*

Race/ Ethnicity	Total		Aut	ED	HH	ID	MD	OI	OHI	SLD	SLI	TBI
	n	%										
Black	110	22.4	42	2	0	49	1	1	11	4	0	0
Hispanic	297	60.6	94	1	1	163	12	5	7	9	1	4
White	49	10.0	18	1	0	19	3	1	4	2	1	0
Other	15	3.1	8	0	0	6	0	0	1	0	0	0
Multiple Races	19	3.9	8	0	0	8	2	1	0	0	0	0
Total	490	100	170	4	1	245	18	8	23	15	2	4
%	100		34.7	0.8	0.2	50.0	3.7	1.6	4.7	3.1	0.4	0.8

***Disproportionality in Special Education and Eligibility Categories.***

To determine if disproportionality exists in the most restrictive placements where students spend less than 40% of their day in the general education classroom, the composition and risk indices and the relative risk ratio were calculated by race/ethnicity.

Overall, none of the racial/ethnic groups have risk ratios indicative of disproportionate overrepresentation. Despite the absence of disproportionality, the risk for all groups is extremely high compared to the national average of 12.2% (Table 2.21). The risk for all SWDs is 32.1%, meaning almost one in three students is in the most segregated LRE placement category. The high-risk values for all groups effectively negate the risk ratio, meaning that since all groups are comparably highly segregated, the disparities are not significant. However, the rates of removals from the general education settings are significant and should prompt a review of the policies and procedures that guide IEP teams when making placement decisions. In particular, the review should look at how IEP teams complied with SELPA procedures, including the application of the standard issued in *Rachel H.* that established a four-prong test for determining LRE.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.21**

*Composition Index, Risk Index, and Relative Risk Ratio for SWDs in the Less than 40% LRE Placement Category by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Special Education Enrollment	3,668	916	2,189	340	167	56
(%)	100	25.0	59.7	9.3	4.6	1.5
Students in Less than 40%	1,177	312	650	117	73	25
Composition Index (%)	32.1	26.8	55.2	9.9	6.2	2.1
Risk (%)	5.3	34.1	29.7	34.4	43.7	44.6
Risk Ratio		1.08	0.83	1.08	1.32	1.40

The last LRE category examined for disproportionate representation is the 40% to 79% category. Similar to the previous LRE category, students from all groups have comparable high levels of segregation; therefore, no disproportionate representation is observed. Multiracial and Other students have the lowest risk for this level of segregation, with about one in four (25.1% multiracial and 23.2% Other) students falling into the 40% to 79% category (Table 2.22). Black and Hispanic students have the highest risk, with approximately one in three students being segregated to this extent (Black 36.2% and Hispanic 34.9%).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.22**

*Composition Index, Risk Index, and Relative Risk Ratio for SWDs in the 40% to 79% LRE Placement Category by Race/Ethnicity*

	Total	Black	Hispanic	White	Multiple Races	Other
Special Education Enrollment	3,668	916	2,189	340	167	56
(%)	100	25.0	59.7	9.3	4.6	1.5
Students in 40% to 79%	1,251	332	765	99	42	13
Composition Index (%)	34.1	26.5	61.2	7.9	3.4	1.0
Risk (%)	5.7	36.2	34.9	29.1	25.1	23.2
Risk Ratio		1.09	1.06	0.84	0.73	0.68

Overall, the numbers and percentages of SWDs in segregated placements and residential treatment centers (RTC) is low and not an area of concern. The risk of placement in these settings is 1.2%, considerably lower than the State’s target of less than or equal to 2.9% (Table 2.23).

White students show a risk equal to 2.9% and a risk ratio of 2.80, which is indicative of disproportionate overrepresentation. Similarly, multiracial students are 3.23 times more likely to be placed in the most restrictive placements, consistent with significant disproportionality. However, the small number of students requires caution when interpreting the extent of the problem.

The majority of the students (n=28) in the most segregated placements in the District are placed in non-public schools (NPS). Only one NPS is available for students in the Antelope Valley area, and it is reportedly primarily dedicated to serving students with autism. Although some students attend NPS outside of Antelope Valley, geography is likely a contributing factor to these low placements.

The District has one special education school with an enrollment of 14 students. During the last school year, the District reported that the highest enrollment reached 35 students, or less than 1% of their overall special education population. Considering the lack of other special education placements available in the area, it is commendable that the District educates the majority of their SWDs in less restrictive placements, such as comprehensive sites and continuation schools.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 2.23**

*Composition Index, Risk Index, and Relative Risk Ratio for SWDs in Segregated Schools and Residential Treatment Centers*

	Total	Black	Hispanic	White	Multiple Races	Other
Special Education Enrollment	3,668	916	2,189	340	167	56
(%)	100	25.0	59.7	9.3	4.6	1.5
Students in Segregated Placements and RTCs	45	13	16	10	6	0
Composition Index %	1.2	28.9	35.6	22.2	13.3	0.0
Risk %	0.2	1.4	0.7	2.9	3.6	0.0
Risk Ratio		1.22	0.37	2.80	3.23	0.0

***Review of Qualitative Data, including Feedback from Site Visits and Interviews with District Staff***

To obtain a broad understanding of the issues related to placement in the SDC-B program and use of the level system for behavior management, site visits were conducted to observe these classrooms and discuss these programs with site level staff.

**Feedback from School Officials during Site Visits.**

The SDC-B program is for students with emotional and behavioral difficulties, consisting mainly of students eligible with ED. The classes are self-contained and configured to serve students in a multilevel and multisubject format. The site visits included walk throughs of several SDC-B classrooms. Of the five comprehensive sites visited, three had one classroom (although one site had combined two classes due to a teacher being out on leave), the fourth had two classrooms, and the fifth had three classrooms.

All sites reported using the core curriculum and offering all subject matters including PE. Some staff noted that some students preferred to participate in PE with their classroom instead of the general education program due to the use of the locker room and showers. Teachers reported delivery of all subject matter by themselves or through a team approach in sites with multiple classes. Staffed noted that students from various grades are provided programs in different subjects during the same period. The school with three SDC-B classrooms on campus noted rotating students between teachers, with curriculum divided into math and study skills, ELA and science, and science only.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The level system is a point-based behavior management system created by the District and used solely in the SDC-B program. It consists of four levels with one being the lowest and four the highest. Students at the highest levels of three and four enjoy privileges, such as internet time for nonacademic purposes and unsupervised access to activities like passing periods and lunch. Students in level one have the most restrictions, such as requiring escort to the bathroom and during passing periods, and exclusion from school activities with the rest of student population, including snack or lunch time. A posted visual observed during site visits noted that being on level two enables students to participate in mainstream snack and lunch. All staff denied that students lose access to services, snacks, or lunch but rather are provided more supervision when their behavior results in a level one designation.

Inquiries regarding the level system found that staff view it as a positive reinforcement behavior management system tied to short- and long-term incentives, such as access to the classroom store and end-of-year field trips or activities. Although some documents imply the data collected from the level system is directly tied to a student's behavior goal or behavior intervention plan (BIP), no systemic evidence of this connection was noted in the IEPs reviewed as part of the manifestation determination and expulsion file reviews that are discussed in Section 5.

Staff reported collecting behavioral data on a period-by-period basis and using the data to adjust student placement between the levels. Mixed responses were provided regarding the timeframe for resetting the level system, with some teachers choosing to reset daily and others choosing weekly. One teacher noted that the reward system starts over every other period. Review 360, a behavior management program, was cited as the data system used to track and report daily and weekly behaviors.

Principals at the five comprehensive sites denied any concerns about Black students being disproportionately placed in the SDC-B program. Two principals expressed trusting IEP teams with making appropriate placements, citing that decisions are made based on the needs of the students. One principal expanded on this sentiment, stating that the school did not look strictly at numbers when identifying the needs of the students and adding "I would hate to run my show on quotas." Another principal who agreed there were no concerns contradictorily added that they "wished it (disproportionality) didn't happen."

Due to geographical factors, there is only one non-public school (NPS) available in the area; therefore, Desert Pathways, the District's only special education center, is the only option for students who require this level of restrictiveness. The special education center was described as a placement mainly for students with ED, as well as some students with autism who exhibit externalizing ED type behaviors. Staff view this placement as temporary while the primary goal is to return students to a comprehensive site. The school has five teachers and students change across periods to receive core curriculum instruction,<sup>15</sup> including PE. On the day of the visit, the school had an enrollment of 20 students, though it experienced a high of

---

<sup>15</sup> One student was reported to be on a certificate track, but it was not confirmed whether this student required an alternate curriculum.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

35 students during the 2021-22 school year. The campus is divided into two sections by behavior, with one side for students with externalizing behaviors and the other for students with internalizing behaviors. Mainstreaming is available for students on Quartz Hill HS Campus, since it is co-located, for students performing well academically and social-emotionally. The school does not use the level system but rather relies on Boys Town behavioral management program, which uses a similar point-based system.

Site visits confirmed the use of the level system behavioral management system in the SDC-B classrooms. Staff did not view the restriction and exclusion from school activities, such as lunch or snack, as punitive and denied the full exclusion of students from these activities. However, visuals posted at several sites clearly specified level one and two resulted in a higher level of supervision and removal from school activities. At one school, access to mainstreaming in snack and lunch is included as a level two incentive.

Opportunities to mainstream, including in school activities such as assemblies, lunch, and passing periods, are part of a student's instructional program and included in the LRE calculation in their IEP. Although at times supervision during these activities may be required and justified, similar to issuing a detention, the frequent use of such exclusions presents concerns over potential compliance violations. For example, students in the SDC-B are reportedly not typically subjected to daily removals or restrictions associated with detention; however, the level system does provide such a mechanism for students in this program.

The use of appropriate consequences must be weighed carefully and must not impact a student's right to participate in the general education program, including in school activities, as specified in their IEP. For students enrolled in these programs, the provision and appropriateness of behavioral supports available, such as behavioral goals, BIPs, and counseling services, should address and dictate how students will be supported during general education activities. For students whose daily behaviors result in higher levels of supervision or exclusions during these activities, the frequency and pattern of these behaviors should trigger an IEP meeting and lead to possible assessments in functional behavior and/or revision to the BIP or behavior goals. Lastly, a reasonable assumption is that students placed in these programs require the following social emotional and behavioral supports: behavior goals, BIP, and counseling.

### **Summary and Conclusions**

This section of the investigation sought to validate the CDE Complaint's allegations related to the disproportionate overrepresentation of Black students in more restrictive placements, including the special day class for students with behavioral needs (SDC-B), and in segregated settings. The Complaint also alleged that SDC-B programs denied students access to their nondisabled peers and school activities, including participation in lunch, due to the behavior management system that imposes such penalties.

The determination of disproportionate overidentification and placement of students in special education lays the foundation for all of the allegations made in the Complaint.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The review of policies and procedures was limited to two provided regarding LRE. Further, an online search of the District website did not yield any additional documents or information, which is of concern since many school districts make this information available to staff, parents, and the public.

Overall, the Special Education Local Plan Area (SELPA) LRE document includes some good language that explains the principles and standards for LRE, but it lacks clear guidance for IEP teams to determine student placements in the LRE. While it includes the four-factor balancing test set by the 9<sup>th</sup> Circuit Court in the *Rachel H.* case that established a standard for LRE, teams are unlikely to understand how to implement this test consistently and correctly without additional guidance.

Board Policy 6519 is considerably outdated, having been adopted prior to the 2004 reauthorization of IDEA. Moreover, it lacks an adequate explanation of the principles of LRE and the legal authority both at the federal and state levels for ensuring LRE. Overall, the policy is inadequate, outdated, and contains no viable information to promote one of the most fundamental tenets of IDEA.

The review of quantitative data on special education identification found the overall rate of special education identification at 16.7%, which is 30.5% higher than the State average of 12.8% and 15.2% higher than the national average of 14.5%.

Black students show rates indicative of overrepresentation compared to their enrollment (25.0% special education compared to 14.0% general education). Hispanic, Asian, and Pacific Islander students appear underrepresented, while White, multiracial, and American Indian/Native Alaska students are nearly or proportionately represented in special education in relation to their overall enrollments.

Analysis of identification of students by race/ethnicity in each of the main disability categories found areas of overrepresentation for Black students in the ED category (37.0% ED compared to 25.0% special education) and White students in the ED and autism categories (15.1% ED and 13.7% autism compared to 9.3% special education). Multiracial students also show high levels of representation in the categories of autism and ED, compared to their overall special education enrollment.

An examination of secondary eligibilities found some areas of concern with the appropriateness of identifications as well as the training and capacity of IEP teams for making these determinations and understanding disability.

One notable area of concern is the high number of students eligible with SLI in a district comprised predominately of high schools. At first glance, students with a designation of SLI account for 2.1% of all those served in special education when using primary eligibility. This jumps to 15.2% when combined with secondary designations of SLI. Although the presence of students who require speech and language services is anticipated, particularly those with moderate to severe disabilities who present with more language-based needs, one would expect many of the students with milder disabilities such as SLD and OHI to have remediated

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

these difficulties and subsequently exited from speech services by the time they reach high school.

The IDEA permits students who qualify under any eligibility to access related services, such as speech and language services or school counseling, regardless of their eligibility category upon an IEP team's decision. For instance, autism is a social, communication, and language-based disorder with many students experiencing difficulties with pragmatic language. Therefore, it would be appropriate for an IEP team to offer speech and language services to a student with autism under their primary eligibility without the need for a secondary SLI designation.

Some combined disabilities also call into question the appropriateness of the established determination since the eligibility criteria are incompatible. For example, a student with SLD must show an average to low average cognition to qualify, while a student with ID has a subaverage general intellectual functioning with concurrent deficits in adaptive behaviors or skills, such as those required for self-care or to promote independent living. Therefore, it is not possible for a student to present with low to average and subaverage cognitive abilities.

Another example of incompatible determinations of comorbid eligibility categories is seen with the multiple disabilities (MD) and OI designations. For students to be eligible with MD, they must show concomitant impairments, such as intellectual disabilities and orthopedic impairments, that significantly impact their adaptive behavior, academic achievement, and intellectual abilities. Therefore, a student who may have intellectual, orthopedic, and speech and language impairments due to their multiple disabilities would qualify under the umbrella of MD and not a combination of designations under ID, OI, and SLI.

These incongruencies in identification are indicative of inappropriate identification and raise questions regarding the training, monitoring, and/or safeguards in place to prevent inappropriate identifications and use of multiple designations.

When examining disproportionality, Black students demonstrated a composition index indicative of overrepresentation in special education and the highest risk among all groups for being identified with a disability. Although the risk ratio threshold did not meet the 2.0 disproportionate overrepresentation target or 3.0 significant disproportionality target, the identified risk ratio of 1.77 is indicative of being at-risk for disproportionate identification.

In the ED category, Black students are three times (risk ratio 3.12) more likely to be identified with ED than all other students. This is indicative of significant disproportionality and exceeds the CDE's 3.0 threshold. Similarly, their representation in this eligibility is more than twice that of their enrollment representation (37.0% ED compared to 15.8% enrollment).

White students also showed elevated levels and risk of being identified with ED. White students demonstrate a composition index higher than their enrollment representation (15.1% compared to 9.5% enrollment) and a risk ratio of 1.70. This represents being at-risk for disproportionate overrepresentation.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Black students are also at risk of being disproportionately overrepresented in the SLD category, with these students almost twice as likely to be identified with an SLD as all other students (risk ratio 1.84).

In the ID eligibility, Black students demonstrated levels of overrepresentation based on their composition index (22.8% compared to 15.8% enrollment). When their risk is compared to the risk of all other students, Black students' risk ratio (1.57) falls in the at-risk of being disproportionately overrepresented level for being identified with ID.

Although no disproportionate representation was found for any of the racial/ethnic groups in the area of SLI, the primary concern regarding this eligibility is the high percentage of secondary aged students with this eligibility, with 15.2% of the student population having either a primary or secondary SLI designation. In comparison, the NCES data notes 2.6% of students ages 14-21 were served under the IDEA with an SLI eligibility.

Disproportionate overrepresentation was noted for Black students in the OHI category. Their risk when compared to all other students makes them two times (risk ratio 2.05) as likely to be identified with OHI.

White students also showed levels of overrepresentation based on their risk and composition index in the OHI category. Although close, the risk ratio for White students is not indicative of disproportionate overrepresentation.

Multiracial and White students have risk ratios that represent being at-risk for disproportionate overrepresentation in the autism disability category. Pacific Islander students eligible for special education with autism demonstrate an alarming risk ratio of 7.23; however, this should be interpreted cautiously. Given the small number of students in this category and the overall small number of Pacific Islander students eligible for special education (12 autism, 27 total), it would be prudent for school officials to review the IEPs of these students to ensure they were appropriately identified.

The District's LRE placement practices rely heavily on more restrictive settings. Overall, the LRE profile shows a near equal placement rate of SWDs in the three LRE categories, with about a third of the special education population in each of the categories (equal to or greater than 80%; 40% to 79%; less than 40%). However, this means that two-thirds are in the two more restrictive categories, demonstrating an inverse relationship to the national averages for students in the least restrictive category of 80% or more in the general education setting (66.0%).

Of those in the most segregated LRE category of less than 40% in the general education setting, students in the Other and multiracial groups have the highest rates of segregation (44.6% Other and 43.7% multiracial) while Hispanic students have the lowest rate (29.7%).

Black and Hispanic students have the highest rates of being moderately segregated in the 40% to 79% category while White and Hispanic students have the highest rates of being most included in the general education setting.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

One salient finding of placement data was that no students were identified as being fully included in the general education program. All students had some indicator of a special education program placement of either RSP or one of the various SDC settings. This finding is concerning since it would be assumed some students are fully included in the general education classroom.

The analysis also shed light on potential LRE data inaccuracies in students' IEPs and in reports to the State. For instance, 64 students (4.5%) showed an instructional setting of RSP but had an LRE category indicating they spend less than 40% of the day in the general education setting. For the most part, students in RSP require minimal support and are unlikely to be removed from the general education classroom for the majority of the day. These two phenomena are incongruent and most likely indicative of data inaccuracies. It is possible that either the program (RSP) or LRE time is incorrect.

The SDC-B class is a self-contained classroom designed for students with ED and/or behavioral difficulties. The data show that the majority of students in these classes are segregated for the majority of the day, with 77.7% accessing the general education classroom for less than 40% of the day. However, 11 students show LRE placement data of greater than 80% of the day in the general education class. Again, it is unlikely this data accurately reflects the students' programming since students with such a high level of integration would not be designated in the SDC-B program.

Similarly, the pre-vocational classes are for students with moderate to severe disabilities who are educated in self-contained classrooms. Most students (88.4%) in the SDC-Pre-Vocational programs are segregated for the majority of their school day. The data found that eight students showed an LRE category of 80% or more of the day, which is incompatible with this type of placement and likely reveals an inaccurate reporting of LRE placement data.

To better understand placement practices for students by race/ethnicity, class enrollments were examined by the various instructional settings offered. The RSP instructional setting is the least restrictive placement and is generally offered for a small portion of the day in a self-contained classroom. A special day class is also in a self-contained environment and can provide access to the general education core curriculum or alternate curriculum for more moderate to severely disabled students.

Black, Other, and multiracial students have the lowest rates of RSP placements compared to Hispanic and White students (Black: 34.0%, Other: 35.7%, multiracial: 33.5% compared to Hispanic: 40.5%, White: 40.9%). This means that Hispanic and White students have higher rates of less restrictive placements with greater access to the general education curriculum and nondisabled peers.

The SDC-A program is considered to be a more academic-focused self-contained special education class. Black (43.1%) and multiracial students (40.1%) have the highest rates of participation in these classrooms. Similarly, Black (7.9%) and multiracial students (5.4%) show the highest rates of enrollment in the SDC-B program, a self-contained classroom with

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

a focus on students with ED and/or behavioral difficulties. This means that students from these two racial/ethnic groups show the highest rates of placement in these restrictive settings.

Overall, none of the racial/ethnic groups have risk ratios indicative of disproportionate overrepresentation in LRE placement categories. Despite the absence of disproportionality, the risk for all groups is extremely high compared to the national average of 12.2%. The risk for all SWDs is 30.5%, meaning almost one in three students is in the most segregated LRE placement category. The high-risk values for all groups effectively negate the risk ratio, meaning that since all groups are comparably highly segregated, the disparities are not significant.

However, the rate of removals from the general education settings are significant and should prompt a review of the policies and procedures that guide IEP teams when making placement decisions. In particular, the review should look at how IEP teams complied with SELPA procedures, including the application of the standard issued in *Rachel H.* that established a four-prong test for determining LRE.

Overall, the number and percentage of students in segregated placements and RTCs is low and not an area of concern. The risk of placement in these settings is 1.2%, considerably lower than the State's target of less than or equal to 2.9%. The District has only one special education center and one NPS available in the area; therefore, it is likely that geography is a contributing factor to these low placements. Regardless, the District demonstrates good performance in minimizing the most segregating settings.

Site visits confirmed the use of a point-based behavioral management system in the SDC-B programs that restricts or denies students access to mainstreaming and participation in school activities. The use of appropriate consequences must be weighed carefully and must not impact a student's right to participate in the general education program, including in school activities, as specified in their IEP. For students whose daily behaviors result in higher levels of supervision or exclusions during these activities, it should trigger a review of the IEP and lead a functional behavior assessment (FBA), and/or revision of the BIP or behavior goals. Lastly, a reasonable assumption is that students placed in these programs require the following social emotional and behavioral supports: behavior goals, BIP, and counseling. The District can mandate that all students who are recommended for the SDC-B program must include a BIP and counseling.

The identification and placement of Black students in special education and more restrictive settings is indicative of systemic and structural problems contributing to their overrepresentation. Although some areas of disproportionate overrepresentation and significant disproportionality were noted, the overall patterns expose the vulnerability Black students face in being referred to and placed in special education programs.

The overall high rate of segregation is alarming and will require extensive training and capacity building to effectively move SWDs back into general education settings and improve

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

performance in this area. More importantly, this level of segregation, primarily for so many students of color, is worrisome given the known negative outcomes associated with a lack of participation in the general education classroom, access to the core curriculum, and interaction with their nondisabled peers.

The data reviewed showed indications of systemic shortcomings that result in inappropriate identifications. Although the investigation did not examine this in depth, it would be prudent to conduct an analysis of the referral, identification, and placement processes to ensure that students are receiving the appropriate general education supports and interventions prior to a referral, a quality and comprehensive evaluation, and sound and consistent identification and placement determinations.

Although more policies and procedures may exist, those reviewed were outdated or lacked clear guidance to enable IEP teams to carry out the mandates of the policy. Furthermore, the policies and procedures should be posted online and available to staff, parents, and the public.

### **Allegation Determination**

**Allegation 2.1** The District segregates students with disabilities from nondisabled peers at rates far exceeding the targets set by the State. Less than one-third of SWDs are placed in the general education setting for the majority of the day—approximately one-half the target rate set by the State.

- Allegation 2.1 is founded.
  - The State target for students in the LRE category of 80% or more of the day in the general education setting is equal to or greater than 58%.
    - The District shows only 33.8% of SWDs are integrated into the general education setting for this amount of time. Black SWDs have the lowest rate of this level of integration, with only 29.7%, or on average one in three students, being placed in this LRE category.
  - The State target for students in the LRE category of less than 40% of the day in the general education setting is less than or equal to 19.5%. The District average is 32.1%, considerably higher than the State target.
    - Although students from all racial/ethnic groups show high levels of segregation, students in the Other (44.6%) and multiracial (43.7%) categories showed the highest rates of being in this LRE category. In contrast, White students showed the lowest rate of more restrictive placements (29.7%).
  - A State target does not exist for the federal LRE reporting category of 40%-79% of the day in general education. In the District, this 40%-79% group represents 34.1% of the special education population and, when combined with the less than 40% category, about two-thirds of students (62.2%) are in highly restrictive settings.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- For context, the national average for being in the general education class 80% or more of the time is 66.0%, which is practically an inverse relationship in performance.

Allegation 2.2 The District segregates Black SWDs into more restrictive placements, in particular the special day class – behavior program (SDC-B) as well as its special education center (Desert Pathways), without first considering supports, such as behavior intervention plans (BIP) or counseling.

- Allegation 2.2 is founded.
  - Black students represent 39.1% of SWDs in the SDC-B program but only account for 25.0% of the special education population. They demonstrate a relative risk ratio of 3.12, meaning they are three times more likely to be placed in an SDC-B program than students from all other racial/ethnic groups. This exceeds the CDE's 3.0 threshold for significant disproportionality.
    - Although the investigation did not look into IEP team considerations for behavioral supports prior to the placement decision, the data render this a moot point. It is evident that Black SWDs are overly segregated in these classrooms compared to peers from other racial/ethnic groups.
  - The low enrollments in the most segregated placements, such as Desert Pathways and NPS, make determining the inappropriateness of these placements difficult without examining students' IEPs. The District has lowered the rate of students to 1.2% in these most segregated placements since the 2021-22 school year, which is below the State target of 2.9%.
  - Despite low reliance on segregated special education schools, in general, Black students are subjected to more restrictive placements than students from all other racial/ethnic groups.
  - The level system document reviewed claims the goal of the SDC-B program is to prepare students for reintegration into less restrictive settings. It incentivizes participation in the general education setting, which implies that these placements are due to behavioral needs that were unmet in other settings, including the general education classroom. If the belief is that a systematic behavioral intervention program is what students lack and need to be successful in the classroom, these supports should be provided prior to a placement in a more restrictive setting, such as the SDC-B classroom.

Allegation 2.3 The District implements a behavioral program in all its SDC-B classrooms, referred to as the "level system." The level system relies on teachers assigning students to a "level" from one to four, with levels one and two for students who have not met behavioral expectations. Students in levels one

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and two are denied access to their peers during lunch and passing periods, resulting in a punitive rather than positive approach to behavioral support and further removing them from their least restrictive environment (LRE). Since the level system is built into the SDC-B program, all students are subject to this system of support, even if it is not appropriate for their individual needs.

- Allegation 2.3 is partially founded.
  - During the site visits, it was observed that several SDC-B classrooms contained visuals of the level system's restrictions and reinforcers. The visuals indicated that students on levels one and two had restricted access to passing periods and lunch by way of having an instructional aide accompanying them, isolation for lunch and snack, and exclusion from school activities. These denials may be in violation of students' FAPE and participation in the general education setting, as specified in their IEPs.
  - Although all staff and teachers denied that students are unable to participate during these noninstructional activities, the visuals observed clearly indicated such consequences.
  - Sites should prioritize IEP supports and services as the mechanism for determining the behavioral supports required to ensure participation in general education settings. While students may require an occasional removal from such activities due to a serious incident that requires the student to regulate their behavior, the frequent or daily use of these consequences constitutes punishment, which is inconsistent with the intentions of providing positive behavioral supports as reported by staff.
  - Overall, the level system appears to be a universal behavior management program applied to students only in the SDC-B program. The relationship between behavioral supports available, such as a BIP, and those enrolled in these programs could not be determined due to the lack of indicators available in the dataset.
    - All students in the SDC-B program should have behavior goals, BIP, and counseling as part of their IEP. The provision of these supports and services would justify the appropriateness of placement in this program.
  - The investigation did not collect enough information to establish a sense of the effectiveness of the level system for managing student conduct. Schools reported student behavior was tracked using software like SWIS or Behavior 360, but no reports were provided.

Allegation 2.4 The SDC-B program is configured to deliver different subject matters for students attending the same period. This limits the ability to provide direct instruction, with most teachers providing students independent work, such as packets.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Allegation 2.4 is founded.
  - School staff confirmed that the SDC-B programs are configured to deliver different subject matters for students in various grade levels that are attending the same period. This will undoubtedly limit the ability to provide direct instruction, particularly if the expectation is to maintain the pacing plan of the core curriculum.
    - In addition, this type of classroom configuration is unlikely to occur with general education students or even RSP or SDC-A classrooms, meaning that this may be indicative of differential treatment on the basis of disability in particular for students with behavioral and emotional disabilities.
  - It was alarming to learn that students in SDC-B programs also attend PE as a class taught by the SDC-B teacher. Staff justified this by citing examples of students not wanting to shower or participate in the general PE program. For most students, PE should be a relatively easy elective in which they can engage with their nondisabled peers and participate in the general education curriculum.
    - This universal programming is indicative of systemic problems with the LRE decision-making processes that transpire during an IEP meeting (including the SELPAs purported application of the *Rachel H.* standard), which are intended to focus on the individual needs of a student and seek to include the student in regular classes with nondisabled peers to the maximum extent possible.

### **Section 3. Exclusionary School Discipline of Students with Disabilities, Including Out-Of-School Suspensions**

The investigation sought to validate the CDE Complaint's allegations related to the use and disproportionate application of out-of-school-suspensions (OSS) with SWDs and Black SWDs. Additionally, the review aimed to determine if the District's policies, procedures, and practices were consistent with state and federal laws, and if systemic problems existed that contributed to systemic noncompliance.

This section includes the following regarding OSS: various allegations made in the CDE Complaint; review of literature; review of applicable laws and regulations, and District policies and procedures; review of quantitative and qualitative data; summary and conclusions; and allegation determination.

#### **Allegation 3: Out-of-School Suspensions**

The CDE Complaint includes the following allegations regarding OSS:

Allegation 3.1 The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including out-of-school suspensions (OSS).

Allegation 3.2 The District utilizes a matrix specifying the minimum and maximum disciplinary actions authorized for violations of various education code provisions, which gives school officials discretion to recommend students for suspension or expulsion for *any* education code violation. Despite citing this matrix as one of the root causes for the disproportionate OSS of Black SWDs within its Comprehensive Coordinated Early Intervening Services Plan (CCEIS Plan) for addressing Significant Disproportionality identified by CDE, the District has failed to eliminate or revise this matrix since 2014.

Allegation 3.3 The District reports fewer suspensions and expulsions than occur due to the use of informal disciplinary removals which exclude students without documentation and reporting.

Allegation 3.4 The matrix authorizes school officials to refer students to law enforcement for any education code violation. The matrix fails to consider the impacts of disability when making law enforcement referrals, noting "law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students."<sup>16</sup>

Allegation 3.5 The District lacks procedures for guiding school officials' decisions regarding discipline, resulting in the subjective and biased application of OSS for students with disabilities, in particular Black SWDs. Furthermore, this results

---

<sup>16</sup> AVUHSD, BP 5144.2

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

in Black SWDs being overrepresented for long-term suspensions of over 10 days, compared to their nondisabled peers, in particular White SWDs.

Allegation 3.6 The District underreports OSS to the CDE.

### Review of Literature

Research on the effects and effectiveness of exclusionary school discipline is plentiful and consistent in identifying and validating the negative outcomes associated with disciplinary removals, such as out-of-school suspensions and expulsions. The literature is abundantly clear that exclusionary discipline disproportionately impacts students of color, students with disabilities, and students from historically marginalized and disadvantaged groups (Losen & Whitaker, 2018; Noltemeyer et al., 2015; LiCalsi et al., 2021).

Exclusionary discipline methods have a long history of use in public schools. Over the last few decades, an increase in the politicization and racialization of school safety issues have led many school districts to adopt zero-tolerance discipline policies. This trend is concerning considering the clear research findings that show the disproportionate impact zero-tolerance policies have on students with disabilities and students of color (LiCalsi et al., 2021; Skiba, 2014).

Zero-tolerance policies have been found ineffective at reducing serious behavior and instead increase the likelihood of future student suspension and other negative outcomes, such as academic failure and student drop out (Skiba & Peterson, 2000; Verdugo, 2002). Exclusionary discipline and zero-tolerance policies are based on the notion of a deterrence effect, believing that by applying harsher punishments to student misconduct, the offending student and their peers will be less likely to repeat or engage in the misbehavior (Ewing, 2000). It is also generally believed that the removal of these problematic students will result in a more productive learning environment for the rest of the class.

The use of exclusionary discipline is not only ineffective at deterring behavior and producing positive behavioral change in students, but its widespread use is concerning given its established correlation to the numerous well-known short- and long-term negative outcomes in schools, communities, and intergenerationally (Anderson et al., 2019; Dong & Krohn, 2020; Hemphill et al., 2013; Monahan, et al., 2014; Rosenbaum, 2020).

Scholars have readily explored the relationships of exclusionary discipline and students' academic, social, emotional, and post-school outcomes. The investigations have found and provided ample evidence of the negative associations and outcomes for students who experience OSS. These include:

- greater risk of an additional suspension (Mendez-Rafaelle & Knoff, 2003) and likelihood of becoming repeat offenders (Amrbose & Gibson, 1995; Costenbader & Markson, 1998)



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- higher rates of chronic absenteeism, grade repetition, receiving lower grades and being at greater risk of dropping out (Hwang, 2018; Noltemeyer et al., 2015; Wolf & Kupchik, 2017)
- greater risk of referrals to and involvement with law enforcement and the juvenile justice system (Monahan et al., 2014)
- further disengagement from school as well as anger and erosion of trust (Costendbader & Markson, 1998) and reinforcement of antisocial behavior among peers (Dodge et al., 2006)
- increased likelihood of experiencing criminal victimization and incarceration as adults (Hughes et al., 2020; Osher et al., 2002; U.S. Department of Education and Department of Justice, 2014; Wolf & Kupchik, 2017)

Out-of-school suspensions result in significant loss of instructional time for students, and these removals disproportionately impact Black students and SWDs. The U.S. Department of Education noted that during the 2015-16 school year, removals accounted for more than 11 million days of instruction lost, with Black students losing 66 days of instruction compared to 14 days for White students, or five times the loss of instructional days compared to their White counterparts (U.S. Department of Education and Department of Justice, 2014). In addition, SWDs lost more than twice the number of days of instruction as their nondisabled peers (Losen & Whitaker, 2018).

Recently, the American Institutes for Research (AIR) published a study on exclusionary discipline practices that examined 1.24 million reported behavioral incidents of middle and high school aged students, covering a 10-year enrollment period in the New York City Public Schools. The study analyzed data to determine the effects of different types and durations of discipline on the offending students, their peers, and the school climate. It is the only study to compare later academic and nonacademic outcomes for students with the same disciplinary incidents but different disciplinary responses, and the impact of these practices on their peers. The duration, data, and scope of this study make it significant compared to most research on exclusionary discipline practices. The study's findings shed light on the long-term consequences of suspension decisions made by school administrators.

Some of the more salient findings include:

- More severe exclusionary discipline had a consistent negative effect on middle and high school students' math and English language arts (ELA) credit accumulation and likelihood of on-time graduation. Furthermore, high school students who received an OSS compared to an in-school suspension (ISS) were about three percentage points less likely to earn math and ELA credit the following year, while students with 21 or more days of OSS showed a five-percentage point reduction in the likelihood to graduate on-time.
- More severe exclusionary discipline has a consistent negative effect on middle school students' future reported behavior. These findings indicate that longer and more severe suspensions do not serve as a deterrent and may result in more behavioral

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

incidents, either because student behavior is negatively impacted by the experience or because their future behavior is viewed more negatively by teachers and school administrators (p. 33).

- More severe exclusionary discipline had a consistent negative effect on middle and high school students' attendance 1-4 years after the behavioral incident. Students who received OSS compared to ISS had the most significant effect, with increases in additional days of absences for more severe punishments. For example, high school students with 21+ days of OSS resulted in 1-2 weeks of additional absences in each of the following 3 years after the behavioral incident.
- The effects of exclusionary discipline on students' later behavior and educational outcomes were similar for all students regardless of race, socioeconomic status, or disability. However, the researchers pointed out that since data show Black students and SWDs are disproportionately subjected to exclusionary discipline, the negative effects have a disproportionate impact on students in these groups.
- The study did not find any effect of the severity of discipline a student receives on the behavior, attendance, or achievement of their peers. Teacher and student reports on the school climate, including school safety and the classroom learning environment, were not affected by the severity of discipline a student received. These findings contradict the common rationale that exclusionary discipline is necessary for creating a classroom environment conducive to learning and a school where students feel safe.

The AIR study further corroborates the body of literature that recognizes the negative effects of exclusionary discipline on SWDs and other vulnerable groups of students. The findings show that more severe punishments yield more negative outcomes for the offending student but have no negative effects on their peers and the overall school environment. This disputes the counterintuitive perspective by school administrators that harsher punishments result in a more conducive learning atmosphere and safer schools. Lastly, the *notion* that negative effects associated with OSS impact all students similarly regardless of race, socioeconomic status, or disability implies that no one responds positively to these aversive disciplinary events. However, because Black students and SWDs are disproportionately subjected to exclusionary discipline, the reliance on these practices perpetuates negative outcomes for students and communities. Furthermore, this finding also has implications for developing interventions that aim to decrease OSS for all students when addressing disproportionality in exclusionary discipline.

The AIR report summarizes the firm conclusion found in the literature regarding the relationship between exclusionary discipline and a student's academic outcome, noting "the empirical literature, whether ethnographic, qualitative, or correlational, largely provides evidence demonstrating a negative relationship between experiencing exclusionary discipline and student's academic achievement" (Balfanz et al. 2014; Blafanz et al., 2015; Carpenter & Ramirez, 2007; Chu & Ready, 2018; Fabelo et al., 2011; Suh & Suh, 2007) (p. 8).

Despite long-standing challenges to suspension both in theory and practice, its use remains instinctual for many school administrators. Mendez and Knoff (2003) note that the punitive

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

nature of a suspension “rarely has a logical, functional, or instructive connection to the offense or infraction; and it usually occurs in the absence of additional interventions that focus on teaching or reinforcing students’ more prosocial or appropriate responses to difficult situations” (pp. 30-31).

Another impact of overly punitive environments is the breakdown of students’ views of their schools’ moral authority, which results in alienation and resistance as well as promotion of “legal cynicism,” including the perception that law enforcement is illegitimate (Kirk & Papachristos, 2011), even among groups who follow the rules (Kirk & Matsuda, 2011). The simple act of removing students from the school environment does nothing to deal with students’ and schools’ deeper issues and instead may lead to disengagement from school, anger, and erosion of trust (Costenbader & Markson, 1998).

Research has found that similar students attending demographically similar schools experience variable outcomes (Anderson & Ritter, 2017; Fabelo et al., 2011; Sartain et al., 2015). These disparities in disciplinary outcomes may be better explained by the behavior of teachers and principals in schools rather than student characteristics, such as misbehavior, poverty, or race. Welsh and Little (2018) note that this is “an encouraging finding, as the behavior of principals may be more readily changed than complex underlying economic, political, and social structures” (p. 6).

### **Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures**

The following discussion reviews applicable education code requirements and regulations regarding school discipline, including OSS, as well as relevant federal regulations covered under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) (29 U.S.C. Section 794; 34 C.F.R. pt. 104), Title II of the Americans with Disabilities Act (“Title II”) (42 U.S.C. Section 12132), Title VI of the Civil Rights Act of 1964 (“Title VI”) (42 U.S.C. Section 2000d et seq., 34 C.F.R. pt. 100), and the Individuals with Disabilities Education Act of 2004 (IDEA) (20 U.S.C. Section 1400).

A review of the District’s discipline policies and procedures submitted as part of this investigation was conducted to analyze alignment with applicable laws and regulations and to identify shortcomings that might contribute to the disproportionate application of OSS for SWDs and Black SWDs.

The discussion related to the education code, federal laws, and regulations included in this report is not considered comprehensive of all relevant laws and regulations. In addition, the policies and procedures reviewed represent the documents provided as part of the investigation, as well as documents that were obtained from sources such as the District website.

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## ***State and Federal Regulations Regarding School Discipline***

Relevant California Department of Education (CDE) education codes were reviewed to determine if the District's policies and procedures regarding school discipline, including suspension and expulsion, are consistent with State requirements. Education Code Section 35291 prescribes rules for local education agencies (LEAs) that govern certain administrative procedures and regulations when suspending students. Education Code Sections 48900 – 48927 dictate how schools can suspend or expel students, including considerations for alternatives to suspensions and other means of correction<sup>17</sup>. Section 504 and Title II are federal laws that protect qualified individuals with disabilities from discrimination on the basis of their disability, including school discipline. Title VI prohibits discrimination based on race, color, or national origin and includes mandates related to the non-discriminatory application of school discipline. In addition, the IDEA contains regulations with considerations and protections for students with disabilities who are issued short- and long-term removals.

Select sections of the education code and federal laws and regulations are summarized and included in this section as a reference and to guide the discussion for each allegation. This section concludes with excerpts of a letter issued by the Office of Special Education and Rehabilitative Services (OSERS) related to exclusionary discipline.

### **Education Code Regulations.**

The education code contains notable sections that dictate how LEAs issue suspensions, as described below.

Education Code (EC) Section 35291 requires school districts to develop student codes of conduct and student disciplinary procedures based on state law. Each school must also publish a code of conduct that is consistent with the district discipline policy and must make these rules available to parents and guardians in the school office. Districts can also include code of conduct information as part of the annual notification to each student in the district and/or post the information on its website.

EC Section 48900 sets the framework for the 20 allowable reasons for suspending and/or expelling students. These include but are not limited to offenses such as fighting; possession, sale, or furnishing of a weapon; possession, use, furnishing, or sale of drugs or alcohol; vandalism, profanity, disruption; and having committed or attempted to commit sexual assault.

EC Sections 48900.2, 48900.3, 48900.4, and 48900.7 supplements EC Section 48900 with four additional offenses: committed sexual harassment; participated in, caused, attempted to cause, or threatened an act of hate violence; an act of harassment, threats, or intimidation of school personnel; made terrorist threats against school officials and/or school property.

---

<sup>17</sup> CDE Suspension and Expulsion regulations can be viewed in their entirety at: [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=27.&chapter=6.&article=1](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=27.&chapter=6.&article=1).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

EC Section 48900(s) establishes the jurisdiction for suspending or expelling students, limiting this authority to offenses that are related to school activity or school attendance that occur at any time, including, but not limited to, any of the following:

- while on school grounds
- while going to or coming from school
- during the lunch period, whether on or off campus
- during or while going to or coming from a school-sponsored activity

EC Section 48900(v) encourages school districts and schools to provide alternatives to suspension or expulsion, using a research-based framework with age-appropriate strategies that improve behavioral and academic outcomes and correct the student's misbehavior as specified in Section 48900.5.

EC Section 48900(w)(1)(2) characterizes the intent of the law to impose alternatives to suspension or expulsion when a student is truant, tardy, or otherwise absent from school activities. It also describes that implementing a Multi-Tiered System of Supports (MTSS) is intended to help students develop essential tools (including critical social and emotional skills), receive support to transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EC Section 48900.5 requires that suspension, including supervised suspension as described in EC Section 48911.1, *shall be imposed only when other means of correction fail to bring about proper conduct*. A student, including a student with exceptional needs, may be suspended upon their first offense for any of the reasons enumerated in EC Section 48900 if the school principal or superintendent of schools determines that the student committed an act of EC Section 48900 or its subdivisions, or that the student's presence causes a danger to persons.

- Other means of correction include, but are not limited to:
  - a conference between school personnel, the student's parent or guardian, and the student
  - referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling
  - study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior and develop and implement individualized plans to address the behavior in partnership with the student and the student's parents
  - referral for comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program or a plan pursuant to Section 504
  - enrollment in a program for teaching prosocial behavior or anger management
  - participation in a restorative justice program
  - a positive behavior support approach with tiered interventions that occur during the school day on campus

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- after school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including but not limited to those operated in collaboration with specific parent and community groups
- any of the alternatives described in EC Section 48900.6

EC Section 48903 limits the number of days a student may be suspended from school to 20 days, unless the offenses meet the exceptions in subdivision (g) of Section 48911 and in Section 48912, or for the purposes of adjustment, the student is enrolled in or transferred to another school, including continuation or opportunity schools or classes, in which case the total days of suspension shall not exceed 30 days.

EC Section 48911(a) limits the number of days a school may suspend a student for violating any infractions in EC Section 48900, and pursuant to EC Section 48900.5 (other means of correction), to no more than 5 consecutive school days.

EC Section 48911(b) requires that a suspension be preceded by an informal conference between the student and school officials, and whenever practical, the teacher and employee who referred the student. At the conference, the student shall be informed of the reason for suspension, including the other means of correction that were attempted prior to the suspension, and the evidence against the student. The student shall be given an opportunity to present their version of the incident and any evidence in their defense.

EC Section 48911(c) allows school officials to suspend a student without an informal conference only if the school determines that it is an emergency situation defined as “a clear and present danger to the life, safety, or health of pupils or personnel.” If the student is suspended without a conference, the parent, guardian, other applicable educational rights holders, or representatives<sup>18</sup> shall be notified of the student’s right to a conference and their right to return to the school for such conference. This conference must be held within 2 school days unless the student waives this right or is physically unable to attend.

EC Section 48911(d) requires that at the time of the suspension, schools make reasonable efforts to contact the parent, guardian, other educational rights holders, or representatives by email or telephone. If the student is suspended, the parent, guardian, other educational rights holders, or representatives shall be notified in writing.

EC Section 48911.2 mandates that schools with suspension rates that exceed 30% of the school’s enrollment during the prior school year should consider least one of the following:

- implement the supervised suspension program pursuant to EC Section 48911.1
- implement an alternative to suspension program that involves a progressive discipline approach occurring during the school day and on campus, including any of the following:

---

<sup>18</sup> If the child is a foster child, the foster child’s educational rights holder, attorney, and county social worker, or if the pupil is an Indian child, the Indian child’s tribal social worker and, if applicable, county social worker.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- conferences between staff, parents and pupils
- referral to a counselor, psychologist, child welfare attendance personnel, or other support staff
- detention
- study teams, guidance teams, or other assessment-related teams

At the end of the school year, the school may report the rate of reduction in suspensions and the plan or activities used to the administrator in charge of pupil services.

EC Section 48914 authorizes each school district to establish a policy that allows school officials to conduct a meeting with the parent/guardian to discuss the causes(s), duration of the suspension, the school policy involved, and any other pertinent matter.

### **Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964.**

Section 504 and Title II are federal laws that protect qualified individuals with disabilities from discrimination on the basis of their disability. SWDs who are eligible under the IDEA have rights and protections under Section 504 that are subject to Office for Civil Rights (OCR) enforcement. Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits discrimination based on race, color, or national origin. Enforcement of Title VI legislation falls under the authority of the OCR and the Department of Justice (DOJ).

This part of the discussion will focus primarily on legislation and protections related to student discipline for SWDs and students of color with an emphasis on Section 504 due to its larger scope of coverage in this area. In addition, Section 504 and Part B of the IDEA have overlapping responsibilities (as well as some differences) that will be highlighted.

Section 504 applies to institutions that receive federal funding, whereas Title II encompasses nearly all private entities regardless of whether they receive federal funds, with the exception of churches and private clubs. Title VI applies to programs and activities that receive federal financial assistance from the U.S. Department of Education (ED).

This legislation applies to all state education agencies (SEAs) and local education agencies (LEAs) or school districts. It serves as the foundation for protections against discriminatory policies, procedures, and practices that result in the differential treatment of students with disabilities (SWDs) and students of color or their exclusion or denial from the participation in or benefit from the programs or activities offered to all students, including those without disabilities.

Section 504 and Title II mandate several primary protections for eligible students. The foundation of these laws requires LEAs to ensure nondiscrimination and the provision of a free, appropriate public education (FAPE). In addition, these laws require SWDs to: be allowed to participate in all activities available to students without disabilities; be educated with nondisabled peers to the maximum extent possible (in the least restrictive environment or LRE); receive accommodations and modifications to access an appropriate education and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

ensure equal participation; and receive procedural safeguards for themselves and their families.

Students who qualify under Section 504 and Title II are treated similarly to students served under the IDEA with regard to discipline. This legislation does not prohibit use of discipline on these students, and rules and conduct standards apply to disabled students like their nondisabled peers. However, the laws recognize the impact of disability for meeting the universal conduct standards imposed, which may result in discriminatory application of disciplinary actions. For example, students served under Section 504 and Title II may require a behavior intervention plan (BIP) in order to be successful with classroom and school-wide rules. In addition, Section 504 and Title II offer similar procedural protections to those under IDEA when students are subjected to expulsion or suspensions of 10 or more days and are considered a change of placement, which requires a manifestation determination review.

On July 19, 2022, the Office for Civil Rights (OCR) issued a Dear Colleague letter with guidance for the application of Section 504 regulations on school discipline.<sup>19</sup> The accompanying document, *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973*, is a resource for SEAs, LEAs, parents, students, and the public to understand a school's legal responsibilities to ensure nondiscrimination against SWDs when applying school discipline. Several key areas are included as they relate to the use of out-of-school and in-school suspensions, referrals to the Student Support Center (SSC), and the role of campus security and student resource officers (SROs).

Section 504 contains requirements to ensure that all recipients' (i.e., school districts') employees and other personnel who participate in providing the school's educational program or activities under a contract, licensing, or other arrangement do so in a nondiscriminatory manner. It states:

The responsibility not to discriminate includes a duty for recipients to ensure their own policies, practices, and procedures do not directly cause, or indirectly result in, disability discrimination by other entities that participate in the recipient's educational program or activity through a contractual, licensing, or other arrangement. A school's responsibility not to discriminate against students with disabilities applies to the conduct of everyone with whom the school has a contractual or other arrangement, such as lunch or recess monitors, cafeteria staff, bus drivers, security staff, private security companies or other contractors, school district police officers, or school resource officers (SROs).

Recipients have a responsibility not to discriminate in, among others, the following activities related to student discipline: questioning a student with a disability and investigating allegations of a violation of school rules; issuing tickets, citations, and fines for violations of school rules, such as truancy; using surveillance technologies;

---

<sup>19</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf>



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

conducting searches of students with disabilities and their property; making referrals of students with disabilities to law enforcement, including referrals that result in school-related arrests; and initiating or carrying out threat or risk assessments of students with disabilities (p. 3).

OCR raises concerns regarding schools' use of informal removals in response to a student's disability-based behavior. These exclusions can last for part or all of the school day and are viewed as informal because the school removes the student from class or school without adhering to the school's disciplinary procedures. The guidance notes that:

Informal exclusions are subject to the same Section 504 requirements as formal disciplinary removals, including the FAPE requirements discussed above and nondiscrimination responsibilities discussed in Section VI. As with more formal uses of student discipline, when a student is subjected to informal removals that constitute a significant change in placement, the school must comply with the requirements pertaining to evaluation, placement and procedural safeguards discussed above. Additionally, a school's lack of appropriate recordkeeping regarding informal exclusions may cause the school to violate Section 504's FAPE requirements and procedural safeguards, including the documentation requirement for evaluation and placement decisions and the parent's or guardian's right to review their child's education records. Accurate records of the basis for excluding the student and the time during which a particular student was excluded are needed for a school to determine whether and when a proposed exclusion would constitute a significant change in placement, and thus determine when Section 504's notice requirement is triggered, whether the behavior that led to the informal exclusion(s) is a manifestation of the disability, and whether the student's behavioral needs warrant an additional evaluation. (pp. 22-23)

Section 504 contains one limited exception where the FAPE requirements do not apply, allowing schools to discipline a student with a disability who is currently engaging in illegal drug or alcohol use to the same extent as a nondisabled student. In addition, due process procedures do not apply to disciplinary actions related to drug or alcohol use. However, this exception does not apply to SWDs served under IDEA.

One of the more important aspects of the document is the section regarding *Reasonable Modifications to Disciplinary Policies for Students with Disabilities*. OCR notes that while schools have the lawful authority to discipline SWDs, they must still avoid discrimination, citing Section 504 regulations requiring schools to make "reasonable modifications to their criteria, policies, practices, or procedures when necessary to avoid discrimination on the basis of disability" (pp. 24-25).

The letter provides examples of how schools can modify and revise their student conduct policies to make exclusions for disability related behaviors. Furthermore, it suggests making modifications to mitigate discrimination between SWDs and SROs or campus security personnel. The letter states:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Schools may also need to make reasonable modifications to their policies, practices, or procedures to avoid disability discrimination in interactions between students with disabilities and SROs or other school-based law enforcement personnel who operate under a contractual or other arrangement with the school. Examples of modifications that may be reasonable, depending on the circumstances, include: using de-escalation strategies; removing distractions and providing time and space to calm the situation when the child poses no significant safety threat; avoiding or minimizing touching a child whose disability makes them sensitive to touch; and waiting for a parent to arrive. It may also be a reasonable modification to have a person other than the school-based law enforcement officer communicate with the child and support them in de-escalating, such as a staff member whom the student trusts. When a school has reason to believe a student's behaviors are related to a mental health crisis, it may be reasonable to involve personnel specially trained in crisis intervention. (p. 26)

In addition, Section 504 protects SWDs from being treated differently on the basis of disability. A school may not discipline SWDs more severely than a nondisabled student for the same offense, unless it can provide nondiscriminatory justification for doing so and the reason is not a pretext for discrimination.

The letter concludes with guidance regarding a school's obligations to examine and remediate the discriminatory effects of the school's disciplinary criteria, policy, and practice. It reads:

Disciplinary policies and procedures that result in unjustified discriminatory effects based on a disability, even if unintentionally, violate Section 504. Under Section 504's regulations, schools may not use criteria, policies, practices, or procedures that have the effect of: (1) discriminating on the basis of disability, such as by excluding students with disabilities from participating in school or denying them the benefits of the school's programs and activities, or (2) defeating or substantially impairing the school's objectives with respect to students with disabilities.

Even when a school criterion, policy, practice, or procedure (referred to collectively below as the school's "policy") is neutral on its face, it may still have the discriminatory effect of denying a student with a disability meaningful access to the school's aid, benefits, or services, or of excluding the student based on disability. A school may impose legitimate safety requirements necessary for the safe operation of the school's services, programs, or activities, but the school must ensure that its *safety requirements are based on actual risks, not mere speculation, stereotypes, or generalizations about individuals with disabilities*. The school must provide FAPE to eligible students under Section 504 regardless of the nature or severity of the student's disability.

In addition to these two laws that prohibit discrimination on the basis of disability, Title VI states:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VI mandates that programs and activities that receive ED funds must operate in a non-discriminatory manner which may pertain to but is not limited to admissions, recruitment, academic programs, student treatment and services, counseling and guidance, *discipline*, classroom assignment, grading, vocational education, recreation, physical education, and athletics.

The OCR document also notes that districts must comply with Title VI, which prohibits discrimination based on race, color, or national origin in connection with, but not limited to, any of the following:

- over-identification of students of color as having disabilities based on age-appropriate behaviors that are unrelated to disability;
- under-identification of students of color who do have disabilities;
- unlawful delays in evaluating students of color or English learners for a disability;
- failure to use valid and reliable assessments, including behavioral assessments, for students who are English learners that appropriately measure the student's achievement or aptitude for the skill being measured, rather than measuring the student's ability to speak English; and
- failure to consider the language needs of English learners who have a disability (pp. 7-8).

Section 504, Title II, and Title VI set firm expectations to prohibit schools and districts from engaging in discrimination in disciplinary actions on the basis of disability, color, race, or national origin. Section 504 and Title II require the provision of appropriate modifications to ensure a student's disability-based behaviors are supported rather than punished and result in discriminatory exclusionary discipline practices. Section 504 mandates districts and schools review and make reasonable modifications to criterion, policies, procedures, and practices related to school discipline if unjustified discrimination outcomes occur, even if unintentional.

Title VI protects students from school discipline discrimination on the basis of color, race, and national origin, highlighting the need to also view the negative impact these policies might have on students of color and English language learners without disabilities. In addition, Title VI recognizes that students may be subjected to discrimination due to a combination of protected characteristics. This phenomenon is referred to as intersectional discrimination and can be a result of administrators acting upon stereotypes of certain student subgroups.

Schools often claim to view a child through a holistic or whole child approach, but these laws highlight the importance of ensuring school discipline policies, procedures, and practices protect and value the diversity of children and the intersectionality of their experiences.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Individuals with Disabilities Education Act (IDEA) Regulations Regarding Short- and Long-Term Removals.**

The IDEA includes regulations for the short- and long-term removal of students with disabilities from their learning environments. Select regulations are included in this section. Others, such as those related to the manifestation determination review (MDR) requirements associated with long-term removals, will be discussed later in Section 5.

34 CFR 300.530(b) gives site administrators the authority to remove a SWD who violates the code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for up to 10 consecutive school days in a school year to the extent those alternatives are applied to students without disabilities, and for additional removals of up to 10 school days in the same school year for separate incidents of misconduct, provided that the additional removals do not constitute a change of placement.

Section 300.530(e)(f) requires schools to conduct a manifestation determination review (MDR) meeting within 10 days of any decision to change the placement of the SWD because of a violation of a code of conduct, where the team must review all relevant information in the student's file, including any relevant information provided by the parent in order to identify:

- if the conduct in question was caused by or had a direct and substantial relationship to the child's disability or
- if the conduct in question was the direct or indirect result of the LEA's failure to implement the IEP

If either of these circumstances is confirmed affirmatively, the IEP team must either conduct a functional behavioral assessment and/or implement a behavioral intervention plan (BIP) for the student. If a plan already exists, the team must review or modify the BIP as necessary to address the behavior.

**Guidance from the Office of Special Education and Rehabilitative Services (OSERS), April 2016.**

In 2016, the Department of Education Office of Special Education and Rehabilitative Services (OSERS) issued a Dear Colleague letter with guidance related to the school discipline of SWDs. The contents of this letter will be referenced throughout this report and are included to highlight concerns related to the misapplication of exclusionary discipline and its compliance implications. Resources such as this letter, albeit not considered regulations or policy, provide interpretive guidance as well as recommendations for improved practices.

The first excerpt highlights the obligation of administrators and LEAs to consider a student's disability and the impact exclusionary discipline has on the provision of a free and appropriate education (FAPE), even for short-term removals. This passage clearly identifies the accountability of schools when considering future impact, even for removals shorter than 10 days. This language and expectation provides sound rationale for implementing procedures that account for disability and consider the harmful effects of suspension on SWDs.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In keeping with this goal, this letter serves to remind school personnel that the authority to implement disciplinary removals does not negate their obligation to consider the implications of the child's behavioral needs, and the effects of the use of suspensions (and other short-term removals) when ensuring the provision of FAPE<sup>20</sup>.

The second excerpt highlights the need to consider reviewing and changing a student's IEP even for short-term suspensions. This reiterates the need for LEAs' policies and procedures to consider a student's disability when subjecting them to a removal, even when the statutory requirements of long-term removals are not triggered.

Removals from the current placement generally do not address the needs of a child with a disability for Positive Behavioral Interventions and Supports. Accordingly, we remind States, LEAs, and IEP Teams that while 34 CFR Section 300.530 explicitly permits school personnel to implement short-term disciplinary removals from the current placement, such removals may indicate a need to review and revise the child's IEP to address his or her behavioral needs. In addition, exclusionary disciplinary measures that do not constitute a removal from the current placement may also indicate the need to review and revise the child's IEP.

The next excerpt reemphasizes LEAs' obligations to consider disability and whether the student's IEP appropriately addresses the student's behavioral needs when issuing suspensions. It also highlights a misconception among schools and districts that requirements or obligations to consider a student's disability are not relevant until the number of removals reaches or exceeds the 10-day mark.

While the IDEA and its implementing regulations recognize that school officials need some reasonable degree of flexibility when disciplining children with disabilities who violate a code of student conduct and that school safety is paramount, the Department cautions that the use of short-term disciplinary removals from the current placement may indicate that a child's IEP, or the implementation of the IEP, does not appropriately address his or her behavioral needs. This, in turn, may result in the child not receiving a meaningful educational benefit, which could constitute a denial of FAPE. As noted above, these determinations are highly factual, and would be made on a case-by-case basis. We are concerned, however, that some SEAs and LEAs may have erroneously interpreted the IDEA to provide school personnel with the broad authority to implement short-term removals without restriction and without regard to whether the child's IEP is properly addressing his or her behavioral needs. It has come to the Department's attention that there are a number of legal memos and technical assistance documents which have erroneously characterized the 10-day period as "free days."

---

<sup>20</sup> <https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

***Review of District's Policies and Procedures for Out-of-School Suspensions***

A review of relevant discipline policies and procedures was conducted to determine if these policies align with education code and IDEA regulations.

This discussion will focus solely on policies related to OSS. Aspects of the policy related to expulsion will be discussed in its respective section. The following documents were analyzed to determine alignment with applicable state and federal laws and regulations:

- Board Policy 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)
- Administrative Regulations 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities) (Revised April 2013)
- Discipline Matrix and Behavior Consequences Matrix (E 5144.1) (Revised March 2014)
- Various Suspension Notice Forms
- Annual Parent-Guardian Notification Packet
- Expulsion or Alternative Placement for Students with Special Education Services (Revised 2014)

Board Policy (BP) 5144.1 Suspension and Expulsion/Due Process includes the guidelines for issuing suspensions and expulsions in accordance with EC 48900 and 48915. It is noteworthy that most language in the policy is directly taken from the education code and is similar to policies adopted by numerous other school districts in California. Many components of the policy are consistent with education code, including requirements related to the number of days a student can be suspended per offense and the cumulative number of days allowed, requirements to notify parents, and the application of other means of correction prior to a student's disciplinary removal.

The policy includes the mandates of EC 48900.5 (other means of correction) that states "a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student." This language clearly sets the expectation that suspension is to be applied when alternatives to suspension have been attempted and failed to result in a change.

Although the policy is largely consistent with the education code, several aspects deviate from the State's requirements and IDEA regulations 34 CFR Section 300.530. The policy does not include any specific language to the protections found in regulations 34 CFR Section 300.530 and only contains a high-level reference to its general antidiscrimination laws, as shown below.

The grounds of suspension or expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in law and administrative regulation.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the District's non-discrimination policies. (cf. 0410 – Nondiscrimination in District Programs and Activities) (p.1)

The policy contains one sentence that alludes to the above-mentioned IDEA regulations' considerations for the suspension or expulsion of SWDs and includes a reference to the relevant part of the policy (AR 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities)). However, this section is absent from both the policy and Annual Parent-Guardian Notification provided to families at the start of each school year. Policy 5144.2 is located on the CSBA Gamut online system that houses policies for many districts in California, but it is unlikely staff or parents know how to access this policy.

Administrative Regulations (AR) 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities) provides guidance regarding suspension, determining a change of placement, the procedural safeguards for conducting manifestation reviews, unilateral interim alternative placements, and law enforcement notifications.

The policy begins by stating that SWDs are subject to the same grounds and procedures for suspension and expulsion that apply to nondisabled students, with the exceptions included in the administrative regulation. It authorizes school administrators to suspend a SWD for up to 5 days per incident of misconduct for up to 20 days in the school year, as long as the suspension(s) do not constitute a change in placement pursuant to relevant IDEA and education code regulations.

It requires that the principal or designee monitor the number of days, including portion of days, in which a student with a valid IEP has been suspended during the IEP.

The Superintendent or designee is required to determine on a case-by-case basis whether a pattern of removals of student from their educational placement for disciplinary reasons constitutes a change in placement. It defines a change of placement as meeting the following criteria:

- the removal is for more than 10 consecutive days
- the student has been subjected to a series of removals that constitute a pattern because:
  - the series of removals exceeds more than 10 school days in a year
  - the student's behavior is substantially similar to their behavior in previous incidents that resulted in a series of removals
  - additional facts such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another

The policy includes consistent guidance with the regulation's mandates for considerations when suspending SWDs, particularly for long-term removals that would constitute a change in placement under Section 300.536. This includes the provision of special education services for subsequent days after a student has exceeded 10 days of removal; the provision of a functional behavioral assessment and behavioral intervention services and modifications

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

designed to prevent the recurrence of the behavior (as appropriate); and special circumstances that allow for the student's removal to an interim school placement even if the school has determined the behavior was a manifestation of their disability in instances where they were in possession of weapon, possessed, used, or sold illegal drugs, and if they inflicted serious bodily injury upon another person.

AR 5144.2 includes procedural safeguards for when a SWD is suspended for more than 10 consecutive school days, when a series of removals constitutes a change in placement, or when a change of placement is contemplated due to a violation of the district's code of conduct.

The policy states the requirement for schools to conduct a manifestation determination review (MDR) meeting immediately if possible but no later than 10 school days after the date of the decision in order to take disciplinary action to determine if there is a relationship between the student's disability and the behavior that led to the disciplinary action.

At the MDR, the district, parent/guardian, and relevant members of the IEP (determined by the district and parent/guardian) shall review all pertinent information in the student's file, all pertinent information in the student's IEP, any teacher observations, and any relevant information provided by the parent/guardian to determine whether the conduct in question was either of the following:

- caused by or had a direct and substantial relationship to the child's disability
- the direct result of the LEA's failure to implement the IEP

It indicates that if the MDR finds the conduct was due to the direct result of the LEA's failure to implement the IEP, the district must take immediate steps to remedy the deficiencies.

Additionally, if either of these circumstances is confirmed affirmatively, the IEP team must conduct a functional behavioral assessment or implement a behavioral intervention plan (BIP) for the student. If a plan already exists, the team must review or modify the BIP as necessary to address the behavior. Further, the student should be returned to the placement from which the student was removed, unless the parent/guardian and Superintendent or designee agree to a change in placement as part of the modification to the BIP.

If the determination is that the behavior is not a manifestation of the student's disability, the student may be disciplined in accordance with the procedures for nondisabled students; however, the IEP team shall determine services to enable the student to participate in the general education curriculum in another setting and to promote progress toward their IEP goals. Furthermore, as appropriate, the student shall also receive a functional behavioral assessment (FBA) and behavioral intervention services and modifications to address the behavior and ensure it does not recur.

It concludes with information related to parent/guardian disagreements with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.530(e). Lastly, it presents the requirements



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

associated with law enforcement referrals, requiring administrators to obtain certification from the officer that they will not disclose the student's information or records to any other person without the written consent of the student's parent/guardian.

AR 5144.2 contains consistent language with the requirements and protections for carrying out student discipline as mandated by IDEA and also establishes the clear responsibility of the school principal or their designee to track the number of days, including partial days, of removals.

The Discipline Matrix asserts the Board of Education's intention to support a zero-tolerance stance on student misconduct. Although the policy notes it pertains to serious offenses, the Discipline Matrix and E 5144.1 Behavior Consequences contradict this edict by including expulsion and referrals to law enforcement for all infractions, rather than just serious offenses.

The Board supports a zero tolerance approach to serious offenses. This approach makes the removal of potentially dangerous students from the classroom a top priority. It ensures fair and equal treatment of all students and requires that all offenders be punished to the fullest extent allowed by law.

In addition, BP 5144.1 and the Behavior Consequences matrix is included as an attachment to the 2021-22 Annual Parent-Guardian Notification packet provided to all parents at the beginning of each school year and does not include any considerations regarding suspending SWDs or the IDEA protections found in regulation Section 300.530 and Section 300.536. The packet's final attachment includes E 5144.1 Behavior Consequences, which lists all offenses and includes corresponding legal references for each (i.e., education codes) in accordance with Education Code Sections 48900 and 48915. The document is organized in order of the most serious offenses<sup>21</sup> that require a mandatory recommendation for expulsion. Infractions six through 10 are offenses considered to be of moderate severity but do not carry a mandatory recommendation for expulsion by the CDE. However, the document authorizes the discretion to recommend a student for an expulsion or referral to law enforcement if the administrator deems appropriate.

The third tier of offenses (infractions 11 through 29) includes a heading that states "Must use other means of correction before Suspension for the following." This tier of offenses is the least severe and most discretionary and includes infractions such as disruption or willful defiance and acts or use of obscenity/profanity/vulgarity. While all infractions indicate that an other means of correction should be used first, all except one violation (#29 – Attendance) permit discretion to recommend a student for an expulsion or referral to law enforcement.

This overreaching authorization of zero-tolerance policies can be viewed as an authoritarian and draconian approach to student discipline, which disproportionately impacts students of

---

<sup>21</sup> Includes possession/sale/furnishing of firearm; brandishing a knife; sale of controlled substances; sexual assault or sexual battery; and possession of explosives.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

color and SWDs. Sadly, the CDE's *Administrator Expulsion Matrix*<sup>22</sup> endorses this discretionary authorization for recommending expulsions for minor infractions, such as acts of defiance or disruption. However, the CDE does not mandate affording this broad discretion to administrators nor does it condone law enforcement referrals for any offenses that do not violate criminal code. Therefore, the District can choose to revise this policy to protect students with disabilities and students of color from the disproportionate impact of this policy.

A review of various suspension forms also found similar content and guidance for issuing OSS. Although forms showed some variability in the information collected, such as for law enforcement referrals, none included any statements regarding a school's consideration of a student's disability when issuing a removal.

During the Significant Disproportionality CCEIS focus group with the Leadership Team, participants expressed that the Discipline Matrix should not be viewed as a policy, referring to BP 5144.1 as the official policy. Although the District referenced the Discipline Matrix as a policy in its CCEIS Plan, the document and other suspension notice forms are more consistent with a tool associated with procedures that serves to guide the decision-making process by site level administrators. The matrix and various suspension notice forms are the closest form of procedures readily available at sites.

The District maintains a document titled *Expulsion or Alternative Placement for Students with Special Education Services*. This document can be described as a procedural manual to guide the field through the required processes when suspending, expelling, or transferring SWDs. The first part of the document includes the heading "Guidelines and Timelines for Suspension and Expulsion of Special Education Students" and provides procedures for issuing suspensions, along with references to the protections afforded by IDEA for SWDs. For example, the following excerpt clearly establishes the expectation for schools to consider in-house suspensions as a suspension for the purposes of determining whether to hold a manifestation determination review in accordance with 34 CFR Sections 300.530 and 300.536: "When a student exceeds more than ten (10) days, either in-house or off campus suspension, then an IEP meeting must be held within ten (10) business days and parents shall be provided the procedural safeguards" (p.1).

The document also contains a checklist to guide school administrators when suspending SWDs. This useful tool could be overlooked due to its title, which does not specifically refer to procedures for issuing OSS. The third box of the checklist contradicts the edict requiring schools to include ISS as suspension days for the purposes of holding an MDR. Instead, it encourages schools to use in-school suspensions because these removals do not count as a suspension, thereby circumventing the procedural safeguards afforded by IDEA. It reads:

Use in-school suspensions and/or in school restrictions when possible. These do not count as days of suspension as long as the student continues to receive educational

---

<sup>22</sup> <https://www.cde.ca.gov/ls/ss/se/expulsionrecomm.asp>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

services to enable a student to access the curriculum and to progress towards meeting the goals set out in the student's IEP. Support means a special education teacher or aide who works with the student. (p. 8)

This document is a prime example of the contradictory and unclear policies and procedures that exist. In addition, the title of the document is misleading, especially since it contains information necessary to guide site administrators when suspending a SWD. Unfortunately, a similar guide with general procedures to guide the suspensions of all students was not provided and may not exist.

Overall, the absence of procedures causes concern given that schools seemingly lack a formal document that outlines step-by-step actions required to suspend a student. Although a procedural guide was found in the Expulsion and Alternative Placement of Students with Special Education Services, there was no mention of this checklist and/or document during the site visits or during discussions with senior officials. The checklist was only found during a review of District materials related to the expulsions of SWDs, and it is likely site level personnel are unaware of these procedures.

Functional procedures in this area should include guidance such as but not limited to: how to determine if the offense warrants a short-term removal; how to select other appropriate means of corrections; mandatory information to document on suspension notice forms and incident reports; requirements for data entry and maintenance in the student information system; notifications to parents to discuss the incident and to provide formal written notice; and disability related considerations when suspending SWDs.

An example of sound procedures to guide administrators during the suspension process can be viewed on the Los Angeles Unified School District website<sup>23</sup>. The following excerpt from this Procedural Bulletin shows how an effective procedural manual clearly guides the organizational behavior of staff when issuing and documenting a suspension.

### D. Issuing a School Suspension

1. The principal shall give the student being suspended from school a copy of the Pupil Suspension Notice, signed by the principal, along with the appeal form and instructions generated from the MiSiS (student information system) Suspension screen in the student's home language and English to take home to their parent. School personnel shall also mail a signed copy to the parent.
2. A copy of the signed Pupil Suspension Notice shall be kept in the student's discipline file, the "Yellow Folder" as described in BUL3927.2, Mandated Reporting

---

23

<https://achieve.lausd.net/cms/lib/CA01000043/Centricity/domain/416/friday%20brief/friday%20brief%20jan-Feb%202020/BUL-5655.3%20%20%20Guidelines%20for%20Student%20Suspensions.pdf>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

of Certain Student Behavior, September 13, 2010, and never in the cumulative record folder. Any efforts by school/District personnel to contact the parent should be documented in the MiSiS Suspension Screen Comments section.

3. The principal shall notify appropriate school staff of all student suspensions on a daily basis. Secondary principals need to notify all affected teachers.

This example was also selected to demonstrate that LEAs' efforts to ensure equity and fairness are not limited to requirements of education code. Unlike expulsions, the CDE does not require districts to adopt an appeal process for OSS; however, the LAUSD is an example of an LEA that has embraced this safeguard as part of its suspension process. An appeal process allows recourse for unwarranted suspensions or when schools fail to adhere to district policy and legislative regulations. For example, families can appeal an OSS if the school fails to first implement other means of corrections for infractions that are not considered a threat to the safety of others or school property.

### **Review of Quantitative and Qualitative Data**

This section will examine quantitative and qualitative data regarding OSS. It will first explore quantitative data, including but not limited to: end-of year reporting of OSS to the CDE; the number of days and reasons listed when issuing suspensions; school level practices, including the documentation of OSS; and comparisons between data sources to gauge the accuracy of data and if underreporting of OSS occurs. Disproportionality measures were used to calculate whether disproportionality exists in the suspension of SWDs and Black SWDs with at least one suspension and in the area of long-term removals.

Qualitative data were obtained from interviews with site level and senior level staff during site visits, focus groups with district administrators, and a telephone survey of families with students who experienced at least one exclusionary removal during the 2021-22 school year. Data collection with school and district officials focused on the following areas of inquiry: site level procedures for issuing and documenting suspensions, procedures for notifying families, data maintenance and reporting, and perceptions of the problem with regard to the overrepresentation of SWDs and Black SWDs in OSS.

The telephone survey of families aimed to gain insights into site level practices such as: the notification of parents and provision of written notice; considerations of the student's disability when issuing OSS; other disciplinary interactions with security, SROs, and staff, including searches, restraints, and handcuffing; and perceptions of the effectiveness of disciplinary removals and the equitable treatment of SWDs and of students from different racial/ethnic groups.

### ***Review of Quantitative Suspension Data for the 2021-22 School Year***

Various sources of out-of-school suspension (OSS) data for the 2021-22 school year were analyzed, including removal information maintained in the student information system (PowerSchool but referred to as SIS), school level documentation used to track suspensions,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and CDE discipline reports available on its website. The review examined the prevalence of these practices and events, whether disparities existed between general and special education students, and whether disparities existed between those from different racial/ethnic groups.

Although the focus of the investigation is SWDs, data analysis will also reveal if ethnic/racial disparities exist for nondisabled students. To determine the extent of disproportionality, the composition index, risk index, and risk ratios have been calculated. In some areas, a brief description of the methods is included. A detailed explanation of the methods used to evaluate OSS can be viewed in Section 7.

In addition, to examine if disparities were statistically significant between SWDs and nondisabled students, as well as Black students compared to students in all other combined race/ethnicity categories, statistical tests were run with significant levels of difference included in the discussion. All percentages are rounded to one decimal place with the exception of totals, which are set at 100 due to minor rounding differences. In addition, risk ratios are reported with two decimal places for a higher level of precision.

To determine whether disparities exist between SWDs and general education students, as well as Black SWDs and SWDs in all other racial/ethnic groups, end-of-year suspension data were compared by disability status and race/ethnicity<sup>24</sup>. For this analysis, enrollment data were derived from the Fall Enrollment file submitted to the State and reflect students enrolled in October 2021. Due to the gap in data collection points (fall 2021 compared to end-of-year June 2022), race/ethnicity indicators provided in the suspension file were used because these data were deemed more reliable. One limitation of the suspension dataset is that a multiracial code was not provided; therefore, multiracial students were removed from the overall enrollment figures for the purposes of calculating disproportionality.

### **Suspension Rates for General Education and Special Education Students.**

Table 3.1 shows the landscape of suspension events for all students combined, disability status (students with and without disabilities), and race/ethnicity during the 2021-22 school year. It shows the distribution of all students suspended by race/ethnicity as well as disaggregated by disability status and race/ethnicity. To gain a better understanding of how these disparities differ between disability status groups, suspension data is broken down or disaggregated by general and special education populations in the next section.

The first review is to determine the impact of OSS on students in the district without including disability status. Black students make up 17.0% of the overall student population yet account for 44.0% of all students suspended and almost half (48.5%) of all suspension events. This shows that regardless of disability status, disparities exist between the representation of Black students enrolled and those suspended. In contrast, students in the Hispanic, White, and Other race/ethnicity subgroups appear underrepresented in OSS when compared to their

---

<sup>24</sup> For reporting purposes and due to the small numbers, students in the Asian, Pacific Islander, and American Indian/Alaska Native groups were combined into an "Other" category.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

respective enrollment. For example, Hispanic students make up two-thirds (69.6%) of all students enrolled but approximately half (48.1%) of those suspended.

To identify disparities between general and special education students by race/ethnicity, suspension data were disaggregated by the number of students with at least one suspension (unduplicated) and the total number of suspension events (duplicated<sup>25</sup>) applied to each group.

General education students received approximately two-thirds of all one-time suspensions (67.8%) and suspension events (65.0%). Black students comprise 39.8% of nondisabled students suspended one time and 43.9% of the suspension events meted out. Hispanic students make up 48.1% of all students suspended and 43.3% of suspension events prescribed.

Students eligible to receive special education services make up the remaining one-third of the students suspended and suspension events. Of these, Black SWDs were given more than half of all one-time suspensions and events (52.8% suspended; 57.0% suspension events). Hispanic students account for 40.0% unduplicated suspensions issued to SWDs and 35.2% of the total events. Overall, statistically significant differences were noted for special education students being issued at least one suspension compared to their nondisabled peers ( $p = < .001$ ).

**Table 3.1**

*Distribution of Suspensions for the Population by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined Suspensions				General Education				Special Education			
	Students		Events		Students		Events		Students		Suspension	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	759	44.0	1,326	48.4	466	39.8	781	43.9	293	52.8	545	56.9
Hispanic	829	48.1	1,184	43.3	607	51.9	847	47.6	222	40.0	337	35.2
White	107	6.2	165	6.0	76	6.5	111	6.2	31	5.6	54	5.6
Other	30	1.7	62	2.3	21	1.8	41	2.3	9	1.6	21	2.2
Total	1,725	100	2,737	100	1,170	100	1,780	100	555	100	957	100

Table 3.2 shows the composition of suspensions issued to general education students between racial/ethnic groups. Similar trends are noted as with the combined review, with Black students demonstrating considerable disparities with the number of students suspended at least one time, suspension events, and their enrollment representation.

<sup>25</sup> Duplicated counts include all suspension events for the same student, compared to unduplicated, which accounts for individual students suspended regardless of the number of events.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Statistically significant differences were noted for Black general education students being issued a suspension compared to non-Black general education students ( $p = < .001$ ).

**Table 3.2**

*Distribution of Suspensions for General Education Students by Race/Ethnicity*

Race/ Ethnicity	General Education		Students Suspended		Suspension Events	
	n	%	n	%	n	%
Black	2,672	15.0	466	39.8	781	43.9
Hispanic	12,663	71.3	607	51.9	847	47.6
White	1,842	10.4	76	6.5	111	6.2
Other	583	3.3	21	1.8	41	2.3
Total	17,760	100	1,170	100	1,780	100

Black SWDs represent 26.9% of all special education students but account for more than half of all one-time suspensions (52.8%) and overall suspension events (56.9%) (Table 3.3). Statistically significant differences were noted for Black special education students in being suspended at least once compared to non-Black SWDs ( $p = < .001$ ).

**Table 3.3**

*Special Education Suspensions by Race/Ethnicity*

Race/ Ethnicity	Special Education		Students Suspended		Suspension Events	
	n	%	n	%	n	%
Black	959	26.9	293	52.8	545	56.9
Hispanic	2,187	61.3	222	40.0	337	35.2
White	364	10.2	31	5.6	54	5.6
Other	58	1.6	9	1.6	21	2.2
Total	3,568	100	555	100	957	100

***Disproportionality in OSS.***

To determine if suspensions are indicative of disproportionality for SWDs and for Black students with and without disabilities, three measures were used to measure disproportionality, which include: composition index, relative risk, and relative risk ratio.

The composition index (CI) is a basic measure to indicate whether over- and -under representation is present and consists of a basic comparison between the composition index of one subgroup to the composition index of the total enrollment. Tables 3.4, 3.5, and 3.6 all illustrate the composition index and include enrollment representations for comparison with suspension rates or the risk associated with each group.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Table 3.4 shows the composition index for Black students (regardless of disability status) as they constitute 17.0% of the total enrollment yet comprise 44.0% of all students suspended. This finding indicates overrepresentation of Black students in the group who experienced at least one out-of-school suspension. In contrast, the composition indices of all other racial/ethnic groups fall below their overall respective enrollment figures, signifying underrepresentation.

The risk or relative risk within a group comparison identifies the risk of being suspended faced by students within that racial/ethnic group. For the 2021-22 school year, Black students showed the highest risk among all groups, with a rate of 20.9 per 100 Black students experiencing at least one suspension. On the other hand, Hispanic students make up the largest segment of the population and demonstrate a risk of 5.6%, meaning nearly six out of 100 Hispanic students experienced at least one suspension.

The overall combined risk of suspension for all students in the District is 8.1. This risk is also synonymous with the suspension rate and is significantly higher than the State average of 3.5%. For reference, the CDE's Suspension Rate Indicator considers any suspension rate or risk greater than 6.0% as Very High, the highest level assigned.

The last measure used was the relative risk ratio, which compares the risk of one subgroup to the risk of all other subgroups. This measure best shows the extent and impact of disparities between racial/ethnic groups experiencing a suspension event and determines if disproportionate overrepresentation and significant disproportionality exists. Black students have a relative risk ratio of 3.83, meaning these students are 3.83 times more likely to experience at least one suspension when compared to all other non-Black students. This risk ratio exceeds the 3.0 threshold for significant disproportionality established by CDE and is considered significant disproportionality. Furthermore, students from the three other racial/ethnic groups have risk ratios below one, indicative of being at-risk or being disproportionately underrepresented in out-of-school suspensions.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.4**

*Combined Enrollment One-time Suspensions – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other
Enrollment	21,328	3,631	14,850	2,206	641
(%)		17.0	69.6	10.3	3.0
Students Suspended	1,725	759	829	107	30
Composition Index (%)	100	44.0	48.1	6.2	1.7
Risk (%)	8.1	20.9	5.6	4.9	4.7
Risk Ratio		3.83	0.40	0.57	0.57

The next two sections examine overrepresentation by disability status, separating students in general education (nondisabled) and students in special education (disabled).

Table 3.5 compares suspension rates and enrollment of students in general education only. This removes special education students from the enrollment and suspension calculations to isolate the composition index, risk index, and risk ratio of students in general education by race/ethnicity.

Data revealed Black students without disabilities are disproportionately overrepresented in OSS based on the composition index, risk index, and relative risk ratios. Nondisabled Black students make up 15.0% of the general education population but 39.8% of those suspended. The risk of nondisabled Black students being suspended at least once is 17.4, a rate much higher than their nondisabled peers from the other three racial/ethnic subgroups. When comparing the risk of Black students to the risk of all other students, Black students are 3.74 times more likely to receive a suspension than any other student. This finding is indicative of significant disproportionality and exceeds the CDE’s threshold of 3.0.

The suspension rate or risk of suspension for general education students is 6.6%, considerably higher than the 3.5% State average. In addition, the suspension rates of Hispanic and White students in the District exceed the 3.5% State average.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.5**

*General Education One-time Suspensions – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other
Enrollment	17,760	2,672	12,663	1,842	583
(%)	83.3	15.0	71.3	10.4	3.3
Students Suspended	1,170	466	607	76	21
Composition Index (%)	67.8	39.8	51.9	6.5	1.8
Risk (%)	6.6	17.4	4.8	4.1	3.6
Risk Ratio	0.42	3.74	0.43	0.60	0.54

As noted earlier, SWDs represent one-third of all suspensions, yet within group comparisons reveal significant disparities. Students with disabilities have a high risk (15.1%) of being suspended, with 15 out of 100 SWDs experiencing at least one suspension (Table 3.6). Furthermore, this risk is more than double that of general education students (15.1% compared to 6.6%). This results in a risk ratio of 2.30 and is representative of disproportionate representation. SWDs are 2.30 times more likely to experience at least one suspension than their nondisabled peers.

The risk of Black students with disabilities is twice that of all SWDs (30.6% compared to 15.1%), with nearly 31 out of 100 Black SWDs being suspended at least once. Black SWDs make up more than half (52.8%) of all students suspended and are 3.16 times more likely to experience an out-of-school suspension than all other SWDs. The data clearly show that Black SWDs are significantly disproportionate in receiving at least one suspension when compared to all other non-Black students. This finding also exceeds the CDE’s threshold of 3.0 for identifying districts with significant disproportionality.

It is important to note that although Hispanic students and students from the Other racial/ethnic category show thresholds at-risk of disproportionate underrepresentation based on relative risk ratios, their risks are notably high and far exceed the 3.5 State average for suspensions (Hispanic risk of 10.2%, other risk of 15.5%). This finding highlights the need to utilize various methods for examining disproportionality and overrepresentation, since risk ratios are vulnerable to limitations stemming from the size of the population and small sample sizes. For example, only nine students from the Other group received at least one suspension, constituting 15.5% of the population from this same group. Although not disproportionate, this indicator shows a disparity in suspension rates when compared to White and Hispanic students as well as the State average. Additionally, the significant

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

disparities in overrepresentation of Black SWDs has an effect of minimizing relative risk ratios for all other groups.

**Table 3.6**

*Students with Disabilities One-time Suspensions – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other
Enrollment	3,668	959	2,187	364	58
(%)	16.7	26.9	61.3	10.2	1.6
Students Suspended	555	293	222	31	9
Composition Index (%)	32.2	52.8	40.0	5.6	1.6
Risk (%)	15.1	30.6	10.2	8.5	15.5
Risk Ratio	2.30	3.16	0.45	0.54	1.03

**Long-Term Suspensions and Disproportionality.**

The CDE has deemed the District as Significantly Disproportionate for the long-term suspension of Black students with disabilities for several years. Special education laws include safeguards when SWDs are removed from their educational environments, including the determination that these removals constitute a change in placement, which is generally observed as 10 or more days. Education code allows general education students to be removed from their schools for up to 20 days, unless the student is being readjusted to a continuation school or other similar placement, in which students may experience up to 30 days of suspension<sup>26</sup>.

Long-term suspensions were examined for both general and special education students, and for the purposes of comparing general education and special education students who experienced long-term removals. Disproportionality measures were also calculated to examine the extent of the impact. Although general education students are not afforded the same procedural protections that apply to SWDs, the 10-day threshold of school removals was used for consistency and to identify if differences exist for students by race/ethnicity.

---

<sup>26</sup> Education code allows for the suspension of SWDs for up to 20 days, similar to nondisabled students; however, the procedural safeguards associated with IDEA require manifestation determinations when students have been removed for 10 or more days or the removals constitute a change in placement.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

***Long-Term Suspension Rates for General and Special Education Students.***

Long-term suspensions were examined for both general and special education students to determine if disproportionality exists. Composition index, risk index, and relative risk ratios were calculated to understand the extent of the overrepresentation. This data represents the cumulative number of days assigned to unduplicated students over the course of the 2021-22 school year.

Furthermore, to illustrate the impact of cumulative days of suspensions, number of days suspended are grouped to show how populations fare between 1 and 2 days, 3 to 9 days, and 10 or more days of removals. For perspective, suspensions ranging from 6 to 9 days indicates students missed up to 2 weeks of instruction.

General education students suspended for 10 or more days accounted for 8.8% of all students who received a suspension (Table 3.7). Approximately 13% of all Black students were subjected to long-term removals, compared to 5.3% of White students (totaling four White students). Statistical differences were identified for Black students with 10 or more days of suspensions compared to non-Black general education students ( $p = < .001$ ).

White students made up 29.0% of students receiving 1 to 2 cumulative days of suspensions, compared to 22.5% of Black students.

**Table 3.7**

*Distribution of Long-term Suspensions of General Education Students by Race/Ethnicity*

Race/ Ethnicity	General Education Students									
	Total		1 Day		2 Days		3 to 9 Days		10 or More Days	
	n	%	n	%	n	%	n	%	n	%
Black	466	100	48	10.3	57	12.2	302	64.8	59	12.7
Hispanic	607	100	76	12.5	145	23.9	348	57.3	38	6.3
White	76	100	11	14.5	11	14.5	50	65.8	4	5.3
Other	21	100	2	9.5	6	28.6	11	52.4	2	9.5
Total	1,170	100	137	11.7	219	18.7	711	60.8	103	8.8

Special education students experienced higher rates of long-term removals, with one in eight students (12.6%) receiving 10 or more days of suspension (Table 3.8). Approximately 16 of 100 Black SWDs were subjected to these removals, representing two-thirds (65.7%) of all students with 10 or more days of suspensions. Conversely, one in 20 Black SWDs (5.5%) received the least number of days of exclusionary discipline of one day. This finding is indicative of Black students experiencing more than one suspension event and for longer durations compared to all other students.

In addition, statistically significant differences were found between SWDs and nondisabled students in both the 1- and 10-day category ( $p = < .05$ ).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.8**

*Distribution of Long-term Suspensions of Special Education Students by Race/Ethnicity*

	Special Education Students									
	Total		1 Day		2 Days		3 to 9 Days		10 or More Days	
Race/ Ethnicity	n	%	n	%	n	%	n	%	n	%
Black	293	100	16	5.5	36	12.3	195	66.6	46	15.7
Hispanic	222	100	23	10.4	46	20.7	133	59.9	20	9.0
White	31	100	2	6.5	8	25.8	19	61.3	2	6.5
Other	9	100	2	22.2	1	11.1	4	44.4	2	22.2
Total	555	100	43	7.7	91	16.4	351	63.2	70	12.6

***Disproportionality in Long-Term OSS.***

As noted earlier, the District has been under the CDE's Significant Disproportionality status for the long-term suspension of Black SWDs for several years. The following analysis will examine the current state of this overrepresentation and utilize the composition index, risk index, and relative risk ratios for general and special education students categorized by race/ethnicity. Although there are no procedural protections for general education students (at the 10-day mark), this examination will reveal if inequitable practices exist for nondisabled students based on race/ethnicity.

Overall, general education students have a long-term suspension rate of 0.6% meaning that less than one in 100 students will be subjected to a disciplinary removal of 10 or more days (Table 3.9). Black students have a long-term suspension rate of 2.2%, meaning that approximately two out of 100 Black general education students will experience a long-term removal. Compared to nondisabled peers from all other race/ethnic groups, Black students are more than 7.57 times (risk ratio) more likely to be suspended for 10 or more days. This finding is indicative of inequitable practices when applying suspensions and representative of significant disproportionality for the long-term removal of Black general education students.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.9**

*General Education Long-Term Suspensions – Composition Index, Risk Index, and Risk Ratios by Race/Ethnicity*

	Total	Black	Hispanic	White	Other
Enrollment	17,760	2,672	12,363	1,842	583
(%)	83.3	15.1	71.3	10.4	3.3
Students Suspended 10 or More Days	103	59	38	4	2
Composition Index (%)	59.5	57.3	36.9	3.9	1.9
Risk (%)	0.6	2.2	0.3	0.2	0.3
Risk Ratio	0.29	7.57	0.26	0.35	0.58

Special education students make up 40.5% of students who receive 10 or more days of suspension yet present a higher risk (1.9% compared to 0.6% general education) and risk ratio (3.38 versus 0.29 general education) compared to their general education peers (Table 3.10). SWDs are 3.38 times (risk ratio) more likely than their nondisabled peers to experience long-term removals. This indicates significant disproportionality.

Black SWDs are 5.21 times (risk ratio) more likely than all other special education students to experience 10 or more days of suspension. The risk of 4.8% means that 4.8 of 100 Black SWDs will experience a long-term removal. These findings are consistent with the CDE’s determination of Significant Disproportionality in this area.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.10**

*Long-Term Suspensions of Students with Disabilities – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other
Enrollment	3,568	959	2,187	364	58
(%)	16.7	26.9	61.3	10.2	1.6
Students Suspended 10 or More Days	70	46	20	2	2
Composition Index (%)	40.5	65.7	28.6	2.9	2.9
Risk (%)	2.0	4.8	0.9	0.5	3.4
Risk Ratio	3.38	5.21	0.25	0.26	1.78

***Loss of Instructional Days to OSS.***

To further examine the impact of issuing suspensions and longer periods of removals, data were analyzed by comparing the number of instructional days lost for general and special education students by race/ethnicity. Overall, a total of 8,363 instructional days were lost due to suspensions during the 2021-22 school year (Table 3.11). Black students with and without disabilities accounted for half of the lost instructional days (50.0%), while White students with and without disabilities made up 5.7% of the days lost.

To put into perspective the impact of the cumulative loss of instructional time due to suspension, this would equate to a loss of 46.5 school years in one school calendar year<sup>27</sup>, a tremendous disruption to the learning environment for students and teachers. In addition, this also constitutes a considerable fiscal impact since students who are on suspension are not included in the calculation for claiming Average Daily Attendance (ADA) funds. Based on the EdSource Local Control Funding Database<sup>28</sup>, these removals result in a loss of more than \$530,000.

Overall, general education student suspensions resulted in 5,404 lost instructional days for an average of 4.6 days lost per student. Other and Black general education students had the highest rates of lost instructional days, compared to Hispanic and White students (Other: 6.2 days, Black: 5.3 days, White: 4.3 days, Hispanic: 4.0 days).

<sup>27</sup> The State requires 180 days of instruction per school year.

<sup>28</sup> <https://edsources.org/local-control-funding-formula-database/antelope-valley-union-high.html>

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Students with disabilities lost 2,959 instructional days, averaging 5.33 days per SWD. Black SWDs comprise more than half of the instructional days lost (57.8%) with an average of 5.8 days per Black student. Students in the Other group experienced the highest average number of instructional days lost (7.1); however, this must be interpreted with caution since it represents only nine students. Lastly, White and Hispanic SWDs lost on average 4.9 and 4.7 instructional days per student, respectively.

**Table 3.11**

*Distribution of Instructional Days Lost due to Suspension by Disability Status and Race/Ethnicity*

Race/Ethnicity	General Education				Special Education			
	Students Suspended		Days Lost		Students Suspended		Days Lost	
	n	%	n	%	n	%	n	%
Black	466	39.8	2,470	45.7	293	52.8	1,710	57.8
Hispanic	607	51.9	2,477	45.8	222	40.0	1,033	34.9
White	76	6.5	326	6.0	31	5.6	152	5.1
Other	21	1.8	131	2.4	9	1.6	64	2.2
Total	1,170	100	5,404	100	555	100	2,959	100
Total Days Lost			5,404	64.6			2,959	35.4

**Administrator Practices when Issuing and Documenting Suspensions.**

This section aims to explore if inequitable practices exist by site level administrators when issuing suspensions. The first part of this section will explore disparities between the number of days issued for unique suspension events and the number of reasons listed per offense as maintained in the student information system (SIS) and reported to the CDE. The second part will review the documentation practices for recording suspensions on school suspension notice forms and parent letters and whether these practices result in the inaccurate maintenance and reporting of suspension data.

***Number of Days Issued per Suspension Event as Reported to the State.***

To identify if severity of administered punishment disparities exist between general education and special education students by race/ethnicity, the investigation reviewed the number of days issued per suspension event, the number of reasons or infractions listed, and issuance of three subjective education code violations.

This analysis aims to establish whether school officials engage in equitable practices when determining punishments and issuing suspensions for infractions that are subjective in nature. These decisions are made by site administrators, who determine the severity or duration of suspensions and are responsible for indicating the conduct violations that justify the removal. It is important to keep in mind that because Black students with and without disabilities are disproportionately represented in suspensions, percentage comparisons do



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

not always highlight the real impact of these disparities, since Black students bear most of the impact.

Table 3.12 illustrates the representation of students by race/ethnicity for general and special education students by the number of days issued per suspension. Black students with and without disabilities have the highest representation of students who were issued the harshest punishment of a 5-day removal. For SWDs, the disparities and impact on Black students are even more prominent, with these students showing the highest representation, particularly for 4-and 5-day removals.

**Table 3.12**  
*Distribution of Suspension Event Duration per State Report by Disability Status and Race/Ethnicity*

Race/ Ethnicity	General Education					Special Education				
	1 Day	2 Days	3 Days	4 Days	5 Days	1 Day	2 Days	3 Days	4 Days	5 Days
	%	%	%	%	%	%	%	%	%	%
Black	40.5	37.4	46.1	41.4	49.9	57.0	52.7	56.9	67.2	58.5
Hispanic	50.1	54.0	45.5	52.9	41.3	34.0	37.5	36.3	24.6	35.2
White	7.8	6.0	6.2	2.9	6.3	6.7	7.8	4.4	4.9	4.4
Other	1.5	2.6	2.1	2.9	2.6	2.2	2.0	2.4	3.3	1.9
Total	100	100	100	100	100	100	100	100	100	100
Total Records	1,780					957				

Table 3.13 shows the rate of the number of days applied for unique suspension events for general education students by race/ethnicity. Overall, schools issued all students 4-day suspensions (5.8%) with the least frequency and issued 3- (29.0%) and 5- (26.0%) day suspensions with the greatest frequency. Suspensions lasting 1 day were issued only 15.1% of the time, with most suspensions issued (60%) for periods of 3 or more days per suspension event.

Black and Other students were issued 5-day suspensions nearly 30% (29.6% and 29.3%, respectively) of the time but also received the lightest punishment of a 1-day suspension with the least frequency (Black: 14.0%, Other: 9.8%). Statistical differences were noted for Black general education students receiving a 5-day suspension compared to all non-Black general education students ( $p < .05$ ).

Conversely, White students received the most 1-day suspensions compared to all subgroups (White: 18.9%, compared to Black: 14.0%, Hispanic: 15.9%, Other: 9.8%%).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.13**

*Rates of Suspension Event Duration per State Report for General Education Students by Race/Ethnicity*

Race/ Ethnicity	Total		1 Day		2 Days		3 Days		4 Days		5 Days	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	781	100	109	14.0	160	20.5	238	30.5	43	5.5	231	29.6
Hispanic	847	100	135	15.9	231	27.3	235	27.7	55	6.5	191	22.6
White	111	100	21	18.9	26	23.4	32	28.8	3	2.7	29	26.1
Other	41	100	4	9.8	11	26.8	11	26.8	3	7.3	12	29.3
Total	1,780	100	269	15.1	428	24.0	516	29.0	104	5.8	463	26.0

For SWDs, similar patterns can be seen with Black students showing the highest rate of 5-day suspensions and the lowest rate of 1-day suspensions issued compared to all other groups (Table 3.14). It is important to reiterate the effect a small number of suspensions have on percentages for the White and Other groups. For example, although the distribution of 5-day suspensions might appear comparable when looking at percentages for each specific group, the impact is considerably different when taking into account the large disparities in the number of students impacted (White: n=12, 22.2%; Black: n=158, 29.0%).

**Table 3.14**

*Distribution of Suspension Event Duration per State Report for SWDs by Race/Ethnicity*

Race/ Ethnicity	Total		1 Day		2 Days		3 Days		4 Days		5 Days	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	545	100	77	14.1	41	7.5	141	25.9	41	7.5	158	29.0
Hispanic	337	100	46	13.6	15	4.5	90	26.7	15	4.5	95	28.2
White	54	100	9	16.7	3	5.6	11	20.4	3	5.6	12	22.2
Other	21	100	3	14.3	2	9.5	6	28.6	2	9.5	5	23.8
Total	957	100	135	14.1	61	6.4	248	25.9	61	6.4	270	28.2

***Number of Reasons Issued per Suspension Event.***

Site administrators are required to list the infraction or violated education code to issue and justify a suspension. The practice of including multiple reasons is not required by the CDE and prompted concern regarding the inequitable application of infractions when suspending SWDs and Black SWDs.

Initial data analyses noted many students with multiple infractions listed in the suspension file for unique events. In some instances, the same offense was listed two or three times, indicative of data entry or maintenance problems. Prior to further analysis, these data were cleansed to remove duplicates.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

White students without disabilities demonstrate the lowest rate of suspensions with one infraction (61.3%) and the highest rate of two or more reasons listed (39.7%) (Table 3.15). All other groups showed comparable rates of reasons applied to their suspension events.

**Table 3.15**

*Number and Percentage of Reasons Issued per Suspension Event for General Education Students by Race/Ethnicity*

Race/Ethnicity	1		2		3		4 or more		Total Reasons	
	n	%	n	%	n	%	n	%	n	%
Black	613	78.5	130	16.6	35	4.5	3	0.4	781	43.9
Hispanic	655	77.3	160	18.9	29	3.4	3*	0.4	847	47.6
White	68	61.3	36	32.4	6	5.4	1	0.9	111	6.2
Other	33	80.5	7	17.1	1	2.4	0	0.0	41	2.3
Total	1,369	76.9	333	18.7	71	4.0	7	0.4	1,780	100

\*Includes one suspension with five reasons

When reviewing suspensions of special education students, nearly all suspensions of White and Other students indicated only one infraction, compared to about 80% of the suspension events for Black and Hispanic SWDs (White: 96.3%, Other: 95.2% compared to Black: 83.5%, Hispanic: 78.0%) (Table 3.16). Conversely, Black and Hispanic students had the highest rates of suspensions with multiple infractions documented (16.5% and 22%, respectively). Although White SWDs show a stark difference compared to White nondisabled students (61.3% compared to 96.3% SWDs), the patterns for Black and Hispanic students are consistent showing about 20% of all suspensions for students in these racial/ethnic groups include multiple infractions to justify a removal, regardless of disability.

In addition, there was a statistically significant relationship between SWDs and being suspended with one reason ( $p = < .001$ ) and two or more reasons ( $p = < .001$ ).

**Table 3.16**

*Number and Percentage of Reasons Issued per Suspension Event for SWDs by Race/Ethnicity*

Race/Ethnicity	1		2		3		4 or more		Total Reasons	
	n	%	n	%	n	%	n	%	n	%
Black	455	83.5	61	11.2	27	5.0	2	0.4	545	56.9
Hispanic	263	78.0	55	16.3	14	4.2	5*	1.5	337	35.2
White	52	96.3	2	3.7	0	0.0	0	0.0	54	5.6
Other	20	95.2	1	4.8	0	0.0	0	0.0	21	2.2
Total	790	82.5	119	12.4	41	4.3	7	0.7	957	100

\*Includes two suspensions with six reasons

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

One cause attributed to disproportionate representation is the subjective and discretionary nature of some discipline codes. Offenses such as disruption or defiance are subject to the interpretation of the administrator tasked to determine if the behavior was serious enough to warrant an OSS. Subjective offenses are for behaviors less tangible in nature (compared to a student found in possession of drugs, for instance) and require an interpretation of risk, threat, or harm and are therefore more vulnerable to bias.

Three subjective offenses were compared for general and special education students to determine if disparities exist for SWDs and Black SWDs. This includes infractions: (501) Cause/Attempted/Threatened Physical Injury; (510) Obscene Act, Vulgarity, Profanity; and (511) Disruption or Defiance. It is important to note that the education code has a distinct infraction code (500) for when a student has caused physical harm, which is considered less subjective since the presence of injury would require some level of medical attention. Therefore, code (501) is the most subjective of these infractions since it could include a verbal threat to instigate a fight.

Differences in infractions related to behaviors associated with profane or vulgar language and disruption/defiance are noted for general education Black students (Table 3.17)<sup>29</sup>. For Black SWDs, differences were observed in all three categories, with the most pronounced disparities for infractions related to engaging in profane or vulgar acts and disruption/defiance. In these cases, Black SWDs make up three-quarters of all suspensions with infractions coded as (510) and (511).

Statistical differences were noted for Black students with and without disabilities suspended with these three infractions, compared to students with and without disabilities in all other racial/ethnic groups ( $p = <.001$ ).

---

<sup>29</sup> This analysis is based on unique 957 suspension events, with some including multiple infraction codes.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.17**

*Distribution of Suspensions Issued with Reasons (501), (510), (511) by Disability Status and Race/Ethnicity*

Reason	Black		Hispanic		White		Other		Total <sup>30</sup>	
	n	%	n	%	n	%	n	%	n	%
<b>General Education</b>										
(501) Caused/Attempted/Threatened Physical Injury	526	47.6	496	44.9	60	5.4	22	2.0	1,104	62.0
(510) Obscene Act, Vulgarity, Profanity	45	57.7	27	34.6	4	5.1	2	2.6	78	4.4
(511) Disruption or Defiance	141	52.6	100	37.3	20	7.5	7	2.6	268	15.1
<b>Special Education</b>										
(501) Caused/Attempted/Threatened Physical Injury	375	61.1	195	31.8	26	4.2	18	2.9	614	64.2
(510) Obscene Act, Vulgarity, Profanity	33	73.3	11	24.4	1	2.2	0	0.0	45	4.7
(511) Disruption or Defiance	92	71.3	31	24.0	6	4.7	0	0.0	129	13.5

***Site Level Documentation Practices of Suspensions.***

Site level documentation practices for suspending students include entering suspension information into the student information system and various additional documentation practices to track suspension events. One of the primary mechanisms to track removals is the use of a suspension notice form that collects information on the infraction or reason for suspension, location and time of the incident, and the duration of the removal. Additional documents used include letters sent to parents when a student receives a suspension that detail the behavioral incident and length of suspension.

The investigation sought to collect school level documentation to identify if any discrepancies exist compared to suspension events reported to the CDE. In addition, the data were used to verify the accuracy of suspension data, such as the number of days issued. The accurate recording and maintenance of suspension data have implications for SWDs since they are afforded protections from long-term removals. Therefore, record keeping is critical to ensure schools have accurate information to trigger these procedural protections when SWDs approach or reach 10 or more days of suspension.

**CDE Reported Suspensions.**

In December 2022, the CDE released school discipline data for suspensions and expulsions. This table was recreated and included for reference to identify variances in the data provided

---

<sup>30</sup> Total percentages are calculated based on overall suspension events (general education n= 1,780 and special education n = 957).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

as part of this investigation (Table 3.18). In addition, differences in suspension data can be examined to determine if the District underreported suspensions to the CDE and gauge the accuracy of data.

This table offers some notable indicators, such as suspension rates for each school, one-time suspensions, and those who received multiple removals, that highlight school level practices and differences.

The end-of-year suspension file and the CDE website suspension data indicate different suspension rates, with the State identifying 7.1, compared to the rate of 8.1 calculated in this investigation. The notable discrepancy is attributed to the State using a total enrollment of 25,070 in its calculation, which is considerably higher than the enrollment number provided as part of this investigation. While the investigation removed multiracial students due to the lack of these codes in the suspension file, using a higher number of students enrolled will result in a decrease of the suspension rate since the denominator becomes larger.

The end-of-year suspension file submitted in response to this investigation included 1,725 unduplicated students suspended at least once and 2,737 suspension events. The CDE table shows an additional 48 students having been suspended and 46 less suspension events. It is unclear how these differences occurred and to which group the missing students belong, given school officials' confirmation that the dataset received as part of this investigation was the same submitted to the State. Unfortunately, the CDE website does not offer the ability to disaggregate suspension data for students with disabilities; therefore, no comparisons could be made to gain further insight into these discrepancies.

A salient finding pertains to Phoenix Community Day School's number and percentage of suspensions both for one-time events and multiple removals as well as the suspension rate. Phoenix Community Day School is the school where many students who are expelled or transferred for disciplinary reasons are sent. These data indicate excessive use of exclusionary discipline, especially for a program intended to support students with behavioral and social emotional difficulties, including those with disabilities, and is particularly troubling for a school with an overall student population of 105 students.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.18**

*AVUHSD CDE Suspension Data by School, 2021-22 School Year*

School	Enrollment	Total Suspensions	Unduplicated Students	Suspension Rate (%)	One Event (%)	Multiple Events (%)
Antelope Valley HS	1,774	410	247	13.9	62.8	37.2
Desert Winds HS	1,204	119	80	6.6	68.8	31.3
Eastside HS	3,082	328	221	7.2	68.3	31.7
Highland HS	3,232	224	162	5.0	70.4	29.6
Lancaster HS	2,992	419	275	9.2	64.0	36.0
Little Rock HS	1,730	261	149	8.6	59.7	40.3
Palmdale HS	2,860	409	262	9.2	67.9	32.1
Phoenix CDS	105	87	44	41.9	43.2	56.8
Quartz Hill HS	3,264	130	99	3.0	71.7	28.3
Rex Parris HS	1,109	82	66	6.0	84.8	15.2
SOAR HS	467	0	0	0.0	0.0	0.0
Pete Knight HS	3,251	222	168	5.2	77.4	22.6
Total	25,070	2,691	1,773	7.07		

**School Reported Suspensions Compared to State Reported Data.**

As part of the investigation, suspension notice forms, letters to parents, incident reports, and other related documentation were requested from all schools. The aim was to receive as many site-based tracking mechanisms as possible to determine if suspensions were being accurately reported to the CDE and parents. In addition, District policy requires schools to record suspension information on the suspension notice form and notify parents when the student is suspended from school, including by providing written notice.

The District produced 1,881 forms linked to a unique suspension event from all comprehensive and continuation sites. This included a variety of documents such as the “official” suspension notice form, alternative suspension forms, and letters to parents. The documentation varied by school, with some sites only providing parent letters and no suspension notice forms and others only producing suspension notice forms and no letters.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In order to analyze the data, suspension information was extracted from the site level documents and entered into an Excel spreadsheet. Data were included for students with and without disabilities, and many documents lacked any indicator of disability status. To identify students' disability status, the dataset was merged with the CDE Fall Enrollment file. The number of suspension forms and letters received is considerably lower than the suspension events reported to the State and those contained in the end-of-year suspension file. Of the 2,737 suspension events reported in the end-of-year suspension file, schools produced forms for about two-thirds (68.7%) of the overall suspension events reported to the State.

The school-reported file accounted for 1,332 of the 1,725 unduplicated students or 77.2% who received a suspension. Due to the use of a fall enrollment dataset to match students with suspension data reported by schools, 21 students could not be matched to determine race/ethnicity and disability status; therefore, these students were removed from the analysis.

In addition, the school level documentation included records for 74 students representing 83 events that could not be matched to the end-of-year suspension file sent to the CDE. This indicates the 74 students were omitted from the dataset submitted to the CDE, revealing an underreporting of suspensions. Although this represents 5.5% of students suspended and 4.4% of suspension events of the documentation received, this is likely an underrepresentation of unreported removals. Conversely, the documents provided did not include data for about 30% of all suspension events, or the equivalent of one in five students suspended.

It is unclear why more suspension notice forms and/or letters were not provided, particularly since all schools reported use of these forms and letters as requirements for issuing suspensions. This lack of consistency between suspended students and suspension events reported to the CDE and records provided by schools raise concerns regarding schools' adherence to policies and procedures that require documentation of suspensions and parent notification.

It is also peculiar that suspension records were not uniform in nature, with schools using a variety of suspension notice forms and some schools producing parent letters for some but not all of their students. Although all schools provided some documentation of suspension events, Phoenix Community Day School (CDS) only provided documents for suspension events that occurred at the students' previous comprehensive school, despite the CDE suspension data module reporting a total of 87 suspensions that occurred on campus. This finding is especially concerning since Phoenix CDS has the highest suspension rate in the District, with 42% of its students experiencing a suspension.

Table 3.19 shows the distribution of general and special education students suspended by race/ethnicity culled from site level suspension documents. As noted earlier, 74 students could not be matched to the State reported file. Overall, the school level data reflects the percentages of suspensions reported by the State for each group. However, due to the high number of missing records, these percentages should not be interpreted as the total



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

suspension events but rather the distribution of documentation received for students and events as reported by schools.

To show discrepancies between the number and percentage of students suspended and suspension events between school level documentation and suspensions reported to the CDE, data were disaggregated by school.

**Table 3.19**

*Distribution of School Reported Suspensions by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Total Students	Total Events	General Education				Special Education			
			Students		Events		Students		Events	
			n	%	n	%	n	%	n	%
Black	41.3	43.6	333	37.9	462	39.2	217	50.1	358	53.0
Hispanic	49.6	46.9	476	54.2	622	52.8	185	42.7	259	38.4
White	5.9	6.2	55	6.3	73	6.2	24	5.5	43	6.4
Other	1.6	1.9	14	1.6	21	1.8	7	1.6	15	2.2
Unknown	1.6	1.5								
Total (n)	1,332	1,881								
Total excluding unknown	1,311	1,853	878	100	1,178	100	433	100	675	100

School level records contain more information regarding behavioral incidents than the State suspension file. For instance, the suspension notice form documents the date, time, and location of the incident, as well as the date of the suspension, duration in days, and date the student can return to campus. The form also records referrals to law enforcement, referrals to the principal, other means of correction attempted, if parents were notified, and if the parent requested to pick-up their student. Less information is provided in parent letters, which might include a description of the incident, time and location of the incident, days the suspension is in effect, duration of suspension in days, and other means of correction. Although some common variables were included, documentation practices varied by school and administrator.

Prior to the data entry phase of the data collection process, it was noted that suspension start dates did not always coincide with incident date and the information in the Parent Requested section that indicated if and how the student was released from school. For instance, some forms noted the parent picked up the student or the student walked home or took public transportation. On many of the forms where the incident and suspension dates differed, it was clear students had been sent home due to disciplinary action but the day was not counted as part of the suspension duration. For some suspensions, it was harder to determine if the first day of suspension coincided with the incident date, especially for offenses that occurred later in the day or after school and/or off campus.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To develop a better sense of whether schools were underreporting days of suspension, the incident date, start date of the removal, and the duration or days listed were collected to determine whether the information matched. For incidents that occurred between morning and late midday, an adjusted suspension duration was recorded. For events that appeared to occur at the end of the day and lacked information regarding the release of the student, adjusted duration was not recorded and these were considered a match. For example, if the incident occurred on September 15 at 10 a.m. and the suspension notice had a 5-day duration period with a start date of September 16, both the value (number of days) reported was captured (in this case 5 days) and assigned an adjusted date of 6 days. For incidents that occurred at the end of the day, after school, during the weekend, or off campus, dates were considered a match if the suspension started the next available school day.

### ***Number of Days Reported by Schools and Adjusted Days.***

The following analysis looks at the number of days reported on the suspension form or letter and the adjusted days assigned. This review aims to determine if schools are underreporting suspension days and engaging in informal practices that do not accurately reflect the number of days lost to the removals. Due to a high number of missing records compared to those reported to the CDE, this analysis did not intend to make statistical comparisons regarding any disparities between students with and without disabilities or by racial/ethnic groups.

Patterns are clear for all columns that show movement as durations increase by 1 day for the events where the student was informally sent home prior to the suspension start date. This means that the initiation of the suspension prior to the start date listed only results in movement from groups one way, only adding an additional day of removal. The most apparent difference between the duration listed on the form and the adjusted days was for suspensions issued for 5 days but resulting in an adjusted sixth day of suspension. This accounts for the drop in 5-day suspensions as reported by schools (26%) and the adjusted days (17.3%) (Table 3.20). Suspensions with adjusted lengths of 6 days constitute 10.0% of all general education suspensions, with the combined adjusted removals of 5 and 6 days increasing to 27.3%.

The movement from 5 to 6 days has several implications, including the underreporting of suspension durations to the CDE, which impacts long-term suspensions and noncompliance with Section 48911(a) that limits the authority to issue a unique suspension for more than 5 days of removal. In addition, these “informal” suspensions are actual removals that were not recorded and therefore impact compliance with the procedural safeguards of IDEA for SWDs, which require a manifest determination review when suspensions reach 10 or more days or when removals constitute a change in placement.

While the adjusted days were coded conservatively, the high number of missing records and limited information on some forms and parent letters made it difficult to ascertain a true accounting of the number of days underreported. However, the data and patterns suggest the figures are underestimations of days reported to the CDE.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.20**

*Distribution of Suspension Event Duration and Adjusted Days per School Report for General Education Students by Race/Ethnicity*

Race/ Ethnicity	Days Reported on School Form					Adjusted Days					
	1	2	3	4	5	1	2	3	4	5	6
	n	n	n	n	n	n	n	n	n	n	n
Black	69	84	150	24	135	48	73	148	53	96	44
Hispanic	108	164	168	36	148	74	137	181	76	87	69
White	13	18	16	5	21	8	16	17	9	19	4
Other	4	4	6	2	3	3	4	7	2	2	1
Total	194	270	340	67	307	133	230	353	140	204	118
%	16.5	22.9	28.9	5.7	26.0	11.3	19.5	30.0	11.9	17.3	10.0
Total Records	1,178					1,178					

Data for SWDs demonstrate an overall similar pattern indicative of underreporting. Considerable changes are noted in 1-day suspensions (15.8% compared to 8.5% adjusted) and 4-day suspensions (5.0% compared to 11.5% adjusted) (Table 3.21). Adjusted 6-day suspensions represent 11% of all suspensions reported by schools, consistent with that observed for general education students.

It is important to note that while emphasis is placed on adjusted 6-day counts, the underreporting of suspensions occurs for each duration group. The 1-day count is a good indicator of an accuracy rate, since adjusted days do not subtract from the length of suspension issued. This best illustrates the number of suspensions that matched and those that did not. For example, school forms indicated 112 1-day suspensions, yet the review found 61 matched. This means that more than half (54.5%) of the 1-day suspensions were inaccurate.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.21**

*Distribution of Suspension Event Duration and Adjusted Days per School Report for SWDs by Race/Ethnicity*

Race/ Ethnicity	Days Reported on School Form					Adjusted Days					
	1	2	3	4	5	1	2	3	4	5	6
	n	n	n	n	n	n	n	n	n	n	n
Black	60	95	79	20	104	27	87	95	37	71	41
Hispanic	43	65	70	11	70	27	58	69	33	42	30
White	6	15	10	3	9	4	11	12	6	8	2
Other	3	2	7	1	2	3	2	5	3	2	0
Total	112	177	166	35	185	61	158	181	79	123	73
%	16.6	26.2	24.6	5.2	27.4	9.0	23.4	26.8	11.7	18.2	10.8
Total Records	675					675					

***Matches of Days Reported within School Level Documentation.***

To better understand the inaccuracies across the days reported and those adjusted, data were analyzed by days reported to determine how many suspension events included suspension dates that coincided with or matched the date of the incident or informal removal. Overall, seven out of 10 suspensions contained duration information that matched the start of the suspension with the actual removal (Table 3.22). Conversely, about one-third of suspensions undercounted the duration of the exclusionary discipline by at least one day. This finding shows the prevalent use of informal suspensions and underreporting of days to the CDE.

**Table 3.22**

*Matches of Suspension Duration per School Report by Days*

Days	Total		Matched		No Match	
	n	%	n	%	n	%
1	306	100	194	63.4	112	36.6
2	397	100	281	70.8	116	29.2
3	506	100	365	72.1	141	27.9
4	102	100	77	75.5	25	24.5
5	492	100	301	61.2	191	38.8
Total	1,803	100	1,218	67.6	585	32.4

**Law Enforcement Referrals, Searches, and Restraints.**

Information on suspension events where students were referred to law enforcement, searched, and/or restrained was collected from suspension documentation provided by schools. Due to the variability of the forms used and recording practices by administrators

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and schools, it is likely that these data are an underestimation of practices occurring at schools.

Information on suspension events where students were referred to law enforcement, searched, and/or restrained was collected from suspension documentation provided by schools. The official suspension notice form contains a checkbox to indicate if a student was referred to law enforcement. However, it is important to note that the data collection included alternative suspension forms and parent letters that do not systematically require schools to include this information. Due to the variability of the forms used and recording practices by administrators and schools and the lack of requirement to use the checkbox, it is likely that these data are an underestimation of practices occurring at schools.

A total of 174 suspension events for students with and without disabilities included a referral to law enforcement, representing about one in 10 suspensions (9.7%) (Table 3.23). Black students made up more than half (56.5%) of all special education student suspensions with law enforcement referral.

This investigation collected suspension information that included references to students being subjected to a search for the purposes of roughly determining the extent to which these practices were present at schools. This information was merged with data collected from other sources and will be discussed in more detail in Section 5 which addresses allegations related to law enforcement referrals, the role of campus security officers, restraints, and searches. Similarly, due to suspension notice forms or parent letters lacking an indication of whether students were searched, these estimates are likely an underestimation of these practices. A total of 64 searches were identified, representing 3.5% of all suspension events.

A total of 14 instances of restraint use were documented on the reviewed school-based forms. Of these, restraints were used on eight SWDs. This information was merged with other sources of restraint data to produce a master list of all SWDs who experienced a restraint during the 2021-22 school year and will be discussed in Section 5.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.23**

*Law Enforcement Referrals and Searches Indicated on School Suspension Reports by Disability Status and Race/Ethnicity*

Race/Ethnicity	Law Enforcement Referrals				Searches			
	General Education		Special Education		General Education		Special Education	
	n	%	n	%	n	%	n	%
Black	44	39.3	35	56.5	9	21.4	8	36.4
Hispanic	52	46.4	24	38.7	25	59.5	12	54.5
White	12	10.7	2	3.2	6	14.3	2	9.1
Other	4	3.6	1	1.6	2	4.8	0	0.0
Total	112	100	62	100	42	100	22	100
Total Suspensions	1,178							

The data entry of school-based suspension documentation required a careful look at each suspension document provided by schools. This discussion will report on some observations of data recording practices as well as decision-making practices used by administrators when issuing a removal. Although attempts were made to quantify as many observations as possible, inconsistent and poor documentation made obtaining reliable estimates difficult. Therefore, a safe assumption is that the instances identified are likely underreported and an underestimation of these practices.

This discussion is intended to reveal trends or issues that are inconsistent with the education code or District policy. Some issues will be discussed in more detail in their respective sections. For example, data regarding referrals to law enforcement will be included in Section 6.

A considerable number of suspensions (41) were for offenses that occurred off-campus and not at a school sanctioned event, or after school hours or during a weekend. Many references were made to fights that occurred at the local 99 cent store, at an ice cream shop, or in the desert. In some cases, these fights had been recorded by other students or participants, and administrators or security obtained a copy of the incident, which resulted in suspensions issued days after the event, in one instance, 11 days after the fight. Social media posts were also referenced as sources for capturing misconduct, with incidents occurring off campus or during non-school hours.

Suspension for misconduct that occurs off-campus, during unsanctioned school events, and/or during non-school hours is inconsistent with and in violation of EC Section 48900(s). Such suspensions would constitute an overreach of authority by site administrators and security personnel involved.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Student searches also appear to be the impetus for suspensions, often for students who are not engaged in serious misconduct but rather an act of defiance, such as not going to class when directed. In some instances, when students ignored prompts to go to class, security responded by conducting a search of the student's person or belongings, whereby contraband would be found, primarily consisting of a vape pen, and a suspension issued. Searches also occurred during bathroom sweeps, with common descriptors of the incident that seem implausible for similar cases. For instance, many examples were noted of security noticing some form of contraband protruding from the student's bag or pocket or the student accidentally dropping a vape pen, leading to a search and subsequent suspension. At times, these searches escalated situations and led to more serious offenses and outcomes, such as a student resisting the search, which led to physical restraint and the student eventually being handcuffed. It was also noted that security would document the justification for handcuffing a child prior to conducting a search as a precaution for the "student's safety" even if there was no indication of noncompliance.

A considerable number of students were referred to law enforcement or the school resource officer (SRO) as part of the suspension process; however, these students were not likely to be reported to the state or federal government as required. Students with and without disabilities experienced restraints, including being handcuffed, that were not reported appropriately on the behavioral emergency report (BER) lists provided as part of this investigation. These issues will be further discussed in Section 6.

Documentation practices were inconsistent and varied by school and administrators. Some suspension forms were clearly cut and pasted from the student's previous suspension notice form or from another student's form. Schools used several versions of suspension notice forms, resulting in additional inconsistencies in suspension information captured.

### **Other Means of Correction.**

EC Section 48900.5(a) requires that suspension only be imposed when other means of correction have failed to bring about proper conduct. Although exceptions exist for issuing a suspension on the student's first offense in order to ensure the safety of other students and staff, the intent of the law is for the decision to remove a student from school to be the last resort.

Other means of correction can include a variety of interventions that may include but not be limited to conferences with parents and counselors, referrals to student study teams or for special education assessments, and/or participation in restorative justice or anger management programs. Other means of correction are essentially considered alternatives to suspension and are intended by the legislature as the preferred method of discipline.

Because the District's file did not include the description of which other means of correction were applied, such as being referred to counselor or a reassignment to the Student Support Center (SSC), this analysis can only illustrate the trends for issuing these less restrictive

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

disciplinary actions for general and special education students by race/ethnicity<sup>31</sup>. Due to this limitation, it was not feasible to gauge whether certain groups received less punitive discipline, such a referral to counselor, compared to being reassigned to the SSC, which constitutes an in-school suspension (ISS) for the purpose of this investigation. It is important to note that school officials confirmed that ISS and on-campus detentions (OCD) are considered other means of correction.

Overall, an other means of correction was applied to 1,682 students for a total of 2,804 disciplinary events. Since these disciplinary actions are alternatives to suspension, this data is best analyzed when compared to the rates of OSS issued to same group students (Table 3.24). For instance, general education students received 70.9% of all other means of correction and represented 67.8% of all suspensions, whereas SWDs made up 29.1% of other means of correction referrals and 32.2% of all suspensions. In addition, Black students with and without disabilities account for about a third (32.4%) of all students issued an other means of correction and 44.0% of all students suspended at least one time. Conversely, White students with and without disabilities make up 11.2% of all other means of correction and 6% of all students suspended, showing a higher reliance on other means of correction when disciplining White students.

General education Black students accounted for 29.4% of all other means of correction and 39.8% of all suspensions, while general education White students made up 11.2% of other means of correction and 6.5% of all suspensions. For students with disabilities, Black students comprised 39.8% of all other means of correction and 52.8% of all students suspended, while White students received 11.1% of all other means of correction referrals and 5.6% of all suspensions.

These findings highlight that school discipline is differentially applied to students with and without disabilities, particularly between Black and White students. Black students in general and special education are disciplined with more exclusionary forms of discipline, such as OSS, with higher frequency. On the other hand, White students are afforded less punitive disciplinary actions with higher frequency when compared to OSS. These findings carry several implications for equitable practices that negatively impact Black students, Black SWDs, and all SWDs, including: greater loss of instructional time, less access to social emotional resources, and negative perceptions or biases of administrators when disciplining Black students and SWDs.

Statistical differences were found for the following: other means of correction referrals of Black general education students compared to non-Black general education students  $p = < .001$ ; other means of correction referrals of Black special education students compared to

---

<sup>31</sup> The District provided an initial other means of correction file with these descriptors, which confirmed that period suspensions and reassignments or in-house suspensions fall within this reporting. However, as noted in the discussion above, the lack of information for the end-of-year data limits the ability to differentiate between the types of interventions imposed.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

non-Black special education students  $p = < .001$ ; and other means of correction referrals of special education students compared to general education students  $p = < .001$ .

**Table 3.24**

*Other Means of Correction for General and Special Education Students by Race/Ethnicity*

Race/ Ethnicity	Combined		General Education				Special Education			
	Referred	Events	Referred		Events		Referred		Events	
	%	%	n	%	n	%	n	%	n	%
Black	32.4	37.4	351	29.4	621	34.4	194	39.8	429	42.9
Hispanic	54.5	50.9	681	57.0	957	53.0	235	48.2	470	47.0
White	11.2	10.2	134	11.2	190	10.5	54	11.1	96	9.6
Other	2.0	1.5	28	2.3	36	2.0	5	1.0	5	0.5
Total	100	100	1,194	100	1,804	100	488	100	1,000	100
Total	1,682	2,804		70.9		64.3		29.1		35.7

***Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff***

To obtain a broad understanding of the issues related to OSS, qualitative data collection efforts were conducted and included site visits, a telephone survey of parents, and various meetings or focus groups with District staff.

To better understand the procedures used to issue suspensions, five of the eight comprehensive schools and three continuation sites were visited, and staff interviews were conducted at each. These interactions included personnel such as Principals, Vice and Assistant Principals, SSC coordinators, Heads of Security, and other security personnel.

**Feedback of School Officials from Site Visits.**

During the site visits, site administrators described similar processes when issuing suspensions. This included logging all OSS into the SIS Management Module, filing suspension forms in students' cumulative files, and providing suspension notice forms to parents as well as mailing notification letters. Hardcopies of the suspension notice forms were reported to be maintained by administrators and clerical staff in binders. Sites reported using multiple tracking mechanisms in addition to the SIS, mainly Google Sheets.

School officials noted parent notification of suspension by phone and letter but offered differing reporting requirements, with one school indicating letters were to be mailed within 5 to 10 days of the suspension event. Consensus was noted that parents are to be provided a

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

letter and the suspension notice form when their child is suspended. Administrators did not report a formal appeal process if parents disagreed with the suspension, but some indicated a meeting would be held and others referenced a parent's ability to file a complaint through the Uniform Complaint Procedures (UCP).

Some schools claimed to review OSS data weekly during their Wednesday staff meetings, while others reported a quarterly and yearly look. Sites rely on the student information system (SIS), Google Sheets, and School-Wide Information System (SWIS) behavioral software to run monthly or periodic OSS reports with practices varying by school and based on preference and availability. For example, two sites noted not using SWIS software reports, some indicated sole reliance on the SIS, and others preferred using their own Google Sheets. All schools believed they accurately reported suspensions and did not feel OSS were underreported at their schools. When asked about how the cumulative number of days of suspension are tracked for the purpose of identifying the 10-day removal mark, they noted VPs maintained counts primarily through Google Sheets since the SIS lacks this capacity. One continuation site administrator noted tracking days in their head due to the small population of students and low number of suspensions.

Comprehensive site administrators expressed general concerns with the use of OSS at their schools, with one noting that in a perfect world there would be no suspensions, while another stated that one student suspended is too many. When asked about concerns with the disproportionate removal of Black SWDs, two site administrators expressed specific concerns with the overrepresentation of Black students, one simply noted it was on their radar, and the remaining two stated they were concerned with all students and avoided responses specific to the removal and overrepresentation of Black students. When asked what could help lower suspensions, one principal expressed that the home environment was a contributing factor to a student's misconduct at school.

### **Feedback from Parent Surveys Regarding OSS Experience.**

A total of 59 families participated in the telephone survey regarding the disciplinary experiences of their child in the 2021-22 school year. Sampling aimed to obtain large enough comparison groups to facilitate analysis. Due to the low number of White students suspended (31), the majority (30) of these students were selected, with 55 Black students and 45 Hispanic students making up the rest of the participants selected; therefore, the sampling is not considered representative of the population of students suspended, and interpretation of some items requires caution. In addition to race/ethnicity, the cumulative number of days suspended was used to stratify the sample and include one day, two to seven days, and eight or more days of cumulative suspensions.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

For most of the items included in this discussion, responses are provided in the aggregate to show trends<sup>32</sup>. Due to the small number of responses on some items, comparisons should be interpreted with caution. Some items will be discussed in additional detail in the respective sections of the report, such as items related to law enforcement and restraints.

The survey aimed to find site level practices related to informing parents of their child's suspension, whether a conference was offered and held, if disciplinary actions led to changes in the student's programming and/or IEP, and perceptions of the effectiveness of the suspension as well as the equitable treatment of students when administering suspensions. Since some students experienced multiple suspension events, some items allowed participants to differentiate by acknowledging practices that occurred each time the student was suspended, sometimes, or not at all.

The first set of survey items aim to identify practices associated with parent notification when students are suspended, efforts by the school to discuss the incident with the parent, and discussions around other means of correction when determining whether to remove the student from campus. In addition, parents were asked whether the school issued an informal suspension where they simply called the parent to take their child home but did not formally document the removal as a suspension.

Most participants (84.5%) reported having been notified by schools in all instances when their child was suspended, while 15.5% noted schools informed them of some or none of the suspension events issued (Table 3.25). Less than half of the parents (46.5%) who responded reported being invited to a meeting or conference with school administrators to discuss the incident and suspension.

If offered an opportunity to meet, most parents (96.4%) were able to attend at least one of the meetings, with about 15% of these parents noting the school did not make efforts to facilitate their participation by rescheduling the meeting or holding it virtually or by phone.

Over one-third of parents (36.6%) reported discussing the reason for suspension or alternatives to suspension (other means of correction) during the suspension meeting. About one in four parents (28%) noted that schools did not consider their concerns or disagreement with the suspension being issued. Half of the respondents (50.0%) reported that their child's disability or IEP was not brought up during the suspension meeting, while one-quarter of respondents noted that the school recommended changes to their student's IEP because of the school removal.

Approximately one in five (19.4%) families did not receive written notification of the suspension, while three-quarters (74.5%) reported an informal suspension of their child,

---

<sup>32</sup> Not all families provided feedback for every item. Some items included follow-up questions that were not applicable for a given area of inquiry and were therefore skipped, while other families only partially completed the survey.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

indicating their student was sent home without the removal being formally recognized as an official suspension.

**Table 3.25**

*Select Parent Survey Items for all Participants*

Question	Yes, for All		Sometimes		Not at All		Totals	
	n	%	n	%	n	%	n	%
Did school call to inform parent of suspension?	49	84.5	7	12.1	2	3.4	58	100
Did school invite parent to meeting to discuss suspension?	21	36.2	6	10.3	31	53.4	58	100
Did parent attend?	23	82.1	4	14.3	1	3.6	28	100
Did school make efforts to facilitate participation?	21	78.0	2	7.4	4	14.8	27	100
Did school discuss reason for suspension and other means of correction?	10	33.3	1	3.3	18	60.0	30*	100
Did school consider parents' concern or disagreement with suspension?	15	46.9	4	12.5	9	28.1	32**	100
Did school recommend changes to the IEP?	9	24.3	1	2.7	27	73.0	37	100
Did school discuss disability or IEP at time of suspension?	16	44.4	2	5.6	18	50.0	36	100
Did school provide suspension notice in writing?	27	75	2	5.6	7	19.4	36	100
Was student informally suspended?	10	16.9	34	57.6	15	24.4	59	100

\*One parent stated they did not know.

\*\*Four parents noted they were unaware of the opportunity to disagree.

The next set of questions sought to identify if the student's behavioral challenges and disciplinary actions, including OSS, resulted in changes in placement or more proactive responses to address the behavior, such as conducting additional assessments or adding/increasing special education supports and/or services to the student's IEP.

About one in three families (35%) reported a change to a more restrictive placement within their school or a transfer to another school (37.3%) because of their student's behavioral difficulties (Table 3.26). One in five (20.3%) noted receiving referrals for additional assessments, such as a psychoeducational evaluation, and less than one in 10 (8.5%)

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

reported the school recommending a functional behavioral assessment. One in five families (20.3%) stated the school added or made changes to the behavior intervention plan (BIP), while one-third (33.9%) mentioned adding or increasing the duration of counseling services to the IEP.

**Table 3.26**

*Select Parent Survey Items for All Participants*

Item	Yes		No		Don't Know		Totals	
	n	%	n	%	n	%	n	%
Change to a more restrictive placement	18	30.5	38	64.4	3	5.1	59	100
Placement at another school	22	37.3	36	61	1	1.7	59	100
Additional Assessment (Psychoeducational)	12	20.3	44	74.6	3	5.1	59	100
Functional Behavioral Assessment (FBA)	5	8.5	47	79.7	7	11.9	59	100
Addition or changes to BIP	12	20.3	43	72.9	4	6.8	59	100
Addition of or increase in counseling	20	33.9	36	61	3	5.1	59	100

The next set of items is related to the encounters between students and staff during disciplinary interactions. This includes students' experiences with being searched, restrained, handcuffed, cited, and referred to the school-based probation officer without having one assigned by the court.

About half of respondents reported their child being searched by campus security (Table 3.27). Four in 10 (39.3%) noted their student experienced being restrained by staff, while 36.5% said their child was handcuffed by security or the SRO. Approximately one in four was cited for misconduct, and one in seven (14.3%) reported being informally referred to the probation officer on campus.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.27**

*Select Parent Survey Items for All Participants*

Item	Yes		No		Don't Know		Totals	
	n	%	n	%	n	%	n	%
Searched person or belongings	27	47.4	22	38.6	8	14.0	57	100
Restrained by staff	22	39.3	31	55.4	3	5.4	56	100
Handcuffed by security	10	17.9	41	73.2	5	8.9	56	100
Handcuffed by SRO	11	19.6	39	69.6	6	10.7	56	100
Cited	15	26.8	37	66.1	4	7.1	56	100
Informal referral to probation officer	8	14.3	48	85.7	0	0.0	56	100

The last set of questions inquired about parents' perceptions of the effectiveness of suspensions and whether school officials treated all children equitably. Due to the nature of these items, responses are provided by race/ethnicity. The first item sought to gauge families' perceptions regarding the use of suspensions as a deterrent to future behavior. More than half of the respondents (55.5%) did not believe suspensions were an effective strategy for deterring future misconduct, while only one in 20 parents (5.4%) strongly agreed that they were effective (Table 3.28).

**Table 3.28**

*School's Use of Discipline was Effective for Deterring Child's Behavior Over the Course of the Year or in the Future*

	Strongly Agree		Agree		Disagree		Strongly Disagree		Don't Know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	2	10.5	6	31.6	4	21.1	6	31.6	1	5.3	19	100
Hispanic	1	4.0	10	40.0	5	20.0	9	36.0	0	0.0	25	100
White	0	0.0	5	41.7	5	41.7	2	16.7	0	0.0	12	100
Total	3	5.4	21	37.5	14	25.0	17	30.4	1	1.8	56	100

When asked if school officials considered a student's disability when issuing disciplinary actions, two-thirds (66.0%) of parents expressed they disagreed or strongly disagreed (Table 3.29). Parents of Black and White students expressed the highest levels of disagreement compared to parents of Hispanic students (White: 83.3%, Black: 73.7%, Hispanic: 52%).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 3.29**

*School Considered Child's Disability when Taking Disciplinary Actions*

	Strongly Agree		Agree		Disagree		Strongly Disagree		Don't Know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	0	0.0	4	21.1	6	31.6	8	42.1	1	5.3	19	100
Hispanic	0	0.0	11	44.0	7	28.0	6	24.0	1	4.0	25	100
White	0	0.0	2	16.7	6	50.0	4	33.3	0	0	12	100
Total	0	0.0	17	30.4	19	33.9	18	32.1	2	3.6	56	100

More than half (55.2%) of respondents believe administrators are inequitable when disciplining students (Table 3.30). Parents of Black students expressed the highest rates of disagreement with almost eight in 10 (79.9%) stating they disagreed or strongly disagreed with the statement "Staff, including administrators, are fair in how they discipline students."

**Table 3.30**

*Staff, including administrators, are fair in how they discipline students.*

	Strongly Agree		Agree		Disagree		Strongly Disagree		Don't Know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	1	5.3	2	10.5	11	57.9	4	21.1	1	5.3	19	100
Hispanic	0	0.0	12	48.0	6	24.0	6	24.0	1	4.0	25	100
White	0	0.0	6	50.0	2	16.7	2	16.7	2	16.7	12	100
Total	1	1.8	20	35.7	19	33.9	12	21.4	4	7.1	56	100

When asked if school officials treat students equitably regardless of race or ethnicity when issuing discipline, 42.8% believe administrators engage in inequitable practices (Table 3.31). About one in four families stated they did not know, with most offering that they were unaware of the broader practices of school officials. Parents of Black students reported the highest rate of inequitable treatment, with 68.4% disagreeing or strongly disagreeing with this statement.

**Table 3.31**

*Students in My School are Treated Fairly in Discipline, Regardless of Their Race or Ethnicity.*

	Strongly Agree		Agree		Disagree		Strongly Disagree		Don't Know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	1	5.3	2	10.5	9	47.4	4	21.1	3	15.8	19	100
Hispanic	0	0.0	10	40.0	4	16.0	6	24.0	5	20.0	25	100
White	0	0.0	6	50.0	0	0.0	1	8.3	5	41.7	12	100
Total	1	1.8	18	32.1	13	23.2	11	19.6	13	23.2	56	100

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Parents responded similarly when asked about inequitable practices aimed at students with disabilities, with 42.9% disagreeing or strongly disagreeing, and about one in four families stating they did not know (Table 3.32). Again, parents of Black students had the highest rates of negative perceptions of school officials' treatment when disciplining SWDs, with almost half (48.4%) disagreeing or strongly disagreeing.

**Table 3.32**

*Students in My School are Treated Fairly in Discipline, Regardless of Their Disability*

	Strongly Agree		Agree		Disagree		Strongly Disagree		Don't Know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	1	5.3	2	10.5	9	47.4	4	21.0	3	5.3	19	100
Hispanic	0	0.0	10	40.0	4	16.0	6	24.0	5	20.0	25	100
White	0	0.0	6	50.0	0	0.0	1	8.3	5	41.7	12	100
Total	1	1.8	18	32.0	13	23.2	11	19.6	13	23.2	56	100

In addition to the above-listed items, parents were presented an open-ended question asking what would help improve student discipline at schools. Many families cited more resources or programs to help improve student behavior and social emotional difficulties, such as counseling. Some families noted having site administrators get to know their students better and developing a better understanding of disability.

During and after the interviews, parents offered insights into their experiences. In several cases, parents could be heard asking their child to confirm certain events, which led to more in-depth conversations related to their experiences. Several students (current and former) noted that security and administrators escalated situations and misrepresented their actions to justify their suspension. One former student described having his skateboard taken away and being told by security that if he tried to reach for it and touched them, they threatened to "take him down." The student then described trying to grab his skateboard from security, which resulted in him being restrained, handcuffed, and arrested for assaulting staff. The student and mother noted that they felt school officials' actions were too harsh for something as non-threatening as having a skateboard. The student then described being taken to the on-campus detention room where he was questioned, and he noted that when they arrived at the location, security asked everyone to leave the room, which created a traumatic and intimidating experience for the student. This same student shared that security staff also create fake social media accounts to track students, noting this practice as widely known among students.

Several students and parents also noted security would follow the student and harass them, looking for the student to engage in minor infractions that could result in discipline. One parent noted that this even occurred on the first day of school. Another student, along with her mother, noted that this type of profiling led to the parent approaching administrators to share her concern and verbally complain, which resulted in the administrator engaging in retaliatory actions by issuing the student a Saturday detention because he did not like how



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the mother had spoken to him. This same parent reported recently learning that her daughter had been handcuffed by the SRO the previous school year without any parent notification from the school or SRO.

All students interviewed reported the search of students and their belongings as a common practice, and that at times security misrepresented the reason to justify their search. One student noted that at times security conducted bathroom sweeps and asked all students to stay in place, cross their hands over each other, and execute searches. The student noted that someone could be washing their hands and not engaged in misconduct, and security would order everyone to cooperate with being searched. Students also reported witnessing students being handcuffed as a common experience, particularly when staff and security broke up fights.

Overall, the parent survey provided corroborating evidence for many of the allegations included in the CDE complaint. Most concerning is the high number of families who reported the use of informal suspensions and those claiming not to have received written notification. One family added that at her student's previous comprehensive site, she received letters every time, but since being transferred to Phoenix CDS, all she ever received was a phone call to pick up her child. Parents also felt administrators were quick to issue suspensions and were not open to hearing concerns or disagreements with the removal.

### **Analysis of CDE's Significant Disproportionality 2021 CCEIS Plan and Feedback from Focus Group with Leadership Team.**

The District has been identified as showing Significant Disproportionality of Black SWDs in the areas of suspensions and expulsions, specifically regarding long-term suspensions. This designation carries a high-level of oversight and scrutiny by the State and requires the District to take mandatory actions, including but not limited to reserving 15% of their IDEA funds to develop and implement a Comprehensive Coordinated Early Intervention Services (CCEIS) Plan to address the overrepresentation. This process mandates external support from the Special Education Division (SED) technical assistant contractor, State Performance Plan Technical Assistance Program (SPP-TAP), and an assigned SED Focused Monitoring and Technical Assistance (FMTA) consultant.

The CCEIS process requires districts to review and examine relevant data in efforts to identify potential root causes, target groups, and interventions to the disproportionality. In addition, target populations of students and interventions corresponding with each root cause are specified. Measurable outcomes that correspond with the activities designed to address each area are included with each root cause.

The District has carried the Significant Disproportionality designation in the area of suspension and expulsion for Black SWDs since at least the 2015-16 school year. Senior school officials report that the Significant Disproportionality identified is for the long-term suspensions of Black SWDs. Although the plan mentions specific disproportionality in long-term suspensions or OSS of Black students for greater than 10 days, the plan includes

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

references to data that are indicative of overrepresentation in one-time suspensions and the overidentification of Black students in special education.

This discussion provides analysis of the District’s 2021 CCEIS Plan and conversations with members of the Leadership Team responsible for the development and oversight of the Plan’s implementation. Due to the disruptions to the instructional programs created by the pandemic, the Plan is based on previous years’ data. Several excerpts from the CCEIS Plan are included for reference.

***Analysis of 2021 CCEIS Plan.***

The District’s CCEIS Plan identified three root causes and established target populations, initiatives, and interventions for each in order to address the disproportionate long-term suspensions of its Black SWDs (Table 3.33).

**Table 3.33**  
*Components of the 2021 CCEIS Plan (p. 17)*

Root Causes	Target Population	Initiatives	Interventions
#1. A cultural intelligence deficit among staff	At-Promise 9 <sup>th</sup> and 10 <sup>th</sup> graders currently needing special education with one or more on/off campus suspensions and two or more failing grades	Adopt a Whole Child Approach Student Development Framework with emphasis on peer mentorship, social justice, and leadership skill-building.	Provide leadership building experiences for all students and provide extended learning opportunities to increase their social-emotional, social justice, and cultural intelligence.
#2. Inequitable Campus Discipline Policies and Practices	At-Promise 10 <sup>th</sup> graders not identified as needing special education with one or more on/off campus suspensions	Implement PBIS with a focus on SEL and accelerated learning using the SSC districtwide.	Develop African-American parent advisory groups to increase AA family and parent involvement.
#3. Inconsistent District-wide Multi-tiered System of Support (MTSS)	At-Promise 9 <sup>th</sup> graders not identified as needing special education with one or more failing grades	Implement an Equity-based Multi-tiered System of Support districtwide (MTSS).	Create an Equity-Based protocol for assessment progress with PBIS and MTSS initiatives.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The following discussion will analyze the various aspects of the Plan for each root cause identified and incorporate the Leadership Team's perspectives and rationale in the development of the Plan.

### ***Root Cause #1. A Cultural Intelligence Deficit Among Staff.***

The Plan concluded that based on a review of quantitative and qualitative data, a "lack of cultural intelligence among staff contributes to teachers sending a disproportionate number of Black students out of class, campus security referring Black students to the office, and administrators suspending Black students at higher percentages than other groups" (p.18).

Despite this assertion, Team members did not express a firm belief that these problems were systemic. When asked if they believed the District had a problem with security guards whose biases resulted in higher disciplinary referrals of SWDs, one member responded "that's what the data showed, right?"

To understand how staff's cultural intelligence was measured and whether particular surveys or inventories were used to gauge pre-and-post-intervention knowledge, the Team reported that this assumption/conclusion was based on data showing Black students have been disproportionately suspended. Participants shared that some staff have negative associations with Black students and SWDs, and when these individuals are unaware of their implicit biases, microaggressions against these students occur. One member expressed that people need to understand that the problem is not only about race but also the intersectional ties that contribute to the way people interact with students. The participant further explained that people need to understand culture as well, adding an analogy that students in Antelope Valley share a different culture than those in Los Angeles Unified School District.

Although the Plan identifies staff's lack of cultural intelligence and cites three examples of this root cause (albeit without data) of how teachers, security personnel, and administrators engage in disproportionate discipline referrals. The intervention selected to address the lack of cultural intelligence of staff is unintuitively directed at improving this capacity in students. This intervention is incongruent with the identified cause of the problem and focused on changing the cultural mindset and perceptions of the students who are being impacted rather than addressing the biases of adults.

Leadership defended this approach and intervention asserting that by focusing on improving cultural intelligence of students and teaching them how to behave in a manner more aligned with the dominant group's (White) cultural and behavioral norms, this would result in a reduction in misconduct and disciplinary referrals. This intervention completely misses the mark for addressing the root cause identified, which is supported by much of the data included in this investigation. Furthermore, this approach misplaces the burden and culpability of behavioral problems on students and the community at-large. This is an example of the Leadership Team's perception that the deficits exist within the student and home/community environment and are not due to systemic shortcomings, including

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

unchecked staff biases that contribute to an educational environment that disproportionately disciplines SWDs and Black SWDs.

To explain how the selection of all students with and without disabilities in 9<sup>th</sup> and 10<sup>th</sup> grades failing one or more classes and/or suspensions correlates with the Plan's intention to reduce long-term suspensions of Black SWDs, Leadership Team members shared that the State sets certain parameters for establishing the target group(s) for interventions, as required by CCEIS. For instance, the CDE does not allow the target groups to focus solely on students of the racial or ethnic group for which the LEA is significantly disproportionate; therefore, the Plan could not specifically limit its focus to Black students or Black SWDs. Consequently, the team established broader target groups to focus on students with and without disabilities in the 9<sup>th</sup> and 10<sup>th</sup> grades. Furthermore, despite two tables listing 1,102 general education and 347 special education students targeted (for all root causes), the Leadership Team shared that sites are not provided with lists of students to target, nor are schools required to identify or track these students.

The inability to provide a list of target students calls into question the validity of efforts to direct interventions to vulnerable students as identified in the Plan. The focus on students' cultural intelligence rather than that of the adults whose biases perpetuate these inequities against Black students and SWDs renders this part of the Plan meaningless and non-credible. While the CCEIS process precludes an LEA from focusing solely on one group of students, a targeted intervention plan that focuses on all students, including Black SWDs, can periodically track cumulative suspensions to identify and provide supports and interventions to those students at-risk of experiencing a long-term removal of 10 days or more, regardless of race.

Lastly, the Plan includes a measurable outcome that purports to decrease the "targeted group's" rate of trancies by 15% per semester. However, due to the lack of credible action in establishing target groups and notifying schools of these students, it is unlikely the Plan has any real effect of lowering trancies or providing direct interventions to those students identified as part of this root cause and overall Plan.

### ***Root Cause #2. Inequitable Campus Discipline Policies and Practices.***

The Plan provides rationale for selecting the Discipline Matrix as the discipline policy that contributes to the disproportionate suspensions of Black SWDs. The Plan asserts that the policy is outdated (last revised in 2014) and lacks specificity to guide schools to more equitable practices when disciplining students. The Plan's logic for the revision of the Discipline Matrix is to help school officials and teachers administer more equitable practices by including specific guidance. Although this thought process appears consistent with the hypothesized and declared effect of the policy, the District has failed to revise the policy since 2014, despite having identified this same policy as a root cause in several previous iterations of the Plan.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

When asked why the policy has not been revised after so many years of being identified as a root cause of disproportionate long-term suspensions of its Black SWDs, school officials noted that its revision takes time and is in process. The Leadership Team could not commit to a deadline for the completion of the policy revision, reiterating that it simply was in process.

Despite lack of changes to the policy, the Plan describes progress in addressing this root cause by stating:

Although the current policy continues to be outdated and subjective in its implementation from school to school, the district has made great strides in hiring a Director of Equity to serve as a resource to identify barriers hindering equitable access to supports and services and eradicating any disparities in the discipline practices and procedures that have led to the LEA's Significant Disproportionality. (p.13)

It is unclear how the hiring of this Director constitutes "great strides," particularly since the failed policy has been in effect for several years prior to this hire. The failure to revise the Discipline Matrix is also inconsistent and noncompliant with timelines associated with the following CCEIS requirement:

### 2.3 Conduct Policies, Practices, and Procedures Review

Upon identifying significant disproportionality, an LEA must provide for the annual review and, if appropriate, revise the policies, practices, and procedures used in identification or placement in particular education settings, including disciplinary removals. An LEA must address a policy, practice, or procedure it identifies as contributing to the significant disproportionality. In addition, an LEA must publicly report on any revision of policies, practices, and procedures. (As directed in 34 CFR Section 300.646(c) and 300.646(d)(1)(ii-iii).)

Some participants indicated that the Discipline Matrix is not the official policy or a policy at all, citing Board Policy 5144 as the official policy. Team members stated that schools are not required to use it, which was confirmed by the data collection and entry of suspension notice forms as part of this investigation and identified a variety of suspension notice forms utilized by schools but not one instance of the matrix. This fact renders the inclusion of this matrix pointless since schools do not use it, nor is it mandated. However, the reality is that the District lacks uniform discipline procedures, which cause schools to use various forms to guide their decision-making process when suspending students. This variability in practice and absence of clear procedures further exacerbate the basic assumption of this root cause, which claims school officials engage in inequitable and inconsistent practices due to a lack of a clear policy (and procedures) to ensure fairness when disciplining students.

The Plan also asserts that "a student's race or disability affects how some educators perceive a student's behavior which influences the severity of their responses, resulting in disproportionately more suspensions and expulsions of African American students and Special Education students" (p. 19). This statement acknowledges that some teachers and administrators have race and disability biases that result in the application of harsher

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

discipline meted out to Black students and SWDs, contributing to their overrepresentation in suspensions and expulsions. This claim supports the notion that, absent a clear and specific discipline policy, school officials will engage in treating some students more severely because of their race/ethnicity or disability.

The initiatives and activities that coincide with inequitable discipline policies and practices are centered around the implementation of PBIS with a focus on social and emotional learning (SEL) and accelerated learning, and the development of Black parent advisory groups to improve families' participation and involvement. Again, these efforts, while well-intentioned, have no connection to the identified problem, which is an outdated discipline policy that fails to provide adequate guidance to ensure the equitable application of discipline to students.

The measurable outcome attached to this root cause requires the "PBIS-Focused Leadership Team" to design a framework for the training and implementation of restorative and culturally responsive PBIS with emphasis on SEL and accelerated learning as well as "a classroom district wide to increase students' academic success as measured by a decrease in the D and F grade rates by 10% per semester" (p. 25). Once again, the goal of decreasing poor academic marks by developing a framework for implementation does not appear compatible with or reasonably designed to achieve the goal of improving student achievement. The Plan does not specify when the framework will be completed, how schools will be trained, timelines for implementation, or what metrics will be used to monitor the implementation and its effectiveness. Although the idea of an accelerated learning program is logical for improving student grades, it still misses the mark on mitigating the root cause of inequitable discipline policies and practices.

### ***Root Cause #3. Inconsistent Districtwide Multi-Tiered System of Support (MTSS).***

The Plan identified the lack of consistent districtwide MTSS curriculum and interventions (behavior, academic, and social emotional) as the third root cause. This root cause was selected in part due to the inconsistent performance as defined by the ranges among schools in the following areas: suspensions, 5-12%; college/career preparedness, 18-42%; and graduation rates, 82-96%. The Plan adds that "achievement data along with focus group feedback shows that some student groups are at a disadvantage which leads to incongruous outcomes" (p.20).

The Plan asserts that the reduction in suspensions observed between the 2017-18 and 2018-19 school years shows a "districtwide system implemented with fidelity, will proportionately improve behavior and academic outcomes, as well as the social emotional needs of students." Although this is the basic intention and desired effect of an effective PBIS program implemented with fidelity, the Plan offers no evidence to link any specific intervention to a reduction in suspensions.

The measurable outcome associated with this root cause looks to reduce suspensions for the targeted group by 20% by having the MTSS Build Team "solidify and lead" the MTSS

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

framework and its implementation. Consistent with the measurable outcomes associated with the two other root causes, this aspect of the Plan does not clearly articulate how or which components of the MTSS framework will reduce suspensions and, once again, absent a defined target group that is provided to schools where students are monitored and receive direct interventions, these constitute mere assurances and lack credible action.

The Plan references 2019 achievement data that show a disproportionate representation in the college/career readiness indicators. For students in the “prepared” range, disparities exist with 2.5% of special education students and 13.2% Black students performing at this level, compared to 27.3% Hispanic and 39.8% White students. Two strategies to remediate these disparities were aimed at identifying gatekeepers who were discouraging students from enrolling in honors and AP classes as well as minimizing the prerequisites needed to participate in these classes.

Overall, the District is academically underperforming compared to state and county averages. The California Assessment of Student Performance and Progress (CAASPP) reports 32.7% of all District students meet or exceed grade level standards for English language arts (ELA), while only 8.5% meet or exceed the math grade level standards. Performance of SWDs is considerably worse, with only 6.0% meeting or exceeding the ELA grade level standards and less than one percent (0.8%) meeting or exceeding the math grade level standards.

It is incomprehensible that the Plan misplaces the focus on students participating in honors and AP classes to reduce suspensions and long-term removals, especially when so few SWDs would have the skills and readiness to participate in these classes. In addition, the high rates of segregated placements for SWDs and Black SWDs create a larger achievement gap for these students who lack access to A-G programs and are unlikely to have an opportunity to participate in honors or AP classes. Once again, the Plan lacks a cohesive connection between the data, identified root cause, and interventions to remediate the negative effects of a poorly functioning and inconsistent MTSS and instructional program, though intended to reduce suspensions and address disproportionality.

### ***Additional Leadership Team Feedback.***

The focus group revealed several additional concerns related to the effectiveness of the Plan and its implementation. First, although the Leadership Team indicated the frequency of CCEIS-related meetings was weekly, monthly, and quarterly, the Team had not yet met, despite school having been in session for about two months.

School officials were reticent to characterize any of the problems discussed as systemic in nature and instead pointed to society at large. For example, the Plan included a focus group finding that identified a need to address social injustices and unrest due to police brutality, racism, the political climate through social justice, and culturally responsive and relevant teaching and connected this to the use of restorative circles in the classroom and SSC. When asked about whether this police brutality and racism was in reference to the climate in the District or the broader context of society at-large, participants agreed with the latter. When

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

asked directly if they believed campuses had a culture of hostility with security, SROs, and students, participants acknowledge the presence of incidents but would not characterize the problem as systemic. When asked if they believed they have a problem with disproportionality, one member noted “we know we are doing it, but don’t know whether it’s intentional.”

As part of the investigation, a Google search found several YouTube videos where a current member of the Leadership Team discusses the effectiveness of the State’s external consultant. These videos can be characterized as promotional in nature and are posted on the consultant’s webpage. These videos shed insight into the past practices of the CCEIS Leadership Team and effectiveness of past Plans, as well as some changes in the direction of the current Leadership Team.

In one video discussing the improved collaborative process of the CCEIS Plan under the consultant, the school official notes that the stakeholder meetings have become more meaningful, stating that before, the meetings were more informational and describing his previous participation as, “I show up, I sign in, I drink some coffee and then I leave, and next year we do it again.”

In another video discussing the use of data, the school official acknowledges that prior to the consultant, decisions were made based on anecdotal information, and the official offered how the consultant has helped them utilize publicly accessible data from the CDE website. In the last video, the discussion centers around the integration and sustainability of the designation of being Significantly Disproportionate with other mechanisms such as LCAP. The member notes the importance of others understanding the significance of CCEIS efforts, characterizing these conversations as “a very touchy topic and subject when you’re telling folks that you’re suspending, expelling, and for us, mainly it was African American students, much more than you are the student populations, some people take that personally and don’t look at that objectively.”

These claims help explain the functional nature of the Leadership Team in its approach to remediating disproportionality through the CCEIS Plan mechanism. It highlights the lack of capacity for using and interpreting data, relying more on anecdotal information, and the lack of meaningful participation and outcomes of the group. The last admission of the difficulties conveying the systemic inequities perpetuated by the District for SWDs and Black SWDs resonates with the deniability of the problem by school officials. Although it is unclear how the realities of these inequities should be viewed objectively, an appropriate response to the data that shows how Black students and SWDs are being treated should entail some internalization of the problem. These concerns should be personal to many individuals who believe that Black students should be treated fairly and not subjected to differential and harsher discipline compared to other student groups.

Connecting these observations to the current Leadership Team and Plan, the District continues to lack the capacity to: fully understand and base decisions on data versus anecdotal information, make participation and implementation of the Plan meaningful and



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

directly correlate remediation efforts to the identified root causes, and fully accept the phenomenon and the systemic shortcomings contributing to the disproportionate suspensions of SWDs and Black SWDs.

### **Summary and Conclusions**

Overall, the review of policies and procedures, quantitative and qualitative data, and CCEIS Plan support and corroborate the concerns and allegations made in the CDE Complaint. These findings provide an abundance of evidence that systemic shortcomings and failings contribute to the disproportionate treatment of Black students, Black SWDs, and SWDs related to exclusionary discipline.

The District's discipline policy, BP 5144.1: Suspension and Expulsion/Due Process, is consistent with those modeled by the State and adopted by many LEAs statewide, particularly for listing the offenses contained in Education Code (48900, 48900.2, 48900.3, 48900.4, 48900.7) for the suspension and expulsion of students, and uses language consistent with section 48900.5 that indicates the legislature's intent to use alternatives to suspension or other means of correction prior to the application of exclusionary discipline.

BP 5144.1 lacks language regarding the protections afforded by IDEA regulations 34 CFR Sections 300.530 and 300.536, though it contains one sentence alluding to the above IDEA regulations by referencing policy cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities). However, this section is absent from both the policy and Annual Parent-Guardian Notification provided to families at the start of each school year. Although policy 5144.2 was found on the Gamut Online system, this is not considered a viable mechanism for informing the field and families of these protections. Access to this information is critical for both school personnel and families who rely on these documents to know their procedural due process rights.

AR 5144.2 contains consistent language with the requirements regarding the procedural safeguards of SWDs when removals reach or exceed 10 days or when the removals constitute a change in placement. More notably, it clearly identifies the principal and or their designee as being responsible for tracking the days and partial days of disciplinary removals in order to carry out manifestation determination reviews.

Of concern is the Board of Education's intent of establishing a zero-tolerance policy for serious offenses, particularly because it lacks specification on what constitutes a serious infraction, leaving the application of this intent open to interpretation and susceptible to bias. In addition, the Discipline Matrix and E 5144.1 Behavior Consequences Matrix contradict this edict by including expulsion and referrals to law enforcement for all infractions, with the exception of attendance, further obscuring the stated intent.

More importantly, research shows the negative outcomes zero-tolerance policies have on vulnerable groups of students, including students of color, SWDs, foster students, and others from traditionally marginalized groups (LiCalsi et al., 2021; Skiba, 2014). Maintaining and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

endorsing such draconian and authoritarian policies will further perpetuate inequities against Black students and SWDs.

The District lacks procedures to guide schools and administrators through the suspension process in a uniform and consistent manner. The Discipline Matrix and the Behavioral Consequences Matrix can be considered procedural tools to guide the selection of potential disciplinary options, but both fail to provide substantive guidance to ensure the equitable application of OSS. Of the documents submitted, these most closely resemble procedures but lack clear step-by-step instructions to achieve the desired organizational behavior necessary to constitute a procedural guide.

The absence of procedures causes concern given that schools do not possess a formal document that outlines step-by-step actions required to suspend a student. Although a procedural guide was found in the Expulsion and Alternative Placement of Students with Special Education Services, there was no mention of this checklist and/or document during the site visits or during discussions with senior officials. The checklist was only found during a review of District materials related to the expulsions of SWDs, and it is likely site level personnel are unaware of these procedures.

Functional procedures in this area should include guidance such as but not limited to: how to determine if the offense warrants a short-term removal; how to select other appropriate means of corrections; mandatory information to document on suspension notice forms and incident reports; requirements for data entry and maintenance in the student information system; notifications to parents to discuss the incident and to provide formal written notice; and disability related considerations when suspending SWDs.

A positive of the Behavioral Consequences Matrix is the heading above third tier offenses that states “Must use other means of correction before suspension for the following.” This tier of offenses is considered less severe yet more subjective and discretionary and includes infractions such as disruption or willful defiance and acts or use of obscenity/profanity/vulgarity. While all infractions indicate that an other means of correction should be used first, all except one violation (#29 – Attendance) authorize schools’ discretion to recommend a student for expulsion or referral to law enforcement. This constitutes an overreaching authorization of zero-tolerance policies and is contradictory to the heading that clearly mandates the use of other means of correction prior to suspension.

The broad discretion given to administrators to make a recommendation to expel a student for minor infractions is of serious concern, but, unfortunately, this is consistent with the CDE’s Administrator Expulsion Matrix. However, the CDE does not mandate this broad discretion to administrators for recommending expulsions, nor does it condone law enforcement referrals for any offenses that do not violate criminal code. Therefore, the District can choose to revise this policy to protect SWDs and students of color from the disproportionate impact of this policy.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In addition, given the District's longstanding CDE designation of Significant Disproportionality with exclusionary discipline, it is important to establish policies that include an appeal process. This will equip families with a mechanism for recourse to mitigate the inequitable impact SWDs and students of color experience as a result of removal.

The lack of procedures or a manual to guide the organizational behavior of administrators through the suspension process is indicative of systemic shortcomings that contribute to the disproportionate use of exclusionary discipline for Black students and SWDs. Without step-by-step guidance, the District is vulnerable to a wide range and variability of practices among schools as well as by administrators from the same school. Sound and clear policies and procedures are essential for establishing a system that is fair, equitable, and consistent in its use of exclusionary discipline. More importantly, these policies and procedures should discourage the use of OSS and center around a reliance on issuing other means of correction and positive behavioral supports through a well-structured and functioning multi-tiered system of supports (MTSS) in accordance with Sections 48900.5 and 48900(w)(2).

Lastly, the OSERs' interpretive guidance letter points out the need to have policies and procedures in place that consider a child's disability and whether the IEP's support and services are appropriate to address a SWD's behavioral needs, even after a short-term removal. The letter also clarifies the misconception by many SEAs, LEAs, and administrators that short-term removals of SWDs are not subject to these considerations to ensure FAPE. This clarification and the inclusion of language that requires schools to consider disability even for short-term removals in discipline policies and procedures should have an immediate impact on practice and refocus the correction of misbehavior from punishment to effective discipline that aims to support behavioral needs and teaches the student acceptable conduct.

The review of quantitative and qualitative data validated many areas of concern regarding the practices associated with the application of exclusionary discipline, data entry and maintenance, and the overrepresentation of SWDs and Black SWDs.

Overall, the District's high suspension rate (8.1%) substantially surpasses the State average of 3.5. Black students both with and without disabilities are susceptible to experiencing exclusionary discipline compared to all other students. Black students represent 17.0% of the District's enrollment yet comprise 44.0% of all suspensions. The rate of suspension or risk for these students is 20.9%, which translates into 21 out of 100 Black students being subjected to at least one suspension. This rate is six times higher than the State average. The overall risk ratio (3.83) for Black students exceeds the State's threshold of 3.0 and is considered significant disproportionality.

When disaggregated by disability status, nondisabled Black students are similarly overrepresented and are 3.74 times more likely to experience an exclusionary discipline removal compared to their nondisabled peers from all other racial/ethnic groups. Both the risk and risk ratio far exceed the State average and threshold for determining significant disproportionality.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Students with disabilities are more than two times (risk ratio of 2.30) as likely to be suspended as their nondisabled peers, meaning two special education students are suspended per one general education student. While this level of disproportionality does not exceed the 3.0 threshold set by the CDE, it is considered disproportionate overrepresentation and requires remedial efforts to reduce the disparity. Black SWDs make up 52.8% of all special education students suspended and demonstrate a suspension rate or risk of 30.6. This is equivalent to approximately 1 in 3 Black SWDs experiencing at least one disciplinary exclusion. Black SWDs are 3.16 times more likely to be suspended than SWDs from all other racial/ethnic groups, exceeding the State average.

Although the State has not identified the District as disproportionate in the area of one-time suspensions for Black students and Black SWDs, these data show the overrepresentation exceeds the State's 3.0 threshold. Regardless of the CDE's designation, the District must recognize and address these disparities as well as those with risk ratios of over 2.0.

Disparities with long-term removals of 10 days or more are even more problematic for Black students and Black SWDs. Black general education students are 7.57 times more likely than their nondisabled peers from other racial/ethnic groups to experience a long-term removal. Despite the lack of similar legislative protections or oversight<sup>33</sup> for general education students who are removed for 10 days or more, this finding substantiates the systemic inequities concerning exclusionary discipline for Black students.

For several years, the CDE has designated the District as being Significantly Disproportionate in the area of long-term suspensions for Black SWDs. Overall, SWDs make up four out of 10 students who are subjected to these long-term removals. However, Black disabled students are the most vulnerable to these removals and are 5.21 times more likely to experience a long-term removal when compared to all other SWDs, far exceeding the 3.0 threshold set by the State.

The high rate of suspensions (42%) noted at Phoenix Community Day School (CDS) is of concern given the nature of the program, which houses many of the students who were recommended for an expulsion. This rate is indicative of poor implementation of positive behavioral supports and social emotional services to address the behavioral difficulties exhibited by students. The high rate of suspension is not a single year anomaly, with Phoenix CDS reporting suspension rates of 43% in 2019-20, 60% in 2018-19, and 32% in 2017-18. This poor performance with exclusionary discipline should have triggered remediation efforts pursuant to Section 48911.2, which requires schools that exceed a 30% suspension rate to implement programs to reduce the use of OSS. Although this issue was not discussed with school officials, the data suggest ineffective remediation efforts and a failure by senior leadership and the CDE to monitor and hold the school administration accountable.

---

<sup>33</sup> However, disparities for Black general education students do fall under the protections of Title VI that protect students from discriminatory practices on the basis of race and color.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Overall, Black students with and without disabilities are the most vulnerable and are susceptible to both short- and long-term removals, resulting in highly disproportionate overrepresentation when compared to their enrollment and to all other students. These findings are indicative of systemic issues that can be attributed to inequitable policies, procedures, and practices that result in the poor outcomes and mistreatment of Black students.

Long-term removal of students translates to loss of educational opportunities, increasing the achievement gap for students of color and SWDs. During the 2021-22 school year, the District logged a loss of 8,363 instructional days due to OSS. Black students with and without disabilities made up 50.0% of total days lost compared to White students with and without disabilities who accounted for only 5.7% of the total loss.

SWDs accounted for 35.4% of all instructional days lost, and Black SWDs accounted for 57.8% of the days lost for SWDs. The high rate of lost instructional days should be of serious concern, particularly for a District that fares so poorly academically compared to State and county averages.

The significant use of suspensions and subsequent loss of instructional days contribute to and worsen factors associated with school failure that elicit misconduct. Rather than punishing students by denying them access to the educational environment, the District should mitigate the negative outcomes of OSS for students who lack academic readiness and necessary skills. Poorly performing students require better and more consistent direct instruction, not disciplinary removals that will only perpetuate the gaps between their abilities and curricular demands.

Data indicates Black students, Black SWDs, and SWDs are issued harsher penalties or longer durations of suspension compared to nondisabled students and students from all other racial/ethnic groups. Black general education students are issued the maximum 5-day removal for 29.6% of all suspension events. These students are also less likely to be given a 1-day suspension compared to White general education students (Black: 14.0%, White: 18.9%). Similar patterns were observed for SWDs, with Black disabled students being issued the highest rates of 5-day suspensions and White disabled students being issued the highest rates of 1-day suspensions when compared to all other disabled students.

Data on the number of days issued and reasons included to justify a suspension suggest that school administrators treat Black students, SWDs, and Black SWDs inequitably and apply more punitive disciplinary actions compared to other students. Analysis on three subjective infractions shows that Black students and Black SWDs are more likely to be punished with an OSS for minor infractions (e.g., profanity/obscenity/vulgarity, disruption/defiance, threat to cause harm).

These disparities are a prime example of the impact that comes from lacking sound and clear procedures to ensure equitable practices. The analysis and findings on disparate removals of Black students with and without disabilities for the three referenced subjective minor

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

infractions are indicative of the broader effect of bias on disciplinary referrals. For example, these incidents were likely initiated by a teacher referral and concluded with an administrator issuing suspensions at higher rates for Black students. Teachers and administrators have the ability to exercise discretion when interpreting these minor infractions as more or less problematic at different points of the incident. Therefore, the data support the notion that for Black students who engage in minor misconduct, the decision to make the initial referral and issue a punishment is more likely viewed with greater severity when compared to students from all other racial/ethnic groups with and without disabilities.

Lacking clear and sound procedures is linked to problems with documentation and reporting of OSS and is indicative of systemic issues that contribute to noncompliance and variability in practices. The underreporting of suspensions found between the school level documentation and the dataset submitted to the CDE is troublesome and likely to be an underestimation of suspensions. In addition, the high prevalence of informal suspensions exacerbates this underreporting. This carries implications for ensuring SWDs are afforded the procedural protections of IDEA for long-term removals. This also reveals a lack of administrative oversight at the site and District level for ensuring that administrators stay within the authority granted by education code to limit periods of removals to no longer than 5 days and for monitoring the accurate reporting of suspension to parents and the State. Lastly, the application of informal and long-term removals of SWDs has implications for additional days of lost instruction, ensuring FAPE, and worsening the achievement gap.

The review of school level documentation provided insight into the practices associated with law enforcement referrals, restraints, and searches. These practices show the high reliance on security and law enforcement for dealing with student misconduct and the preponderance of negative and traumatic experiences all students, and in particular Black students with and without disabilities, are subjected to on campuses. Furthermore, this is indicative of a system that criminalizes student misconduct and perpetuates the school-to-prison pipeline phenomenon.

School level suspension notice forms also revealed questionable practices, particularly related to the application of exclusionary discipline for incidents that occurred off campus and after school hours. The use of social media and videos captured by students of incidents off campus or during non-school hours by school officials and security shows an overreach in the authority to issue school discipline.

Despite policy and guidance on the Behavioral Consequences Matrix that requires school to issue other means of correction prior to an OSS for infractions not deemed a threat to the safety of others or school property, Black students and Black SWDs still show higher rates of OSS compared to other means of correction. White students are afforded more lenient disciplinary actions or other means of correction compared to OSS, which also translate into less loss of instructional time, more access to positive behavioral supports, such as counseling, and less stigma and negative outcomes associated with exclusionary removals.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

During the site visits, administrators described consistent procedures and processes used when suspending students, including practices related to the documentation of these events and notification to parents. Schools claimed to review OSS data periodically both with site level staff and with District support staff and administrators. All sites felt suspensions were accurately reported within the student information system. Despite these claims, data clearly indicate the prevalence of variability in the documentation and decision-making processes. Data also show that schools fail to accurately report suspension events and the duration period issued.

Responses of comprehensive site administrators regarding concerns about the disproportionate removal of Black SWDs were mixed. Although two noted this as an area of concern and focus, the other three were less committal. Two administrators provided responses that avoided the issue of race, expressing an overall concern with the suspension of any and all students, while the other simply stated it was on their radar. When asked what could help reduce suspension, one principal expressed the home environment as a contributing factor to student misconduct. These types of comments are of concern and consistent with a color-blind ideology. This ideology is problematic as it aims to view the treatment of all students as equals, without regard to race, while simultaneously denying the racial experiences of people of color. A color-blind ideology also denies or minimizes racial inequality as a result of factors not associated with racial dynamics, such as one group's cultural values or economic factors unrelated to race (Tatum, 2017).

The telephone survey of families corroborated many of the allegations raised in the CDE Complaint and provided insight into inequitable practices carried out during the suspension process. Participants reported inconsistent practices in the documentation and notification of suspensions, considerations of disability when issuing suspensions, and the use of informal removals.

Of most concern is the low rates of conferences to discuss the suspension, infraction, and duration of the removal with parents, with only 46% of the families reporting being invited to a meeting. The opportunity for parents to be informed of the incident and foster partnership with school officials in matters of discipline are critical to ensuring an equitable process for suspending students. In addition, the District should create a policy that mandates a parent conference when a student is suspended, with an emphasis on other means of corrections, as authorized by Education Code Section 48914. Due to the high number of suspensions, inequitable practices observed, and disproportionate impact experienced by Black students, Black SWDs, and SWDs, the District should include an appeal process that is explained to families during the suspension conference.

Overall, negative perceptions of the effectiveness of exclusionary discipline for deterring future misconduct and the inequitable treatment of students regarding race and disability show a high level of dissatisfaction with the approach administrators use to apply disciplinary actions.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Families also corroborated and provided insight into the use of trauma-inducing practices when responding to student misconduct, such as the restraint and handcuffing of students, involvement of SROs in discipline, and searches conducted of a student's person or belongings. In addition, former and current students confirmed the reliance and normalization of these practices at schools. Overall, this feedback is consistent with organizational behaviors that perpetuate the school-to-prison pipeline phenomenon and criminalize student misbehavior. In addition, these practices are wholly inconsistent and incompatible with schools that effectively implement district- and school-wide positive behavior supports and interventions.

The review of quantitative and qualitative data support and validate the concerns and allegations brought forth in the CDE Complaint. The data present evidence of pervasive and systemic problems that disproportionately impact Black students, Black SWDs, and SWDs. It is apparent that schools operate with little guidance and oversight to ensure consistent and equitable practices, a problem which is further exacerbated by the denial and minimization of racial inequities by staff.

Analysis of the 2021 CCEIS Plan and feedback from the Leadership Team revealed a lack of a cohesive and comprehensive approach for reducing the disproportionate suspension and long-term removals of SWDs and Black SWDs.

Despite including some assertions or evidence (data) that directly correlate the root causes and associated performance in these areas, the Plan is based on assumptions and assurances instead of taking credible action. The failure to directly address the identified root causes, such as staff biases that contribute to inequitable discipline practices and the perpetual delays in the revision of the Discipline Matrix, are indicative of the District's lack of capacity and organizational will to address these longstanding inequities and disparities.

The data are abundantly clear and available, yet the Plan abdicates any real responsibility for the disproportionate use of school discipline on SWDs and Black SWDs. The Leadership Team's deniability of these systemic problems further exacerbates the issue. Until school leaders acknowledge the realities experienced by students and families, as supported by data, change and reform will not occur. There is no doubt the use of suspension and long-term removals is a systemic problem that disproportionately impacts Black students, Black SWDs, and SWDs.

Although the CCEIS process is intended to guide LEAs to methodically address disproportionality, the approval of this Plan by the CDE and/or its external consultants is a disservice at best. Regardless, the District must assume the responsibility to obtain the necessary capacity and expertise to address these disparities. It must establish systems to support these efforts, which include implementing clear, concise, uniform policies and procedures that guide teachers and school officials step-by-step when making disciplinary referrals and issuing suspensions.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Many of this investigation's findings are consistent with the negative and inequitable practices research identified as ineffective and detrimental to students of color and SWDs. This includes a lack of clear and concise policies and procedures, the adoption of zero-tolerance policies, disparities in the application of OSS and days issued, and loss of instructional days. The deniability of the pronounced and persistent problem with the disproportionate removals of Black students, Black SWDs, and SWDs, as well as the lack of understanding of racial inequities seen in the CCEIS and the Leadership Team, are indicative of systemic and structural biases and shortcomings for dealing with issues of equity and race.

Section 504 regulations include requirements for districts to make reasonable modifications to the disciplinary policies and procedures that result in unjustified discriminatory effects based on a disability, even if unintentionally. It recognizes that:

Schools may impose legitimate safety requirements necessary for the safe operation of the school's services, programs, or activities, but the school must ensure that its *safety requirements are based on actual risks, not mere speculation, stereotypes, or generalizations about individuals with disabilities.*

The District should heed this guidance. The exclusionary disciplinary actions observed are consistent with the ineffective practices found in the research literature. It is within the Board of Education's (BOE) authority and responsibility to reform these policies and practices. Additionally, it is within their purview to demand clear and concise procedures that are mandated districtwide. Effective accountability mechanisms cannot exist without uniform policies and procedures, including those that dictate the accurate documentation and reporting of exclusionary discipline. The following excerpt summarizes this authority and responsibility, stating:

Because available punishments for recalcitrant schoolchildren are determined at the state level by statute, actual discipline practices vary by jurisdiction. School districts derive the power to implement rules and regulations from state legislatures. And, in turn, those school districts typically imbue school personnel with the authority and responsibility of enforcing school rules. Therefore, local school boards and school principals have wide discretion, not only in the formation of conduct rules and regulations, but also in determining appropriate punishments for students who break those rules. (Trojan, 2003)

The data are available for senior leaders and the BOE to make informed decisions. The research is clear that zero-tolerance policies, as well as exclusionary disciplinary practices including OSS or ISS, contribute to negative outcomes that disproportionately impact Black students with and without disabilities as well as SWDs. Simply put, the information exists to ignite a sense of urgency to this longstanding misuse of exclusionary discipline. Until now, the District has lacked the organizational will to recognize the extent of the problem, but the opportunity has presented itself to eschew a similar future and instead engage in credible evidence-based reforms that will mitigate the harmful effects these punitive disciplinary actions have on the children they are intended to serve.

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## Allegation Determination

- 3.1. The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including out-of-school suspensions (OSS).
- Allegation 3.1 is founded.
    - The data present clear evidence that SWDs and Black SWDs are disproportionately subjected to out-of-school suspensions.
    - SWDs have a risk of suspension of 15.1%, demonstrably greater than the 3.5% State average for all students. SWDs are twice as likely (risk ratio of 2.30) to be suspended than their nondisabled peers.
    - Black SWDs exhibit the highest suspension rate (30.6%) of any other student group in the District, including those without disabilities. Black SWDs are 3.16 times more likely to receive an OSS, exceeding the 3.0 threshold set by the CDE to identify disproportionality.
    - SWDs and Black SWDs are subjected to harsher punishments as defined by a 5-day suspension for unique suspension events.
    - The District lacks uniform policies and procedures to ensure equitable school discipline. Schools use a variety of suspension forms to document suspensions and various mechanisms to track suspensions. This exacerbates subjectivity in the suspension process, contributing to inequitable practices and poor data maintenance.
    - Black SWDs are more likely to receive an OSS than an other means of correction, compared to White students. This finding is evidence of inequities in the application of less restrictive forms of school discipline and is inconsistent with Education Code 48900.5(a).
- 3.2 The District utilizes a matrix specifying the minimum and maximum disciplinary actions authorized for violations of various education code provisions, which gives school officials discretion to recommend students for suspension or expulsion for *any* education code violation. Despite citing this matrix as one of the root causes for the disproportionate OSS of Black SWDs within its Comprehensive Coordinated Early Intervening Services Plan (CCEIS Plan) for addressing Significant Disproportionality identified by CDE, the District has failed to eliminate or revise this matrix since 2014.
- Allegation 3.2 is founded.
    - The District has failed to revise or discontinue the use of the Discipline Matrix pursuant to its obligations under the Significant Disproportionality CCEIS process.
    - The Policy's minimum and maximum number of suspension days specified for each education code violation provide administrators wide discretion for applying disciplinary actions, resulting in inequitable treatment of SWDs and Black SWDs.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

3.3 The District reports fewer suspensions and expulsions than occur due to the use of informal disciplinary removals which exclude students without documentation and reporting.

- Allegation 3.3 is founded.
  - The data analysis of site level suspension data and suspension information reported by the central office to the State demonstrates a high level of inaccuracies and underreporting regarding the number of days students were removed.
  - 32.4% of school-based suspension notice forms undercounted the duration of the suspension by at least 1 day. This finding shows the high use of informal removals that are not reported to the State.
  - This carries implications for being able to identify SWDs who are approaching the 10-day threshold required to hold a manifest determination review meeting.
  - Feedback from the parent survey also found corroborating evidence that schools engage in informal removals by calling parents to pick up their child after a disciplinary incident that is not formally recorded or reported.

3.4 The matrix authorizes school officials to refer students to law enforcement for any education code violation. The matrix fails to consider the impacts of disability when making law enforcement referrals, noting “law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students.”

- Allegation 3.4 is founded.
  - The Discipline Matrix authorizes administrators to make a law enforcement referral for any education code violation, which is inconsistent with Education Code 48900.
  - The matrix fails to recognize disability when issuing a law enforcement referral and applies the same standard prescribed to general education students.
  - The high number of law enforcement contacts noted on suspension notice forms is indicative of schools’ reliance on the SRO for school discipline.

3.5 The District lacks procedures for guiding school officials’ decisions regarding discipline, resulting in the subjective and biased application of OSS for students with disabilities, in particular Black SWDs. Furthermore, this causes Black SWDs to be overrepresented for long-term suspensions of over 10 days, compared to their nondisabled peers, in particular White SWDs.

- Allegation 3.5 is founded.
  - The District lacks uniform procedures to guide administrators when making determinations that result in exclusionary discipline. Schools

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

were observed to use multiple versions of suspension forms, various data collection mechanisms, and inconsistent notification and documentation of the suspension incident to parents, demonstrating a lack of uniform procedures when issuing suspensions.

- Variability between schools in the rates of suspension, including long-term suspensions, is evidence of inequitable practices due to subjective decision-making processes when issuing suspension that disproportionately harm SWDs and Black SWDs.
- Long-term suspension rates of SWDs are 2.0%, with special education students 3.38 times more likely to experience a long-term removal compared to their general education peers, while Black SWDs show a risk of 4.8% and risk ratio of 5.21. Both are considered significantly disproportionate, far exceeding the CDE's 3.0 risk ratio threshold.
- Analysis of suspension notice forms and feedback from families who participated in the telephone survey confirmed the district-wide practice of informal suspensions.
- School officials appear to issue suspensions for events that occurred during non-school hours and off campus. This is in violation of Education Code 48903.

### 3.6 The District underreports OSS to the CDE.

- Allegation 3.6 is founded.
  - Site level suspension notice forms and parent letters found 83 suspension events for 74 students (unduplicated) that were not reported to the CDE as part of its end-of-year reporting.
    - This is likely indicative of an underrepresentation of suspensions that were not reported, given that site level documentation was received for only 68% of those suspensions recorded and reported to the CDE.
  - A considerable number of suspension notice forms contained evidence that students were removed from campuses prior to the start date listed. These practices were observed at all schools and indicative of systemic problems that are in violation of Education Code 48903(a), which limits schools' authority to issue suspensions for a duration longer than 5 days per violation.
  - The significant use of informal suspensions, as revealed by the school level suspension forms and parent survey feedback, suggest a high level of underreporting.

#### **Section 4. Exclusionary School Discipline of Students with Disabilities, Including In-School Suspensions**

The California Department of Education (CDE) Complaint includes various allegations regarding the disproportionate use of in-school suspensions (ISS) with students with disabilities (SWDs) and Black SWDs. The review examined the District's policies, procedures, and practices to determine alignment with state and federal laws and whether systemic problems existed that contributed to systemic noncompliance. This section focuses on the role of the Student Support Center (SSC) with in-school removals, including in-school suspensions (ISS) and on-campus detention (OCD). In addition, the review examined the implementation of Positive Behavioral Interventions and Supports (PBIS) to gauge the effectiveness of the efforts to reduce school discipline referrals and removals.

This section includes the following regarding ISS and PBIS: various allegations made in the CDE Complaint; review of literature; review of applicable laws and regulations, and District policies and procedures regarding ISS; review of quantitative and qualitative data; summary and conclusions; and allegation determination.

#### **Allegation 4: In-School Suspensions**

The CDE Complaint includes the following allegations regarding ISS:

- Allegation 4.1 The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including in-school suspension.
- Allegation 4.2 The District maintains on-campus detention (OCD) rooms and Student Support Centers (SSCs) on its comprehensive campuses that claim to provide positive behavior supports and interventions but "in practice, function as rooms for informal and sometimes multiple day-long, in-school suspensions" (p. 13).
- Allegation 4.3 Accommodations, supports, and services specified on students' IEPs are often disregarded during these removals, and students are only provided access to Structured Academic Instruction (SAI) support for a minimum of one period per day, even if their IEP requires more.
- Allegation 4.4 SWDs are referred to OCD and the SSC due to unmet disability related academic, emotional, and/or behavioral needs.
- Allegation 4.5 District policy fails to require the documentation of removals to OCD and SSC and neglects the reporting of said removals to CDE, the documentation of the disciplinary actions in students' educational records, the tracking of total number of days, and the completion of manifestation determination reviews (MDRs) for students who experience more than 10 days of removals.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Allegation 4.6 SSC and OCD rooms are also used for conducting searches and/or investigation of students that lead to law enforcement involvement and result in further loss of instructional time. In addition, students referred to the SSC are often escorted by security staff, which “stigmatizes students and institutionalizes the SSC as punitive, rather than restorative, intervention” (p. 14).

### Review of Literature

The use of in-school suspension (ISS) continues to grow as schools and districts aim to reduce reliance on out-of-school suspension (OSS). This shift is in part a response to the negative student outcomes and criticism associated with OSS (Trojan, 2003). ISS is generally viewed as a less restrictive method of discipline with a financial incentive for schools to recover funds typically lost when students are removed from the school’s campus. In addition, because students can be supervised behaviorally and complete academic work during ISS, it is commonly presumed to be preferred over OSS (Bloomberg, 2004).

Despite these perceptions, research literature is scant on the impact of ISS and its association with the disparities and academic outcomes reported in OSS (Cholewa et al., 2018). However, the few studies that have examined the impact of ISS on educational outcomes have found negative repercussions similar to those associated with OSS, yet more research is needed to better understand its potential effectiveness. This is particularly important as some states and districts move to ban the use of OSS for specific groups of students, such as H.B. 674 in Texas (ban suspensions of third grade students and below), or types of infractions, such as willful defiance for students in kindergarten through eighth grade, as seen in California through S.B. 419 (Smith et al., 2021).

In-school suspension programs can vary from district to district and school to school; therefore, it is important to establish a consistent definition of what constitutes an ISS. Two definitions are offered in this report, and the common characteristics will be discussed regarding the District’s interpretation of what constitutes an ISS.

Short (1988) noted that ISS programs have three main components:

1. the placement of the student upon arrival to school in a separate classroom away from peers and the regular education environment
2. a certified teacher, educational assistant, or both to oversee the student in the suspension classroom
3. lunch in isolation

The U.S. Department of Education (2016b) defines an ISS as:

a disciplinary action that temporarily removes a student from his or her classroom or classrooms for at least half a day and keeps him or her under the supervision of school employees. Not all in-school suspension is inclusionary because it may result in loss of instructional time.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Short's definition provides an operational criterion thereby limiting the interpretation of an ISS program. On the other hand, the definition offered by the U.S. Department of Education (ED), while broad in language, provides a criterion that lacks sufficient guidance to ensure the consistent design of an ISS program and is subject to interpretation. Notwithstanding, the ED's definition contains three elements to define an ISS. The first is a temporary removal of the student for at least half the school day, which establishes a duration threshold. The second factor is implied that the removal must be precipitated by a behavioral incident, which establishes that the ISS is a disciplinary action. The third is an inference that the removal is considered exclusionary if it results in lost instructional time.

The structure of an ISS program may impact its potential to result in racial/ethnic or disability-based disparities or poor academic outcomes. For example, the Texas Legislative Budget Board (TLBB, 2011) examined the ISS programs of six districts and identified the following areas of concern (Fabelo et al., 2011):

- insufficient written procedures for ISS
- inadequate training for ISS staff
- inconsistent delivery of academic work given to students in ISS

As noted earlier, few research studies have examined the impacts of ISS on academic outcomes, and these initial findings point to similar negative outcomes as noted in the well-established OSS literature. The first and most notable is a study conducted by Cholewa et al. examining school and student characteristics that predicted ISS and its associations with academic outcomes. This study used a nationally representative sample of nearly three million students with an analytic sample of 11,880 from the High School Longitudinal study of 2009.

The study found disparities in rates of ISS across several characteristics: males were more likely to receive an ISS than females, Black students were more likely to receive an ISS than White peers, students with lower socio-economic status (SES) were more likely to receive an ISS than those with higher levels of SES, and SWDs were more likely to receive an ISS than those without disabilities. These findings are consistent with that of OSS, suggesting that schools may be moving from one disproportional disciplinary practice to another.

In addition, the study found negative associations between ISS and academic outcomes, noting that students who experienced an ISS had significantly lower GPAs and were four times more likely to drop out of school than their peers.

The authors also note that the findings of previous studies have been mixed related to Black students' risk or odds of ISS. Studies by Blake et al. (2011) and Hillberth and Slate (2014) found that Black students were significantly more likely than White students to experience an ISS, whereas research by Skiba et al. (2011) found that Black students were less likely to be issued an ISS than White students. These inconsistent findings might be due to some schools' overreliance on OSS for Black students rather than imposing less restrictive punishments, such as an ISS.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Although this research poses some limitations, including the lack of causal analysis, Cholewa et al. offer insight on its implications, noting that the negative association between ISS and academic outcomes parallels those of OSS and cautioning school officials who issue school discipline to consider these findings when contemplating ISS as an alternative to OSS.

Another large study by Smith et al. (2020) explored the relationship between ISS and academic failure by examining standardized state test data of more than 380,000 ninth grade students in Texas. The study found:

- Students with one ISS have a 57% increase in the predicted number of standardized test failures than students who have not received an ISS.
- The risk of test failure steadily increases with each additional ISS.
- Students with five or more ISS are expected to fail tests at a rate 120% higher than those who have not received an ISS.
- Students who receive a free/reduced lunch (an indicator of SES) are expected to fail tests at a 19% higher rate than those who do not.

These findings reveal how ISS contributes to widening the achievement gap for students of color, in particular Black students, and SWDs. Smith et al. conclude by noting that given the lack of evidence on the effectiveness of deterring misconduct, these findings “provide educational leaders with an additional rationale for using alternative, non-punitive disciplinary strategies that do not undermine the academic achievement of students” (Sughrue, 2003, as cited in Smith et. al., 2020).

More importantly, this identifies the need for school leaders to recognize that the disproportionate representation of students of color and SWDs in disciplinary data contradicts the increased efforts to reduce the academic gaps between cultural groups through mandates such as No Child Left Behind (Donovan & Cross, 2002).

Although the literature on the impact of ISS is at an emerging stage compared to the well-established research on OSS, these findings show parallels between the negative outcomes of OSS on students of color and SWDs. Although the realities of student misconduct require disciplinary actions, these forms of exclusionary discipline (OSS and ISS) have punitive implications for students both in short- and long-term academic and social outcomes. Although ISS has gained traction as an alternative to OSS and can be justified as less restrictive by school officials, its negative implications must be considered and weighed carefully before issuing punitive discipline rather than disciplinary actions aimed at teaching prosocial behaviors or restorative programs.

Although the effectiveness of ISS has not been well researched, the following excerpt from Troyan (2003) summarizes the common perception of ISS in contrast to the reality:

The difference is that in theory students in ISS are receiving the same education as their classmates. They are expected to perform as well as their classmates and are treated as though they had been in class. But in practice, these students are only



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

receiving the mere shadow of an equal education, when they are the students who need instruction the most.

Alternatives to suspensions can include nonpunitive methods or other means of corrections, such as enrollment in a program for teaching prosocial behavior or anger management, participation in a restorative justice program, or a positive behavior support approach with tiered interventions that occur during the school day on campus.

This next discussion will examine the literature on School-Wide Positive Behavioral Interventions and Supports (SWPBIS) as a multi-tiered preventative behavior support framework intended to reduce discipline referrals and improve learning environments.

The framework consists of a continuum of tiered supports to students, including universal supports for all students, secondary supports for students at risk for challenges, and tertiary supports for individual students in need of highly intensive supports (Sugai & Horner, 2006). Within the first tier of universal supports, the expectation is that teachers and staff define, model, and teach expected behaviors; reinforce positive behaviors; and encourage prosocial behaviors. Discipline data are collected and used to guide decision making that is to be implemented through a team leadership process (Sugai & Horner, 2006).

Maximizing efforts at the universal level is critical for achieving a well-established universal system that allows more students to be successful and reduces the number of students requiring support at the secondary and tertiary tiers (Kim et al., 2014). In essence, reducing the need for Tier 2 and Tier 3 interventions will decrease the need for disciplinary referrals that could lead to ISS or OSS.

The Center on Positive Behavioral Interventions & Supports (2015) notes that the systemic implementation of School-Wide Positive Behavioral Interventions and Support (SWPBIS) is centered around four elements: identifying important outcomes, using data to make decisions, implementing evidence-based practices, and developing systems to ensure sustainable implementation with high fidelity.

Research has found some positive effects of SWPBIS, but the outcomes are not achieved solely through the adoption or training of staff on PBIS; positive outcomes also require program components to be implemented with fidelity (Blase & Fixsen, 2013).

Although schools have adopted SWPBIS to identify and address disproportionality, some research has failed to show a decrease in or effectiveness of reducing discipline disproportionality (Vincent et al., 2015; Skiba et al., 2011; Losen & Martinez, 2013). Some studies have found that even when SWPBIS is implemented with fidelity, Black students continue to receive inequitable discipline outcomes (Tobin & Vincent, 2011).

These findings are a sobering reminder that the presence or adoption of SWPBIS and implementation fidelity do not equate to improved outcomes for students impacted by disproportionality, such as Black students and SWDs, without the application of further measures. The importance of effective universal supports that teach and reinforce positive

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

behaviors is critical for reducing disciplinary referrals. Notwithstanding, the collection and use of data for decision making and implementation fidelity are cornerstones of an effective SWPBIS.

### **Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures**

The following discussion reviews applicable education code requirements and regulations regarding school discipline, including ISS, as well as relevant federal regulations covered under Section 504, Title II, Title VI, and the IDEA.

A review of the District's discipline policies and procedures submitted as part of this investigation was conducted to analyze alignment with applicable laws and regulations and to identify shortcomings that might contribute to the disproportionate application of ISS for SWDs and Black SWDs.

The discussion related to the education code, federal laws, and regulations included in this report is not considered comprehensive of all relevant laws and regulations. In addition, the policies and procedures reviewed represent the documents provided as part of the investigation, as well as documents that were obtained from sources such as the District website.

### ***State and Federal Regulations Regarding School Discipline***

Relevant California Department of Education (CDE) education codes were reviewed to determine if the District's policies and procedures regarding school discipline, including ISS and period suspensions or on-campus detention (OCD), are consistent with State requirements.

Section 504 and Title II are federal laws that protect qualified individuals with disabilities from discrimination on the basis of their disability, including school discipline. Title VI prohibits discrimination based on race, color, or national origin and includes mandates related to the non-discriminatory application of school discipline. In addition, the IDEA contains regulations with considerations and protections for students with disabilities who are issued short- and long-term removals.

Select sections of the education code and federal laws and regulations are summarized and included in this section as a reference and to guide the discussion on each allegation regarding ISS and PBIS. Excerpts of a letter issued by the Office of Special Education and Rehabilitative Services (OSERS) related to ISS are also discussed.

### **Education Code Regulations.**

The education code contains several sections related to in-school exclusionary discipline actions, such as detention, in-school suspension, and period suspension, as summarized below.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Education Code (EC) Section 35291 prescribes rules for local education agencies (LEAs) that govern certain administrative procedures and regulations when suspending students. Education Codes Section 48900 – 48927 dictate how schools can suspend or expel students, including considerations for alternatives to suspensions and other means of correction in EC Section 48900.5.

EC Section 48900.5 requires that suspension, including supervised suspension as described in EC Section 48911.1, *shall be imposed only when other means of correction fail to bring about proper conduct*. A student, including a student with exceptional needs, may be suspended upon their first offense for any of the reasons enumerated in EC Section 48900 if the school principal or superintendent of schools determines that the student committed an act identified in EC Section 48900 and related subdivisions or that the pupil's presence causes a danger to persons. Other means of correction include, but are not limited to, the following:

- a conference between school personnel, the pupil's parent or guardian, and the pupil
- referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling
- study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents
- referral for comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program or a plan adopted pursuant to Section 504
- enrollment in a program for teaching prosocial behavior or anger management
- participation in a restorative justice program
- a positive behavior support approach with tiered interventions that occur during the school day on campus
- after school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including but not limited to those operated in collaboration with specific parent and community groups
- any of the alternatives described in EC Section 48900.6 (Community Service)

EC Section 48910 allows teachers to suspend students from class for that day and the following day as punishment for any acts enumerated in EC Section 48900. The teacher is required to immediately report the suspension to the principal or designee for appropriate action. If the decision is made to keep the student on campus, the student shall be under appropriate supervision and the teacher shall request the parent or guardian attends a conference to discuss the suspension as soon as possible. The student shall not be placed in another regular class during the suspension period and the removal should only apply to the regular classes that occur at the same time the pupil was suspended. A teacher may also refer the student to the principal for consideration for an out-of-school suspension.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

EC Section 48911.1(a) allows students who are suspended from school in accordance with EC Sections 48900 and 48900.2 to be assigned by the principal or their designee to a supervised suspension classroom for the entire duration of the suspension if the student poses no imminent danger or threat to others, or if the action to expel has not been initiated.

EC Section 48911.1(b)(c) also indicates that students assigned to a supervised suspension classroom must be kept in a separate classroom, building, or site from other suspended students for the period of suspension.

Under this section, districts may claim apportionments or average daily attendance (ADA) for each student assigned to the supervised suspension classroom if the following conditions are met:

- The supervised suspension classroom shall be staffed as otherwise provided by law.
- Each student shall have access to appropriate counseling services.
- The supervised suspension classroom promotes completion of schoolwork and tests missed during the removal.
- The student is responsible for contacting their teacher(s) to receive assignments to complete during the removal. If no classwork is assigned, the supervising individual shall assign schoolwork.

Under this section, schools are required to notify the student's parent/guardian by email or telephone when the student is assigned to the supervised suspension classroom. For removals longer than one class period, a school employee shall notify the parent/guardian in writing.

EC Section 48925(d) defines "suspension" as a removal of a student from ongoing instruction for the purpose of readjustment. A suspension does not mean any of the following:

- reassignment to another education program or class at the same school where the student receives continuing instruction for the length of the day as prescribed by the Board of Education for students of the same grade level
- referral to a certificated employee designated by the principal to advise students
- removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the pupil to the principal or their designee as provided in EC Section 48910. A removal cannot occur more than once every 5 school days.

This definition is included to clarify the criteria that constitute an in-school suspension for the purpose of this investigation. First, the removal must be precipitated by a disciplinary infraction, which requires the student to be "readjusted" in order to return to their regular classroom environment. The reassignment to another education program or class is most likely to occur in a similar grade level class, such as a partner teacher or adjacent classroom that contains students of the same grade. The term reassignment within this context is not equivalent to the reassignment of students to the SSC, which includes students from multiple

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

grade levels who may or may not receive instruction at the same grade level and most likely will not receive direct instruction comparable to the classroom from which the student was removed.

### **Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964.**

As noted in the previous section, Section 504, Title II, and Title VI set firm expectations to prohibit schools and districts from engaging in discrimination in disciplinary actions on the basis of disability, color, race, or national origin.

Section 504 and Title II require the provision of appropriate modifications to ensure a student's disability-based behaviors are supported rather than punished and result in discriminatory exclusionary discipline practices. Section 504 mandates districts and schools review and make reasonable modifications to criterion, policies, procedures, and practices related to school discipline if unjustified discrimination outcomes occur, even if unintentional.

Title VI protects students from school discipline discrimination on the basis of color, race, and national origin, highlighting the need to also view the negative impact these policies might have on students of color and English language learners without disabilities. In addition, Title VI recognizes that students may be subjected to discrimination due to a combination of protected characteristics. This phenomenon is referred to as intersectional discrimination and can be a result of administrators acting on stereotypes of certain student subgroups.

These laws highlight the importance of ensuring school discipline policies, procedures, and practices protect and value the diversity of children and the intersectionality of their experiences.

### **Individuals with Disabilities Education Act (IDEA) Regulations Regarding Short- and Long-Term Removals.**

The IDEA includes regulations for the short- and long-term removal of students with disabilities from their learning environments. Select regulations are included in this section that apply to in-school suspensions and protections associated with long-term removal that constitute a change in placement.

34 CFR Section 300.530(a) requires school officials to consider unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a SWD who violates a code of student conduct.

34 CFR Section 300.530(b) gives site administrators the authority to remove a SWD who violates the code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for up to 10 consecutive school days in a school year to the extent those alternatives are applied to children without disabilities, and for additional removals of up to 10 school days in the same school year for separate incidents of misconduct, provided that the additional removals do not constitute a change of placement pursuant to 34 CFR Section 300.536.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

34 CFR Section 300.536(a) defines a change of placement due to disciplinary removals. A change of placement occurs if the removal is for more than 10 consecutive school days or the child has been subjected to a series of removals that constitute a pattern:

- because the series of removals totals more than 10 school days in a school year;
- because the child's behavior is substantially similar to the child's behavior in previous incidents in the series of removals; and
- because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

34 CFR Section 300.530(e)(f) requires schools to conduct a manifestation determination review meeting within 10 days of any decision to change the placement of the SWD because of a code of conduct violation, where the team must review all relevant information in the student's file, including any relevant information provided by the parent, in order to identify:

- if the conduct in question was caused by or had a direct and substantial relationship to the child's disability
- if the conduct in question was the direct or indirect result of the LEA's failure to implement the IEP

If either of these circumstances is confirmed affirmatively, the IEP team must conduct a functional behavioral assessment (FBA) and/or implement a behavioral intervention plan (BIP) for the student. If a plan already exists, the team must review or modify the BIP as necessary to address the behavior.

### **Guidance from the Office of Special Education and Rehabilitative Services (OSERS), April 2016.**

As noted in Section 3, the Department of Education Office of Special Education and Rehabilitative Services (OSERS) issued a Dear Colleague letter with guidance related to the inclusion of behavioral supports in students' IEPs and school discipline of SWDs. The letter contains guidance to states, LEAs, and IEP teams regarding the use of exclusionary discipline. To summarize the three areas highlighted, the first reminds LEAs and schools of their obligations to consider a child's disability and the impact exclusionary discipline has on the provision of a free and appropriate education (FAPE) as well as the harmful effects of disciplinary removals on SWDs. The second emphasizes the importance of considering changes to a student's IEP when disciplinary measures, including short-term removals, are employed. The third emphasizes that these removals may indicate that the child's IEP, and the implementation of the IEP, do not appropriately address the student's behavioral needs. It clarifies the legislative intent to have these considerations examined even for short-term removals and those that do not yet exceed the 10-day period.

The letter references the use of ISS, first reiterating the Department's longstanding stance that an in-school suspension should not be part of the days of suspension addressed in 34 CFR Section 300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general education curriculum, continues to receive the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

services specified in the child's IEP, and continues to participate with nondisabled peers to the extent they would in their current placement.

In a footnote, the letter clarifies the intent to apply the same analysis used for exclusionary discipline measures that apply to in-school suspensions for the purposes of 34 CFR Section 300.530.

### ***Review of the District's Policies and Procedures for In-School Suspensions***

This discussion will focus on policies related to ISS that consist of referrals to the on-campus detention (OCD) room and/or the Student Support Center (SSC). Documents related to the implementation of Positive Behavioral Interventions and Supports (PBIS) will also be discussed since these include many of the procedures (direct or implied) for referring students to the SSC. The following documents were analyzed to determine alignment with applicable state and federal laws and regulations:

- Board Policy Manual – BP. 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)
- Expulsion or Alternative Placement for Students with Special Educational Services (revised January 2014)
- Student Support Center – Staff Manual, Resources & Procedures
- Student Support Center – Fidelity Inventory Checklist
- Eastside HS PBIS/MTSS Staff Handbook
- Notice of Reassignment

BP 5144.1 Suspension and Expulsion/Due Process includes the guidelines for issuing suspensions and expulsions in accordance with EC Sections 48900 and 48915. As noted in the OSS section, the policy is directly taken from education code and is similar to policies adopted by numerous other school districts in California. Many components of the policy are consistent with education code, including requirements related to a teacher's right to suspend a student from class, requirements to notify parents, and for the application of other means of correction prior to a student's disciplinary removal.

The policy includes the following excerpts to emphasize the Board of Education's intent to use alternative methods of discipline prior to an OSS or expulsion:

- To correct the behavior of any student who is subject to discipline, the Superintendent or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144.1 – Discipline (EC Section 48900.5).
- Alternatives to suspension or expulsion also shall be used with students who are truant, tardy or otherwise absent from assigned school activities.

The policy includes direction consistent with EC Section 48900.1 for instances when teachers suspend students from their classrooms, including notification requirements to inform the parent/guardian, requiring a parent/guardian to attend a portion of the school day in the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

classroom, and guidance for conducting a post-visit meeting between the teacher, principal or designee, and parent.

The policy references EC Section 48900.5 other means of correction, which states that “a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student.” This language clearly sets the expectation that suspension is appropriate when alternatives to suspension have been attempted and failed to result in a change. Reporting requirements are also included later in the document, noting that whenever a student has been issued an other means of correction, school officials are required to document the other means of correction used and retain the form or information in the student’s record.

The policy references the District’s On-Campus Suspension Program, which includes the supervised suspension classroom, noting that for students who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the superintendent or designee can establish a supervised suspension classroom. It adds that “Except where a supervised suspension is permitted by law for a student’s first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct” (EC Section 48900.5, p.2).

The policy later defines the supervised suspension classroom (part of the On-Campus Suspension Program) in a manner consistent with education code language, which states:

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply:

- The supervised classroom shall be staffed in accordance with law.
- The student shall have access to appropriate counseling services.
- The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
- The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time the student is assigned to the supervised suspension classroom, the principal or designee shall notify the parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (EC Section 48911.1, p.7)

The language regarding the supervised suspension classroom acknowledges the Board of Education’s commitment to an On-Campus Suspension Program. This recognition is important since most site administrators expressed beliefs that minimized the role and



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

presence of ISS on their campuses. It also clearly establishes requirements for notifying parents either in person or telephone, and in writing when students are removed from their instructional programs for longer than one period.

The District maintains a document titled Expulsion or Alternative Placement for Students with Special Education Services. This document can be described as a procedural manual to guide the field through the required processes when suspending, expelling, or transferring SWDs. The first part of the document includes the heading “Guidelines and Timelines for Suspension and Expulsion of Special Education Students” and provides procedures used to issue suspensions, along with references to the protections afforded by IDEA for SWDs. For example, the following excerpt clearly establishes the expectation for schools to consider in-house suspensions as a suspension for the purposes of determining whether to hold a manifestation determination review in accordance with 34 CFR Sections 300.530 and 300.536: “When a student exceeds more than ten (10) days, either in-house or off campus suspension, then an IEP meeting must be held within ten (10) business days and parents shall be provided the procedural safeguards” (p.1).

The document also contains a checklist to guide school administrators when suspending SWDs. This useful tool could be overlooked due to its title, which does not specifically refer to procedures for issuing OSS. The third box of the checklist contradicts the edict requiring schools to include ISS as suspension days for the purposes of holding an MDR. Instead, it encourages schools to use in-school suspensions because these removals do not count as a suspension, thereby circumventing the procedural safeguards afforded by IDEA. It reads:

Use in-school suspensions and/or in school restrictions when possible. These do not count as days of suspension as long as the student continues to receive educational services to enable a student to access the curriculum and to progress towards meeting the goals set out in the student’s IEP. Support means a special education teacher or aide who works with the student. (p. 8)

This document is a prime example of the contradictory and unclear policies and procedures that exist. The guidance is also inconsistent with the OSERS’ language specifying what constitutes an ISS when counting these removals to hold an MDR. Moreover, staff interviews noted mixed interpretations of whether ISS days apply toward the long-term removal counts. School psychologists who participated in the focus group regarding MDRs all affirmed that ISS days are indeed counted. School officials provided a different interpretation noting that OCD removals do apply because students are not provided schoolwork to complete but reassignments (ISS) do not apply toward long-term removal counts.

Several documents related to the function of the SSC in the On-Campus Suspension Program were reviewed. The first document is an informational packet referred to as the Student Support Center – Staff Manual, Resources & Procedures. Contrary to its title, it lacks substantial procedural guidance. The document briefly describes the referral process and offers examples of Tier 1, Tier 2, and Tier 3 activities and interventions. Mental health

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

resources, both site-based and community-based, are listed with contact information for community agencies.

The only semblance of procedures was found in the *Referral Types and Process* section, where teachers are instructed to contact the parent as soon as possible upon removal of the student from their class. Teachers are instructed to fill out the Google form used by their site and include the number of days for removal, the reason, and classroom interventions used with the student. It also notes that students can be referred by an administrator for an “administrative hold” in instances when a student is asked to write a witness statement for a campus supervisor. No parental notification is required for this type of referral. The manual provides two options for accessing and completing referral forms, the first through the Google link and the second using a paper form. No mention of recording referrals in the SIS was included.

The Student Support Center – Fidelity Inventory Checklist guides schools through the process of assessing the level of PBIS implementation occurring at each site. It includes a rubric for scoring the implementation of various aspects of the program, including period suspension (reactive), small group (proactive), and alternative to suspension (reassignment). It also includes the responsibilities of the Student Support Mentors and Master Mentor and the tools to be used with students, such as the Think Sheet and Pre- and Post-Conference Student Survey. Although not a procedural manual, this framework is designed to measure the school’s adherence to policies and procedures when referring students to the SSC.

The following tables show the scoring criteria for the features of period suspensions, small group, and alternatives to suspensions. The rubric and criteria indicate the actions or procedures that coincide with the referral of a student to the SSC (Table 4.1).

Several procedures stand out regarding the role and presence of campus security officers and the documentation required when students receive a period suspension. First, the document clearly identifies the role and standard practice of security personnel escorting students from their classroom to the SSC. The *Documentation* criteria also show security personnel are authorized to enter period suspension information into the SIS’s Incident Management module. The *Personnel* criteria implies that some students “only interact with security,” highlighting the punitive nature of the removal.

The *Documentation* criteria suggest that informal referrals are allowed and that more formal referrals require teachers to use either an electronic Google form or a paper form. Although the period suspension should be entered into the SIS, it does not indicate which code to use to reflect the referral. The *Data Collection* criteria clearly define the expectation that SSC referrals are to be tracked and monitored weekly and monthly.

The *Curriculum* criteria imply some students are only given a reflection sheet despite that the intended outcome requires the student to be given a reflection sheet with classwork to complete or a core values mini lesson to review. Any reference to the implementation of IEP supports, accommodations, or services for SWDs is absent.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.1**

*Fidelity Inventory for Period Suspensions (Reactive)*

Feature	Scoring Criteria
1.1 Referral Process	0 = No referral process is used. 1 = Informal or multiple ways are used but are not clear to everyone. Staff has not been formally trained. 2 = Electronic or paper referral process is used. Security has a clearly defined role in student pick up. Staff has been trained.
1.2 Curriculum	0 = No classwork is provided. 1 = Students are given a reflection sheet. 2 = Students are given a reflection sheet <i>and</i> classwork to complete or a core values mini lesson to review.
1.3 Documentation	0 = No documentation is used. 1 = Students sign in. 2 = Security, a clerk, or an intake person documents in Incident Management as a Period Suspension.
1.4 Follow-Up Procedures	0 = No follow-up procedures are used. 1 = Follow-up takes place with teacher only. 2 = Follow-up takes place with teacher and family. The student is added to an SSC list for follow-up or is enrolled in small group support.
1.5 Personnel	0 = The student only interacts with security. 1 = The student meets with At-Risk Coordinator (Student Support Mentor) or Counselor.
1.6 Data Collection	0 = No data collection is in place. 1 = The number of students assigned to SSC weekly, monthly, etc. are collected.

The SSC provides an opportunity for students to engage in small group lessons to address specific challenging behaviors (Table 4.2). The inventory checklist does not offer additional context to the intent of these supports or the outcomes desired. The *Referral Process* does not present sufficient information to differentiate how students are referred, particularly for students whose participation is mandated as part of a disciplinary action. For example, one can assume that most students assigned to a small group using the Tobacco and Cannabis Tool Kit were assigned to the group for a related offense. In these instances, whether the small groups are part of the disciplinary action, the length of the program, and whether the small group also results in loss of instructional time are all unclear.

The criteria for the *Focus Area* imply a higher level of implementation for offering more supports covering academic, behavior, and socioemotional skills. Similarly, the *Curriculum* and *Activities* scoring criteria appear to be based on the program features offered rather than the number of groups or students who access the mini lessons offered. The *Activities* criteria state that small groups are assigned to lessons or activities of skill deficits as determined by data—implying a process for evaluating students’ needs in order to pair them with the right

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

curriculum and activities— but do not include the tools or methods for assessing skill levels. Though the collection and use of student level data are also mentioned in the *Documentation* and *Data Collection* criteria, it is unclear how the student level data is collected or progress is monitored.

The small group lessons and activities are mechanisms designed to teach students prosocial behaviors. The checklist inventory does not provide a full picture of how to implement these programs, such as the duration or when they occur. Although interviews and focus groups with site and senior level school officials included discussions on some of these programs, the feedback did not elaborate on the ability of the SSC to teach prosocial behaviors. In addition, the SSC logs and sign-in sheets did not mention small groups, and for instances in which a student was assigned a core value mini lesson, it appeared those were completed individually during the student's reassignment period.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.2**

*Fidelity Inventory for Small Group (Proactive)*

Feature	Scoring Criteria
2.1 Referral Process	<p>0 = No referral process; students attend when they want</p> <p>1 = Staff and family refer students for support AND staff have been trained and families informed of services available in the SSC.</p> <p>2 = Proactive data-based small groups are formed, and referrals are processed from staff and family. Staff's been trained how to refer.</p>
2.2 Focus Area	<p>0 = Small groups include one focus area: academic, behavioral, or social emotional skill deficit.</p> <p>1 = Small groups include two focus areas: academic, behavioral, or social emotional skill deficits.</p> <p>2 = Small groups include all three areas: academic, behavioral, and social emotional skill deficits.</p>
2.3 Curriculum	<p>0 = No curriculum</p> <p>1 = Core Values Behavior Expectations Mini Lessons ONLY</p> <p>2 = Behavior support curriculum, such as Why Try, Hustle U, Shmoop, Tobacco and Cannabis Tool Kit, Teacher and Counselor designed lessons, Social Skills Curriculum, etc. AND Core Values Behavior Expectations Mini Lessons</p>
2.4 Activities	<p>0 = No activities, only informally checking in with students</p> <p>1 = Students are given a reflection sheet and/or curriculum to complete independently to address skills deficits.</p> <p>2 = Teacher, Counselor, or Admin leads instruction or group activities that specifically address the skills deficits as determined by the data (set goals) (e.g., Restorative Circles, weekly lessons for 4-6 weeks)</p>
2.5 Documentation	<p>0 = No documentation</p> <p>1 = Small groups are logged in Power School in "Log Entry" by the appropriate personnel.</p> <p>2 = Small groups are logged in Power School in "Log Entry" by the appropriate personnel AND the student support mentors collect and analyze the effectiveness of each small group offered in the SSC based on the goals established between the mentor and the student.</p>
2.6 Follow-Up Procedures	<p>0 = No follow-up procedures</p> <p>1 = Follow-up with teacher only</p> <p>2 = Follow-up with teacher and family. The student is added to an SSC list for follow-up or enrolled in small group support.</p>
2.7 Personnel	<p>0 = Student only interacts with security</p> <p>1 = Certificated personnel or designated person such as at-risk coordinator (student support mentor) or counselor</p>
2.8 Data Collection	<p>0 = No data collection in place</p> <p>1 = Collects the number of students assigned to and attending the small group</p> <p>2 = Collects the number of students assigned to and attending the small group AND monitors the goals set for each student</p>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To consider the Alternative to Suspension (ATS) *Referral Process* feature fully implemented, site administration should have established and defined the reason and appropriateness of issuing a reassignment (Table 4.3). In addition, a process must be in place to inform teachers when a student has been reassigned. The definitions for determining an appropriate referral for reassignment are important for ensuring equitable practices; however, these were not included in the inventory checklist or provided separately. The primary difference between a score of one and two is the act of notifying teachers when a student has been reassigned, suggesting teachers were not being informed when one of their students was issued an ATS. It is unclear how mentors would not be informed given their role supervising the SSC and having direct interaction with all reassigned students.

The fidelity inventory *Curriculum* feature does not define curriculum, making it unclear whether this refers to the student's core content curriculum or the curriculum designed for the core value mini lesson modules. A score of two indicates students are given schoolwork during their reassignment. A score of one indicates students are either tasked with school work *or* with activities related to the core values violated. Considering the duration is a full day or multi-day removal, one would expect schoolwork to be provided each day.

Unlike the *Documentation* requirements for period suspensions, reassignment data must be entered into the SIS by certificated staff with a specific code (J) for attendance identified. Another notable difference for students reassigned and those on period suspension is the expectation to have a student's IEP supported. However, the language included in this criterion is confusing ("provide support during inclusion to special education students") and does not clearly articulate the expectation for implementing the IEP, including ensuring adherence to the student's accommodations, IEP goals, and services. In addition, the use of the term inclusion is contradictory since the student is experiencing an exclusionary disciplinary removal. Lastly, the *Data Collection* feature requires SSCs to collect and have readily available weekly and monthly reassignment data.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.3**

*Fidelity Inventory for Alternatives to Suspension (Reassignment)*

Feature	Scoring Criteria
3.1 Referral Process	0 = No Administrative process observed to determine ATS 1 = Administration has defined what is appropriate and not appropriate for ATS. 2 = Administration has defined what is appropriate and not appropriate for ATS AND has a process for informing teachers and At-Risk Coordinators (Student Support Mentors) when a student has been assigned.
3.2 Curriculum	0 = No curriculum is given. 1 = Students are given schoolwork OR students are given a reflection sheet and modules to complete that address the reason for assignment to ATS. Core values violated are addressed. 2 = Students are given schoolwork AND curriculum and modules to address the reason for being assigned to the ATS. Core values violated are addressed.
3.3 Documentation	0 = No documentation or inappropriate documentation exists. 1 = Certificated personnel ensure attendance is coded as “J” and have students sign in for each day attended.
3.4 Follow-Up Procedures	0 = No follow-up procedures exist. 1 = The student completes an “exit survey” to reflect their time spent during the ATS. 2 = Follow-up exists with the family AND the student completes an “exit survey” to reflect on their time spent during the ATS and is assigned to a Tier 2 small group.
3.5 Personnel	0 = Classified staff ONLY 1 = Classified and general education certificated staff ONLY 2 = Classified staff, certificated staff, and special education teachers provide support during inclusion to special education students when assigned.
3.6 Data Collection	0 = No data collection is in place. 1 = The number of students assigned to ATS weekly, monthly, etc. is collected.

The PBIS/MTSS Staff Handbook 2022 for Eastside HS was reviewed to examine the site level documentation available to guide teachers and staff through the referral process to the SSC. The handbook effectively describes best practices and the intent of PBIS, and it includes strategies for redirecting misbehavior, appendices to help staff differentiate between minor and major infractions, and a *Behavioral Management Flowchart* for office or administrative referrals and teacher managed behaviors.

The following excerpt reflects the foundation and importance of implementing PBIS:

Building & Sustaining a Culture of PRIDE through Positive Relationships

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Discipline procedures are not the answer to problematic behavior – it is the positive relationships we build as a learning community between students, families, and staff that foster and allow positive behavior to occur.
- Children learn best in the context of positive relationships and a safe, comfortable atmosphere.
- By teaching students the necessary social skills for future success, we encourage students to be lifelong learners and successful citizens.
- It is our job to ensure that students learn the skills needed to survive and thrive in society.

This language makes several points clear regarding the expectations for responding to student misconduct. The first is that discipline is not the answer. Teaching students the necessary social skills in a positive and safe environment is necessary for positive behavior to occur. The final point and most important message is that the school community, and adults in particular, are responsible and accountable for ensuring students learn valuable skills.

On two occasions the handbook directs teachers to refrain from referring a student to the SSC for incidents that can be managed within the classroom or by sending the student to a partner teacher room. The manual clearly instructs teachers to notify parents any time a student is removed from the classroom. The document provides clear guidance and expectations for the types of behavioral concerns that can be suitably addressed with Tier 1, Tier 2, and Tier 3 interventions.

The expected documentation practices are noted for minor or teacher-managed behaviors and for more serious office or administrator referrals. Minor offenses are entered into the Student Behavioral Intervention Module in the SIS by the teacher, while major infractions handled by administrators are tracked and managed through a Google form link. The manual does not indicate how these major incidents should be entered into the SIS. The use of separate systems is of concern, particularly since the more serious offenses that result in more punitive forms of exclusionary discipline are not collected in the SIS. Furthermore, this approach is inconsistent with the Fidelity Inventory Checklist, which uses SIS modules as the mechanism for documenting period suspensions and reassignments. Lastly, data entry by security or classified staff is not mentioned.

The Notice of Reassignment form is used for any student issued a full- or multi-day reassignment to the SSC. School officials noted this form as a requirement and indicated that one copy is maintained in the student's cumulative file and another is provided to the parent. This documentation requirement is also noted at the bottom of the form. The form is designed to address the parent and provide information regarding the number of days the student is reassigned, along with start and end dates. Schools are expected to write a brief description of the incident, the education code violated, and the required reassignment activities, such as academic review, attendance review, counselor referral, at-risk coordinator referral,



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

class/curriculum assigned, conflict resolution, TADD (drug and alcohol diversion program), anger management, and other interventions that do not fall into the above categories.

The bottom of the form describes the expectation of the student's restrictions during a reassignment. It states:

During the period of reassignment, the student should report to the Student Support Center at the beginning of first period on the day(s) assigned. The student will remain under supervision in the Student Support Center for the entire school day. The student may order lunch from the cafeteria or bring lunch each day he or she is assigned to the Student Support Center.

The Notice of Reassignment form language is consistent with the literature's definitions of ISS that characterize this type of discipline as exclusionary given the restrictions from regular school activities, such as having the student report to the location at the beginning of the school day and eating lunch in isolation (Short, 1988).

### **Review of Quantitative and Qualitative Data Regarding ISS**

Schools' use of ISS relies primarily on referrals to the on-campus detention (OCD) room and the Student Support Center (SSC). These are designated spaces on a campus with various supports for students struggling behaviorally and academically. Some schools report no longer having an OCD room and using the SSC for this purpose. During the site visits conducted as part of this investigation, it was observed that OCD rooms and SSCs were either attached or adjacent to one another and located near a campus security office or had a campus security office embedded within the room/center. In many regards, the OCD room and SSC appeared synonymous in function. In most instances, SSCs are managed by a coordinator with one credentialed teacher per period, and the OCD rooms are managed by classified staff or security personnel.

The use and names of the disciplinary actions varied by school, but for the purpose of the investigation were coded as two types of referrals. The first and more prominent type was for school disciplinary referrals that removed a student for one or two class periods. The leading term used was period suspension, while other schools referred to these as OCD or on-campus intervention (OCI). This report refers to all types of short-term removals for one to two periods as a period suspension or OCD.

In-school removals that exclude students from their regular classrooms for one to three days are commonly referred to as reassignments. Some schools also refer to these disciplinary actions as in-house suspension (IHS) and alternative to suspension (ATS). The report considers any full-day or multi-day in-school disciplinary removal as a reassignment. For the purpose of this investigation, removals with durations for more than two periods were coded as a reassignment if a corresponding code was listed or if the student had subsequent full days of reassignments.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Within this investigation, reassignments are categorized as in-school suspensions (ISS) since the student's removal is prompted by a behavioral event where an administrator decides to issue an other means of correction or an alternative to an out-of-school suspension for one to three days. This definition is consistent with the supervised suspension requirements of EC Section 48911.1.

As noted earlier, this analysis includes ISS data from six of the eight comprehensive sites for a total of 6,876 unique referral events. Despite lacking a full account of the practices used at all sites, the large scale of events analyzed reveal data trends that can be viewed as representative of districtwide practices. In addition, Palmdale HS and Knight HS are large comprehensive sites and can be assumed to engage in similar patterns of in-school discipline. Disproportionality was calculated to gauge the extent of disparities and calculated using only the enrollment of the six schools reviewed, with the total population also restricted to the six schools.

State reported data on ISS and other means of correction were also reviewed and compared to the site level referral data to determine whether underreporting of these types of disciplinary practices exists.

Staff interviews and parent survey feedback provided qualitative data regarding in-school disciplinary practices. Lastly, observations from the data collection regarding documentation and referral practices were included to highlight variability and provide qualitative insight into these procedures and practices at schools.

### **Review of Quantitative In-School Suspension Data for the 2021-22 School Year.**

Schools use a variety of mechanisms to track referrals to the SSC and OCD room, including daily sign-in sheets and electronic logs maintained on Google Sheets. The format of the data collection spreadsheets varied widely by school, and many lacked indicators for accurately defining the severity (reassignment or period suspension) and/or the length of the removal. In addition, many lacked indicators for capturing students' disability status and race/ethnicity. This information was obtained by merging the ISS data with the Fall Enrollment file.

The data presented in this section were derived from SSC and OCD sign-in sheets and Google Sheets used to track referrals. Due to the variability in the forms and formats used by each school, the data are considered a fair estimate of the types of disciplinary actions applied. Furthermore, due to the variability and lack of additional documentation, such as reassignment forms, the analysis does not intend to convey a full understanding of these practices. However, the data provided were substantial with 6,876 referrals captured, allowing for a broad view of the referral process and disciplinary practices.

The inconsistency of information quality on the tracking forms for in-school disciplinary removals limited the ability to obtain a full accounting of in-school disciplinary referrals, likely

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

rendering the review an underrepresentation of the removals. In addition, as noted above, the data only reflect the referrals made at six out of the eight comprehensive sites<sup>34</sup>.

The investigation requested all methods used to track SSC referrals, including reports or datasets from the student information system (SIS), reassignment notice forms, and attendance logs that contain codes for referrals for a period suspension or reassignment. Despite schools' indication that these referrals were entered into the SIS as matter of procedure and practice, no formal school level reports were provided.

Two end-of-year files submitted to the State to report OCDs and reassignments were reviewed and include the Other Means of Correction (300) and In-School Suspension (110) datasets. The data were used to assess the accuracy of reporting in-school disciplinary referrals to the State.

Although some schools showed clear indicators to differentiate between a reassignment and a period suspension, others did not. To determine the nature of the referral, events that excluded a clear indicator were coded as a reassignment if there was information about misconduct, if the source of the referral was an administrator and/or security, and the duration of the removal was for a full day or more than two consecutive periods. Period suspensions that lacked clear indicators of the referral type were coded as such if the removal was prompted by misbehavior and the duration was limited to one or two periods.

As mentioned above, the site level ISS data were merged with the Fall Enrollment file to determine disability status and race/ethnicity. Due to the different points in time data were pulled, 59 students could not be matched and were removed from the analysis.

Sources of in-school suspension, including the dataset compiled of site level SSC and OCD logs and sign-in sheets as well as the 300 other means of correction and 110 ISS reports, were analyzed to determine the prevalence of these in-school disciplinary practices and whether disparities exist between students with and without disabilities and from different racial/ethnic groups. The SSC referrals are separated by disciplinary referrals (reassignment and period suspension<sup>35</sup>) versus non-disciplinary referrals (NDR).

In total, 6,876 referrals were analyzed for the following categories:

- Reassignments or ISS: 1,759 referrals (25.6%)
- Period Suspensions or OCD: 2,444 referrals (35.5%)
- Administrative/VP or Security Holds: 478 referrals (7.0%)
- Non-Disciplinary Referrals: 2,195 (31.9%)

---

<sup>34</sup> No information was provided for Palmdale HS, and partial information was provided for Knight HS in the form of logs submitted for the month of April. These logs were removed from the analysis.

<sup>35</sup> This report uses the following terms interchangeably: reassignment and ISS; period suspension and OCD.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The site level ISS dataset also captured information related to other forms of disciplinary interactions, including the use of restraints and student searches.

### **Disciplinary Referrals to the SSC for General Education and Special Education Students.**

The first part of this analysis examines disciplinary related referrals to the SSC for reassignments (ISS), period suspensions (OCD), and administrative or security holds. The second part of this analysis explores non-disciplinary referrals to the SSC. Discipline related interactions such as student searches and restraints are also reported. Disproportionality measures were calculated to examine the extent of the overrepresentation and impact on specific groups.

Table 4.4 presents the total number of disciplinary referrals made for reassignment to the SSC. Black students with and without disabilities show higher representation of reassignments compared to their overall respective enrollment, making up one out of four general education referrals and one out of three special education referrals (25.4% general education ISS compared to 13.1% enrollment, 34.9% special education ISS compared to 24.3% enrollment).

Reassignments of White students with and without disabilities are consistent with their overall enrollment representations (10.9% ISS compared to 11.2% enrollment). However, when compared to OSS, White students make up nearly twice the referrals for an ISS as an OSS (12.2% general education ISS compared to 6.5% OSS, special education ISS 9.9% compared to 5.6% OSS). This comparison indicates that White students are more likely to be issued a less restrictive school discipline removal. This means that administrators rely more on ISS than OSS when disciplining White students with and without disabilities.

Conversely, Black students with and without disabilities are more likely to be issued more punitive and exclusionary forms of school discipline (25.4% general education ISS compared to 39.8% OSS, special education ISS 34.9% compared to 52.8% OSS).

General education students represent 70.9% of all ISS compared to 67.8% OSS, while special education students make up 29.1% of ISS and 32.2% of OSS. These trends indicate that school administrators rely on more punitive forms of school discipline for SWDs and less restrictive methods for students without disabilities.

These findings support the notion that administrators engage in inequitable disciplinary practices that disproportionately impact Black students with and without disabilities, and students with disabilities.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.4**

*Distribution of Reassignment (ISS) for Students with and without Disabilities by Race/Ethnicity*

	Total		General Education				Special Education			
	Students Referred	Referral Events	Students Referred		Referral Events		Students Referred		Referral Events	
Race/Ethnicity	%	%	n	%	n	%	n	%	n	%
Black	26.5	27.7	168	25.4	305	25.9	95	34.9	183	38.0
Hispanic	50.0	48.4	372	56.2	649	55.1	125	46.0	202	41.9
White	10.9	12.0	81	12.2	154	13.1	27	9.9	57	11.8
Other	1.3	1.3	10	1.5	18	1.5	3	1.1	4	0.8
Multiple Races	5.3	4.9	31	4.7	51	4.3	22	8.1	36	7.5
Unknown	6.0	5.7								
Total (n)	100 (994)	100 (1,759)								
Total Excluding Unknown	934	1,659	662	100	1,177	100	272	100	482	100

The education code authorizes teachers to remove a student from their class for a period suspension, which can last from one class period up to two days per week. These disciplinary actions are referred to by some schools as on-campus detention (OCD) or on-campus intervention (OCI).

Table 4.5 presents data for events identified as period suspensions, including OCD and OCI, for general and special education students by race/ethnicity. These types of removals are typically initiated by classroom teachers and are therefore more reflective of classroom issued disciplinary referral practices. Findings indicate that overall, general education students make up 70.1% of period suspensions and SWDs make up 29.9%.

The trends for these short-term removals are consistent with those seen for OSS and ISS for Black students with and without disabilities; Black students with and without disabilities are overrepresented in these referral types when compared to their respective enrollments (29.1% general education period suspensions compared to 13.1% general education enrollment<sup>36</sup>, 40.4% special education period suspensions compared to 24.3% special education enrollment).

Overall, White students receive period suspensions at higher levels of representation than OSS and lower than ISS (8.3% period suspensions compared to 6.2% OSS and 12.0% ISS). This combined look into in-school versus out-of-school disciplinary removals shed further

<sup>36</sup> These comparisons use the enrollment figures of the six comprehensive sites included in the analysis as reported in tables 4.6, 4.7, 4.8 and 4.9.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

insight into the less restrictive forms of school discipline applied to White students, with OSS being the lesser used form of discipline.

Period suspension data are also indicative of the bias sources that contribute to the overrepresentation of certain groups in these types of in-school disciplinary referrals. The data show that teachers issue more period suspensions to Black students with and without disabilities compared to all other students.

**Table 4.5**  
*Distribution of Period Suspensions (OCD) for Students with and without Disabilities by Race/Ethnicity*

	Total		General Education				Special Education				
	Students Referred	Referral Events	Students Referred		Referral Events		Students Referred		Referral Events		
Race/Ethnicity	%	%	n	%	n	%	n	%	n	%	
Black	30.4	33.5	234	29.1	486	32.3	138	40.4	332	39.7	
Hispanic	49.8	48.1	458	57.0	782	52.0	151	44.2	394	47.1	
White	8.2	8.3	68	8.5	136	9.0	32	9.4	68	8.1	
Other	0.5	0.5	5	0.6	10	0.7	1	0.3	1	0.1	
Multiple Races	4.7	5.4	38	4.7	91	6.0	20	5.8	42	5.0	
Unknown	6.4	4.2									
Total % (n)	100 (1,223)	100 (2,444)									
Total Excluding Unknown	1,145	2,342	803	100	1,505	100	342	100	837	100	

***Disproportionality in Reassignments and Period Suspensions.***

To examine disparities of disciplinary referrals to the SSC between students with and without disabilities by race/ethnicity, composition index, risk index, and risk ratio measures were used. To enable a direct measure of the impact, these calculations only used enrollment data from the six schools that provided SSC referral data.

Table 4.6 presents the breakdown of reassignments for general education students. Students without disabilities make up seven out of 10 students reassigned to the SSC and have a risk or referral rate of 5.8%, meaning that nearly six out of 100 general education students experience an ISS.

Among general education students, Black students show the highest risk index (11.2%) and the highest risk ratio compared to all other groups. Black general education students are 2.25 times more likely to experience an ISS when compared to their general education peers, which is considered disproportionate overrepresentation. This relationship is also statistically significant ( $p = < .001$ ).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.6**

*General Education Reassignments – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other	Multiple Races
Enrollment	11,456	1,504	7,847	1,287	339	479
(%)	81.0	13.1	68.5	11.2	3.0	4.2
Students Reassigned	662	168	372	81	10	31
Composition Index (%)	70.9	25.4	56.2	12.2	1.5	4.7
Risk (%)	5.8	11.2	4.7	6.3	2.9	6.5
Risk Ratio	0.58	2.25	0.59	1.10	0.50	1.13

Black and multiracial SWDs demonstrate the highest vulnerabilities to receiving an ISS, with composition indices indicative of overrepresentation as well as the referral rates compared to all other groups (Table 4.7). The risk ratio for Black SWDs (1.68) is indicative of being at-risk for disproportionate overrepresentation and is statistically significant compared to the referral rates of non-Black SWDs.

For SWDs, the risk of reassignment is almost double (10.1%) that of general education students (5.8%) and is statistically significant ( $p < .001$ ). The comparison of risk shows a risk ratio of 1.75, which is indicative of being at risk for disproportionate overrepresentation compared to all nondisabled students.

**Table 4.7**

*Special Education Reassignments – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other	Multiple Races
Enrollment	2,692	653	1,576	266	40	157
(%)	19.0	24.3	58.5	9.9	1.5	5.8
Students Reassigned	272	95	125	27	3	22
Composition Index (%)	29.1	34.9	46.0	9.9	1.1	8.1
Risk (%)	10.1	14.5	7.9	10.2	7.5	14.0
Risk Ratio	1.75	1.68	0.60	1.01	0.74	1.42

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Black general education students make up 29.1% of all period suspensions and 13.1% of the nondisabled enrollment, which reveals overrepresentation (Table 4.8). Their risk or rate of a period suspension is 15.6%, meaning that nearly 16 out of 100 Black general education students are subjected to an OCD. Their risk is twice as high as that of multiracial students and almost three times as high as Hispanic students' risk. The risk ratio of 2.72 for Black general education students is considered disproportionate overrepresentation. Lastly, statistically significant differences were found for Black nondisabled students referred for a period suspension compared to non-Black general education students ( $p = < .001$ ).

**Table 4.8**

*General Education Period Suspension – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other	Multiple Races
Enrollment	11,456	1,504	7,847	1,287	339	479
(%)	81.0	13.1	68.5	11.2	3.0	4.2
Students Period Suspension	803	234	458	68	5	38
Composition Index (%)	70.1	29.1	57.0	8.5	0.6	4.7
Risk (%)	7.0	15.6	5.8	5.3	1.5	7.9
Risk Ratio	0.55	2.72	0.61	0.73	0.21	1.14

Black students make up 40.4% of all SWDs who receive a period suspension and show a risk of 21.1% (Table 4.9). This risk or referral rate is the highest observed among all groups (and statistically significant) and means that 21 out of 100 Black SWDs will experience a period suspension. When their risk is compared to the risk of all other SWDs, Black students are twice (2.11 risk ratio) as likely to be subjected to a period suspension. This is considered disproportionate overrepresentation.

Overall, general education students constitute 70.1% of all period suspensions and demonstrate a risk of 7.0. Meanwhile, SWDs make up 29.9% of all period suspensions and have a risk of 12.7%. This means that SWDs are 1.81 times more likely to receive a period suspension compared to their nondisabled peers, indicative of being at risk for disproportionate overrepresentation. The risk or referral rate of SWDs shows a statistically significant relationship for experiencing a period suspension compared to their nondisabled peers ( $p = < .001$ ).



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.9**

*Special Education Period Suspensions – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other	Multiple Races
Enrollment	2,692	653	1,576	266	40	157
(%)	19.0	24.3	58.5	9.9	1.5	5.8
Students Period Suspension (n)	342	138	151	32	1	20
Composition Index (%)	29.9	40.4	44.2	9.4	0.3	5.8
Risk (%)	12.7	21.1	9.6	12.0	2.5	12.7
Risk Ratio	1.81	2.11	0.56	0.94	0.19	1.00

**Distribution of Referrals for Administrative/Security Holds and Student Searches.**

Student Support Centers and on-campus detention rooms also serve as places where administrators and security hold students while behavioral incidents are investigated and disciplinary action is determined. Schools use two codes to represent these interactions, VP holds and security holds. These investigative holds accounted for 7.0% of all referrals to the SSC, totaling 478 events (Table 4.10).

Over two-thirds (71.5%) of the administrative and security holds involved general education students, while SWDs made up 28.5% of these types of referrals. There was a significant relationship between special education status and receiving a VP/security hold at least one time ( $p = < .001$ ).

Black students with and without disabilities were overrepresented compared to their overall enrollment (40.8% compared to 17% enrollment), while Black SWDs comprised nearly six out of 10 of special education students detained for investigation. Statistically significant relationships were noted for Black students with and without disabilities compared to their non-Black peers ( $p = < .001$ ).

In addition, some logs contained information regarding searches and noted a total of 50 instances of students being subjected to a search. However, due to the variability and poor documentation observed, this is likely an underrepresentation of students subjected to a search during their referral to the SSC.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.10**

*VP/Security Hold Referrals for Students with and without Disabilities by Race/Ethnicity*

	Total		General Education		Special Education	
	N	%	n	%	n	%
Black	195	40.8	115	33.6	80	58.8
Hispanic	217	45.4	177	51.8	40	29.4
White	32	6.7	27	7.9	5	3.7
Other	3	0.6	2	0.6	1	0.7
Multiple Races	31	6.5	21	6.1	10	7.4
Total	478	100	342	100	136	100

**Distribution of Non-Disciplinary Referrals to the SSC for General Education and Special Education Students.**

Site level SSC data included non-disciplinary referrals. Again, due to the poor quality of data provided by some sites, events that could not be identified as stemming from a behavioral incident were coded as non-disciplinary referrals (NDRs). This means that some of these events could have been a period suspension or reassignment but the information necessary to code the event appropriately was unavailable. Some events contained information indicating the student was referred to the SSC for academic or social emotional support. Those data were therefore considered a non-disciplinary referral.

The best way to interpret this data is to compare NDR referrals to disciplinary referrals including ISS and OSS.

The most notable referral patterns were observed for White and Black students and SWDs. White students with and without disabilities show higher representation in non-disciplinary SSC referrals than their respective enrollments (general education referrals 12.8% compared to 9.8% enrollment, special education referrals 12.5% compared to 5.8% enrollment) (Table 4.11).

When comparing non-disciplinary referrals to exclusionary discipline referrals (both in and out of school), special education students show the lowest levels of representation of these supports when compared to disciplinary referrals (22.8% NDRs compared to 28.6% ISS, 29.9% OCD, 32.2% OSS).

Black students with and without disabilities receive these types of NDRs at lower proportions than all other types of disciplinary actions (22.5% NDRs compared to 26.5% ISS, 30.4% OCD, and 44.0% OSS).

Despite claims that SSCs provide positive and proactive supports for students, schools primarily rely on SCCs for in-school disciplinary removals. NDRs account for one in four students referred to the SSC, meaning that three out of four referrals to the SSC are for disciplinary reasons.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.11**

*Distribution of Non-Disciplinary Referrals for Students with and without Disabilities by Race/Ethnicity*

	Combined		General Education				Special Education			
	Students Referred	Referral Events	Students Referred		Referral Events		Students Referred		Referral Events	
Ethnicity	%	%	n	%	n	%	n	%	n	%
Black	22.5	41.4	94	20.4	734	39.9	47	34.6	195	54.8
Hispanic	52.8	31.2	268	58.3	589	32.0	63	46.3	111	31.2
White	12.1	9.6	59	12.8	178	9.7	17	12.5	37	10.4
Other	1.4	1.0	8	1.7	21	1.1	1	0.7	1	0.3
Multiple	6.2	14.7	31	6.7	317	17.2	8	5.9	12	3.4
Unknown	4.9	2.1								
Total (n)	627	2,242								
Total Excluding Unknown	596	2,195	460	100	1,839	100	136	100	356	100

**Accuracy of Other Means of Correction (300) and ISS (110) Referrals Reported to the State.**

To examine if disciplinary referrals made to the SSC were accurately reported to the State, the ISS file created with site level logs was compared to the Other Means of Correction (300) and In-School Suspension (110) files. This analysis includes students reassigned to the SSC or issued a period suspension and excludes any non-disciplinary referrals. Since schools reported the use of ISS and OCD as alternatives to suspensions, it is expected that these referral types were included in either the 300 report or the 110 report.

As noted, the District considers reassignment to the SSC an alternative to suspension or classifies it as other means of correction to discipline students. The data were reviewed in the previous section to illustrate the differences between more restrictive forms of discipline (OSS) and in-school disciplinary interventions for general and special education students by race/ethnicity. An abbreviated table is included in this section to show comparisons between the referrals reported to the State and those identified from site level SSC and OCD login sheets and forms.

The 300 Other Means of Correction report included a total of 2,804 referral events representing 1,682 unduplicated students (Table 4.12). The SSC site level referral file includes 4,203 distinct disciplinary referrals for 2,217 unduplicated students. However, it is important to reiterate that SSC referral information was only provided for six out of the eight comprehensive schools, making a direct comparison difficult.

To determine the accuracy of the reporting, the analysis compared unduplicated students enrolled at any of the six schools that provided data in order to identify matches between the

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

file reported by the school and the dataset submitted to the State. The analysis found a total of 680 students that had a disciplinary referral to the SSC that did not appear on the 300 Other Means of Correction file. This means about one in three (32.7%) of the students referred for an in-school disciplinary removal were not reported to the State. This finding supports the allegation that the District is underreporting disciplinary referrals to the SSC, including ISS and OCD, to the State.

**Table 4.12**

*Distribution of Referrals for an Other Means of Correction (300) for Students with and without Disabilities*

	Total Students	Total Referrals	General Education				Special Education			
	Referred	Events	Students		Events		Referred		Events	
	n	n	n	%	n	%	n	%	n	%
Total	1,682	2,804	1,194	70.9	1,804	64.3	488	29.0	1,000	35.7

The District is also required to submit an ISS file, which is referred to as the 110 report. This file contained information on the duration of the removals and appeared to mainly reflect period suspensions or OCD. Two separate files were provided for general education and special education students and included a total of 214 referrals for 140 students (Table 4.13). Of the students reported, 87.1% (n=122) were from Knight HS, raising concerns about the validity of the data. This fact alone is indicative of considerable underreporting since all comprehensive sites should have provided disciplinary referrals under this category.

This 110 ISS file was also compared to the SSC referral file. Only three matches were found, which was expected since the majority came from Knight HS. Conversely, Knight HS appears to be the only school to consistently record ISS events for inclusion in the 110 report; however, the overall accuracy of the number of students referred cannot be verified by the 110 report alone.

Overall, the size of the 110 report is insignificant considering the many referrals to the SSC. This could be indicative of the misunderstanding or misinterpretation of what constitutes an in-school suspension due to the lack of uniform and clear policies and procedures regarding SSC disciplinary referrals and State reporting requirements. It is unclear how the data were vetted by senior officials or data analysts who prepare reports submitted to the State, given such skewed distribution of events recorded.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 4.13**

*Distribution of ISS 110 Referrals for Students with and without Disabilities by Race/Ethnicity*

	Total		General Education		Special Education	
	n	%	n	%	n	%
Black	77	36.0	50	34.0	27	40.3
Hispanic	124	57.9	84	57.1	40	59.7
White	8	3.7	8	5.4	0	0.0
Other	5	2.3	5	3.4	0	0.0
Total	214	100	147	100	67	100

***Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff.***

To develop a better understanding of the referral process for ISS and OCD, qualitative data collection efforts included site visits, a telephone survey of parents, and various meetings and focus groups. In addition, observations of the various tracking mechanisms are included in this section to highlight the shortcomings of the documentation and data maintenance procedures and practices.

The continuation schools visited do not have an SSC and reported they did not use ISS or OCD; therefore, the feedback is focused on the practices of comprehensive sites.

**Feedback from School Officials during Site Visits.**

The use of reassignments and period suspension referrals to the SSC are generally considered alternatives to suspension (ATS) or other means of correction by site administrators and are not regarded as an in-school suspension. The majority of administrators characterized a reassignment to the SSC as a restorative program with an emphasis on educating students rather than a punitive disciplinary removal. Principals offered the following rationalizations for a reassignment:

- The school does not use ISS. Instead, the goal is to provide an education with interventions, which may include reassignments.
- Reassignment is an other means of correction and used to discipline students.
- A reassignment is an alternative to suspension but not an ISS, differentiating between past practices of ISS that were more characteristic of “warehousing” students without a certificated teacher.
- Reassignment is not considered a suspension. Rather than disciplining students, they work with them to restore the student and return them to class.

When asked about OCD, two site administrators noted the use of OCD room had been discontinued. One reported their OCD location closed 5 years earlier and the other stated their dedicated room was recently closed due to scarce resources, adding that period suspensions are served in the SSC. The other two sites who confirmed use of OCD differed

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

in their interpretation of its purpose. One stated that the OCD was not considered an ISS but viewed similarly to a triage room where the student is first brought to await the administration's decision about reassigning them to the SSC. The last school indicated a similar function of the OCD room acting as a hub where a student is processed before being reassigned, but their room is also used to house students on a period suspension.

Administrators did not view disciplinary referrals to the SSC as punitive. One school official stated it was a "restorative practice" but not punitive. Another responded indecisively stating that a referral to the SSC "could be, can be (punitive), but not a suspension," contradicting himself by adding that he believed ISS only takes the form of period suspensions. Another principal expressed he believed a reassignment to the SSC was not a punitive place, even if it stemmed from a disciplinary referral, simply stating "semantics" and reaffirming his stance.

Schools described the use of similar procedures when students are referred to the SSC. Students typically are first received at the OCD or security office, then directed to the SSC. One school official added that teachers typically call the security office first when they want to refer a student, explaining it is an easier practice since they know the security officers' phone numbers. Another school also endorsed the role of the campus security officer (CSO) in supporting teachers with students' misbehavior, noting that teachers call a CSO for behavioral interventions and that, at times, they intervene before the student is removed. Furthermore, schools indicated that teachers sometimes call a CSO instead of filling out the referral forms. School officials from all sites also confirmed the practice of having students escorted by campus security officers from their classrooms to the OCD or SSC.

Overall, similar documentation practices were reported for students referred to the SSC. All sites described a process where the OCD or SSC staff logs the removal in informal tracking mechanisms developed internally, mainly Google Sheets. All schools reported entering the data into the SIS, while some added that they also fill out the Reassignment Notice form. One site described reassignment followed the same procedures used for OSS, which included filling out the Reassignment Notice form, placing the form into the binder, adding the form to the student's cumulative file, and entering the information into the SIS system.

Schools reported reviewing SSC referral data periodically with SWIS or SIS reports. One school responded that on a quarterly basis they review referral trends, such as SWDs compared to non-disabled students, and chart individual referrals, but they are not necessarily concerned with the numbers because it is a program with interventions.

Mixed procedures for notifying parents were noted, with two sites stating parents receive a phone call and a letter when their student is reassigned. Two sites mentioned that parents are also provided the Reassignment Notice form. One school stated parents are notified verbally of reassignments, while another indicated teachers are responsible for emailing parents when issuing a period suspension.

The duration of a disciplinary removal can be determined by a teacher or administrator, depending on the form of removal issued. Teachers can issue short-term removals, such as

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

period suspensions, while administrators issue longer removals such as reassignments. However, one site noted that at their location, campus security officers determine the duration of the detention. Another school reported that a reassignment can be issued for up to 2 days, while a different school described a tiered approach to determining the length of the removal. Their tiered approach begins with a 1-day reassignment for the first offense and progressively adds a day for each additional offense up to the third day. A coordinator noted that at that point, the actions may trigger an IEP for a SWD. The same school explained that they use a PBIS matrix to guide teachers to make good referrals, adding that some teachers had referred students for not possessing materials needed for class, such as pencils or pens.

Schools described looking up a student in the SIS to determine if they have an IEP during the intake process and notifying the student's case carrier of the removal. School officials noted that case carriers and mentors collaborate to ensure services are provided and added that all SSCs have one to two credentialed special education teachers as mentors for this purpose. School officials also reported that students are allowed to access designated related services as needed, including counseling.

Only one site expressed concerns with the removal of SWDs; however, two schools expressed their belief that in-school suspensions were not considered part of the 10-day removal limit for the purposes of triggering the procedural safeguards of the IDEA.

All sites were reluctant to provide information on the average number of students reassigned to the SSC for ISS or OCD. Most initially stated they did not know off hand but could readily access the data. After the interview portion of the visit, when privately asked how he justified the allocation of resources without a sense of the students served, one administrator admitted to knowing the numbers.

Despite sites describing the SSC as a restorative approach to discipline, staff training on these practices is not mandatory. One school noted some staff were trained and some were not, and a similar response was observed by participants in the CCEIS and PBIS focus groups.

School officials described the process for moving up levels of PBIS, such as from Bronze to Silver or from Gold to Platinum. Although not fully clear, the biggest factor appears to be the number of program features or interventions offered. All noted using the Tier Fidelity Inventory (TFI) to guide the assessment of their school's implementation.

One school shared that as a result of the TFI review, feedback from one former Los Angeles County of Education (LACOE) school indicated the need for more small group counseling as a Tier 2 intervention. One school official reported that LACOE provides a social worker for the SSC in hopes of meeting the need for more counselors or psychologists to enable smaller groups when providing this service.

Another school reported growth in Tier 1, Tier 2, and Tier 3 interventions and attributed this growth to the decrease in the number of disciplinary referrals entered in the SIS. The principal believes PBIS is helping reduce OSS at his school and added that students access

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the SSC for positive reinforcements and for course credit recovery programs. Another school noted designating specific PBIS days for the staff to talk about social emotional learning, discuss the Habitudes program, encourage use of their positive reinforcement cards, and provide culturally responsive professional development opportunities.

All schools believed PBIS and the SSC have decreased OSS, owing this improvement to the availability of additional resources for student discipline.

### **Feedback from Parent Surveys Regarding Reassignments to the SSC.**

The telephone survey of parents included three items to gain a better understanding of in-school suspension practices. Of the 59 respondents, 19 confirmed that their child had been reassigned to the SSC, 33 denied any referral, and the remaining seven parents were uncertain. Due to the small number of responses, these findings should be interpreted with caution, especially when seeking to create generalizations about practices.

Of the 19 parents who responded in the affirmative, about half (n=10, 52.6%) reported their child being reassigned for 1-2 days, two parents reported 3–5-day removals, and two parents reported 6 or more days. Eleven of the 19 (57.9%) indicated they received a phone call or letter to notify them of the reassignment, and the remaining denied any notification or being uncertain.

Although the limited number of respondents makes generalizing this information difficult, it is striking that more families could not confirm that their child had been reassigned to the SSC. Survey participants were selected based on data indicating their student had experienced an OSS; therefore, one might assume and/or expect more of these students to have been issued an alternative to suspension or other means of correction prior to a suspension. The responses may also be indicative of the school's failure to inform families of these disciplinary removals.

### **Feedback from Focus Groups with Senior and Site Level Officials.**

Multiple focus groups were held to discuss the role of the SSC in the implementation of Positive Behavioral Interventions and Supports (PBIS) and in-school disciplinary removals. The first focus group consisted of senior officials and was conducted in April 2022 to discuss multiple topics. The second occurred in fall 2022 and included a combination of senior and site level personnel who specifically discussed the District's implementation of PBIS. In addition, portions of other discussions with senior and site level officials touched on the role of the SSC and ISS. Relevant content from these discussions is included to clarify and provide insight into issues.

Senior level staff described the SSC's overall purpose is to serve as a hub of resources for social and mental health counseling, with the intention of understanding and addressing the cause of the behavior. School officials noted disciplinary referrals for reassignments are considered a method of correction, not an in-school suspension, and explained that period suspensions are the only form of ISS. However, this definition was inconsistent with the



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

description of the process for issuing a period suspension: officials cited this type of referral is initiated by a teacher yet noted that teachers lack the authority to suspend.

Reassignments are considered alternatives to suspension (ATS) and are issued when a student violates the education code but the violation is not deemed serious enough to send the student home or to the in-house suspension room. Students reassigned to the SSC are provided with academic tasks and supportive resources. Again, it is difficult to comprehend the rationale that reassignments are not considered ISS when the period of removal can be 1-3 days, considerably more severe and impactful than a period suspension.

Special education students who are reassigned receive IEP supports by the mentor or teacher assigned to the SSC. When discussing whether reassignments are considered removals that may constitute a change in placement for a SWD, senior staff reiterated that a reassignment is not an ISS but rather an ATS, thereby noting it unnecessary to consider these days against the 10-day threshold for conducting a manifestation determination review (MDR). However, in a separate focus group regarding MDRs, site-based school psychologists and the director of school psychologists all contradicted senior leadership's assertion, noting that reassignment days are counted when determining whether to conduct an MDR.

One senior official noted that for both a reassignment and a period suspension, students are expected to complete class assignments, but the staff who supervise these locations differs. For instance, the OCD might be managed by classified staff, such as a campus security officer (CSO), while the SSC is supervised by certificated personnel, such as a teacher. The official added that it was common practice for CSOs to escort some students to the SSC.

In regard to documentation requirements, senior staff noted the requirement for schools to enter reassignments and period suspensions or referrals to the SSC into the SIS. Staff noted reviewing SSC referral data monthly using SIS or SWIS reports to observe trends in referrals. However, other than attendance, data on intervention types do not seem to be consistently collected or reviewed.

When asked whether a referral to the SSC is punitive, senior staff rejected this concept, describing it as a proactive behavioral intervention since they are identifying and addressing the root cause of the misconduct.

Positive Behavioral Interventions and Supports (PBIS) is a framework of ideas and tools to improve student conduct and foster a positive school climate. The intent of developing these types of supports is to reduce reliance on exclusionary forms of school discipline, including OSS and ISS, by modeling, teaching, and reinforcing appropriate behavior. Discussion on PBIS is included in this section because these supports appeared to be centered around the SSC and expected to have a direct impact on the reduction of OSS and ISS.

The PBIS focus group included various senior officials and three site level coordinators. The District's implementation of PBIS has been ongoing for 5-6 years and aims to align with the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

national model. It was reported that the District has one Platinum, four Gold, three Silver, and four Bronze PBIS sites.

Senior officials described the implementation of PBIS as a standardized process for ensuring consistency of policies and procedures districtwide. Schools are mandated to develop a PBIS framework as part of the CCEIS Plan. The intent is to create a fair discipline standard; however, schools are permitted to use a variety of programs or develop their own, as long as it aligns with PBIS standards. In essence, senior officials noted that the framework is standardized and mandated, but the implementation is not.

PBIS standardization is guided by the Tier Fidelity Inventory (TFI), which serves as a roadmap for implementation and sets a goal of 70% implementation at all schools. Despite efforts to improve implementation levels, staff noted that teacher participation is not mandatory. When asked if a districtwide mandate would help improve implementation by teachers, one site PBIS coordinator responded, “Honestly no, older teachers – nothing will change their opinion until they see the proof.” This response is indicative of an accountability problem where mandated practices are disregarded by some staff without regard for the consequence.

Coordinators and senior staff agreed that reassignments to the SSC are not considered in-school suspensions and take a restorative approach to returning students to class. Examples were given of schools engaging students in restorative circles as associated with the CCEIS Plan, but it was noted that these interventions are not tracked nor are staff formally trained in restorative practices. One participant offered that schools use restorative circles, but schools refer to them by different names. Alternative names were not indicated. When asked about data on restorative circles, the panel noted no data were collected or maintained for these interventions.

Building trust was identified as a goal of PBIS TFI Inventory. The group was asked whether distrust or a history of hostility toward Black students or SWDs existed. Participants identified a general lack of trust between families and teachers and among students but did not believe it is race based. When asked if the heavy presence of security at the SSC was incompatible with the intent of PBIS, one participant noted “everyone has a role.”

Overall, various levels of school officials view the SSC as a place where students are disciplined, and they consider the SSC to be restorative rather than punitive. Full-day and multi-day removals assigned by an administrator are not considered suspensions. In contrast, period suspensions initiated by classroom teachers for a maximum of a class period for up to 2 consecutive days are viewed as the only form of suspension, despite consensus that teachers do not have the authority to issue suspensions.

SSCs are viewed as part of the framework for PBIS implementation with an overall consensus that reassignment addresses misbehavior through a restorative approach, yet only some staff are formally trained in these techniques. PBIS is a districtwide initiative—not

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

mandated at the school or classroom level—with a variety of programs used districtwide and schoolwide, which further obscures the standardization of implementation.

### **Observations of Documentation Practices of Site Level SSC and OCD Logs and Sign-In Sheets.**

The School Superintendent's Association (AASA) notes that School-Wide Positive Behavioral Interventions and Supports (SWPBIS) is a framework for using data and evidence-based practices to create systems and routines that maximize positive student behavior and minimize negative student behavior.<sup>37</sup> It recommends that “schools and districts have discipline data systems that are clear and organized with uniform standards for the content of files and training of staff on entry, maintenance and retrieval of the data” (p. 2).

One of four elements of an effective systematic implementation of SWPBIS is the ability to use data to make decisions. For instance, data collected as part of SWPBIS can inform schools about supports needed for individual students, such as whether Tier 2 or Tier 3 supports or if an FBA is needed for a SWD. Data can also assist schools with identifying patterns of effective or ineffective practices specific to their school. This information can guide school leaders in adjusting policies and procedures that may be impacting certain groups of students, therefore ensuring more equitable school disciplinary practices.

This discussion will provide observations and insights on the documentation practices of the SSC and OCD sign-in sheets and logs submitted by seven<sup>38</sup> of the eight comprehensive sites for recording referrals to the SSC and OCD.

The review included 4,681 combined disciplinary referrals for reassignments, period suspensions, and administrative or security holds and 2,195 non-disciplinary referrals. The referral information was provided in various formats, mainly consisting of site-created spreadsheets (namely Google Sheets) or electronic copies of handwritten or typed sign-in sheets. Referral data were entered into a spreadsheet to create a combined dataset for analysis. This required the collection and entry of data for each unique referral in order to obtain a consistent format that allowed for the disaggregation of data. Due to the wide range of practices and indicators captured by schools, the dataset was merged with the Fall Enrollment file to obtain students' race/ethnicity, grade, and disability status.

This analysis focuses on the documentation practices of some basic elements that should be required to enable disaggregation of data and guide data-based decision making.

---

<sup>37</sup> <https://www.childrensdefense.org/wp-content/uploads/2018/06/school-discipline-data.pdf>

<sup>38</sup> The seventh school is Knight HS which only provided SSC and OCD sign-in sheets and logs for the month of April enabling analysis of these tracking mechanisms despite only having limited referral data for the 2021-22 school year.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

***Reason for Referral to the SSC or OCD.***

Overall, disciplinary referrals to the SSC contained some indicators that a behavioral incident led to the referral, yet schools were inconsistent in the manner they tracked this information. Five schools had tracking forms with clear indicators to identify a period suspension, reassignment, or administrative (VP) or security hold. The other two schools lacked clear indicators and required additional information to determine the referral type. In some cases, the inability to determine the reason for, or type of referral resulted in the event being coded as a non-disciplinary referral.

Of the seven schools reviewed, only two had forms that included an indicator of the specific infraction that led to the disciplinary referral, such as truancy, disruption/defiance, and drug use. Four other schools lacked a clear column or indicator to capture the offense(s) that led to the removal, relying on the individual to include necessary information. These schools added infraction details in the notes section; however, they did so inconsistently. The seventh site collected the least information, with the main source of infraction details coming from student responses to the question on the sign-in sheet “What happened for you to be in the SSC?” In some cases, students wrote that they did not know why they had been referred or the response was left blank. It was noted that in March 2022, the sign-in questions changed from open ended questions to multiple choice questions. This did not result in improved documentation practices; the response choices were simply “another student, issue outside of class, other, teacher, or family.” These broad choices do not provide information regarding the incident/reason for being in the SSC or the ability to determine the disciplinary reason for the removal.

The inconsistencies and lack of information regarding the reasons for the removals confused the staff who supervise the SSC. In one instance, a student had been reassigned or issued an alternative to suspension (ATS) to the SSC with no information provided regarding the reason for removal. The counselor’s notes stated he had “no idea” why the student was there until the student shared that he had been caught vaping. Another student at the same school had been reassigned on four different occasions in the same month with notes from the first incident stating:

Have no idea what the issue is. Student doesn’t speak English and teacher didn’t fill out a form. I’d send him back, but he sauntered his way up here for 20 minutes so who knows how long it would take him to get back...I’m so glad to have been so helpful.

On the third removal the counselor’s notes read:

Still have no idea what the issue is. I’m pretty sure this is from yesterday since the kid followed me up here. I still don’t speak Spanish—admittedly I am not trying. Kid still doesn’t speak English. It took me several years to learn it so I understand the need for time. Still not sure what the teacher expects out of this set-up, what he thinks happens here, or if he even cares. I’ve got big money on the latter. Student will spend day in SSC because I don’t know how to tell him to do anything else without throwing things

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

at him or shooing him away with a broom. The teacher actually filled out the form for security, so, not sure if the teacher is confused, or if the kid just came here out of habit. I'd ask, but...

It wasn't until the student went to the SSC a fourth time that the counselor somehow realized that the teacher hadn't been sending the student. The counselor's notes concluded, "Dude's been ditching in here under my nose. Sent him the hell back to class with a few middles to point him the way."

In many cases, the inconsistencies in the type or reason for referral could only be determined by accompanying information included for a separate day. For example, on the first day of a student's removal, documentation simply included a description of the infraction in the notes column, "student was found in possession of a vape," with no indication that student was serving an in-house suspension (IHS), a term used at this school for reassignment. On the second day, the notes section stated, "Day 2 of IHS (See line 2)." At the same school, another student's referral logs noted the first intervention given was a referral to SSC, while the second intervention was a mini lesson review on drug use. From this information one can deduce the student was reassigned to the SSC for two days for a drug-related offense.

### ***Length of the Removal and Interventions Provided.***

The length of time a student is removed from their classroom to the SSC and/or OCD room cannot be consistently determined across schools. Of the seven schools reviewed, only two tracked specific times the student entered and exited the SSC. Although one of these schools used a column to capture time in and out of the SSC this information was inconsistently entered with time references also included in the notes section. Two other schools kept track of the period(s) a student was in SSC with no specific time; however, the OCD log-in sheet for one of these schools contained a field to capture the time as well as the period(s) of the removal. Three schools only collected the time the student entered the SSC but not when they returned to class.

Of the seven schools, only three used fields to collect information on the intervention provided when referred to the SSC. Inconsistencies were noted across the interventions applied for the same types of infractions, and, in many cases, intervention information was left blank. For example, at one school a drug possession infraction resulted in the intervention of being assigned to complete the SSC think sheet or a referral to the drug diversion program (TADD). At another school, the first intervention for all students was an SSC referral and the second intervention varied. At a third school, the first intervention was an academic progress check and conference for most students, but for other students this information was not listed. A different school referenced the interventions within the notes section. The remaining three schools did not provide information on interventions offered to students reassigned to the SSC.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Disability Status and Race/Ethnicity Identification.***

Three schools used tracking mechanisms to notate whether a student had an IEP, and one of these schools also captured SWDs who qualify under Section 504. One of these three sites included the special education indicator beginning in March 2022, meaning that for most of the year disability status was not identified. This same school also used fields for identifying students who qualified under Section 504, were English Language Learners (ELL), or were foster students. The remaining four schools lacked any disability indicator that would allow staff to recognize and retrieve information from students' IEPs. None of the schools' tracking mechanisms contained a field for race/ethnicity.

### ***Parent Notification.***

Only one school's documentation included a field to indicate if parents were notified of their student's removal from the regular classroom for disciplinary reasons. Despite both the OCD and SSC referral logs including a field indicating whether a parent was contacted or would be contacted, many of the OCD referrals were marked that the parent would be contacted but provided no evidence of whether this occurred. On the SSC logs, for parents who had been contacted, the mode of communication used was also included.

Blank teacher referral forms were provided for two schools, with both including several options for contacting parents, including in person, telephone, or email communication. The forms also cite parental notification requirements under Education Code 48910.

### ***Inconsistent Data Recording.***

To gauge accuracy of the data, SSC and OCD forms were compared to identify if referrals were reported on both forms. Although some students who may have only received a period suspension or OCD might not have needed to sign-in to the SSC, the documentation practices were still inconsistent. This means that some students who had an OCD listed were also on the SSC sign-in logs, while others from the same school were not.

Schools were requested to provide one-month snapshots of SSC and OCD referrals. The intent of obtaining a one-month accounting of referrals was to conduct a mini audit of the end-of-year data to determine if discrepancies exist. Although the request sought to obtain monthly SWIS or SIS reports of referrals to the SSC for both comparison purposes and to view the capacity of the reporting mechanism relied upon, schools simply provided monthly logs or sign-in sheets.

Overall, the documentation practices observed varied widely and were exacerbated by the lack of a uniform format for the tracking mechanisms used at each school. The inability to clearly identify the type of disciplinary referral issued, duration, and reason or infraction that led to the removal is problematic on several levels and carries compliance implications. The lack of clear indicators for these critical variables renders the data unreliable for: identifying patterns of ineffective and inequitable practices, disaggregating data to enable data-driven

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

decision making, and tracking the cumulative duration of the disciplinary removals as required by the IDEA.

As noted in the examples above, without concise referral and disciplinary removal reasons, students and staff can misuse and/or abuse the SSC to exclude students from class participation. The examples also highlight the lack of basic functions and shortcomings of the referral process that did not require a clear referral form or communication from the referring party. In addition, the counselor's notes show an apathy for these disciplinary removals, with the counselor failing to act in determining the appropriateness of the student's removal, as well as assuming the inappropriate referrals were because the teacher didn't care. This confusion could have been resolved by the teacher picking up the phone to determine the whereabouts of their student or the counselor speaking with the teacher to identify the reason the student was there. Instead, the student missed instructional time from their regular classroom and did not show evidence of work assigned while in the SSC.

The failure to systematically collect information on the interventions provided shows implications regarding the intent of these removals. If the referrals are aimed at teaching prosocial behaviors or offering restorative programs, then these interventions would reflect such efforts to address misconduct. Many of the interventions listed are simply reassignment to the SSC, which implies a more punitive measure with the aim to simply remove the student from the classroom. The lack of specific interventions also lacks credibility on issuing other means of corrections and demonstrates the inaccurate reporting of these events.

The lack of disability and race/ethnicity indicators limit schools' ability to monitor and respond to inequitable exclusionary disciplinary practices. The presence of this information is also critical for meeting the reporting requirements of the IDEA, Section 504, and Title VI. Without identifying a student's disability, it is unlikely that staff will retrieve the IEP or Section 504 plan to obtain the required supports, accommodations, or services students are entitled to in order to ensure FAPE.

Parental notification is required by the education code and district policy. This information is essential for informing parents of the student's misconduct and subsequent removal from their regular classroom. With only one school including this information in its tracking mechanisms, noncompliance of this requirement by teachers or staff and accountability measures cannot be adequately exercised.

The presence of uniform and quality school discipline data enables the examination and identification of racial/ethnic and disability-based disparities and is important for rooting out discriminatory practices. The following statement by AASA summarizes the limitations of unreliable, inconsistent, or invalid data: "Data do not necessarily prove that students are being discriminated against, but without data it is difficult to know if all students are being treated fairly."

The poor quality of the SSC and OCD referral data made coding the events difficult and likely resulted in an underestimation of the number of students who received in-school exclusionary

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

removals. The lack of reliable data might also explain why administrators and staff who supervise these on-campus detention and supervised suspension rooms could not provide general averages of the number of students referred weekly or monthly. These uninformed responses were noted at all comprehensive sites visited. Coupled with the high degree of variability of the tracking mechanisms used as well as inconsistent and poor documentation practices, these findings are indicative of systemic problems that contribute to noncompliance with various requirements of the education code, the IDEA, Section 504, and Title VI.

### Summary and Conclusions

Overall, the review of policies and procedures, as well as quantitative and qualitative data, support and validate the concerns and allegations made in the CDE Complaint. These findings provide evidence that systemic shortcomings and failings contribute to the disproportionate treatment of Black students, Black SWDs, and SWDs related to exclusionary disciplinary referrals to the Student Support Centers for in-school suspensions (ISS) and on-campus detentions (OCD).

Schools' use of ISS relies primarily on referrals to the on-campus detention (OCD) room and the Student Support Center (SSC). These are designated spaces on a campus with various supports for students struggling socioemotionally, behaviorally, and academically. Some schools reported no longer having an OCD room and instead relying on the SSC for this purpose. During site visits, it was observed that the OCD room and the SSC were either attached or adjacent to one another and were also located near or in conjunction with the security office. In many regards, the OCD room and the SSC appeared synonymous in function. The SSCs are managed by a coordinator and one credentialed teacher per period, and the OCDs are staffed by classified personnel, such as instructional aides or security officers.

The use and names of disciplinary referrals varied by school, with two prominent terms identified: period suspensions and reassignments. Period suspensions refer to short-term removals for one to two periods per week, with some schools referring to these removals as OCD or on-campus intervention (OCI). In-school removals that exclude students from their regular classrooms for 1-3 days are commonly referred to as reassignments; however, some schools refer to these disciplinary actions as in-house suspension (IHS) and alternative to suspension (ATS) or use the terms interchangeably.

The use of various terms is of concern and indicative of a lack of clear policies and procedures to uniformly define these disciplinary actions. The absence of consistent definitions became evident when senior and site level school officials described their view of the SSC and in-school disciplinary actions. Staff of all levels shared a common belief that reassignments to the SSC were not punitive but rather restorative in nature, denying these removals constituted an ISS. While some staff stated that their school did not issue ISS, others noted that a period suspension or OCD was the only form of ISS.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The misconception of what constitutes an ISS has several compliance implications. First, the lack of clarity impacts how these removals are documented and reported to the State. Second, the failure to recognize these removals as ISS limits the ability to monitor long-term removals or patterns of removals that would constitute a change of placement according to the IDEA. More importantly, the refusal to recognize ISS as punitive dismisses the harmful effects of issuing these disciplinary actions.

The investigation considered reassignments and period suspensions/OCDs as in-school suspensions (ISS) since these removals are prompted by a behavioral event where an administrator decides to issue an other means of correction or alternative to an out-of-school suspension. This definition is consistent with the supervised suspension room requirements of Section 48911.1 and the On-Campus Suspension Program endorsed in BP 5144.1.

The review of District policies and procedures around disciplinary referrals to the Student Support Center (SSC) for reassignments and period suspensions found that the District lacks clear and concise guidance to ensure the uniform and equitable application of these types of disciplinary actions.

The language found in BP 5144.1 regarding a teacher's authority to suspend students from their classroom and their reporting and notification responsibilities is consistent with the education code. Additionally, the definition of the District's On-Campus Suspension Program aligns with the supervised suspension classroom requirements pursuant to EC Section 48911.1 and includes the appropriate notification requirements to notify parents in person or by telephone when a student has been assigned to the on-campus supervised suspension classroom and to provide written notification for removals longer than one period.

The policy states the Board of Education's commitment to its On-Campus Suspension Program for students whose misconduct does not pose an imminent danger or threat to the school or others and for incidents where an other means of correction failed to bring about acceptable behavior. The policy clearly acknowledges the District's reliance on and use of in-school suspension (ISS) as a method for disciplining students. This is significant and contradicts the statements of many senior and school level administrators and staff who deny or minimize the use of ISS on campuses.

Inconsistent guidance is provided regarding the inclusion of in-house suspension days as removals for the purpose of determining whether to hold a manifestation determination review (MDR) pursuant to 34 CFR Sections 300.530(b) and 34 CFR 300.536. The document Expulsion or Alternative Placement for Students with Special Education Services offers contradictory instructions. One section clearly states that for SWDs with removals that exceed 10 days of either in-house or off-campus suspension, an IEP meeting must be conducted. However, an accompanying checklist with procedures for issuing out-of-school suspensions (OSS) includes guidance encouraging schools to use ISS when possible because these removals do not count as a suspension, thereby circumventing the procedural safeguards of the IDEA. This procedural guide is a prime example of the contradictory and unclear policies that exist. Furthermore, this document is titled with respect to the expulsion

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and alternative placement of SWDs and not for the application of ISS or OSS. The District did not provide a similar procedural guide dedicated to ISS and OSS, and it can be assumed that this is the only guidance that exists.

The Fidelity Inventory Checklist describes three functions of the SSC, two of which are dedicated to student discipline through the use of period suspensions and reassignments, and some proactive small group activities to support students' social emotional, behavioral, and academic needs. The checklist confirms the role of campus security officers to escort students from their classrooms when teachers issue a removal and reiterates differing documentation practices, including the use of Google Sheets, paper forms, and the student information system (SIS).

In terms of academic expectations, the inventory implies that students are either given no work, a reflection sheet, or a combination of a reflection sheet with either classwork to complete or participation in a mini lesson on core values. Notably missing is the inclusion of test completion, something required for districts to claim funding for students' attendance or ADA apportionments.

Although the Fidelity Inventory Checklist does not provide complete procedural guidance, it does imply the organizational behaviors expected when referring and processing students to the SSC. The scoring criteria also specify what would constitute insufficient implementation, providing insight into some of the inconsistent practices identified, such as failure to notify parents when their student has been removed to the SSC or when students do not interact with a mentor or counselor and instead only interact with security.

Full implementation of the referral process for reassignments requires schools to define what is appropriate and not appropriate for a reassignment, something observed in the Eastside HS PBIS/MTSS Staff Handbook. The handbook clearly states that teachers should not refer students to the SSC for minor classroom-managed misbehaviors, noting that these minor offenses should be followed up with parent/guardian contact and entered into the SIS. While this handbook appears to meet the general guidelines in this area, it is unknown how administrators respond to inappropriate referrals or if data are collected to facilitate conferences with teachers or other staff who make inappropriate referrals.

References to providing IEP supports are only noted for referrals for period suspensions and fail to clearly articulate the expectation of adherence to students' accommodations, goals, and services as specified in their IEPs. The absence of similar guidance for reassignments is problematic since these are longer-term removals that can have a duration of 1-3 full school days, making the denial of these supports more impactful.

Lastly, it is clear that schools are expected to collect and be aware of the referral data in weekly and monthly increments. This was not the case at the comprehensive schools visited, with all sites proving unable to provide general average estimates of the number of students referred. The lack of transparency by school officials regarding the rate of referrals is concerning as it either suggests that they lack oversight of a program that has considerable

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

resources allocated, attempted to obscure or minimize the use or misuse of the SSC, or were influenced by the presence of senior officials and District counsel.

Overall, the District lacks a concrete procedural manual to define and guide disciplinary referrals to the SSC. The only procedures offered exist within documents related to the tools used to measure the fidelity of implementation and SSC informational materials for staff and parents. The guidance contained in all documents is incomplete and inconsistent, making it vulnerable to inequitable practices when issuing in-school disciplinary removals.

Senior and site level staff described the use of the Notice of Reassignment form as a requirement and therefore an example of an implied policy to follow when a student is reassigned to the SSC. Despite request for these forms, none were provided, which limited the ability to determine compliance with this policy. Similar to the Notice of Suspension form, review of these documents could allow for comparisons with sign-in sheets and logs, as well as referrals documented in the SIS, to determine whether the data are reliable and accurately reported to the State.

The Notice of Reassignment form successfully provides a definition consistent with that found in the literature that characterizes this type of exclusionary discipline as imposing student restrictions from participation in the regular school program and activities from the onset of the school day, as well as eating lunch in isolation (Short, 1988).

The analysis of quantitative data regarding ISS included a review of site level sign-in sheets and logs, as well as reports on the other means of correction and ISS issued. SSC referral data from six of the eight comprehensive sites were obtained and analyzed for a total of 6,876 unique events. Despite lacking a full account of these practices for all comprehensive sites, the large size of events analyzed reveals data trends that can be viewed as representative of districtwide practices.

Reassignments are the more restrictive form of in-school removals and can be issued for 1-3 full school days. Black students with and without disabilities show higher levels of representation in reassignments compared to their overall respective enrollment, making up one out of four general education and one out of three special education referrals (25.4% general education ISS compared to 15.2% 13.1% enrollment<sup>39</sup>, 34.9% special education ISS compared to 24% 24.3% enrollment).

Reassignments of White students with and without disabilities show higher levels of representation in ISS compared to OSS. White students are referred nearly twice as often for an ISS as an OSS (12.2% general education ISS compared to 6.5% OSS, 9.9% special education ISS compared to 5.6% OSS). This finding indicates White students are issued less restrictive school discipline removals and administrators rely more on ISS than OSS when disciplining White students with and without disabilities.

---

<sup>39</sup> These comparisons were calculated using only the enrollment figures of the six schools that provided reassignment and period suspension data.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Conversely, Black students with and without disabilities are more likely to be issued more punitive and exclusionary forms of school discipline than an in-school reassignment (general education ISS 25.4% compared to 39.8% OSS, special education ISS 34.9% compared to 52.8% OSS).

Similar trends are apparent between students with and without disabilities. General education students represent 70.9% of all ISS, compared to 67.8% of OSS, while special education students make up 29.1% of ISS and 32.2% of OSS. This is evidence that school administrators rely on more punitive forms of school discipline for SWDs and less restrictive methods for students without disabilities.

The risk or odds of a general education student experiencing a reassignment to the SSC is 5.8%, meaning that nearly six out of 100 nondisabled students are issued these 1-3-day removals. The risk for SWDs is 10.1%, resulting in a risk ratio of 1.75. This level of severity is at risk of being disproportionately overrepresented.

Black students without disabilities demonstrate the highest risk of all racial/ethnic groups and have a risk ratio of 2.25, which signifies their disproportionate overrepresentation in reassignments compared to all other groups. Black SWDs are 1.68 times more likely than SWDs from all other racial/ethnic groups and are at risk for disproportionate overrepresentation.

Period suspensions are class removals authorized by the education code, which grants teachers the ability to have a student removed from their class for a class period up to 2 days per week.

Overall, general education students make up 70.1% of period suspensions and SWDs make up the remaining 29.9%. For Black students with and without disabilities, trends for these short-term removals are consistent with those seen with OSS and ISS, showing overrepresentation in these types of referrals compared to their respective enrollments (29.1% general education period suspensions compared to 13.1% general education enrollment, 40.4% special education period suspensions compared to 24.3% special education enrollment).

Black general education students demonstrate a risk or rate of a period suspension of 15.6%, meaning that nearly 16 out of 100 Black general education students are subjected to an OCD. Their risk is twice as high as multiracial students and almost three as high as Hispanic students. The risk ratio of 2.72 for Black general education students receiving period suspensions is considered disproportionate overrepresentation.

White students are represented in period suspensions at higher proportions than OSS and lower than ISS (8.2% period suspensions compared to 6.2% OSS and 12.0% ISS). This provides evidence that school administrators tend to issue the less restrictive forms of school discipline to White students, with OSS being the least relied on form of discipline.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Period suspension data is also indicative of the sources of bias that contribute to the overrepresentation of certain groups in these types of disciplinary referrals. The data show that teachers tend to issue more period suspensions to Black students with and without disabilities compared to all other students.

One explanation for the lower risk ratios of SWDs and Black SWDs for reassignments and period suspensions is that these students are subjected to higher rates of OSS when compared to general education students and White SWDs. In addition, White students with and without disabilities demonstrated higher levels of risk for ISS and OCD referrals that were more commensurate with their overall enrollment representation, mitigating the risk ratios for Black general and special education students.

Overrepresentation is apparent through the lens of the composition and risk indices as well as risk ratios. The data firmly show that Black students with and without disabilities receive in-school exclusionary discipline removals at levels that do not reflect their respective enrollment representation. In addition, risk ratios over 1.5 and under 2.0 (at risk of disproportionate overrepresentation) are considered high and should cause concern among school officials. These levels should not be considered acceptable or dismissed and instead must be viewed in conjunction with OSS referrals. These findings support the overall notion that administrators engage in inequitable disciplinary practices that disproportionately impact Black students with and without disabilities, and students with disabilities.

The SSC sign-in sheets and logs confirm that the SSC is used for administrative (VP) and security holds where students are detained while incidents are investigated and punishments are determined. The provided site level information lacked a clear indicator to notate law enforcement referrals, but the site visits revealed that students may be referred to the SRO as a result of these holds and/or disciplinary referrals to the SSC. At one site, the director of school safety or lead campus security officer noted that while they don't make law enforcement referrals, they might place incident reports in the box of the SRO for the SRO to determine if an incident requires follow-up and/or intervention, such as a citation. Despite inconsistent and poor documentation practices, 50 instances referencing the search of a student's person or belongings were noted. Due to the lack of uniform documentation procedures and variability in tracking mechanisms used, it is likely that incidents involving a law enforcement referral and search are underreported.

Despite claims that SSCs provide positive support for students, schools primarily rely on them for in-school disciplinary removals. Non-disciplinary referrals account for one in four students referred to the SSC, meaning that three out of four students who access the SSC do so for disciplinary reasons.

Among non-disciplinary referrals, White students with and without disabilities show higher representation in these types of non-disciplinary referrals than their respective enrollments (general education referrals 12.8% compared to 11.2% enrollment, special education referrals 12.5% compared to 9.9% enrollment).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

On the other hand, special education students show lower percentages of representation for these supports when compared to disciplinary referrals (22.8% other compared to 28.6% ISS, 29.9% period suspensions, 32.2% OSS). Black students with and without disabilities receive these types of non-disciplinary referrals at lower proportions than all other types of disciplinary actions (22.5% other compared to 26.5% ISS, 30.4% period suspensions, 44.0% OSS).

These patterns of non-disciplinary referral representation compared to disciplinary referrals to the SSC reveal that administrators are likely to be more supportive and responsive to White students with and without disabilities and more punitive to Black students with and without disabilities, as well as SWDs in general.

The review confirmed that the District underreports other means of correction and ISS to the State. A comparison of site level referral information and reports submitted to the State for other means of correction found that at the six comprehensive sites that submitted data, approximately one in three students who received a disciplinary referral to the SSC were not reported to the State. In addition, the ISS report submitted to the State only included a total of 214 referrals for the entire district, with 87% of these removals coming from Knight HS.

The small number of events that came primarily from one school indicates considerable underreporting since all comprehensive sites should have provided disciplinary referrals under this category. This is likely a reflection of the misunderstanding or misinterpretation of what constitutes an ISS. It also raises serious concerns regarding the vetting procedures used and the overall capacity of senior officials and data analysts who prepare reports submitted to the State, given such skewed distribution of events.

Complicating this data is the practice of schools reporting period suspensions or OCDs and reassignments as other means of correction. This is likely a result of the lack of clarity around the definition of an ISS, as well as guidance for documenting these events. In addition, the use of multiple tracking mechanisms, in particular site level forms and Google Sheets, indicates the lack of a districtwide system for documenting in school exclusionary disciplinary actions. These variances in documentation are condoned by senior leadership, and this is reflected in the Fidelity Inventory Checklist and other materials, such as Eastside HS PBIS/MTTS Handbook, which authorize and encourage the use of multiple tracking mechanisms while lacking mandates for the entry of reassignment data into the SIS. Until the District establishes policies and procedures that define an ISS and accurately report these referrals, administrators tasked with monitoring academic and behavioral outcomes will be unable to hold schools and administrators accountable for complying with referral requirements of education code and District policy.

The site visits and focus groups found a consistent disconnect between how school officials at all levels perceive in-school disciplinary referrals to the SSC and the realities of these exclusionary practices. Staff overwhelmingly expressed that the role of reassignments and period suspensions was not punitive but rather restorative in nature. All school leaders noted that some staff who service these supervised suspension classrooms are not trained in

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

restorative strategies, nor is data collected or monitored regarding these restorative groups. Based on this fact, the argument that in-school disciplinary referrals are restorative is rendered not credible and is predicated solely on assurances. In addition, the failure to see these removals as punitive and harmful has implications for the decision-making processes utilized by teachers and administrators when removing students from their classrooms. This lack of awareness perpetuates the justification of these removals as positive when in reality they further contribute to widening the achievement gap for the students most impacted, including Black students with and without disabilities and SWDs.

Although all levels of the District reported reviewing SSC referral data periodically, no one could provide a basic estimate of the number of students processed weekly or monthly. Considering the allocation of resources and deprivation of instructional time and opportunities for students who are removed, these data should be at the forefront of the decisions of administrators and staff dedicated to the implementation and oversight of PBIS and student discipline. Their lack of awareness should be of concern to the members of the Board of Education, who rely on school officials to know and accurately report the data around all student outcomes, including exclusionary discipline.

School officials provided assurances that SWDs receive their IEP supports, accommodations, and services while reassigned or during a period suspension. However, only two schools included an IEP indicator as part of the logs. Absent the tracking of this information, it is unlikely that students' IEPs are retrieved to identify the supports specified for each SWD. Furthermore, a simple identification of whether a student has an IEP is not a guarantee that the IEP was reviewed or the supports provided. For this to function as intended and ensure accountability, a process would need to ensure that staff list the accommodations, supports, and services provided to the student during their removal.

Staff also rested on the fact that each comprehensive site has one to two special education credentialed teachers serving as mentors, equating their presence as evidence that students' IEPs were being implemented. That is akin to claiming that mere enrollment in a special education day classroom guarantees the implementation of students' IEPs. Although the inclusion of special education teachers is helpful and does afford some ability to provide students with specialized academic instruction (SAI) services, the students' full needs may not be met. General education teachers are also responsible for implementing supports and accommodations specified in a student's IEP. However, due to the lack of policies and procedures to mandate the implementation of the supports, accommodations, and services specified in students' IEPs while serving a reassignment or period suspension, and the lack of documentation practices to capture these efforts, it can be reasonably assumed that these practices do not consistently occur.

About one-third of families who participated in the telephone survey reported their child was referred to the SSC for disciplinary reasons. This finding is striking since one might expect that the majority of students who experienced an OSS would have first been issued an alternative to suspension or ISS, consistent with District policy and the education code. The

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

lack of awareness of families is likely due to the school's failure to inform them of these disciplinary removals.

District and site level staff reported schools being granted Platinum, Gold, Silver, and Bronze PBIS status, although it was unclear how the schools earned these classifications. Senior officials described a rigorous process that includes submitting referral data, while schools implied that promotion between levels was based on the number of features schools offered. Regardless of the methods, the OSS and ISS referral rates are exceptionally high. In addition, the disproportionate impact on Black students with and without disabilities and SWDs call into question how meaningful the programs at schools designated as Platinum or Gold really are. Overall, the high rates of disciplinary referrals, referrals to law enforcement, use of restraints, and searches, as well as the inequitable practices observed for the most vulnerable populations, are incompatible with effective PBIS schools.

Senior officials describe PBIS as a framework that is mandated at all schools by the CCEIS Plan, but the implementation of programs is not mandated at the school or teacher level. Therefore, a wide variability exists with no real accountability for staff who refuse to participate in these programs. The lack of consistent and equitable practices is unsurprising and evidenced by the data. One cornerstone of an effective PBIS program is data-driven decision-making. However, the variability in how data are captured and reported raises the question of the overall effectiveness of districtwide effort to implement PBIS.

The analysis of the documentation practices found inconsistent and poor-quality record keeping of referrals to the SSC and OCD. This made coding these events difficult and likely resulted in an underestimation of the number of students who received in-school exclusionary removals. The lack of reliable data might also explain why administrators and staff who supervise these on-campus detention and supervised suspension rooms could not provide general averages of the number of students referred weekly or monthly. These uninformed responses were noted at all comprehensive sites visited. Coupled with the high degree of variability of the tracking mechanisms used and in documentation practices, these findings are indicative of systemic problems that contribute to noncompliance with various requirements of the education code, the IDEA, Section 504, and Title VI.

The investigation found many systemic shortcomings with the policies, procedures, and practices of the District's exclusionary in-school disciplinary actions. Contradictions in the interpretation of what constitutes an ISS were found in the documents reviewed and among staff. School officials' posture of pervasive deniability of these removals as punitive in nature is indicative of systemic issues at all levels that cause harm to students, in particular Black students with and without disabilities and SWDs. This lack of awareness and accountability is troublesome and is indicative of a status quo that has been internalized and justified to perpetuate inequities against its most vulnerable students. This is evidence of systemic and structural deficiencies that result in inequitable and discriminatory practices.

The sections on OSS and ISS show the widespread inequities applied to exclusionary discipline, which are exacerbated by the poor infrastructure of the organization. The District's



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

policies are inconsistent. The procedures necessary to guide the field to ensure consistent and equitable practices are lacking and wholly insufficient. Site level practices are unchecked and, despite overwhelming evidence of the misapplication and overrepresentation of Black students with and without disabilities and SWDs, school officials demonstrate an overall lack of awareness or concern about the extent of the problem. In short, the District has a systemic deficiency and a pervasive accountability problem that will require considerable intervention in order to address and mitigate the harm being perpetuated against its most vulnerable students.

### **Allegation Determination**

Allegation 4.1 The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including in-school suspension.

- Allegation 4.1 is founded.
  - The data provide clear evidence that SWDs and Black SWDs are disproportionately subjected to in-school suspensions.
  - SWDs demonstrate a risk of 10.1% for reassignments to the SSC, nearly double the risk of nondisabled students (5.8%). SWDs are 1.75 times (risk ratio) more likely to receive an ISS, which is indicative of being at risk for disproportionate overrepresentation.
  - Black SWDs and multiracial SWDs show the most vulnerability to reassignments, with a risk almost double that for Hispanic SWDs. The risk ratio of Black SWDs (1.68) is consistent with being at risk for disproportionate overrepresentation for being reassigned to the SSC.
  - Black SWDs have the highest risk of being issued a period suspension (21.1%) compared to Hispanic (9.6%) and White (12.0%) SWDs. Black SWDs demonstrate a risk ratio of 2.11, indicative of disproportionate overrepresentation.
  - SWDs are almost twice as likely (risk ratio 1.81) to receive a period suspension as their nondisabled peers, indicative of being at risk for disproportionate overrepresentation.
  - One explanation for the lower risk ratios for SWDs and Black SWDs is that these students are subjected to higher rates of OSS when compared to general education students and White SWDs. In addition, White students with and without disabilities demonstrated higher levels of risk for ISS and OCD referrals, which are more commensurate with their overall enrollment representation. These two variables mitigate the ISS risk ratios for Black SWDs.
  - Black general education students show a risk ratio of 2.72 for experiencing a period suspension, which is indicative of disproportionate overrepresentation when compared to their nondisabled counterparts from other racial/ethnic groups. This finding supports the notion that

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

these inequities are systemic and impact Black students with and without disabilities disproportionately.

- The District lacks uniform policies and procedures to ensure equitable school disciplinary referrals to the SSC. It also lacks a uniform definition for in-school suspensions and removals as well as a shared understanding across all levels of school officials. Many school officials deny the use of ISS at their schools despite data that show a high number of students have been excluded for period suspensions or full-day and multi-day removals referred to as reassignments.
- The use of various ISS and OCD referral tracking mechanisms and inconsistent data collection practices exacerbates subjectivity in the referral process, contributing to inequitable practices and poor data maintenance.
- Despite assurances of the use of the Reassignment Notice form by senior and school level officials, no forms were submitted for review. In addition, site level school officials described inconsistent practices for documenting referrals with one noting that teachers are allowed to call security personnel in lieu of filling out the form.
- The data provide clear evidence that SWDs and Black SWDs are disproportionately subjected to in-school suspensions.

**Allegation 4.2** The District maintains on-campus detention (OCD) rooms and Student Support Centers (SSCs) on its comprehensive campuses that claim to provide positive behavior supports and interventions but “in practice, function as rooms for informal and sometimes multiple day-long, in-school suspensions” (p. 13).

- Allegation 4.2 is founded.
  - Contrary to school officials’ assertions that reassignments and the purpose of the SSC are restorative in nature, staff are not uniformly trained in restorative practices, nor are data collected or tracked on these activities. There is no evidence provided to support their claims.
  - The SSC sign-in and logs show that 75% of students were referred for disciplinary reasons and were removed from their regular educational placements and restricted from participating in other school activities and functions during this period. By definition, this constitutes an in-school suspension.
  - Reassignments were observed to last from 1-3 days.
  - Some schools used the terms reassignment and in-house suspension interchangeably, suggesting that despite the pervasive plausible deniability of the function of the SSC, staff recognize a reassignment as an ISS.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Allegation 4.3** Accommodations, supports, and services specified on students' IEPs are often disregarded during these removals, and students are only provided access to specialized academic instruction (SAI) support for a minimum of one period per day, even if their IEP requires more.

- Allegation 4.3 is founded.
  - Only two of the six comprehensive schools' logs contain an indicator for staff supervising the SSC to look up and identify a student's IEP services. As a matter of policy and practice, this information should be tracked uniformly by all schools and include a field that notates the specific services and supports that are to be provided to ensure IEP supports are implemented for SWDs. Absent this information, it is highly unlikely that staff are aware of or implement a student's IEP.
  - Some schools reported one credentialed special education teacher supervises their SCC and others reported two. Although their presence may be helpful, it is unrealistic to expect this meets the full range of students' needs as specified in their IEPs.
  - Despite senior level and site level school officials' assurances that IEPs are implemented, no evidence was provided to validate their claims.

**Allegation 4.4** SWDs are referred to the OCD and the SSC due to unmet disability related academic, emotional, and/or behavioral needs.

- Allegation 4.4 is partially founded.
  - The data collection of SSC sign-in sheets and logs noted referrals and infractions that might have been associated with disability related academic, emotional, and/or behavioral needs. However, the lack of consistent and clear information regarding referrals and infractions for all schools made it difficult to fully validate this claim.
  - The lack of disability information for four of the six schools further limited the ability to validate this claim.
  - However, data reviewed for other parts of this investigation, such as the manifestation determination review, show minimal levels of behavioral and socioemotional supports for many students, with counseling services provided for 10-15 minutes per month and a low rate of behavior intervention plans (BIPs). Therefore, it is likely that many of the students removed from their classrooms lacked the appropriate behavioral supports and accommodations needed to be successful in meeting the school and classroom conduct requirements.

**Allegation 4.5** District policy fails to require the documentation of removals to OCD and SSC and neglects the reporting of said removals to CDE, the documentation of the disciplinary actions in students' educational records, the tracking of total number of days, and the completion of manifestation determination

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

reviews (MDRs) for students who experience more than 10 days of removals.

- Allegation 4.5 is founded.
  - A comparison of SSC sign-in and log data to the Other Means of Correction (300) file found 601 students who could not be matched to the 300 report submitted to the State. This represents 30% of students who attended four of the six comprehensive sites that submitted logs. This is likely an underrepresentation of the underreporting of disciplinary referrals to the SSC submitted to the State.
  - The ISS (110) file only includes 214 referrals reported to the State. Even if the file is limited to period suspensions, as indicated by site administrators, it is a significant underreporting since the investigation found 2,444 period suspension referrals. This is a dramatic underestimation of the use of ISS considering only four of the six schools provided referral data and the poor quality of documentation that limited the ability to accurately code all referrals to the SSC.
  - The policies and procedures reviewed, as corroborated by information obtained from interviews and focus groups of school officials from all levels, demonstrate an inconsistent interpretation of whether ISS removals are counted toward the 10 days required to trigger an MDR.
  - Although some school officials reported tracking the number of days SWDs are removed to the SSC, there is no evidence in the logs or in the majority of MDR documents reviewed that this occurs.
  - In addition, the sign-in sheets and Google Sheets submitted lack a basic indicator for capturing a student's IEP. Absent such an indicator on these tracking forms, it is highly unlikely that staff are able to sort or track SWDs for this purpose.

Allegation 4.6 SSC and OCD rooms are also used for conducting searches and/or investigation of students that lead to law enforcement involvement and result in further loss of instructional time. In addition, students referred to the SSC are often escorted by security staff, which “stigmatizes students and institutionalizes the SSC as punitive, rather than restorative, intervention” (p. 14).

- Allegation 4.6 is founded.
  - The policies and procedures reviewed, as well as information obtained from interviews and focus groups of school officials, confirmed use of the SSC as a triage room where students are held for investigations or for administrative or security holds.
  - The data collected from SSC sign-in sheets and Google Sheets found 478 referrals for an administrative or security hold. Some schools also included indicators to specify these referrals, removing any doubt that

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

this is a common use of the SSC. Although data were collected on duration of referrals, the poor quality of documentation made it difficult to quantify the length of time spent for all students. However, a considerable number of students spent extended periods of time in these holds, resulting in a significant loss of instructional time.

- The data noted 50 instances of students searches, but this is likely an underestimation due to the lack of a clear indicator and variability in the documentation practices used by schools and administrators.
- The data tracking mechanisms used by schools for the SSC lacked clear indicators of law enforcement referrals, which was compounded by poor and inconsistent documentation practices. However, the preponderance of law enforcement referrals for OSS, as well as site visit information, are indicative of practices that rely on SROs for minor disciplinary infractions. In addition, at one school the director of school safety reported dropping off incident reports for the SRO to review and determine if intervention was required, but the director did not view this as a law enforcement referral.
- The policies and procedures reviewed identified the role of campus security in escorting students to the SSC, which was confirmed by school officials at all levels. Security personnel also reported this practice and their role in managing the OCD and supporting the SSC.

## **Section 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of SWDs**

The California Department of Education (CDE) Complaint includes various allegations regarding the disproportionate use of exclusionary discipline, including expulsions and voluntary and involuntary transfers of students with disabilities (SWDs) and Black SWDs. In addition, the Complaint includes allegations regarding the failure to afford students being transferred the procedural protections associated with the manifestation determination review (MDR) process. The review examined the District's relevant policies, procedures, and practices to determine alignment with state and federal laws and whether systemic problems existed that contribute to systemic noncompliance.

This section focuses on a review of expulsion and disciplinary transfer data as well as a file review to examine the decision making process of the MDR. It also includes a file review of expulsion cases of SWDs to provide a better understanding of the factors that contribute to these expulsion recommendations, as well as how these students were being supported at the time of the misconduct that resulted in their expulsion.

This section includes the following regarding expulsions, MDRs, and voluntary/involuntary transfers: various allegations made in the CDE Complaint; review of literature; review of applicable laws and regulations, and District policies and procedures; review of quantitative and qualitative data; summary and conclusions; and allegation determination.

### **Allegation 5. Expulsions, Manifestation Determination Reviews, and Voluntary and Involuntary Transfer of SWDs**

The CDE Complaint includes the following allegations regarding expulsions, MDRs, and disciplinary transfers:

- Allegation 5.1 The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including expulsions and voluntary and involuntary disciplinary transfers.
- Allegation 5.2 The District underreports expulsions by using voluntary and involuntary transfers, which removes SWDs from general education campuses and places them in alternate settings, similar to what would occur had the student been expelled.
- Allegation 5.3 The District employs a "waiver" system for students who have been recommended for expulsion that "permits staff to use coercion, intimidation and misrepresentation to convince parents and students to waive due process protections and consent to immediate 'voluntary' transfer to an alternative school."

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Allegation 5.4 The District Involuntary Transfer policy, A.R. 6185, does not include the procedural protections afforded by the IDEA for an expulsion hearing and MDR.
- Allegation 5.5 Students with disabilities transferred to alternative schools are denied access to the same or comparable educational opportunities and experiences as students at general education sites. Furthermore, students do not consistently receive special education services at alternative sites and are often engaged in independent work that is academically less rigorous.
- Allegation 5.6 The District's policies, procedures, and practices violate the IDEA's requirement to hold MDRs before placement changes occur based on discipline code violations. The District fails to consider informal removals, specifically disciplinary referrals to the SSC, for triggering the procedural protections of the MDR for SWDs whose removals exceed 10 school days.
- Allegation 5.7 The use of voluntary and involuntary transfers triggered by disciplinary incidents allows schools to circumvent the procedural protections afforded to SWDs, specifically the MDR.

### **Review of Literature**

This section will review the research literature on exclusionary discipline that relates to expulsions and manifestation determination review IEP meetings in the context of the phenomenon referred to as the school-to-prison pipeline. Expulsions are considered the most severe type of exclusionary discipline because students are prohibited from attending the majority of district campuses for a lengthy period of time.

In many ways, the MDR represents a gateway mechanism for justifying exclusionary discipline, such an expulsion or disciplinary transfer to an alternative school, as well as the criminalization of misconduct. For many SWDs who misbehave, the MDR can be viewed as the last line of protection to prevent further removals from their current educational programs. Findings that a student's misconduct is not a manifestation of their disability can send a message to school officials that these students are to be held accountable for such misconduct. This can overshadow the need for an IEP team and school to provide the necessary behavioral supports to mitigate behaviors, both substantially related to their disability as well as others that may be indirectly associated with their disability. The MDR process may also be viewed as a mechanism for abdicating the school's responsibilities and obligations for supporting a SWD's behavioral needs.

This discussion also examines research on the impact of certain disabilities, such as ADHD and mild disabilities (e.g., learning disabilities), on aggressive behaviors.

Two previous sections on out-of-school and in-school suspensions provided a review of literature that shows an overwhelming negative relationship between exclusionary discipline

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and the educational and social outcomes of SWDs and students of color who are disproportionately impacted.

A sound body of research has consistently highlighted the disconnect between the use of exclusionary discipline and improving student behaviors, noting that these official sanctions rarely solve or mitigate the problem behavior through the application of a suspension or exclusion from school because alternative behaviors are not taught (Armstrong, 2021; Sharkey & Fenning, 2012). Conversely, research has found these removals do more harm than good as students are more likely to develop a mental health condition, experience poor educational attainment (Theriot et al., 2010), and be involved in the criminal justice system (Armstrong, 2021; Novak, 2019).

The link between school exclusion and the criminal justice system found in a statewide study in Texas noted that students who were suspended or expelled were three times more likely to be involved in the juvenile justice system (Fabelo, 2011). The use of exclusionary discipline also questions the motivation of schools to pursue such removals, especially for less severe infractions. Some ethnographic studies have found that suspension can be used as a mechanism to pushout students, or encourage students considered “troublemakers” or unlikely to succeed out of school (Bodwitch, 1993, as cited in Skiba & Peterson, 2000).

Some of the most common risk factors for exclusion include poor academic achievement, early behavioral problems, frequent school moves, attendance problems, and family problems (Cartledge et al., 2001). Several of these risk factors are consistent with characteristics of SWDs. In addition, researchers have found that many SWDs also exhibit poor social skills, judgment, and planning and may be less skilled in evading detection of their misconduct, resulting in a higher likelihood of being caught exhibiting misbehavior that results in exclusion (Leone et al., 2000). Skiba (2002) notes that the ability to fully grasp the consequences of behavior and subsequently control it is a sophisticated and internalized process that is difficult for many SWDs.

As mentioned, research has found a relationship between the disciplinary exclusion of SWDs and their involvement in the juvenile and criminal justice system. This relationship has resulted in a partnership between schools and courts that has developed through a punitive and harmful framework referred to as the “school to prison pipeline” (Kang-Brown et al., 2013), that disproportionately impacts SWDs, students of color, and other disadvantaged groups. This phenomenon can be defined by a set of policies and practices in schools that make it more likely for students to face criminal involvement with the juvenile courts than attain a quality education (Advancement Project et al., 2011).

Although the school-to-prison pipeline affects many children who do not pose a serious threat, some students who are suspended or expelled from school or subsequently held in juvenile justice facilities have complicated problems and poor long-term outcomes (Advancement Project et al., 2011). Factors or problems associated with poverty, trauma, mental health difficulties, and/or developmental or cognitive deficits, among others, can help explain these students’ initial involvement in the discipline systems (Mallet, 2013). The



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

American Psychological Association (2018) has stated that “for those students ultimately disciplined within the school-to-prison pipeline, it is a system that is difficult to escape.”

Juvenile incarceration rates and the demographic landscape give credence to the phenomenon and the disproportionate impact it has on SWDs. Many incarcerated youths are disproportionately male, poor, Black, Native American, or Hispanic, and many have significant learning or behavioral problems that entitle them to special education (Quinn et al., 2005). In addition, many of the youth who enter the juvenile correctional facilities have intense educational, mental health, medical, and social needs, and a large percentage of incarcerated youth are marginally literate or illiterate and have experienced school failure and retention (Center on Crime, Communities, and Culture, 1997).

The high rates of incarcerated youth with learning and behavioral disorders have led some professionals to characterize the juvenile justice system as a “default system” for students who cannot read or write well, have mental health disorders, and who drop out or are forced out of school (Nelson, 2000). The correlations found between incarcerated youths and the high rates of youths with learning and behavioral deficits can help explain why SWDs disproportionately experience disciplinary exclusions while in school. In many ways, the failure to teach students prosocial skills and strategies to help regulate their emotional states and behavior results in more punitive consequences, such as incarceration.

Azad and Hau (2018) point out that in many western countries, young offenders are treated differently than adult offenders, which is based on the notion that youths are not guilty of a crime which they should be punished for and rather are likely to have unmet needs (Goldson, 2002; Muncie & Goldson, 2006). Recent trends in the juvenile justice system have shown a shift toward an increased focus on the offense rather than a young person’s social or psychological needs (Azad & Hau, 2018; Estrada et al., 2012), compared to approaches seen in Sweden that adopt a rehabilitative service approach for treating rather than punishing young offenders (Shannon et al., 2014).

Quinn et al. (2005) presents four theories to explain the overrepresentation of youth with disabilities in correctional and detention facilities: school failure, susceptibility, differential treatment, and metacognitive deficits.

The school failure theory contends that learning, emotional/behavioral disabilities, and intellectual disabilities lead either directly to school failure or contribute to school problems and failure that cause negative self-image of students, resulting in school dropout, suspension, and delinquency (Osher et al., 2002).

The susceptibility theory asserts that SWDs have personality and cognitive deficits that predispose them to criminal or delinquent behavior. The characteristics of these deficits may include: poorly developed impulse control, irritability, suggestibility, an inability to anticipate consequences, and inadequate perception of social cues (Keilitz & Dunivant, 1987).

The differential treatment explanation reflects a varied and discriminatory response by police, courts, and juvenile corrections toward disabled students who engage in comparable

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

delinquent misconduct of nondisabled students (Keilitz & Dunivant, 1987). This theory would explain why SWDs receive harsher punishments than their nondisabled peers for similar offenses.

The metacognitive deficits hypothesis (Larson, 1988) suggests that delinquent youths' problem-solving strategies are less developed compared to students who exhibit more prosocial behaviors. This theory contends that the inadequate social-cognitive development of delinquent youths, which is also common among SWDs, explains their increased risk for engaging in delinquent and criminal behavior (Quinn et al., 2005).

For SWDs, the connection or link between their disability and culpability for their behavior comes to a crossroads during the MDR process. This mechanism, while intended to serve as a protection from discriminatory disciplinary exclusion or punishment of a student's disability related behaviors, places the responsibility on the school-based MDR team to examine the student's current and past disability and behavioral history to determine if a substantial relationship exists. It also requires the school to determine if the student was being adequately supported by their IEP and whether the school was dutifully implementing these supports.

Walker (2013) conducted a study on school team's decision making regarding MDRs and found that many participants struggled with the MDR process itself and had great difficulty claiming causation of the behavior. Team members felt there were missing details or incomplete information when making these determinations. General education teachers demonstrated little knowledge regarding the needs and rights of SWDs and a startling lack of knowledge of special education law (Bon et al., 2006).

Knudsen and Bethune (2018) developed a guide for the interdisciplinary MDR team to develop best practices. They note that the IDEA asserts that a disability should not be a hindrance to full participation in society and that improvement in educational practices for SWDs will increase their equal opportunity in school settings. They note that one way the IDEA aims to ensure such access is through an MDR.

Although many of the practices included refer to general effective collaboration strategies, such as establishing group norms and a common goal, they recommend three that can improve the objectivity of the decision-making process. The first is to include a board-certified behavior analyst (BCBA) as part of the MDR team. BCBA's are trained in applied behavioral analysis and can help better identify the function of both socially relevant and maladaptive behaviors. In addition, they can help in the development of a behavioral intervention plan (BIP) and interpreting the function of the behaviors found in a functional behavioral assessment (FBA). These professionals also understand the behavioral principle that all behaviors are functionally related to the individual's environment (Lewis et al., 2015).

The second recommendation is to focus on specific, uniform questions to facilitate the decision making of whether the behavior is a manifestation of the student's disability. The researchers note that one source of confusion in the MDR process is the process of review and decision-making (Zilz, 2006) due to the lack of a clearly defined method for determining

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the manifestation of the behavior in question. This requires MDR team members to define the language of the law for themselves (Walker, 2013).

A decision-making approach based on the social skills assessment literature developed by Katsiyannis and Maag (2001) is as follows (p. 158):

- Does the student possess the requisite skills to engage in an appropriate alternative behavior?
- Is the student able to analyze the problem, generate solutions, evaluate their effectiveness, and select one?
- Does the student interpret the situation factually or distort it to fit some existing bias?
- Can the student monitor their behavior?

The last recommendation emphasizes the use of evidence-based interventions by MDR teams who recommend or make revisions to interventions, including BIPs. This is of importance because it requires teams to consider and provide interventions that have been researched and deemed effective, increasing the probability of effectively addressing the student's behavioral need.

Although Knudsen and Bethune acknowledge that no set of questions or approach can guarantee that the team will identify the cause of the behavior with certainty, a consistent and objective standard is needed to protect SWDs from disciplinary discrimination (Zilz, 2006), noting more research is needed in this area.

One of the most difficult aspects of determining the causation of a SWDs behavior is having a sound understanding of disability that often extends beyond the scope of the educational-based eligibilities offered in the IDEA. This challenge can be daunting for a group of educators with a range of capacities and understanding of disability. The following discussion on research literature on ADHD and mild disabilities will highlight the dynamic nature of disability and the susceptibility common disabilities such as ADHD and LD have to comorbid conditions.

One common reason SWDs experience exclusionary discipline is due to the aggressive nature of their behaviors, in particular for students subjected to more extreme disciplinary removals, such as expulsion.

ADHD is a common neurodevelopmental psychiatric disorder with onset in childhood and symptoms that can persist through adulthood (Mogavero et al., 2018), presenting a major obstacle to learning and development at school with relatively high prevalence in childhood and adolescence (Yoo et al., 2020).

ADHD refers to persistent and recurrent disturbances in age-appropriate behaviors within the areas of attention deficit and hyperactivity/impulsivity, which cause maladjustment in emotional, social, cognitive, and behavioral aspects (Yum & Kim, 1999).

The Diagnostic and Statistical Manual of Mental Disorders referred to as the DSM-5, presents hyperactivity, impulsivity, and inattention as ADHD-related symptoms; however, the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

manifestations of ADHD are highly heterogeneous (Luo et al., 2019). Among the symptoms of ADHD, hyperactivity/impulsivity is known to be related to aggressive behavior, rule breaking, and extroversion, while inattention is known to be related to depression, slower cognitive task performance, and introversion (Martel et al., 2011). Impulsivity related to ADHD has also been reported to cause extreme expression of anger (Gitta et al., 2015).

The severity of the disorder is limited to the three core symptoms (inattentive, impulsivity, and restlessness), which results in impairments in social and academic functioning. ADHD also has high levels of association with conduct symptoms, which lead to aggression, delinquency, antisocial behaviors, and substance abuse (Patel & Barzman, 2013). High levels of comorbidity with externalizing disorders, such as conduct disorder and oppositional defiance disorder, have been found in many individuals with ADHD (Goldman et al., 1998). In addition, many children and adults with ADHD have sleep disturbances (Baird et al., 2012) and research has found links between severe aggression associated with altered sleep patterns and disturbances in the sleep/wake cycle (Bronsard & Bartolomei, 2013). Therefore, it is possible that sleep disturbances may lead to greater severity of ADHD symptoms and to comorbidity with exhibition of aggressive behavior.

Dawson and Blackwell (2010) found that impulsivity associated with ADHD has been linked with some forms of aggression and note that it causes:

lowered threshold for motoric actions, particularly aggressive behavior in response to environmental stimuli. Aggression can be reflected by verbal aggression (i.e., expressions of anger and/or threats of violence to self or others), aggression against property, auto-aggression or various forms of self-harm, and physical aggression to others. (p. 104)

They also point out that even boys with ADHD who rate low on defiance rating scales had significantly higher offender arrest rates than normal controls, suggesting that even for youths who do not frequently present with symptoms of aggression, they are more susceptible to aggressive behaviors compared to their neurotypical peers.

The link between ADHD and acts of school violence become more pronounced for adolescent students (Yoo, 2020). Studies have found ADHD as a risk factor in school violence (Timmermanis & Weiner, 2011), with hyperactivity and impulsive ADHD being largely attributed to bullying, especially for boys, because of aggressive and rebellious behaviors (Erhardt & Hinshaw, 1994; Lee & Hwang, 2013). These relationships have been quantified, showing that children with ADHD tend to be four times more likely to act as offenders of bullying and 10 times more likely to become victims than neurotypical children (Holmberg & Hjern, 2008).

The complex nature of ADHD during the adolescent years can become more challenging since many adults, including teachers and parents, have an inadequate understanding of ADHD (Yoo, 2020; Park & Chun, 2018). During adolescence, children with ADHD show less hyperactivity and more internal problems, such as frustration and low self-esteem (Cantwell,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

1996; Dupaul, 1991; Jeoung et al., 2001). These difficulties understanding how the symptoms of ADHD may change and manifest in adolescents, may result in the student having repeated experiences of frustration that in turn lead to a lack of self-esteem, which contributes to anger and hostility. These psychological changes associated with the adolescent period exacerbate this internal aggression (Houston & Vayak, 1991).

Research has shown that students with mild disabilities have deficient social skills and are not well accepted by their peers (Farmer, 2000; Gresham & MacMillan, 1997; Kavale & Forness, 1996). Peer rejection and deficits in social skills of nondisabled students have been associated with adjustment problems arising later (Kamps & Tankersly, 1996; Kaufman, 1997), raising similar concerns for SWDs.

Sociometric status research where peers rate other peers has shown that students with mild disabilities are less accepted than their nondisabled peers (Gresham & MacMillan, 1997). Research has also found that students with mild disabilities are at risk for social problems that are related to aggressive and disruptive behavior, which lead to rejection by peers as well as a tendency for these students to make associations with peers who support and complement their behavior (Farmer, 2020). This peer rejection may contribute to a student's response to provocation with aggression or other socially unacceptable behaviors that perpetuate further teasing by peers, thereby reinforcing their negative roles in the social structure (Farmer, 2020).

In addition to asking SWDs to manage and mitigate the impact of their disability to meet standard behavioral norms, these students must also contend with the demands of their developmental periods, particularly during the dynamic period of adolescence. This stage is a period marked by developmental changes and challenges that lay the foundation for transitioning into adult life (Crone & Dahl, 2012). Although this period may be characterized as a time that can lead students toward independence and discovering self-identity, it is also a time of increased levels of risk behaviors, such as running away from home, truancy, drinking alcohol, taking drugs, and committing delinquent acts (Gutman, et al, 2017).

The construct of social hierarchies becomes more prominent in the adolescent stage, where through some process of selectivity, social hierarchies emerge with some individuals and peer groups obtaining greater social prominence and influence than others (Farmer, 2020; Adler & Adler, 1996). Therefore, maintaining one's social position takes on a more prominent role in school, making all students, even those considered popular, vulnerable to aggressive strategies to enhance their own status at the expense of others (Farmer, 2020).

This interpersonal conflict reflects a social dynamic that becomes more pronounced in adolescence as students attempt to fit in and to protect and improve their own social positions. To do this, students may engage in a variety of aggressive strategies, such as gossiping, name calling, manipulating friendships, abandoning existing friendships for friendships with higher-status peers, bullying, and directing physical attacks on unpopular students or adversaries (Farmer, 2020; Adler & Adler 1996).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The dynamics of adolescence for SWDs becomes a fragile time as these students are more susceptible to peer rejection and low self-esteem, while still contending with the social desires of fitting in and belonging. Their disability related behaviors, such as being disruptive, defiant or aggressive, often result in exclusionary discipline and MDRs, where these behaviors that might have contributed to their initial referral for special education services are questioned and potentially invalidated for the purposes of justifying an inappropriate removal.

The research literature and statistics on incarcerated youth show the correlation between disability, whether diagnosed or not, and involvement in the criminal justice system. The MDR process arguably shows a parallel mechanism in the educational setting to that of the criminal system, attempting to determine if a student is culpable for their behavior rather than focusing on their behavioral, social emotional, and mental health needs.

### **Review of Applicable State and Federal Laws and Regulations, and District Policies and Procedures**

The following discussion reviews applicable education code and federal requirements and regulations regarding school discipline, including expulsions and the procedural protections of the MDR, as well as voluntary and involuntary disciplinary transfers.

A review of the District's discipline policies and procedures submitted as part of this investigation was conducted to analyze alignment with applicable laws and regulations and to identify shortcomings that might contribute to the disproportionate application of expulsions and disciplinary transfers for SWDs and Black SWDs. In addition, these policies were reviewed to determine if the guidance for conducting MDRs is consistent with law.

The discussion related to the education code, federal laws, and regulations included in this report is not considered comprehensive of all relevant laws and regulations. In addition, the policies and procedures reviewed represent the documents provided as part of the investigation as well as documents that were obtained from other sources, such as the District website.

### ***State and Federal Regulations Regarding Expulsions, MDRs, and Voluntary/Involuntary Transfers***

Relevant California Department of Education (CDE) education codes were reviewed to determine if the District's policies and procedures regarding exclusionary school discipline, including expulsion, MDRs, and voluntary/involuntary transfers, are consistent with State requirements.

Section 504 and Title II are federal laws that protect qualified individuals with disabilities from discrimination on the basis of their disability, including in school discipline. Title VI prohibits discrimination based on race, color, or national origin and includes mandates related to the non-discriminatory application of school discipline. In addition, the IDEA contains regulations with considerations and protections for SWDs who are issued short- and long-term removals, including the safeguards associated with the MDR.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Select sections of the education code, federal laws and regulations are included or summarized as a reference to guide the discussion for each allegation. In instances where the requirements were discussed in more detail in previous sections, a summarized version of these laws is included, as appropriate.

### **Education Code Regulations.**

The education code contains notable sections that dictate how local education agencies (LEAs) issue long-term suspensions, expulsions, and MDRs. In addition, education code regulations regarding voluntary and involuntary transfers are included.

Education Code (EC) Section 35291 requires school districts to develop student codes of conduct and student disciplinary procedures based on state law. Each school must also publish a code of conduct that is consistent with the district discipline policy and must make these rules available to parents and guardians in the school office. Districts can also include code of conduct information as part of the annual notification to each student in the district and/or post code of conduct information on its website.

EC Section 48900 sets the framework for the 20 allowable reasons for suspending and/or expelling students. This includes but is not limited to offenses such as fighting; the possession, sale or furnishing of a weapon; the possession, use, furnishing, or sale of drugs or alcohol; vandalism, profanity, disruption; and having committed or attempted to commit sexual assault.

EC Sections 48900.2, 48900.3, 48900.4, and 48900.7 supplement EC Section 48900 with four additional offenses: committed sexual harassment; participated in, caused, attempted to cause, or threaten an act of hate violence; harassment, threats, or intimidation of school personnel; and made terrorist threats against school officials and/or school property.

EC Section 48900(s) establishes the jurisdiction for suspending or expelling students, limiting this authority to offenses that are related to school activity or school attendance that occur at any time, including, but not limited to, any of the following:

- while on school grounds
- while going to and coming from school
- during the lunch period, whether on or off campus
- during or while going to or coming from a school-sponsored activity

EC Section 48900(v) encourages school districts and schools to provide alternatives to suspension or expulsion using a research-based framework with age-appropriate strategies that improve behavioral and academic outcomes and correct the student's misbehavior as specified in Section 48900.5.

EC Section 48900(w)(1)(2) characterizes the intent of the law to impose alternatives to suspension or expulsion when a student is truant, tardy, or otherwise absent from school activities. It also describes the intent of the law to implement a multi-tiered system of supports (MTSS), which includes restorative justice practices, trauma-informed practices, social and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

emotional learning, and schoolwide Positive Behavioral Interventions and Supports. MTSS may be used to help students develop essential tools, including critical social and emotional skills, and receive support to help transform trauma-related responses. The restorative aspect of these supports can help students understand the impact of their actions and develop meaningful methods for repairing harm to the school community.

EC Section 48900.5 requires that suspension, including supervised suspension as described in EC Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A student, including a student with exceptional needs, may be suspended upon their first offense for any of the reasons enumerated in EC Section 48900 if the school principal or superintendent of schools determines that the student committed an act of EC Section 48900 or its subdivisions or that the pupil's presence causes a danger to persons.

EC Section 48915(a) states that the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, including:

- causing serious physical injury to another person, except in self-defense
- possession of any knife or other dangerous object of no reasonable use to the pupil
- unlawful possession of any controlled substance
- robbery or extortion
- assault or battery, as defined in Sections 240 and 242 of the penal code, upon any school employee

EC Section 48915(b)(e) indicates that upon a decision by the principal or superintendent of schools or a hearing officer of administrative panel to expel a student for any of the acts listed in Sections 48915(a)(1), subdivision (a) – (m) of Section 48900, Section 48900.2, 48900.3, or 48900.4 shall be based on the finding of one or more of the following:

- Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- Due to the nature of the act, the presence of the pupil will cause a continuing danger to the physical safety of the pupil or others.

EC Section 48915(c) lists the five acts for which the principal or superintendent of schools shall immediately suspend and recommend a student for expulsion. These are considered the mandatory offenses for expulsion:

- possession of, selling, or otherwise furnishing a firearm
- brandishing a knife
- unlawfully selling a controlled substance
- committing or attempting to commit sexual assault
- possession of an explosive



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

EC Section 48915.2(a) states that a student expelled from a school for any of the offenses in subdivision (a) or (c) or Section 48915 shall not be permitted to enroll in any other school district during the period of expulsion unless it is a county community school, a juvenile court school, or a community day school.

EC Section 48915.5 (a)(b)(c)(d)(e) contains the requirements for conducting an MDR, citing IDEA's requirements and regulations. It states that an individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

Further, the additional requirements of this section address a student's right to continue to receive FAPE, including an alternative form of transportation (if the student was suspended from the school bus) during the expulsion, as well as notification requirements for conducting MDRs and expulsions of SWDs who are in foster care, homeless, or Native American.

EC Section 48918 outlines the rules and regulations governing procedures for the expulsion of students. The procedures should include, but are not limited to, the following:

- The student shall be entitled to a hearing within 30 school days after the principal determines that the student committed any of the acts in Section 48900 to determine whether the student should be expelled.
- The Board of Education shall decide whether to expel within 10 school days after the conclusion of the hearing.
- If it is impracticable to conduct an expulsion hearing during the regular school year, the superintendent of schools may extend the time period for holding the expulsion hearing for an additional 5 school days. If time compliance is impractical due to summer recess, the days not counted as school days in meeting the time requirement for an expulsion hearing shall not exceed 20 school days and the hearing shall be held not later than 20 calendar days before the first day of school for the school year.
- Written notice of the meeting shall be forwarded to the student at least 10 calendar days before the date of the hearing and shall include all of the following:
  - date and place of the hearing
  - a statement of the specific facts and charges upon which the proposed expulsion is based
  - a copy of the disciplinary rules of the school district that relate to the alleged violation
  - a notice of the parent, guardian, or student's obligation to inform the receiving school, upon enrollment, of his or her status with the previous school district
  - notice of the opportunity for the student or student's parent or guardian to appear in person or to be represented by legal counsel or by a non-attorney advisor to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

presented, and to present oral and documentary evidence on the student's behalf, including witnesses.

- The decision of the governing board of the school district to expel a student has to be based upon substantial evidence relevant to the charges brought forth at the expulsion hearing.
- A record of the hearing shall be made, including an electronic recording, that can produce a reasonably accurate and complete written transcript of the proceedings.
- Before the hearing has commenced, the governing school board may issue subpoenas at the request of either the superintendent of schools or the student.
- Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent to the student or student's parents and shall be accompanied by all of the following:
  - notice of the right to appeal the expulsion to the county board of education
  - notice of the education alternative placement to be provided during the time of expulsion
  - notice of the of the parent, guardian, or pupil's obligation to inform the receiving school district, upon enrollment, of the student's expulsion

EC Section 48919 declares the student or the student's parent may file an appeal to the county board of education within 30 days following the decision to expel. A hearing will be held within 20 school days following the filing of a formal request and must render a decision within 3 school days of the hearing.

EC Section 1981 indicates a county board of education may enroll in a county community school students who are expelled from a school district, are recommended by a school attendance review, or are on probation.

The education codes listed below pertain to the voluntary and involuntary transfer of students.

EC Section 48413 authorizes students who are 16 years of age and older and also under 18 years of age to enroll in a continuation school.

EC Section 48432.3 states that if a school district chooses to voluntarily enroll high school students in a continuation school, they must establish and adopt policies and procedures to ensure that there is a clear criterion for determining which pupils may voluntarily transfer. The policies and procedures need to ensure the following:

- The volunteer placement in a continuation school shall not be used as an alternative to expulsion unless alternative means of correction have been attempted.
- They must strive to ensure that no specific group of pupils, including a group based on race, ethnicity, language statues, or special needs, is disproportionately enrolled in continuation schools within the school district.
- If students voluntarily transfer, they and parents must be provided with a copy of the policies and procedures.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- The transfer is voluntary and the student has the right to return to their previous school.
- Before transferring, the parent or legal guardian may meet with the counselor, principal, or administrator from the transfer school and the continuation school to determine if transferring is the best option for the student.
- To the extent possible, voluntary transfers to a continuation school occur within the first four weeks of each semester.

EC Section 48432.5(a)(b)(c) requires school districts to adopt rules and regulations governing procedures for the involuntary transfer of students to continuation schools, such as providing written notice to the student and the student's parent, guardian, or education rights holder and if a foster child, informing them of the opportunity to request a meeting with a designee of the district superintendent of schools before the transfer. At the meeting, the student and student's parents, guardian, or educational rights holder will be informed of the specific facts and reason for the proposed transfer and will have the opportunity to inspect all documents relied upon, question all evidence and witnesses presented, and present evidence on the student's behalf. Additionally, the student may designate one or more representatives and witnesses to be present with the student at the meeting.

EC Section 48432.5(d)(e)(f)(h) states that a student may be involuntarily transferred based on the finding that the student committed an act enumerated in Section 48900 or has been habitually truant or irregular in attendance from instruction but only when other means fail to bring about student improvement, unless the principal determines that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process. The persons involved in the final decision to make an involuntary transfer will not be members of the staff of the school in which the student is enrolled at the time the decision is made. The decision will be in writing and state the facts. It will be sent to the student, student's parents, guardian, or educational rights holder, attorney, or county social worker if the student is in foster care.

An involuntary transfer to a continuation school should not extend beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred, unless the governing board of the school district adopts a procedure for yearly review of the involuntary transfer conducted at the request of the student, student's parent, guardian, or other educational right's holder or representative that meets the criteria.

EC Section 48432.5(g)(j) indicates that a student, with the concurrence of a designee of the district superintendent, may transfer voluntarily to a continuation school in order to receive special attention, such as individualized instruction. A student who voluntarily transfers has the right to return to the regular high school at the beginning of the following school year or at any time with the consent of the designee of the district superintendent.

EC 51745(c) specifically addresses the participation of SWDs in independent study programs if the pupil's IEP specifically provides for this placement. If a parent or guardian of a SWD requests independent study, the student's IEP team shall make an individualized

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

determination as to whether the pupil can receive FAPE in an independent study placement. A pupil's inability to work independently, the pupil's need for adult support, or the pupil's need for special education or related services shall not preclude the IEP team from determining that the pupil can receive a free appropriate education in an independent study placement.

### **Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964.**

Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II) are federal laws that protect qualified individuals with disabilities from discrimination on the basis of their disability. SWDs who are eligible under the IDEA have rights and protections under Section 504 that are subject to Office for Civil Rights (OCR) enforcement. Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination based on race, color, or national origin. Enforcement of Title VI legislation falls under the authority of OCR and the U.S. Department of Justice (DOJ).

Section 504, Title II, and Title VI set firm expectations prohibiting schools and districts from engaging in discrimination in disciplinary actions on the basis of disability, color, race or national origin. Section 504 and Title II require the provision of appropriate modifications to ensure a student's disability-based behaviors are supported rather than punished and resulting in discriminatory exclusionary discipline practices. Section 504 mandates districts and schools review and make reasonable modifications to criterion, policies, procedures, and practices related to school discipline if unjustified discrimination outcomes occur, even if unintentional.

### **Individuals with Disabilities Education Act (IDEA) Regulations Regarding Long-Term Removals and MDRs.**

The IDEA includes regulations for the long-term removal of students with disabilities from their learning environments, as well as those related to the MDRs.

34 CFR Section 300.530(a) requires school officials to consider unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a SWD who violates a code of student conduct.

34 CFR Section 300.530(b) gives site administrators the authority to remove a SWD who violates the code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for up to 10 consecutive school days in a school year to the extent those alternatives are applied to children without disabilities and for additional removals of up to 10 school days in the same school year for separate incidents of misconduct, provided that the additional removals do not constitute a change of placement pursuant to 34 CFR Section 300.536.

34 CFR Section 300.530(c) states that for disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior in question that resulted in a violation of school code is determined not to be a manifestation of the student's disability, the application

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

of relevant disciplinary procedures in the same manner and duration may be applied to SWDs as they would be applied to their nondisabled peers.

34 CFR Section 300.530 (d) requires that SWDs removed from their current placement due to the MDR process, must:

- continue to receive educational services to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting their IEP goals; and
- receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 CFR Section 300.530 (e)(f) governs the requirements of a manifestation determination team review. It requires that the MDR be held within 10 school days of any decision to change the placement of a SWD because of a violation of a code of student conduct. The district, parent, and relevant members of the child's IEP team (*as determined by the parent and the LEA*) must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- if the conduct in question was caused by or had a direct and substantial relationship to the student's disability
- if the conduct in question was the direct or indirect result of the LEA's failure to implement the IEP

If either of these circumstances is confirmed affirmatively, the IEP team must conduct a functional behavioral assessment and/or implement a behavioral intervention plan (BIP) for the student. If a plan already exists, the team must review or modify the BIP as necessary to address the behavior. The student must return to the placement from which the student was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification to the behavioral intervention plan.

34 CFR Section 300.530(g) outlines special circumstances in which school personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability for reasons such as carrying or possessing a weapon, knowingly possessing or using illegal drugs, or inflicting serious bodily injury upon another person.

34 CFR Section 300.530(h) requires that on the date which the decision is made to initiate a removal that constitutes a change of placement of a SWD due to a violation of a code of student conduct, the LEA must notify the parents of that decision and provide the parents the procedural safeguards notice described in Section 300.504.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

34 CFR Section 300.532 indicates that the parent of a child with a disability who disagrees with any decision regarding the placement under the manifestation determination may appeal the decision by requesting a hearing.

34 CFR Section 300.536(a) defines a change of placement due to disciplinary removals. A change of placement occurs if the removal is for more than 10 consecutive school days or if the child has been subjected to a series of removals that constitute a pattern:

- because the series of removals totals more than 10 school days in a school year;
- because the child's behavior is substantially similar to the child's behavior in previous incidents in the series of removals; and
- because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

34 CFR Section 300.536(b)(1)(2) requires the district to determine on a case-by-case basis whether a pattern of removals constitutes a change of placement and authorizes such determination to be subject to review through due process and judicial proceedings.

### **Guidance from the Office of Special Education and Rehabilitative Services (OSERS), April 2016.**

In 2016, the Department of Education Office of Special Education and Rehabilitative Services (OSERS) issued a Dear Colleague letter with guidance related to the school discipline of SWDs. Some of the contents of this letter have been referenced throughout this report. Summaries of previously reviewed components related to the long-term removal of SWDs are included.

This discussion includes some of the IDEA's requirements for behavioral supports in IEPs as well as circumstances that may indicate potential denials of FAPE or of placement in the LRE as it relates to the failure to provide students' the appropriate behavioral supports.

As was noted in Section 3, the letter includes guidance regarding the obligation of administrators and LEAs to consider a student's disability and the impact exclusionary discipline has on the provision of a free and appropriate education (FAPE), even for short-term removals. These expectations are more pronounced for students who are being recommended for an expulsion, since one primary procedural protection is the MDR. As mentioned, the MDR requires IEP teams to determine if the behavior in question was a manifestation of the student's disability or due to the direct failure of the school to implement the IEP.

The letter also emphasizes an LEA's obligation to consider disability and whether the student's IEP appropriately addresses the student's behavioral needs when issuing suspensions. The appropriateness of the student's IEP is reviewed as part of the MDR decision-making process for determining if the school implemented the student's IEP.

Guidance is offered regarding the IDEA's IEP content requirements related to behavioral supports. OSERS notes that when a SWD experiences behavioral challenges, including

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

those that result in suspensions or other forms of exclusionary disciplinary, appropriate behavioral supports may be necessary to ensure that the student receives FAPE. It adds that to ensure the student receives a meaningful educational benefit, the IEP team must consider—and when determined necessary for ensuring FAPE, include or revise—behavioral supports in the IEP of a SWD exhibiting behavior that impedes his or her learning or that of others.

The letter notes that as part of the development, review, and revision of the IEP, as appropriate, IEP teams should determine whether behavioral supports should be provided in any of three areas:

1. special education and related services
2. supplementary aids and services<sup>40</sup>
3. program modifications or supports for school personnel

The first consideration is whether to provide behavioral supports as part of the student's special education and related services to ensure that the student's IEP is designed to enable the student to make appropriate progress toward attaining their IEP goals and to provide access and make progress in the general education curriculum, as well as participate in extracurricular and other nonacademic activities.

The letter includes examples of interventions and supports that could assist a SWD in special education, such as instruction and reinforcement of school expectations, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, or social skills instruction.

The second consideration is to include appropriate supplementary aids and services as behavioral supports necessary to enable a SWD to be educated in a general education classroom or the setting determined to be the student's appropriate placement in the LRE. Examples of such behavioral supports might include meetings with a behavioral coach, meetings with a counselor, social skills instruction, or other approaches.

The letter reminds LEAs of the requirements of 34 CFR Section 300.114-300.116 and 34 CFR Section 300.114(a)(2)(ii), that require: placement teams to refrain from placing a SWD in special classes, separate schooling, or other restrictive settings outside of the general education environment solely due to the student's behavior when behavioral supports through the provision of supplementary aids and services could be provided that would be effective in addressing the student's behavior in the general education setting; and that SWDs may only be removed from the general education environment when the nature or

---

<sup>40</sup> Under 34 CFR Section 300.114-300.116 supplementary aids and services include aids, services, and other supports that are provided in the general education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable SWDs to be educated with nondisabled students to the maximum extent possible.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The last consideration for the development, review, and revision of behavioral supports in a student's IEP is related to program modifications or supports for school personnel. OSERS notes that in addition to the behavioral supports that may be provided directly to SWDs, program modifications or supports for school personnel, provided on behalf of the student, may also be necessary to support the student's involvement and progress in the general education curriculum, advancement towards attaining their IEP goals, and participation in extracurricular and other nonacademic activities.

Examples of these program modifications or supports for school personnel include training, coaching, and tools to appropriately address the behavioral needs of a particular child. It adds that supports for school personnel may be designed to better implement effective instructional and behavior management strategies and specific behavioral interventions that are included in the student's IEP.

The letter emphasizes that to the extent practical IEPs should contain behavioral supports supported by evidence, noting that IDEA requires that both special education and related services and supplementary aids and services are based on peer-reviewed research (34 CFR Section 300.320(a)(4)).

These three considerations for including or revising behavioral supports in the IEP of a student whose behavior impedes their learning or that of others provides a sound standard for ensuring that appropriate behavioral supports are made available to students to promote their participation in the general education curriculum and nonacademic activities. The third consideration in particular, supports for school personnel, is seldom considered and likely an unknown part of the regulations for many IEP teams. However, the consideration to include program modifications or support to school personnel recognizes the need to ensure staff have the necessary capacity for addressing the behavioral needs of students, as well as for implementing behavior management programs or strategies and interventions that are part of students' IEPs. This requirement shifts the responsibility to the District to ensure staff members are adequately trained to provide effective behavioral supports.

The next section of the letter addresses circumstances that may indicate potential denials of FAPE or placement in the LRE. OSERS notes that "it is incumbent upon IEP teams to implement IDEA's procedural and substantive requirements" to ensure that SWDs receive the appropriate behavioral supports to promote student advancements toward achieving their IEP goals as well as access to and progress in the general education setting.

The letter states that a failure to implement the procedural requirements or provide needed behavioral supports to a SWD could result in the student not receiving a meaningful educational benefit and therefore constitute a denial of FAPE and/or a denial of placement in the LRE (i.e., an unduly restrictive placement).



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The letter notes that a determination whether there is a denial of FAPE is a fact-based determination to be made on a case-by-case basis. Factors to consider when making such determination include:

- whether the district failed to follow the procedures IDEA requires when developing, reviewing, or revising the child's IEP or failed to consider and/or provide a SWD with necessary behavioral supports when the student's behavior impedes their learning or that of others
- whether the student's IEP is reasonably calculated to provide a meaningful educational benefit in the absence of behavioral supports

The following list of circumstances may indicate either a procedural or substantive failure in the development, review, or revision of the IEP (pp. 9-10):

- the IEP team did not consider including Positive Behavioral Interventions and Supports in response to behavior that impedes the student's learning or that of others;
- school officials' failure to schedule an IEP meeting to review the IEP to address behavioral concerns after a reasonable parental request;
- the IEP team's failure to discuss the parent's concerns about the student's behavior, and its effects on their learning, during an IEP meeting;
- the lack of behavioral supports in the student's IEP, even when the IEP team determines they are necessary for the student;
- the behavioral supports in the IEP are inappropriate for the student such as the frequency, scope or duration of the behavioral supports is insufficient to prevent behaviors that impede the learning of the student or others; or the consistent implementation of the student's behavioral supports has not resulted in positive changes in behavior, but instead has resulted in behavior that continues to impede, or further impedes, learning for the student or others;
- the behavioral supports in the student's IEP are appropriate but are not being implemented or not being properly implemented (e.g., teachers are not trained in management responses or de-escalation techniques or those techniques are not being consistently implemented); or
- school personnel have implemented behavioral supports not included in the IEP that are not appropriate for the student.

Guidance is also offered on circumstances that may indicate that the student's IEP is not reasonably calculated to provide a meaningful educational benefit, including (p. 10):

- the student is displaying a pattern of behaviors that impede his or her learning or that of others and is not receiving any behavioral supports;
- the student experiences a series of disciplinary removals from the current placement of 10 days or fewer (which do not constitute a disciplinary change in placement) for separate incidents of misconduct that impede the child's learning or that of others, and the need for behavioral supports is not considered or addressed by the IEP team; or

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- the student experiences a lack of expected progress toward the annual goals that is related to his or her disciplinary removals or the lack of behavioral supports, and the student's IEP is neither reviewed nor revised.

The interpretive guidance regarding potential procedural and substantive requirement violations offers some clear considerations IEP teams should apply during the MDR decision-making process.

The letter concludes this discussion adding that a determination of whether there is a denial of placement in the LRE is also a fact-based determination. It notes that factors to consider in such determination include whether the student's IEP is designed to enable the student to be educated and participate with their nondisabled peers in extracurricular and other nonacademic activities in the absence of behavioral supports.

Circumstances that could indicate that the student's placement in the LRE may not be appropriate include, but are not limited to, an instance in which a continuum of placements that provides behavioral supports is not made available (e.g., behavioral supports not provided in the general educational setting), and, as a result, the IEP inappropriately calls for the student to be placed in special classes, separate schooling, or another restrictive placement outside the general educational environment (e.g., home instruction, home tutoring program, or online learning program).

Lastly, the letter notes that informal removals, such as regularly requiring students to leave school early and miss instructional time for instance on shortened school days, may constitute a disciplinary removal from the student's current placement and potential denial of FAPE.

### ***Review of the District's Policies and Procedures for Expulsions, MDRs, and Voluntary/Involuntary Transfers***

A review of relevant discipline policies and procedures was conducted to determine if these policies align with education code and IDEA regulations. This discussion will focus on policies and procedures related to expulsions, manifestation determination reviews (MDRs) and voluntary/involuntary transfers. The following documents were analyzed to determine alignment with applicable state and federal laws and regulations:

- Board Policy 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)
- Administrative Regulations Policy 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)
- Administrative Regulations 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities) (Revised April 2013)
- Discipline Matrix and Behavior Consequences Matrix (E 5144.1) (Revised March 2014)
- Expulsion or Alternative Placement for Students with Special Education Services (Revised 2014)

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Expulsion Packets
- Agreement and Stipulation for Full Expulsion
- School Psych Meeting (9/1/2021) – Manifestation Determination Review Training PowerPoint
- Implementation of Education Code 48432.5 Voluntary/Involuntary Transfers
- Voluntary/Involuntary Placement Contract
- Guidelines for Placement of Special Education Students into Independent Study Programs

Board Policy (BP) 5144.1 Suspension and Expulsion/Due Process includes the guidelines for issuing suspensions and expulsions in accordance with Education Codes 48900 and 48915. The policy includes language related to EC 48900.5, other means of correction, and states that “a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student.”

Although the policy is largely consistent with the education code, several aspects deviate from the State’s requirements and 34 CFR Section 300.530. The policy does not include any specific language to the protections found in regulations 34 CFR Section 300.530 and only contains a high-level reference to its general antidiscrimination laws, as shown below.

The grounds of suspension or expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in law and administrative regulation.

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the District’s non-discrimination policies. (cf. 0410 – Nondiscrimination in District Programs and Activities) (p.1).

Administrative Regulations (AR) 5144.1 Suspension and Expulsion/Due Process allows the Board of Education to expel students when they have been found to have committed any offense under the section “Mandatory Recommendation and Mandatory Expulsion,” which includes possessing, selling, or otherwise furnishing a firearm, brandishing a knife, unlawfully selling a controlled substance, committing or attempting to commit sexual assault, or possessing an explosive, consistent with EC 48915(c). For all other offenses, a principal may recommend expulsion if other means of correction are not feasible and/or if due to the nature of the violation, the presence of the student causes continued danger to the physical safety of the student or others.

The policy also includes a section titled “Student’s Rights to Expulsion Hearing” that contains several requirements that align with EC 48918. This includes the mandate that a student recommended for expulsion be entitled to a hearing to determine whether he or she should be expelled, the legal timelines requiring the hearing to be held within 30 school days after the principal or designee determines that the student committed an act in Section 48900, as well as allowable postponements and an extended timeline for holding a hearing around summer recess.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

AR 5144.1 includes a clause indicating that once a principal or designee has determined that a student will be recommended for expulsion, the designee or principal shall offer the student and his/her guardians the option to waive a hearing and stipulate the expulsion. The stipulation agreement must be made in writing and must be signed by the student and his/her parent/guardian. This type of waiver is not found in education code.

If a student and parent/guardian choose to go through a panel hearing, a written notice must be forwarded to the student and their parent/guardian at least 10 calendar days before the hearing, and the notice must include the date and place of the hearing; a statement of the specific facts, charges, and offenses upon which the proposed expulsion is based; a copy of district disciplinary rules that relate to the alleged violation; the opportunity to be represented by legal counsel or by a non-district advisor; the right to inspect and obtain copies of all documents to be used in the hearing; the opportunity to confront and question all witnesses; and the opportunity to question all evidence presented and to present oral and documentary evidence on the behalf of the student. This language is consistent with EC Sections 48900.8 and 48918(b).

District policy also includes the requirements for expelling foster students, including the requirements for notifying the foster student's attorney and a representative of an appropriate county child welfare agency of the expulsion hearing at least 10 days prior to the hearing. The policy also includes a visual flow chart titled "AB1909 Expulsion Process Foster Youth (Special Education)" that outlines the steps that should be taken when recommending a foster SWD for expulsion, including who should be notified and invited to attend the MDR and pre-expulsion meeting, consistent with EC Section 48918.1.

Consistent with EC 48918, the policy also includes language related to holding an Alternative Expulsion Hearing. This authorizes the Board of Education to contract with the county hearing officer or with the Office of Administrative Hearings of the State for a hearing officer instead of conducting an expulsion hearing itself. Alternatively, the Board can appoint an impartial administrative panel comprised of three or more certificated personnel, none of whom are members of the Board or on the staff of the school in which the student is enrolled to conduct the hearing.

AR 5144.1 indicates that once expelled, the superintendent or designee must send a written notice of the decision to expel to the student or parent/guardian and must include the following: the specific offense committed by the student, the fact that a description of readmission procedures will be made available, notice with the right to appeal, notice of the alternative placement to be provided during the time of expulsion, and notice of the parent's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district. No document of such notice was found during the file review of expulsion packets.

The policy also indicates that a student or parent/guardian is entitled to file an appeal of the Board's decision to expel with the County Board, which must be filed within 30 days of the decision to expel, which is also consistent with education code.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Lastly, the policy includes language regarding the search of students, noting that “In cases where a search of a student’s person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.”

Administrative Regulations AR 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities) provides guidance regarding disciplinary procedures for SWDS, suspension, determining a change of placement, the procedural safeguards for conducting manifestation reviews, unilateral interim alternative placements, and law enforcement notifications.

The policy begins by stating that SWDs are subject to the same grounds and procedures for suspension and expulsion that apply to nondisabled students, with the exceptions included in the administrative regulation. It authorizes school administrators to suspend a SWD for up to 5 days per incident of misconduct for up to 20 days in the school year, as long as the suspension(s) do not constitute a change in placement pursuant to relevant IDEA and education code regulations.

AR 5144.2 includes procedural safeguards for when a SWD is suspended for more than 10 consecutive school days, when a series of removals constitutes a change in placement, or when a change of placement is contemplated due to a violation of the district’s code of conduct.

It requires that the principal or designee monitors the number of days, including portion of days, in which a student with a valid IEP has been suspended during the IEP.

The superintendent or designee is required to determine, on a case-by-case basis, whether a pattern of removals of a student from their educational placement for disciplinary reasons constitutes a change in placement. It defines a change of placement as meeting the following criteria, consistent with IDEA:

- if the removal is for more than 10 consecutive days
- the student has been subjected to a series of removals that constitute a pattern because of the following:
  - the series of removals exceeds more than 10 school days in a year
  - the student’s behavior is substantially similar to their behavior in previous incidents that resulted in a series of removals
  - additional facts such as the length of each removal, the total amount of time the student has been removed, and proximity of the removals to one another, indicate a change in placement

The policy includes consistent guidance with the regulations’ mandates for considerations when suspending SWDs, particularly for long-term removals that would constitute a change in placement under Section 300.536. This includes the provision of special education services for subsequent days after a student has reached or exceeded 10 days of removal; the provision of a functional behavioral assessment and behavioral intervention services and modifications designed to prevent the recurrence of the behavior (as appropriate); and special circumstances that allow for the student’s removal to an interim school placement

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

even if the school has determined the behavior was a manifestation of their disability in instances where they were in possession of weapon, possessed, used or sold illegal drugs, and if they inflicted serious bodily injury upon another person.

The policy states the requirement for schools to conduct a manifestation determination review (MDR) meeting immediately, if possible, but no later than 10 school days after the date of the decision to take disciplinary action to determine if there is a relationship between the student's disability and the behavior that led to the disciplinary action.

At the MDR, the district, parent/guardian, and relevant members of the IEP (determined by the district and parent/guardian) shall review of all pertinent information in the student's file, the student's IEP, any teacher observations, and any relevant information provided by the parent/guardian to determine whether the conduct in question was either of the following:

- caused by or had a direct and substantial relationship to, the child's disability
- was the direct result of the LEA's failure to implement the IEP

It adds that if the MDR finds that the conduct was due to the direct result of the LEA's failure to implement the IEP, the district must take immediate steps to remedy the deficiencies.

If either of these circumstances is confirmed affirmatively, the IEP team must conduct a functional behavioral assessment (FBA) or implement a behavioral intervention plan (BIP) for the student. If a plan already exists, the team must review or modify the BIP as necessary to address the behavior. In addition, the student is to be returned to the placement from which the student was removed, unless the parent/guardian and superintendent or designee agree to a change in placement as part of the modification to the behavioral intervention plan.

If the determination is that the behavior is not a manifestation of the student's disability, the student may be disciplined in accordance with the procedures for nondisabled students; however, the IEP team shall determine services to enable the student to participate in the general education curriculum in another setting and to promote progress toward their IEP goals. Furthermore, as appropriate, the student shall also receive an FBA and behavioral intervention services and modifications to address the behavior and ensure it does not recur.

It concludes with information related to parent/guardian disagreements with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.530(e). Lastly, it includes the requirements associated with law enforcement referrals, requiring administrators to obtain certification from the officer that they will not disclose the student's information or records to any other person without the written consent of the student's parent/guardian.

Although AR 5144.2 contains consistent language with the requirements and protections for carrying out student discipline as mandated by IDEA, it also establishes the clear responsibility of the school principal or their designee for tracking the number of days, including partial days, of removals.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The Discipline Matrix asserts the Board's intention to support a zero-tolerance stance on student misconduct. Although the policy notes it pertains to serious offenses, the Discipline Matrix and E 5144.1 Behavior Consequences contradict this edict by including expulsion and referrals to law enforcement for all infractions, rather than just serious offenses.

The Board supports a zero tolerance approach to serious offenses. This approach makes the removal of potentially dangerous students from the classroom a top priority. It ensures fair and equal treatment of all students and requires that all offenders be punished to the fullest extent allowed by law.

The packet's final attachment includes E 5144.1 Behavior Consequences, which lists all offenses and includes corresponding legal references for each (i.e., education codes) in accordance with Education Code Sections 48900 and 48915. The document is organized by order of the most serious offenses<sup>41</sup> that require a mandatory recommendation for expulsion. Infractions six through 10 are offenses considered to be of moderate severity but do not carry a mandatory recommendation for expulsion by the CDE. However, the document authorizes school administrators with the discretion to recommend a student for an expulsion or referral to law enforcement.

The District maintains a document titled Expulsion or Alternative Placement for Students with Special Education Services. This document can be described as a procedural manual to guide the field through the required processes when suspending, expelling, or transferring SWDs. The first part of the document includes the heading "Guidelines and Timelines for Suspension and Expulsion of Special Education Students" and provides procedures used to issue suspensions, along with references to the protections afforded by IDEA for SWDs. As noted in Section 4, in-school suspensions, the document provides contradictory guidance whether ISS are counted toward the removal days associated with MDR.

The first part of the document breaks down the requirements for suspensions by duration. It notes that for the first 10 days of suspension, services for a SWD are not required; however, it does state that at this time a behavior support plan should be considered as part of the IEP. It also instructs schools that a unique suspension event cannot exceed 5 days.

After 10 days of either in-house or out-of-school suspension, schools must hold an IEP meeting within 10 business days and the parents are to be provided the procedural safeguards.

It adds that from day 11 on, upon each incident, the school must determine what services are necessary to ensure the student makes progress toward their IEP goals and in the general education curriculum and where these services are to be provided. It adds that no special form or change in the IEP is required, erroneously citing the procedural safeguard requirements of 34 CFR 300.121(d)(3)(j).

---

<sup>41</sup> These offenses include possession/sale/furnishing of firearm; brandishing a knife; sale of controlled substances; sexual assault or sexual battery; and possession of explosives.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The next step requires IEP teams to determine if subsequent suspensions result in a change of placement that constitutes a pattern determined by the following factors and cites 34 CFR 300.536(iii):

- length of each removal
- proximity of removals to one another
- total amount of time out of school

The above guidance represents only one of the factors for determining what constitutes a change in placement and omits whether the removals add up to 10 or more days in the same school year and whether the misconduct was substantially similar to behavior in previous incidents that resulted in the series of removals.

If a determination is made that the removals do not constitute a pattern, subsequent suspensions are not considered a removal. It then instructs schools that they may implement additional suspensions for separate incidences for up to 20 days, similar to general education students. This interpretation is inconsistent with the MDR requirements of 34 CFR 300.530 and 34 CFR 300.536 as it implies that schools have an additional 10 days to consider whether the subsequent removals constitute a change in placement and to hold an MDR.

The document indicates that if a pattern exists, teams must conduct an MDR to consider a possible change in placement. Although this language is consistent, the preceding guidance will likely result in schools misinterpreting what constitutes a pattern and failure to carry out the MDR.

The law requires schools to determine whether a change of placement has occurred when a student has been removed for more than 10 nonconsecutive school days in the same school year due to a violation of the school's code of conduct. To determine if the series of removals constitutes a change in placement, the school must determine if the removals involved substantially similar behaviors that constitutes a pattern and must consider the behavior, proximity, and length of removal for making such determination. In addition, if a removal meeting all of these conditions constitutes a change of placement, then the district must make this determination for each subsequent removal<sup>42</sup>.

Schools are required to conduct a functional behavioral assessment (FBA) no later than 10 days after the student's 10<sup>th</sup> day of removal, even if there is no pattern, unless a positive behavior support plan or BIP exists. This is not required by law but shows a higher level of responsibility and expectation for schools that should be of benefit to students.

If the FBA and/or BIP has not been developed for the behavior which the student is being removed from school, an IEP meeting is to be convened to review existing data and either create a BIP if the data is deemed sufficient or provide the parent an assessment plan for an

---

<sup>42</sup> <https://www.michigan.gov/-/media/Project/Websites/mde/specialeducation/discipline/DeterminingCOP.pdf?rev=c928181dcd2d477d9a97aa6e83089962>



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

FBA. It instructs schools that the best practice is to develop an interim BIP while the FBA is being conducted and indicates that the FBA should be conducted immediately.

The manual states that if a student already has a BIP and the behavior results in a change in placement, the IEP team must meet to confirm its implementation and modify the plan as necessary to address the behavior.

In addition, if the student has a BIP and has been removed from their current educational placement for more than 10 days and is subject to a removal that does not constitute a change in placement, the IEP team is to hold a meeting and modify the BIP as necessary. Again, the language regarding what constitutes a change of placement may be confusing to schools and is not aligned with law.

The next section “Manifestation Determination” provides general guidance to schools, although additional guidance is found in the “Pre-Expulsion IEP” section. It states that an MDR is required for suspensions totaling 10 or more days when subsequent removals will result in a change in placement or when a student exhibits a pattern of misconduct. The language differs in that it considers the 10<sup>th</sup> day as the cutoff for holding an MDR, while other documents refer to the 11<sup>th</sup> day as the threshold. The addition of “when subsequent removals will result in a change in placement...” is inconsistent with the law and continues to reinforce a misinterpretation of the law. The determination to hold an MDR due to a pattern of removals that constitutes a change in placement must be made after the 10<sup>th</sup> day of removal, not the subsequent removal. This is consistent with the misunderstanding pointed out by OSERs of school’s believing they have 10 free days.

The section also provides a basic description of the purpose of an MDR and includes the two questions that must be determined in order to proceed or not proceed with disciplinary actions. If the student does not have a BIP, schools are instructed to initiate an FBA.

This section does include two notable requirements for parental notification. First, parents must be given notice of the disciplinary recommendation and procedural safeguards. Second, it requires schools to make at least two documented attempts to reach the parent to ensure their participation, including using alternate forms of participation if the parent cannot physically attend. However, it fails to address the procedural requirements of Section 300.530(e) regarding the composition of the MDR team “as determined by the parent and the [school district]” as well as the District’s obligation to inform the parent of this right (*Fitzgerald v. Fairfax County School Board*).

The “Expulsion” section of the document lists the five violations of education code that result in a mandatory recommendation for expulsion, as well as instructions for holding a manifestation determination meeting, how to notify and involve the appropriate people when a foster student is being recommended for expulsion, and how to proceed after making a determination regarding whether the behavior was a manifestation of the student’s disability.

The document states that if the behavior is a manifestation, the team cannot recommend expulsion and must develop or revise placement, supports, services and the behavior plan as

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

appropriate to address factors leading to the behavior. However, the policy fails to mention that an FBA must be completed to align with 34 CFR Section 300.536(e)(f). The document also states that a special education student may be placed in an Interim Alternative Educational Setting (IAES) for no more than 45 days if the student carries or possess a weapon at school, possesses, uses, or sells illegal drugs, on campus, or has inflicted serious bodily injury upon another person, even if the parent disagrees with the placement. IAES can include home instruction, alternative, or non-public school, consistent with 34 CFR Section 300.530(g).

The document contains a section titled “Pre-Expulsion IEP for Special Education Students,” which essentially describes the manifestation determination review process. It includes a list of steps schools must take to conduct an MDR and the different options for how to proceed with placement once the IEP team has made their determination. It also includes options for the principal if the IEP team determines the behavior was not a manifestation of the student’s disability.

If the IEP team determines that the student’s behavior was a manifestation of their disability, the team can recommend that student remains on campus with some modifications to their schedule or program, home teaching (if appropriate), or independent study, or they can make a referral to Desert Pathways, the District’s special education center, if appropriate.

If the IEP team determines that the behavior is not a manifestation of the student’s disability, the team can recommend RSP/SDC at Phoenix Community Day School, Desert Winds (alternative placement only), or independent study. It states that Desert Pathways, the only special education center, can be recommended for students with ED. The guidance appears to prompt schools to employ differential considerations for alternative placements based on eligibility.

After the MDR, the school psychologist or VP is to report the findings of the MDR to the principal prior to the principal’s meeting with the student and parent. The principal then has the option to not expel, recommend alternative placement in lieu of expulsion, or recommend expulsion either through a hearing or a stipulation.

If the principal chooses to not expel a student, a “Non-Expulsion Form” is completed with the student’s identifying information, incident date and description, and the reason for which the student is not being recommended for expulsion. The principal must indicate if the student is not being recommended for expulsion because other means of corrections are feasible, if the presence of the student does not pose a danger to the physical safety of himself/herself or others, or if the IEP team has determined that the student’s behavior was a manifestation of their disability. This form is then reviewed by the Assistant Superintendent of Student Services.

This document provides the most procedural guidance for carrying out MDRs, expulsions, and suspensions of SWDs, of the documents provided and reviewed. However, the manual

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

includes many notable contradictions that are inconsistent with law and education code and likely to result in a noncompliant implementation of the law.

A review of Expulsion Packets was completed for two students to examine the consistency of contents. The first packet was for a student who opted for a panel hearing and included the following documents: Principal's Conference Summary form, application for change of placement, Phoenix Community Day School (CDS) school orientation letter, a letter informing the student and parents of the student's alternative placement at Phoenix CDS with a time and date for registration, an expulsion packet checklist, a student rights page, a letter informing parent of the MDR process and meeting with the principal, a copy of EC Section 48915.5 stating a SWD can be suspended or expelled, principal's letter that summarizes the pre-expulsion meeting, counselor letter recommending expulsion, notice of suspension, and incident report including student and staff witness reports.

It was noted that the Principal's Conference Summary form includes a section with a heading Special Education Manifestation Determination where the principal is to check yes or no for the following:

- student knows right from wrong
- student is able to control behavior
- support and services were appropriate

The form indicates that if "no" is the response for any of the questions listed above, expulsion is inappropriate. Furthermore, the principal is required to list the EC violation(s) committed, state the reason(s) if the resulting action is to not pursue further discipline, and indicate if the student is able to return to campus. The relationship between the MDR and the three checkboxes on the Principal's Conference Summary form is unclear. These justifications are neither consistent with IDEA's intent nor regulatory requirements, and they provide simplistic criteria for determining if the behavior was substantially related to the student's disability. It is also unclear if these checkboxes imply the principal is to make these conclusions on their own outside of the MDR process.

A second student's expulsion packet was reviewed and found to include the principal's letter summarizing the pre-expulsion meeting, a written notice with the date and time for the hearing, as well as the rights of the student and parent, such as representation by counsel, inspecting and obtaining copies of all documents, and requesting witnesses, all consistent with the expulsion requirements of EC Section 48918.

The hearing notice indicates the expulsion packet is to include a copy of Education Codes 48900 – 48926, Board Policy and Administrative Regulations 5144 and 5144.1 (as well as Exhibit 5144.1) which were not found. The packet included Pre-Expulsion Progress Reports from each of the student's teachers who gave a description of the student's test performance, citizenship, class conduct, attitude, participation, and classroom interventions provided.

A review of the Agreement and Stipulation for Full Expulsion document or contract noted it claims to establish "a framework for the amicable, beneficial, and expedited resolution" of the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

expulsion issue. This agreement waives the student's and parent's right to contest an expulsion as well as their rights to participate in a hearing, receive all notices and timelines, be represented by legal counsel, inspect and obtain copies of all documents, question all evidence, and present oral and documentary evidence on the student's behalf. Additionally, the student and parent relinquish their right to appeal. Essentially, by entering into a stipulation, the student and parent waive all their rights pursuant to EC Section 48918. The stipulation agreement includes information regarding the rehabilitation program the student is required to participate in and complete as well as the process for reinstatement.

A PowerPoint of an MDR training presented to school psychologists was reviewed. The presentation includes information regarding when an MDR is required, the relevant information to review, how to identify the misconduct and disability, and how to determine if the behavior was related to the disability.

The presentation notes that an MDR is required if a removal exceeds 10 consecutive school days, if the removals cumulatively exceed 10 school days, or if the student has been removed multiple times for violating the code of conduct and the removals amount to a pattern, even if the current removal is for 10 days or less. A pattern of removals is defined consistent with Section 300.536(b).

The document defines removals as out-of-school suspensions, in-school suspension, partial day suspensions (which are to be rounded up to a full day), and suspensions from school buses.

The presentation instructs IEP teams to consider if the student's disciplinary removals indicate a need to address the student's behavior and revise the IEP, regardless of the circumstances, such as:

- revise the BIP, conduct an FBA, develop a BIP
- add new services, such as counseling
- increase services
- consider if the placement is appropriate
- assess other areas of suspected disability

The presentation also states that "If a student has not reached 11 removal days - the student may be disciplined in the same manner as a general education student during the first 10 removal days." This is contradictory to the guidance included regarding holding MDRs if the student's behavior shows a pattern of removals that constitute a change in placement even if under 10 days. It also perpetuates the misconception warned by the OCR Dear Colleague letter that schools have 10 free days to remove SWDs before addressing the student's behavior.

The PowerPoint lists relevant information to be reviewed as part of the MDR, including the student's IEP and BIP, records from the investigation, and assessment reports. It adds that when schools review the IEP, the team should consider any statements in the IEP or BIP regarding how the student's disability affects their behavior at school, as well as eligibility

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

history, and includes an example of a student identified as OHI but having a previous ED eligibility.

When looking at investigation records, psychologists were instructed to identify the alleged conduct and gain an understanding of the student's involvement. The presentation includes an example of a student with ADHD who attacks a classmate and states that "it will be helpful" for the MDR team to know if the student was looking for the classmate and had planned the attack earlier in the morning in order to establish whether the action was premeditated and not an impulsive act. This type of explanation was observed in several MDRs reviewed.

The presentation also informs psychologists that when looking at the student's evaluation reports, the team needs to ensure that medical or psychoeducational assessments are current and accurately reflect how the student's disability manifests itself. The PowerPoint does not define a timeframe for a current assessment.

When reviewing a student's disability, the PowerPoint clearly points out that "focusing on only one disability when a student has more than one is not an option." It explains that each eligibility category under IDEA must be examined to determine if it was related to the behavior in question. The presentation also instructs psychologists to consider if they or anyone else on the team suspects another disability.

The presentation issues a warning to psychologists to not "complete the MDR paperwork before the meeting and simply ask for feedback or everybody to sign, this is one way to trigger a predetermination."

When determining whether the conduct was disability related, the team should look at the student's behavior demonstrated across settings and across time, as a behavior occurring in multiple settings can be an indicator that the behavior is disability related. Furthermore, the PowerPoint indicates that a team should not make decisions based on the typical characteristic of a specific disability, and instead, the team must make decision on a case-by-case basis.

The presentation directs the team to ensure documentation reflects that a broad range of data and information was considered and that observations and relevant information were provided by the parent. The presentation lists relevant information that must be reviewed in order to make a case-by-case decision, such as medical records that include diagnosis and medication, teacher input, and parent input. It adds that the team should look at the possible side-effects of medication usage, change in medications, or discontinuation of a medication.

Psychologists are instructed that teacher input can provide information on behavioral manifestations of the student's disability and whether behaviors stem from other factors, such as willfulness. It is also important to consider any new diagnosis the parent shares, noting that teams are not required to consider all of the symptoms of a behavior listed in the DSM, rather only the manifestations of disability identified in school records and outside evaluations. The intent is described as determining how the disability manifests itself with

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

respect to the student, not how the disability manifests itself among people in general. The PowerPoint includes an example that if there are no data that a student's disability causes them to be impulsive, then impulsivity should not be considered. It adds that if the team suspects the student's disability causes them to be impulsive, despite the absence of data, it should consider a re-evaluation.

The presentation includes various examples for how to analyze the relationship between the conduct and disability. It gives one example of the data to consider for a student with PTSD, such as whether the student was reacting to behavior that was similar to the original trauma. In addition, it recommends examining the circumstances that preceded the conduct and the context of the conduct.

The training also includes guidance on how to determine if behaviors are not a manifestation of the student's disability, with suggested questions to consider, such as:

- Is there evidence that the student planned and coordinated with peers to engage in the conduct?
- Is there evidence that the student had control over their behavior?
- Did the behavior involve multiple steps during which there was time to reflect and decide what to do next?
- Is there other evidence, such as video footage, showing that the student was acting with deliberate intent?
- Are there indicators that the conduct was premeditated?

The presentation concludes with information regarding how to determine if the conduct was a result of the District's failure to implement the IEP. Psychologists are instructed to check with members responsible for implementing any part of the IEP, particularly behavioral interventions, to determine if these supports were being implemented as written on the day of the incident. However, the presentation also states that "The mere fact that the IEP was not implemented in every respect does not necessarily mean the student's conduct was a manifestation of a disability." Instead, it instructs the team to determine if the staff member's action to not implement the IEP directly caused the behavior that led to the student's removal. The last statement in the presentation indicates that if the behavior was not a result of the District's failure to implement the IEP, the District is still responsible for remedying the failure.

Overall, the training materials offers some good guidance. However, the information regarding whether the removals demonstrate a pattern that constitutes a change of placement as well as the school's obligations for making such determination for each subsequent removal over cumulative 10 days are inconsistent with law. The lack of clarity around many of the documents reviewed regarding this issue is of utmost concern since this may result in schools issuing subsequent removals without ensuring that students are protected from these removals for disability related behaviors.

The next documents are related to the voluntary/involuntary transfer of students. Implementation of Education Code 48432.5 Voluntary/Involuntary Transfers outlines the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

conditions for the voluntary or involuntary transfer of a student, the process and procedures for voluntarily placing students 16 years or older and those under 18, and those for involuntary placements. The policy indicates that voluntary and involuntary transfers should be based on a finding that the student meets the following conditions pursuant to EC 48432.5:

- The student committed an act enumerated in EC 48900, and all other means of correction failed to bring about student improvement.
- A student may be involuntarily or voluntarily transferred the first time he/she commits an act enumerated in EC 48900 if the principal determines that the student's presence causes danger to persons or property or threatens to disrupt the instructional process.
- The student will be placed through the end of the current semester unless the infraction occurs after the 1<sup>st</sup> or 3<sup>rd</sup> quarters, then the placement would extend through the next full semester.

For voluntary placements, the principal must meet with the student and parent as they would if it were an expulsion. The student and parent are then required to sign the alternative placement application and then the Voluntary/Involuntary Placement Contract. It references providing copies of the discipline reports and IEP (RSP and SDC only) to the Office of Student Services. It is unclear why the form singles out students only in RSP and SDC since there are not many other special education placement options left, or whether this is intended to omit students who are enrolled in the SDC-B program that has been noted to be referred to as ED. Parents are also able to request placement of the student in independent study.

Within 3 days of the meeting with the principal, the alternative site is to set up an appointment to enroll the student. The alternative site is to schedule a time to meet with the student and parent/guardian to determine if the student meets the terms of the voluntary/involuntary placement and is eligible to return to their campus. For students to be able to return, the principal of the alternative school is to complete the Alternative Placement Clearance form, unless it is determined that the student should remain at the alternative site for one more semester, adding that the same expulsion timelines would apply in this instance. Returns are only allowed at the end of the semester.

This process is similar for students who have been voluntarily transferred to Phoenix Community Day School (CDS), except that the principal must first make sure that space is available at Phoenix CDS before meeting with the student and parent to offer placement there. Phoenix CDS can take students in RSP, SDC, or ED (SDC-B).

Voluntary transfers for students under the age of 16 follow a similar process. If it has been determined that the student should be removed from the campus but not through the expulsion process, the principal has the option of placing the student in their on-site opportunity program, or in independent study if the parent requests this option. The principal is required to meet with the student and parent as if it were an expulsion and adhere to the expulsion timelines.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The student and parent are required to sign the alternative placement application and Voluntary/Involuntary Contract. At the end of the placement, the principal, student, and parent will meet again to determine if the student is allowed to re-enter the original campus. The return requirements for students under the age of 16 are similar to those for students 16 years or older on a voluntary transfer.

The document contains a section on involuntary transfers that describes an appeal process for when a parent disagrees with the alternative placement. It does not contain any of the requirements in EC 48432.5 that relate to involuntary transfers.

The District's policy regarding voluntary and involuntary transfers cites EC 48432.5, which is specific to involuntary disciplinary transfers of students. The requirements for the voluntary transfer of students (under and over the age of 16) describe a process that is an alternative to expulsion and contradicts the voluntary transfer requirements of EC 48432.3.

The first criteria listed under EC 48432.3 is that the "voluntary placement in a continuation school shall not be used as an alternative to expulsion unless alternative means of correction have been attempted." Under this section of the education code, the district's policies and procedures regarding voluntary transfers should include criteria that "ensures that no specific group of pupils, including a group based on race, ethnicity, language statues, or special needs is disproportionately enrolled in continuation schools within the school district."

It also states that parents of students voluntarily transferred are to be provided with a copy of the policies and procedures. In addition, it notes that the transfer is voluntary and the student has the right to return to their previous school. The District's voluntary transfer policies for students returning to their home school deviates from EC 48423.5 and establishes return criteria consistent with an expulsion and/or involuntary transfer.

Furthermore, the guidelines for voluntary transfers do not include requirements to hold MDRs pursuant to Section 300.530 or to make placement determinations utilizing the IEP process. This is consistent with the CDE Complaint's allegations that the voluntary/involuntary placement policies and processes do not mandate compliance with these requirements and act as alternatives to expulsions.

The gross deviation of the District's voluntary transfer policy is of grave concern considering that many students have been inappropriately removed from their schools by misrepresentations made by the District through this policy. Whether intentional or not, the harm and impact caused by these transfers on SWDs, in particular Black SWDs, is a clear violation of FAPE. The voluntary transfer program is indeed a de facto alternative to an expulsion mechanism that is in clear violation of EC 48423.3.

The section on involuntary transfers reflects guidelines for appealing the alternative placement. Although the information contained in the voluntary transfer is more closely aligned with the involuntary transfer requirements of EC Section 48432.5 as well as the expulsion requirements of EC Section 48915(c), these policies must be revised to align with law. The District has an obligation to review the individual circumstances of these transfers as



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

well as compliance with the MDR and IEP process. It also has an obligation to remedy the harmful effects and ensure that SWDs are placed appropriately in the LRE with access to the general education curriculum and nondisabled peers to the maximum extent possible. In addition, parents must be notified immediately of these misrepresentations and presented with legal placement options.

The Voluntary/Involuntary Placement Contract form is filled out when the decision to transfer the student has been agreed upon by the student, parent, and principal. It provides information regarding the education code violation committed, a description of the incident, and the length of time the student will be placed in an alternate setting. The contract states that the student must make appropriate academic progress, demonstrate good attendance, and not commit violations of EC Section 48900 during their time at the alternative school. Additionally, the student is not allowed on any other campus during the established period and cannot participate in any activities, including athletics. To be able to return, the student must adhere to these requirements and complete a two-page essay for reinstatement back to their school. These requirements are not part of education code which does not include these restrictions and re-entry requirements.

The document Guidelines for Placement of Special Education Students into Independent Study Programs affirms that students receiving special education services are not denied access to alternative education programs because of their disability and once enrolled continue to receive the appropriate special education and related services indicated in their IEP.

However, the IEP team must first determine if such placement can appropriately meet the needs of the student being referred. The policy states that while the IEP team may make the placement recommendation for an Independent Study (IS) program, the final decision is made by the District administration and cites EC Section 48432, which mandates that LEA establish special continuation education programs and does not endorse nor mention placement decisions being made outside of the IEP team.

The guidelines warn that this type of placement is only appropriate if it can meet the needs of the SWDs, adding that “special education students who require specialized academic instruction and services rarely benefit from an independent study program where the majority of the assigned work is completed on their own.” This general type of statement should be removed as it perpetuates stereotypes about SWDs and promotes discriminatory practices on the basis of disability.

This document clearly states that special education students who are “discipline problems” should not be placed in alternative education programs solely because of the discipline problem and that students with special needs cannot be placed involuntarily in an alternative education program unless placement is a result of the Board of Education’s action, such as an expulsion. The document reiterates that parent consent is required to place a SWD in independent study and, if the parties disagree, they are entitled to and may request a due process hearing.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The policy reiterates that although the IEP team can make the placement recommendation to an alternative program, the final placement decision is made by the District administration contingent upon the responses obtained from several questions, such as whether the student possess the basic reading proficiency and appropriate work habits to be able to complete coursework independently and if the student has supervision at home. These placements are limited to one semester, at which time the school will discuss the student's return to a comprehensive or other alternative education program.

Nothing in EC Section 51745 authorizes the District to overturn an IEP team's placement decision or make unilateral placement decisions. In addition, it clearly prohibits the IEP team from determining that the SWD can receive FAPE in an independent study placement because of the student's inability to work independently, the student's need for adult support, or the student's need for special education or related services.

### **Review of Quantitative and Qualitative Data**

This section includes a review and analysis of quantitative data regarding expulsion and voluntary/involuntary transfers of students with and without disabilities for the 2021-22 school year. Disproportionality measures were used to determine whether overrepresentation exists.

Qualitative data obtained from interviews and focus groups with senior level and school-based staff are included in this section. Additional qualitative data were obtained through a review of the expulsion packets provided for 20 of the 23 SWDs expelled. A review of 101 MDRs was also performed to analyze the decision-making processes associated with the determinations required by 34 CFR Sections 300.530 and 300.536 and is included in this section.

### ***Review of Quantitative Expulsion and Voluntary/Involuntary Transfer Data for the 2021-22 School Year***

Expulsion and transfer data were provided in several files with separate datasets for students with and without disabilities. The following tables only include data for racial/ethnic groups with observed expulsions or transfers.

Table 5.1 shows the distribution of expulsions for the overall District and is disaggregated by disability status (general and special education) and race/ethnicity. A total of 54 expulsions were issued for students with and without disabilities during the 2021-22 school year. Of these expulsions, 57.4% (n = 31) were carried out for general education students and the remaining 42.6% (n = 23) meted out to SWDs.

Black students with and without disabilities (61.1%) make up the majority of expulsions observed, with Black SWDs (65.2%) and Black nondisabled students (58.1%) showing the highest representation among all expelled students in their respective categories.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.1**

*Distribution of Expulsions by Total Population, Disability Status, and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	33	61.1	18	58.1	15	65.2
Hispanic	15	27.8	8	25.8	7	30.4
White	3	5.6	3	9.7	0	0.0
Pacific Islander	1	1.9	0	0.0	1	4.3
Multiple Races	2	3.7	2	6.5	0	0.0
Total	54	100	31	100	23	100

Disciplinary transfers referred to as voluntary/involuntary transfers were reported for a total of 74 students, with Black students with and without disabilities making up half (51.4%) of these disciplinary removals (Table 5.2). Black SWDs show the highest percentage of transfers, making up nearly two-thirds (62.5%) of all transfers issued to SWDs.

**Table 5.2**

*Distribution of Transfers by Total Population, Disability Status, and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	38	51.4	23	46.0	15	62.5
Hispanic	26	35.1	22	44.0	4	16.7
White	8	10.8	4	8.0	4	16.7
Multiple Races	2	2.7	1	2.0	1	4.2
Total	74	100	50	100	24	100

***Disproportionality in Expulsions and Transfers.***

To examine disparities of exclusionary disciplinary removals, including expulsions and voluntary/involuntary transfers, between students with and without disabilities by race/ethnicity, composition index, risk index, and risk ratio measures were used. The tables do not include a column for any racial/ethnic groups that did not report an expulsion or disciplinary transfer, however, the total enrollment reflects all students. For context and comparison, expulsion data from the CDE website for the 2021-22 school year is included.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

For the 2021-22 school year, DataQuest<sup>43</sup> reported a total of 394 Black general education students were expelled, representing 12.2% of all expulsions issued to nondisabled students. Black general education students enrolled across the State made up 4.9% of the nondisabled student enrollment. Therefore, the risk of expulsion for Black students in the State was 0.16%<sup>44</sup>, or 0.2%, as reported by the CDE. The risk of expulsion for all non-Black general education students enrolled in the State was 0.06, or 0.1%, as reported on DataQuest.

For the District, the overall risk of general education students experiencing an expulsion was 0.2%, while the risk of Black nondisabled students was 0.7% (Table 5.3). Black general education students made up 14.4% of the nondisabled population and 58.1% of all expulsions issued to general education students. This is clearly indicative of overrepresentation. In addition, the composition index and risk or rate of expulsion observed for Black nondisabled students is considerably higher compared to Black general education students statewide (0.7% in the District compared to 0.16% in the State).

Compared to the risk of all other nondisabled students, the risk ratio for Black students is 8.21, indicative of significant disproportionality. This means that Black general education students are 8.21 times more likely to be expelled than all other non-Black general education students. In addition, there is a statistically significant difference for Black nondisabled education students expelled compared to non-Black general education students ( $p < .001$ ).

Multiracial students show a risk ratio of 1.62, which is consistent with being at-risk for disproportionate overrepresentation.

**Table 5.3**

*General Education Expulsions – Composition Index, Risk Index, and Relative Risk Index*

	Total	Black	Hispanic	White	Multiple Races
Enrollment	18,518	2,672	12,663	1,842	758
(%)	83.0	14.4	68.4	9.9	4.1
Students Expelled	31	18	8	3	2
Composition Index (%)	57.4	58.1	25.8	9.7	6.5
Risk (%)	0.2	0.7	0.1	0.2	0.3
Risk Ratio	0.28	8.21	0.16	0.97	1.62

<sup>43</sup> DataQuest is one of the data reporting tools on the CDE website. This data can be accessed at: <https://dq.cde.ca.gov/dataquest/dqCensus/DisExpRate.aspx?year=2021-22&agglevel=State&cds=00>.

<sup>44</sup> The State uses one decimal to report risk for presentation purposes; however, for precision it is common practice to use all decimal spaces for calculating risk ratios. This report includes two decimals for presentation in this section to provide a better gauge of the risk for the State comparison group used.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

For ease of reporting, the following calculations grouped the enrollment of White and all other students, since no expulsions were recorded for these groups of SWDs. Expulsions were not recorded for White or students from the other racial/ethnic groups.

Black SWDs comprise 25.3% of the special education population and 65.2% of all expulsions issued to SWDs (Table 5.4). The expulsion risk of Black SWDs in the District is 1.6% with a risk ratio of 5.54, indicating significant disproportionality. The expulsion rates of Black SWDs demonstrate statistically significant differences compared to the expulsion rates of non-Black SWDs.

For perspective on the District's impact on the State's expulsion rate of Black SWDs, CDE expulsion data for the 2021-22 school reported 154 Black SWDs were expelled out of a total of 921 expelled SWDs. Therefore, the number of expulsions of Black SWDs (n = 15) in the District accounts for 9.7% of the total Black SWDs expelled statewide despite an enrollment of Black SWDs consisting of only 1.5% of the total enrollment of Black SWDs in the State.

Special education students are 3.62 times more likely to be expelled than nondisabled students. This is representative of significant disproportionality. Statistically significant differences were noted for SWDs being expelled compared to the rates of expulsion of their non-disabled peers ( $p = < 00.1$ ).

**Table 5.4**

*Special Education Expulsions – Composition Index, Risk Index, and Relative Risk Index*

	Total	Black	Hispanic	Multiple Races
Enrollment	3,793	959	2,187	225
(%)	17.0	25.3	57.7	0.7
Students Expelled	23	15	7	1
Composition Index (%)	42.6	65.2	30.4	4.3
Risk (%)	0.6	1.6	0.3	0.4
Risk Ratio	3.62	5.54	0.32	0.72

A total of 50 disciplinary voluntary/involuntary transfers of general education students were recorded, making up two-thirds (67.6%) of all transfers issued (Table 5.5). Black students make up 14.4% of the general education enrollment and 46.0% of the disciplinary transfers. They show the highest risk (0.9%) for being transferred among all groups and a risk ratio of 5.05, which is indicative of significant disproportionality. This means that Black students are 5.05 times more likely to receive a disciplinary transfer than a nondisabled student.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Statistically significant differences were found for Black nondisabled students receiving a disciplinary transfer compared to their non-Black general education peers ( $p = < .001$ ).

**Table 5.5**

*General Education Transfers – Composition Index, Risk Index, and Relative Risk Index*

	Total	Black	Hispanic	White	Multiple Races
Enrollment	18,518	2,672	12,663	1,842	758
(%)	83.0	14.4	68.4	9.9	4.1
Students Transferred	50	23	22	4	1
Composition Index (%)	67.6	46.0	44.0	8.0	2.0
Risk (%)	0.3	0.9	0.2	0.2	0.1
Risk Ratio	0.43	5.05	0.36	0.79	0.48

SWDs are 2.34 times more likely to receive a disciplinary transfer compared to their nondisabled peers, which is consistent with disproportionate overrepresentation (Table 5.6). Special education students demonstrate a statistically significant difference in receiving disciplinary transfers compared to their nondisabled peers ( $p = < .001$ ).

Black SWDs make up 62.5% of all transfers issued to SWDs and demonstrate a risk ratio of 4.93, which is indicative of significant disproportionality. This means that Black SWDs are 4.93 times more likely to be transferred than any other special education student. Their rate of disciplinary transfers is also statistically significant compared to non-Black SWDs ( $p = < .001$ ).

In addition, White students (risk ratio 1.88) are at risk of being disproportionately overrepresented in these types of disciplinary transfers.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.6**

*Special Education Transfers – Composition, Risk, and Relative Risk Indices*

	Total	Black	Hispanic	White	Multiple Races
Enrollment	3,793	959	2,187	364	225
(%)	17.0	25.3	57.7	9.6	5.9
Students Transferred	24	15	4	4	1
Composition Index (%)	32.4	62.5	16.7	16.7	4.2
Risk (%)	0.6	1.6	0.2	1.1	0.4
Risk Ratio	2.34	4.93	0.15	1.88	0.69

***Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff***

To develop a better understanding of the expulsion and MDR process, as well as voluntary and involuntary transfers, qualitative data collection efforts included site visits, various meetings, and focus groups.

In addition, this section includes the findings of file reviews of MDRs, IEP documents, and expulsion packets. Case studies of MDR and expulsion files are included to better illustrate these practices as well as identify potential shortcomings of the documentation and data maintenance procedures and practices. This part of the discussion reports staff feedback regarding MDRs and expulsion/transfers, separately.

This next discussion will present the findings of the MDR file review analysis and case studies, followed by staff feedback from site visits and interviews. It concludes with the expulsion file review and case study findings, succeeded by staff feedback.

**MDR File Review Findings and Analysis.**

The manifestation determination review (MDR) is a procedural protection to ensure SWDs are not discriminated against in exclusionary discipline because of their disability related behaviors. The purpose of the MDR is to determine whether the behavior that led to the incident for which a disciplinary removal is being considered was related to the student’s disability or occurred because of the school’s failure to implement the student’s IEP. When a determination is made that the behavior was not related to the student’s disability or the school’s failure to implement the IEP, then the principal or superintendent may recommend and carry out an expulsion, similar to the practice of nondisabled students. Therefore, the quality, objectivity, and due diligence carried out at MDRs by IEP teams have considerable

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

implications for SWDs. A failure of the MDR process can result in negative outcomes and associations for SWDs due to disability related behaviors.

A total of 101 MDR IEPs were identified from over 500 IEPs obtained. A file review was conducted to better understand the composition of students who participated in an MDR and adherence to compliance indicators, such as the timeliness of the meeting and number of cumulative days of removals at the point of the meeting. In addition, the file review aimed to identify IEP team practices during the determination process and the impact on subsequent outcomes, as well as levels of parental agreement with the determination. Data were collected on the extent to which students were receiving behavioral supports prior to or as a result of the MDR and whether a change of placement was recommended.

In addition, case studies are included to illustrate these practices in the context of the behavioral incident as well as the outcomes of the meeting and subsequent disciplinary action. The case studies also provide examples to show how events were coded for collecting this data. The case studies are not intended to make conclusions regarding the IEP team's decision but rather highlight practices that may be indicative of violations of law or shortcomings in the process that preclude students from an MDR meeting that affords them the procedural safeguards of the IDEA as intended.

Of the 101 MDRs reviewed, Black students made up nearly three-quarters (73.3%) of all reviews conducted (Table 5.7). Due to the high percentage of Black students and clear overrepresentation, the discussion and analysis focuses on the presence of events and decision-making processes at the MDR meeting for all students. The MDR process is specific to SWDs; therefore, all references made to students imply each student has an IEP and receives special education services.

The review developed a profile of the students referred for an MDR and found that students with other health impairments (OHI), specific learning disabilities (SLD), and emotional disturbance (ED) comprised 93.0% of all MDRs.

In addition, 55.5% of students had an external diagnosis of a disability or mental health disorder. This included disorders such as attention deficit hyperactive disorder (ADHD), post-traumatic stress disorder (PTSD), autism, oppositional defiance disorder (ODD), mood disorder, bipolar disorder, depression, and anxiety disorder. These external diagnoses were documented in students' IEPs; however, the majority of IEPs did not include evidence that the team discussed or considered these disabilities and/or disorders when making the MDR determination.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.7**

*Distribution of Eligibility Categories and External Diagnosis by Race/Ethnicity*

Race/ Ethnicity	Total		Disability						External Diagnosis	
	n	%	Aut	ED	OHI	SLD	SLI	Multiple	Yes	No
Black	74	73.3	1	13	27	31	1	1	44	30
Hispanic	23	22.8	1	1	9	9	0	3	9	14
White	4	4.0	0	0	1	3	0	0	3	1
Total	101	100	2	14	37	43	1	4	56	45
%			2.0	13.9	36.6	42.6	1.0	4.0	55.4	44.6

The law requires that MDRs be held within 10 days from the decision to remove or suspend the student. A total of 11.9% of MDRs were not held within this timeframe, indicating noncompliance (Table 5.8). In addition, four MDRs did not contain dates, which precluded the identification of the timeliness of the meeting.

About 15% of MDRs did not have a parent present. Two additional IEPs lacked information on the presence of parents or did not indicate (NI) if the parents participated.

**Table 5.8**

*Distribution of MDRs Held within 10 days and Parental Attendance by Race/Ethnicity*

Race/ Ethnicity	Total		Within 10 Days			Parent Attended		
	n	%	Yes	No	NI	Yes	No	NI
Black	74	73.3	64	10	0	60	14	0
Hispanic	23	22.8	17	2	4	21	1	1
White	4	4.0	4	0	0	3	0	1
Total	101	100	85	12	4	84	15	2
%			84.2	11.9	4.0	83.2	14.9	2.0

The law requires MDRs to be held when a student reaches a cumulative number of removals exceeding 10 days. Meetings held after more than 10 days are considered noncompliant and in violation of the student’s procedural safeguards afforded by law. A total of 27.7% (n = 28) of all MDRs were held beyond the 10-day mark, with eight (7.9%) being held after 16 or more days of suspension (Table 5.9). Seven MDRs did not indicate dates, rendering it not possible for this investigation to determine the cumulative number of days the student had been removed from school prior to the MDR.

In addition, eight students (7.9%) were identified to have had two MDRs in the 2021-22 school year.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.9**

*Distribution for Range of Days at Point of MDR by Race/Ethnicity*

Race/ Ethnicity	Total		Days at Point of MDR						
	n	%	1-5	6-7	8-9	10	11-15	16+	NI
Black	74	73.3	22	5	11	12	14	6	4
Hispanic	23	22.8	7	1	2	2	6	2	3
White	4	4.0	1	1	2	0	0	0	0
Total	101	100	30	7	15	14	20	8	7
%			29.7	6.9	14.9	13.9	19.8	7.9	6.9

The purpose of the MDR is to determine if a substantial relationship exists between the student’s disability and the conduct that led to the disciplinary action. In the meeting, the school, parent/guardian, and relevant members of the IEP team are to review and consider all pertinent information in the student’s educational file, the IEP, teachers’ observations, and relevant information provided by the parent/guardian to make such determination.

The IEP team must determine if the conduct that led to the disciplinary action was the direct result of the LEA’s failure to implement the IEP. To do so, IEP teams may review the IEP to determine if the supports, services, and placement were reasonably calculated to support the student’s behavior and also examine service logs to make sure that the student received these services.

If the team concludes that the student’s conduct was a manifestation of their disability or due to the direct result of the school’s failure to implement the child’s IEP, then the school cannot proceed with normal disciplinary procedures and must provide or modify the appropriate supports (BIPs) and services (counseling), conduct evaluations such as an FBA, and/or recommend changes in placement as appropriate. However, the child maintains the right to remain in their current placement and school, unless agreed upon by the school and parents.

If the team finds that the behavior was unrelated to the child’s disability and not due to the school’s failure to implement the IEP, the school may proceed with normal disciplinary procedures, such as an expulsion.

Table 5.10 shows the final determinations made at the MDR, with the majority finding that the behavior was not a manifestation of the student’s disability (81.2%) nor the school’s failure to implement the IEP (94.0%). These findings show that an overwhelming number of MDRs result in a determination that allows normal disciplinary procedures to proceed.

Parents disagreed with these decisions 13.9% of the time; however, 31 MDRs, or about one-third, did not indicate (NI) whether a parent agreed or not.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.10**

*Distribution of Determination Type and Parental Agreement by Race/Ethnicity*

Race/ Ethnicity	Total		Related to Disability			Failure to Implement IEP			Parent Agreed		
	n	%	Yes	No	NI	Yes	No	NI	Yes	No	NI
Black	74	73.3	15	59	0	5	69	0	39	13	22
Hispanic	23	22.8	3	19	1	0	22	1	14	1	8
White	4	4.0	0	4	0	0	4	0	3	0	1
Total	101	100	18	82	1	5	95	1	56	14	31
%			17.8	81.2	1.0	5.0	94.0	1.0	55.4	13.9	30.7

To obtain a better understanding of the reasons or rationale for the IEP team’s determination if the behavior was a manifestation of the student’s disability, reasons were coded<sup>45</sup> using the following definitions:

- Reason A: The conduct was planned or premeditated
- Reason B: The student knows right from wrong
- Reason C: General statement regarding the student's disability and no direct relationship to the behavior
- Reason D: The disability is academic in nature
- Reason E: The student is able to control their behavior
- Reason F: No reason indicated
- Reason G: The conduct was related to the child’s disability

The IEPs yielded a total of 139 reason codes since some statements included multiple reasons (Table 5.11). The most frequently used rationale to explain why the behavior was not related to the student’s disability included statements that implied the disability only impacted the child in an academic setting or when completing school related instructional tasks (32.3%) (Reason D).

General statements (Reason C) were offered in 18.0% of the MDRs, while another 19.4% contained statements that the student knew right from wrong (Reason B) or was aware of the consequences of their actions and therefore the misconduct could not be a manifestation of their disability.

IEP teams also included rationale that the student’s actions were planned or premeditated (Reason A) (9.4%) or that the student had previously demonstrated an ability to control the same behavior (Reason E) (2.9%), therefore implying the behavioral incident could not be a manifestation of their disability.

---

<sup>45</sup> Reason B and E are reasons on the Principal’s Conference form used during the pre-expulsion meeting with parents.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Lastly, decisions that found the behavior was a manifestation of the student's disability (12.9%) were coded with Reason G.

**Table 5.11**

*Distribution of Reasons for Determination of Related to Disability by Race/Ethnicity*

Race/ Ethnicity	Total Reasons		Reason Codes						
	n	%	A	B	C	D	E	F	G
Black	95	68.3	7	14	18	39	2	0	15
Hispanic	36	25.9	5	12	7	7	1	1	3
White	8	5.8	1	3	0	3	1	0	0
Total	139	100	13	27	25	49	4	1	18
%			9.4	19.4	18.0	32.3	2.9	0.7	12.9

Similarly, statements were coded to address whether the student's behavior was caused by a direct failure to implement the IEP.

The reasons offered were limited, with three response types as follows:

- Reason H: The IEP has been implemented
- Reason I: The school failed to provide services or implement the IEP
- Reason J: No reason indicated or lacked clear information

Table 5.12 shows that for 92.0% of all MDRs held, the team determined the IEP had been implemented (Reason H), therefore allowing the school to proceed with further disciplinary actions.

Only five cases were identified as having failed this test, indicating that the school did not implement the IEP (Reason I) (5.0%). The remaining three cases either lacked rationale or the explanation offered did not include enough information to accurately code the decision. (Reason J) (3.0%)

**Table 5.12**

*Distribution of Reasons for Failure to Implement by Race/Ethnicity*

Race/ Ethnicity	Total		Reason Code		
	n	%	H	I	J
Black	74	73.3	67	5	2
Hispanic	23	22.8	22	0	1
White	4	4.0	4	0	0
Total	101	100	93	5	3
%			92.0	5.0	3.0

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The following part of the analysis examined how students were being supported in the areas of behavior and social emotional needs. The provision of these supports is critical when examining whether these supports were in place prior to incident that led to the disciplinary actions or if they were offered in response to the MDR process. The rate of these services also provides insight into how IEP teams and schools modify IEPs to ensure that the student's behavioral and social emotional needs are addressed and that supports are in place to prevent the recurrence of the behavior.

Table 5.13 looks specifically at counseling supports offered, differentiating between school-based counseling and more intensive ERICS counseling. Approximately two thirds (63.4%) of the students who had an MDR received counseling services. Of those with counseling listed on their IEP, about one third (35.9%) did not have a counseling goal in the IEP. The absence of goals is problematic because it can facilitate the MDR team's review of all relevant documents to determine if the relevant behavior was being addressed and provide insight into how the student's disability manifests. Goals also establish a mechanism of accountability for the implementation of the IEP by the school and provider.

Of the 64 students with counseling, 13 (12.9%) were offered the service at the MDR meeting. This means that only half of the students (50.5%) who went through an MDR were receiving counseling at the time of the behavioral incident.

Only 15.8% of the students had ERICS listed as a service on their IEP. ERICS offers a more intensive counseling service that typically addresses more severe behaviors and mental health needs compared to school counseling. The majority (93.3%) of these students had an accompanying goal attached to the IEP. Of the 15 students with ERICS counseling listed, two (13.3%) were offered the service at the MDR meeting.

Overall, the number of students receiving counseling supports is low considering the obvious behavioral needs displayed to require extended long-term disciplinary removals and an MDR. The rate of these services for students after having gone through the MDR is of concern, since the failure to add counseling services may dismiss the seriousness of the incident and misconduct and show a lack of responsiveness by IEP teams to recognize and support the student's needs and prevent the further recurrence of the behavior.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.13**

*Distribution of Counseling and ERICS Services by Race/Ethnicity*

Race/ Ethnicity	Total MDRs		Counseling		Counseling Goal		ERICS		ERICS Goal	
	n	%	Yes	No	Yes	No	Yes	No	Yes	No
Black	74	73.3	43	31	29	15	15	59	14	1
Hispanic	23	22.8	19	4	10	8	1	22	1	0
White	4	4.0	2	2	2	0	0	4	0	0
Total	101	100	64	37	41	23	16	85	15	1
%			63.4	36.6	64.1	35.9	15.8	84.2	93.8	6.3

When an IEP team determines the student’s behavior was a manifestation of their disability or the direct result of the school’s failure to implement the IEP, the law requires teams to conduct a functional behavioral assessment (FBA), unless one was already conducted for the student prior to the behavioral incident, and develop and implement a behavioral intervention plan (BIP) for the student. If a BIP has already been developed, the IEP team must review the plan and modify it as necessary.

The law also requires that when a student is removed from their placement, irrespective of the determination of whether the behavior was a manifestation of their disability, students are to continue to receive educational services, and as appropriate, an FBA, BIP, and other services and modifications designed to address the behavior violation so that it does not recur.

District policy states that an FBA must be completed no later than 10 business days after the student’s 10<sup>th</sup> day of removal, even if there is no pattern to the removals that would constitute a change in placement, unless a BIP exists. If the FBA and BIP have not been developed for the behavior for which the student is being removed from school, the IEP team must convene to review existing data and develop a BIP with available data or develop an interim BIP while the school conducts an FBA as soon as possible to develop a BIP. District policy also requires that when a student has a BIP in place, the IEP team must review the plan and make modifications as necessary, particularly if the behavioral incident results in a potential change in placement.

Given these legislative and District policy requirements, the rates of BIPs (45.5%) and FBAs (12.9%) are quite low and suggest that students were inadequately supported prior to the behavioral incident that led to the disciplinary removal, as well as after the incident (Table 5.14). This is also indicative of schools’ noncompliance with District policy related to conducting an FBA for any student with more than 10 days of removals who does not have a current BIP.

A change of placement was recommended at 51.5% of the MDRs; however, these counts are likely an underrepresentation of these practices. IEPs did not always clearly document such

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

recommendations, and some included general LRE language that considers multiple placements. Some IEPs noted that since the MDR found that the student’s behavior was not part of the student’s disability, the principal would meet with the parent to discuss disciplinary actions, which likely resulted in a change of placement. It is unknown how the post MDR placement decisions made by principals were memorialized in the student’s IEP.

**Table 5.14**

*Distribution of MDRs with BIP, FBA, and Change of Placement by Race/Ethnicity*

Ethnicity	Total MDRs		BIP		FBA		Change of Placement		
	n	%	Yes	No	Yes	No	Yes	No	NI
Black	74	73.3	39	35	10	64	42	30	2
Hispanic	23	22.8	6	17	3	20	9	14	0
White	4	4.0	1	3	0	4	1	3	0
Total	101	100	46	55	13	88	52	47	2
%			45.5	54.5	12.9	87.1	51.5	46.5	2.0

To examine the level of counseling support provided to students, the frequency and duration from MDR IEPs were analyzed. For students with school-based counseling, more than half (55.2%) receive 30 minutes or less of this service per month (Table 5.15). Another 15.5% receive 45 minutes or less per month. About one in ten (10.3%) receive 90 to 120 minutes of counseling per month.

ERICs counseling is a more intensive counseling program to deal with more profound behavioral and social emotional needs. Of the 15 students with ERICS counseling, 25.1% receive ERICS counseling for 60 minutes or less per month. The frequency and duration of this service appears inconsistent with the intent of supporting students with more serious behavioral and social emotional needs.

The most frequent prescription offered for ERICS is for 120 minutes per month or 30 minutes per week (33.5%), with 73.3% receiving 120 minutes or less of this service per month.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 5.15**

*Distribution of Frequency and Duration of Counseling and ERICS Services by Race/Ethnicity*

Counseling - Frequency/Duration						ERICS - Frequency/Duration*				
Frequency** Duration	Black	Hispanic	White	Total	%	Frequency Duration	Black	Hispanic	Total	%
10 Min	1	0	0	1	1.7	30 Min	1	0	1	6.7
15 Min	1	0	0	1	1.7	60 Min	3	0	3	20.0
20 Min	2	1	0	3	5.2	80 Min	1	0	1	6.7
30 Min	17	9	1	27	46.6	120 Min	5	1	6	33.5
40 Min	6	2	0	8	13.8	180 Min	1	0	1	6.7
45 Min	1	0	0	1	1.7	240 Min	3	0	3	20.0
50 Min	3	0	0	3	5.2	Total	14	1	15	100
60 Min	6	1	0	7	12.1					
90 Min	0	0	1	1	1.7					
120 Min	3	2	0	5	8.6					
360 Min	1	0	0	1	1.7					
Total	41	15	2	58	100					

\*White students were excluded from the ERICS total due to no students receiving services.

\*\* All service prescriptions are for a month.

***Case Studies of MDRs.***

The following case studies show some of the common practices for making the MDR determination. These cases also provide insight into the level of supports offered and provided for students experiencing repeated and long-term disciplinary exclusions.

***Case Study #1***

The first case is for a 9<sup>th</sup> grade student who the IEP team found that the behavior in question was a manifestation of his disability yet recommended a change in placement by offering a reduced, modified day. The incident in question was due to fighting, with the rationale for a modified day as such:

The team also discussed student's current schedule. Due to his conduct and behaviors, they present a safety to himself and others. The team noted that, although the student is new to Desert Pathways, the conduct in question appears to be occurring more often in the afternoon. The team discussed reducing his day from 6 periods to 4 periods (1-4). The goal is to build up his emotional stability via the related services while also allowing him to complete coursework toward his diploma. The goal is to ultimately grow back his school day to a full day. Desert Pathways students have the opportunity to earn variable credits so it's paced on the student's progress in completing coursework.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The student's guardian disagreed with the proposed modified school day stating her concern that the shortened day may reinforce the student's behavior and cause it to escalate rather than reduce. The use of a shortened day or modified schedule to address the student's behavior rather than providing adequate behavioral supports may constitute a potential denial of FAPE, as noted by the OSER's Dear Colleague letter (2016). Furthermore, the school held the student's MDR after 17 days of suspension, which is a clear violation of law.

### *Case Study #2*

Two MDRs were held for this student with the first occurring at the 16<sup>th</sup> day of removal and the second occurring at the 20<sup>th</sup>. Both found the student's behaviors were not related to their disability nor the school's failure to implement the IEP. Both statements provide a general description of the impact of disability and imply the student knows right from wrong.

Student's alleged conduct is not caused by or related to her disability. Student is currently receiving special education services as a student with a specific learning disability. She is able to understand between right and wrong. She had choices to be in class and not get physically assaultive with others.

The second MDR held at 20 days of suspension lists five discipline entries for the 2021-22 school year, including: fight, inciting/defiance, mutual fight, verbal altercation/attempted assault on a school employee, and physical altercation. The last incident was due to a mutual fight where the student slapped a peer. The first three incidents occurred within five weeks of the first event, and the last two less than a month apart.

The last MDR states that the student was getting 30 minutes of counseling per month. Both MDRs list interventions provided, which include anger management classes, school-based mental health, DIS counseling, conflict resolution, Saturday school, referral to CAW, parent and student conferences with the VP, and after school tutoring. Furthermore, the IEP states that in 2019, her eligibility was changed from intellectual disability (ID) to SLD.

At the second MDR, which was held after 20 days of removals, the school recommended to move up her 3-year reevaluation and conduct an FBA. No mention or inclusion of a BIP or behavior goal was found in either MDR. The only support this student was receiving was 30 minutes of counseling per month.

This example shows how the IEP team provided a very simple and generalized justification for determining that the behavior was not a manifestation of their disability, despite a history of aggression and fighting and interventions such as anger management and conflict resolution. The team did not consider or discuss her previous eligibility or concerns regarding the appropriateness of the current eligibility. Given the student's recent history of fighting, the team did not consider if the 30 minutes of counseling per month was reasonably calculated to provide the appropriate level of supports to address the student's ongoing behavioral difficulties. The team also failed to consider if an interim BIP was needed while the FBA and psychoeducational assessment were being conducted.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

This case shows the District's failure to comply with the timeline requirements to hold an MDR at or no later than the 10<sup>th</sup> day of removal, as well as a failure to determine if the series of removals constituted a pattern because of the following:

- The series of removals exceeds more than 10 school days in a year.
- The student's behavior is substantially similar to their behavior in previous incidents that resulted in a series of removals.
- Additional facts such as the length of each removal, the total amount of time the student has been removed, and proximity of the removals to one another, indicate a change in placement.

These considerations are required by District policy AR 5144.2 and 34 CFR Section 300.536(a)(e)(f) and show the IEP team's lack of capacity for considering whether the removals constituted a pattern that would be considered a change in placement. This case shows the IEP team's failure to conduct MDRs consistent with the timelines and requirements of law and District policy, as well as providing adequate supports for students who demonstrate a pattern of behavioral difficulties that are being persistently treated with exclusionary discipline rather than behavioral and social emotional supports. Moreover, despite the IEP team's knowledge that the MDR was not held until the 16<sup>th</sup> day of suspension, the team failed to recommend the triennial reevaluation and MDR until the next incident occurred less than a month later, after 20 days of removals.

### *Case Study #3*

This student was suspended for possession of a weapon or dangerous object. He was found in the bathroom trying to burn a pen with a lighter. The MDR IEP team determined that his behavior was not a manifestation of his disability nor the direct failure of the school to implement his IEP. The following statement explains the justification for determining the behavior did not have a direct relationship to his disability:

Student meets eligibility criteria under the OHI designation. His OHI is due to how his behaviors related to his *ADHD impact his academic performance*. Assessment results have indicated average range cognitive abilities or *the ability to reason and problem solve and understand the impact and consequences* of his alleged behavior. Student has *demonstrated the ability to control his behavior* and make progress toward credit within the SDC-B setting.

The IEP notes the student has been diagnosed with PTSD, ADHD, and currently doesn't take medication to treat his ADHD. In addition, the IEP contains a good summary of his previous evaluations and eligibility determinations, noting he had been experiencing behavioral difficulties since first grade although found not eligible at the time. In third grade, he qualified for services under OHI and was found ineligible with ED. In addition, a PTSD diagnosis was mentioned. At the time of his initial eligibility, he received an FBA, and had an aide assigned to him during unstructured time due to concerns in the areas of social skills, hyperactivity/inattention, aggression and peer relations. Subsequent to his initial

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

identification, he had additional evaluations for ED and FBA. Despite the inclusion of these previous assessments and history of behavioral problems, the MDR provides no indication the IEP team considered the student's prior history or consideration for another evaluation.

In the MDR, the case carrier reported the following:

Student is well behaved in class most of the time. He does struggle with impulsivity and hyper-activeness... Student is unsure of why things are right or wrong and often questions why rules about safety are in place.

The MDR also includes the following statement to describe the decision-making process.

The school psychologist presented results of the Manifestation Determination. Based upon the current available data, Student's alleged misconduct was neither directly caused by his disability nor the direct result of the District's failure to implement the IEP. Therefore, the IEP team recommends normal disciplinary procedures.

Other teacher comments in the MDR include:

Per results, student and at least one of his teachers agree he struggles to monitor himself in the classroom setting. Student does not recognize when his behavior is impacting the learning of those around him.

Student has few friendships and can be confrontational with peers and adults. His behaviors often impede his learning and the learning of others around him.

This MDR was held after 4 days of suspension and appears to have resulted in a change of placement from a comprehensive site to Phoenix Community Day School (CDS). The IEP does not indicate that the student's attempt to burn a pen in the bathroom caused any damage to property or harm to students or staff. This act resulted in the student being suspended and subsequently transferred to a community day school for the possession of a dangerous weapon or dangerous object.

This case student highlights several practices that question the validity of the determination and effectiveness of the MDR process. First, the determination statement provides a justification that the behavior was not related to his disability because:

- his disability is academic in nature,
- he is able to know right from wrong or know the consequences of his actions,
- he has demonstrated the ability to control his behavior.

The IEP team made these conclusions despite evidence in the IEP that documents his disability has impacted his behaviors, relationships with peers and adults, and social emotional state since first grade. The case carrier included a statement that the student struggles with knowing right from wrong or understanding the safety reasons behind rules. Similar concerns regarding his lack of awareness regarding the impact his behaviors have on

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the learning environment are also included, adding credibility to the concerns that his disability impacts his behavioral choices and actions.

Finally, the IEP indicates the determination was a decision made by the school psychologist, implying the conclusions were predetermined.

### *Case Study #4*

This case highlights the IEP team's reluctance to make determinations that the behavior was a manifestation of the student's disability and failure of the school to implement the IEP despite clear information of both.

The student was in a fight that resulted in another student being injured. This led to the student's arrest and removal from campus to a detention center.

Available records indicate that there is nothing to suggest a direct relationship between student's educational disability and his conduct. Student had many strengths including conceptualization, auditory (phonological) processing, short-term auditory memory, processing speed, visual processing, and sensory motor integration. Upon a review of records, student has a history of aggressive behavior and gets triggered easily. His current ERICS goal is working on when presented with a frustrating situation, student will learn to utilize prosocial strategies including calming strategies. It appears that based on an eligibility of SLD and processing areas impacting the student, the behavior would not have a direct and substantial relationship to his disability of SLD. However, after reviewing records and previous BIP, it appears that there may be another area of disability impacting the student and further assessments in the area of social emotional development need to be considered.

This statement clearly indicates the school failed to assess the student in all areas of suspected disability but does not go as far as saying the behavior was a manifestation of his disability or the school's failure to implement the IEP. The IEP documents a diagnosis of mood disorder.

The MDR indicates the assistant principal approved an ERICS assessment and confirms the IEP team's agreement to update the BIP. However, no BIP was included or checked as a support on the special factors page. The student was receiving 120 minutes of counseling per month, with the counseling goal prior to the incident designed to address his difficulties managing his frustration and emotional regulation during situations with peers and adults.

Although the team did not recommend proceeding with normal disciplinary procedures, a change of placement to Desert Pathways was recommended.

### *Case Study #5*

The last case study highlights the IEP team's decision to determine the student's behavior was not a manifestation of their disability because the student's disability is academic in

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

nature and has the capability to understand school rules and consequences, despite counseling goals that suggest otherwise.

Student's disability of OHI due to a diagnosis of ADHD may affect his ability to sustain attention, stay on task, complete assignments, and affect his organization and study skills, which impacts his progress in the general education curriculum. Student's SLD with deficits in auditory processing, visual processing, and attention cause difficulties with the ability to draw conclusions, to make inferences, to classify, to categorize, to summarize, to focus and to do multiple step problem solving, sequencing, memory and with assignments presented orally in-class lectures and when lessons are not broken into smaller segments. Records indicate that the student has abilities within the low average range of functioning and demonstrates the capability to understand rules and consequences.

Student has been made aware of resources on campus to resolve conflict and other actions to take in response to conflict. The student has a DIS counseling goal to identify triggers for anger in order to demonstrate appropriate coping strategies. He has been counseled specifically regarding his choice to engage in physical force against students and his awareness of the consequences of his actions and he has reported on understanding that physically acting out results in negative consequences. The resources on campus available to the student (psychologist, case carrier, counselor and BIP) have also been reviewed with the student. A review of alleged incident appears to indicate student did not act impulsively as he remained on campus until the end of the school day, at which time, he had the time and space to seek out and consult resources on campus regarding his frustration with the directive. A review of current records indicates that there is no direct substantial relationship between student's disability and his incidents of physical fighting with peers.

It is unclear what connection between not acting out impulsively and remaining on campus until the end of school day the IEP team is referring to. The statement appears to imply that because the student did not leave campus early (as is the standard behavior), the behavior that resulted in him engaging in a fight cannot be considered impulsive. The fact that he did not reach out to the appropriate resources on campus to avoid the fight appears more indicative of an impulsive act, where the student failed to think through the strategies taught to help him cope, but instead made a decision to engage in a fight.

In addition, the reason includes language similar to many others when discussing the determination that the behavior was not due to the direct failure of the school to implement the IEP. The MDR includes a statement that the student had access to universal resources available to all students, implying the school's responsibilities to support the student's behaviors were met.

The student has a BIP and receives 30 minutes of DIS counseling per month. His counseling goal is to identify triggers for anger in order to demonstrate appropriate coping strategies. His baseline states "school records indicate that the student has a tendency to engage in

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

horseplay and argumentative behaviors that escalate due to students' anger. Student's anger escalates to behavioral incidents including fighting that the student has been counseled specifically regarding his choice to engage in physical force against students and his awareness of the consequences of his actions and has reported on understanding that physically acting out results in negative consequences."

The BIP was updated at the MDR and has a similar goal for addressing the student's behaviors that escalate from horseplay "to threats of physical aggression to actual physical altercations."

### ***Additional Observations from MDR File Review.***

The review of MDR files found the following:

- Seven MDRs included statements that implied the school psychologist reported on the findings and determinations of the MDR, which is indicative of premeditation.
- Six MDRs showed the school offered a shortened or modified school day of four periods. Some of these students were 9<sup>th</sup> graders, raising concerns regarding the loss of instructional time and credits at the early stages of their high school enrollment.
- Independent Study or other alternative programs appeared to be offered in lieu of expulsion in some instances.
- Thirteen MDRs included comments that imply the school effectively implemented the student's IEP because the student had "access to school psychologists, counselors, and other school staff to support the student on an as-needed basis."
- Parental disagreements did not appear to change the result of the determinations. In addition, no mention was made of the team explaining to the parent their due process rights, including the right to request an expedited hearing.
- Three MDRs showed parents had representatives such as advocates, attorneys, psychologists/psychiatrists, or others in support of the student and parent.
- Questionable reasons for suspensions were identified, such as altercations that occurred off campus during non-school hours, incidents that escalated from searches, and on one occasion the suspension of a student for possession of a vape pen battery with no contents or pen.
- 37 students were considerably behind in credits. Many MDRs did not include this information; therefore, it is likely that this is an underestimation of students who are academically behind.

### **Select Findings from Office of Administrative Hearing Due Process Cases.**

The findings of several office of administrative hearing due process cases regarding MDRs are included to highlight some of the MDR teams' practices that have resulted in administrative law judge's ruling to overturn districts' decisions that students' misconduct was not substantially related to their disability. These cases contain several notable findings regarding a school's procedural obligations and decision-making processes when conducting

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

MDRs. In addition, these cases reflect decision-making practices with those observed in the file review.

### *Student v. Menifee Union School District* – OAH 2020020214

Issue #1. The student's mother did not receive written notification of the meeting and was informed only by telephone. She was not told she could bring any documents or persons with her. She was not informed she could help determine the relevant members of the MDR team.

- The court ruled the notice was inappropriate, lacking an invitation for the mother to bring team members she felt were relevant, including professional advisors. The law specifically provides that a manifestation determination must be made by relevant members of the manifestation determination team "as determined by the parent and the [school district]" (20 USC Section 1415(k)(1)(E); 34 CFR Section 300.530(e).

Issue #2. The district described the manifestation determination decision in vague terms with one school official stating "The feeling by the people present was he did not bring the knife [to school] because of his ADHD because the 'correlation wasn't there.' Another agreed adding that in his 15 years of teaching history he 'has not seen' ADHD contribute to student behaviors other than disruptiveness.

- The court ruled that "these circular and broadly generalized conclusions are not the type of considered decision-making the IDEA requires" and cited *Student v. Los Angeles Unified Sch. Dist.* (2017) OAH Case No. 2017080154 [claim that student's behavior typically did not manifest in physical ways was contrary to the records, leading to reversal of the manifestation determination].

This case highlights a district's obligation to inform the parent of their right to bring professionals or other relevant individuals to the MDR. This ruling in *Fitzgerald v. Fairfax County School Board* (2008) provides a better understanding of the interpretation of this procedural requirement. The court interpreted the statutory membership requirement of the MDR team as meaning that "each side has its independent right for invitation rather than an effective veto," which would be contrary to interpreting the language as requiring mutual agreement (Zirkel, 2010).

Only a few cases reviewed included members invited by the parents such as attorneys, social workers, or mental health professionals. The interviews revealed that some school officials do not inform parents of this right. This requirement was not emphasized or found in any of the documents reviewed. Although the regulations clearly state that the members of the MDR team are to be determined by the parent and district, the lack of outside representation noted suggests parents are not aware of this right.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

About one in four MDRs contained a general conclusion statement that the student's conduct did not have a substantial relationship to their respective disability. These justifications reflected the "use of circular and broadly generalized conclusions" which the court ruled is not consistent with the decision-making the IDEA requires.

### *Student v. Southern Kern Unified School District – OAH 2017070207*

Issue #1. The administrative law judge (ALJ) stated the "team as a whole, and school psychologist in particular, completely failed in their obligation under the law to consider the impact of the Student's emotional disturbance on his ability to appreciate and control his behavior."

- The court found that the school psychologist "used the influence of his position to lead the team to conclude emotional disturbance was irrelevant because it was entirely subsumed by the executive functioning deficits aspects of the ADHD" and noted that by doing so, he "usurped the role and responsibility of the manifestation determination team."
- The testimony received at the hearing made clear that most, if not all, of the other team members had no understanding of emotional disturbance. The notes of the meeting show that the team members considered the impact of "disability" not all of the student's disabilities. The school psychologist did not attempt to explain the ED classification and its effects. Many members of the team simply deferred to his expertise and agreed with his point of view, thereby failing their duty to actually consider and determine the facts and rendering the team's conclusion unreliable.

Issue #2. The student asserted that the District did not provide the resource support and counseling minutes specified in the IEP. Both providers testified that the student was skipping or refusing to attend their sessions. The RSP teacher testified that the student missed over half the time he was supposed to spend with her, while the counselor reported only providing a fraction of the counseling sessions he was due.

- The court stated that although the student could not be physically forced to attend sessions with either provider, his failure to attend is not something the district may shrug off. If the student was rejecting services, the required action is to assemble the IEP team, not allow him to do so. Having shown that the IEP was not fully implemented, it is still necessary to connect the dereliction to Student's misbehavior.

In his concluding statement, the ALJ noted the following:

Generalizations about disabilities and their effects on children are improper justifications for taking actions that affect their education. Individualized consideration by the IEP team of a child's ability, circumstances, and the degree to which he or she is impacted by their disability is required to shape an education plan. A manifestation



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

determination team in making a decision to punish or expel a child with a disability because of rules violation must make a similarly individualized determination.

MDR teams cannot rely on or defer to one member in the decision-making process, such as the school psychologist. The role of the school psychologist during the MDR was described in various ways, such as: being the expert on disability, implying deference and influence in their opinions; as the individual who makes the determination of whether the conduct was a manifestation of the student's disability; to the member who guides the discussion. The file review found IEPs with statements that appeared to reflect the school psychologist was the individual who made and presented the determination to the team. In addition, during the interviews, the director of special education often interjected during this line of questioning to redirect staff from acknowledging the role of the school psychologist as the determining factor or, at best, the team member with the most influence in making the determination.

Schools have a responsibility to ensure students receive their services even when the student refuses or skips sessions. Many of the MDRs were of students with attendance and truancy issues that were documented on the IEP and included these as explanations or reason for the students not having received their services. Moreover, the file review found very low levels (i.e., frequency and duration) of services such as counseling or BIPs. Combined, the low service levels and justifications of missed sessions that blame the student portrays a service delivery system that grossly underserves students, particularly students who are experiencing many disciplinary removals and are most vulnerable due to their behavioral, social emotional, low academic functioning, and attendance problems.

Many of the MDRs included generalizations of the symptoms and characteristics of the disability in question and failed to consider the student's individual abilities, circumstances, or needs. In many ways, these determinations were focused on the offense and whether such an act could be explained by a symptom of disability rather than the overall impact of the disability on the child. This was seen in the general explanations of behavior appearing to be premeditated or whether the student had demonstrated the ability to know right from wrong, understand consequences, or had shown capable of controlling their behavior.

### *Student v. Fortuna Union High School – OAH 2019120123*

Issue #1. The district sought to expel a student for punching a classmate and allegedly texting with someone regarding planning a school shooting. The MDR finding was that the conduct was not directly related to the student's autism disability.

- The court found that MDR teams must not focus their decision merely on disability listed in a student's IEP if they have reason to believe the student may have another disability. If they suspect another disability, the team should first reassess the student or gather more data and include the impairment in its analysis. Taking those steps would have enabled this MDR team to reach an accurate conclusion – that the student's severe depression, which coincided with the onset of his aggressive and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

threatening conduct, was directly related to the conduct, even if the disability listed in his IEP, autism, was not directly related.

MDR teams must not focus their decision merely on the disability listed in a student's IEP if they have reason to believe the student may have another disability. The review found many students to have external diagnoses that did not appear to be considered in the determination. In several cases, parents informed the school of their concerns for mental health and intentions to have the student assessed. In one of the case studies highlighted, the school determined that the student's behavior was not related to their disability even though they suspected another disability and agreed to conduct a reevaluation. Although they did not recommend normal disciplinary proceedings, the team disregarded this clear and obvious finding and still found the student culpable of the misconduct.

### *Student v. Riverside Unified School District – OAH 2017030772*

Issue #1. The district concluded that the student's decision to throw a lock into a crowd of people was unrelated to his disability of ADHD, basing its determination on the following rationale: the student demonstrated cognitive ability to distinguish right from wrong; his decision to throw the lock was not impulsive because it required multistep planning; and even if the lock throwing was attention seeking behavior, the student made a conscious decision to throw the lock.

- The court ruled that this determination was wrong because the student's ADHD disability led him to act impulsively and seek attention from his peers. Although the student could differentiate right from wrong, he had difficulty evaluating safe or unsafe behavior because of his impulsivity.
- It noted that his cognitive testing results showed average scores in most areas of cognitive processing but lower scores in executive planning and visual-perceptual skills and coordination. This reasonably explained why the student had the cognitive ability to know right from wrong and was afraid of the consequences of injuring someone but was still unable to properly evaluate, determine, and understand that it would be unsafe to throw a lock into a crowd of people from at least 15 yards away.
- Although attention seeking behavior was not a characteristic of ADHD enumerated in the DSM-5, attention seeking was a behavior function based on the ADHD medical diagnosis of impulsivity. Therefore, the student's choice of seeking the negative attention was directly related to his ADHD.

The behavior function of a disability such as ADHD (in the example provided) was determined to be the factor that linked the behavior to the student's disability of ADHD, despite not being directly related to the symptom of impulsivity. The majority of MDRs did not include documentation related to the function of the student's behavior and focused mostly on general characteristics of the disability. For almost a third of the cases, the justification statements limited the relationship of the student's disability and behavior to those in the academic setting. This shows the importance of examining and discussing the function of the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

student's behavior, which is often identified via an FBA and addressed in BIPs, as well as by including a BCBA professional in the MDR team.

Whether a student knows right from wrong cannot be the sole criteria for determining that the behavior was not related to their disability. Disability can impact decision making in many ways that can limit a student's ability to evaluate the risks and consequences of their behavior.

### ***Feedback from Senior Officials and School Psychologists regarding MDRs.***

A specific focus group was held with the senior level administrator who oversee special education, the school psychologist department supervisor, and four site level school psychologists.

Although the senior level officials participated in the discussion, the focus was to learn more about site level practices and the role of the school psychologist.

School psychologists reported schools are expected to hold an MDR within 10 days of a disciplinary incident, but sometimes the meetings are held prior to the student returning from the maximum allowable 5-day suspension.

When asked about the inclusion of in-school suspensions, school psychologists all agreed they take referrals to the SSC into consideration and count these removals toward the 10 days that would trigger an MDR. However, they expressed not seeing SSC referrals as suspensions but rather a support for students.

School psychologists were also asked if parents are informed that they can bring witnesses or other individuals to the MDR meeting. The psychologists noted that parents are not informed of this right but that schools do not disallow it. However, they offered that this information is included in the procedural safeguard document provided to parents annually.

Participants described activities undertaken in preparation for the MDR. They indicated conducting research on the incident by speaking with security, looking at data, including interviews with teachers regarding the student's performance in class, speaking with students involved, and looking at information regarding disability.

They reported that no pre-meeting is held but that an "informed" meeting is conducted to discuss and schedule the MDR. They added that at this point teachers have not filled out the pre-expulsion forms.

Psychologists explained the decision-making processes for addressing the two questions to determine if the behavior has a substantial relationship to the student's disability and if the behavior was due to a direct failure of the school to implement the IEP that occurs at the MDR meeting. They described a process where the team examines the student's current placement, disability, number of behavioral incidents, historical records, and intervention documentation to see if the listed supports were provided.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The discussion is then opened up to the team, including the parent and student, with the school psychologist presenting the student's history, teachers sharing the classroom progress reports, and related service providers sharing feedback. When considering disability, the team looks at the data indicators, rating scales, teacher reports, and feedback from parents about student's current state of well-being.

When determining if the behavior was due to a direct failure of the school to implement the IEP, the MDR team reviews the IEP and services listed to ensure that this information is current, and services are in place and being provided. One participant added that the team would make the determination if the behavior was a manifestation of the student's disability based on whether the student's IEP mainly addressed academic or social emotional needs.

If there is a BIP, the team is expected to review the supports included, who was responsible for implementation, and if the plan was implemented. One participant noted that psychologists determined if supports were implemented, while another contradicted this statement by claiming that the MDR team makes this determination and that it does not fall on one person.

One participant noted that if the behavior plan focuses on different behaviors than the misconduct that resulted in the disciplinary removal, the team would say it is not part of their disability. Another participant provided a different explanation, noting that this approach does not always hold up since a student's behavior plan may only cover and focus on some of the student's behaviors.

If the team finds the behavior was a manifestation of the student's disability, an FBA is recommended. One participant added that although this would terminate the expulsion process, the team may still decide that a change in placement is in the best interest of the student.

If the team determines that the misconduct was not a manifestation of the student's disability, the school can proceed with normal disciplinary procedures. In these cases, the team discusses additional actions that can be taken for the student, as appropriate, providing the example of a change in placement. When asked if MDRs typically result in additional student services, participants reported that some might, but it is not always the case.

Psychologists were asked if they feel pressured by the IEP team to make determinations and if their opinions carry more influence when answering the question of whether the behavior was a manifestation of the student's disability. Respondents rejected the feeling that their opinion carries additional weight in the decision-making process, with the director of special education adding that psychologists are trained to spearhead the conversations because they are considered to have the most expertise in understanding the characteristics related to the student's disability. One participant added that all team members carry equal weight in the decision-making process, with others noting that all members of the team have an equal say in the determination.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The majority of participants reported not feeling pressured or knowing anyone who felt pressured to decision whether the behavior was or was not a manifestation of the student's disability. One psychologist stated they had previously felt pressured but knew it was a team decision. Psychologists also reported never having an experience where the IEP team decided that the behavior was a manifestation of the student's disability, but the team's decision was overruled by someone, such as an administrator. Participants reiterated that the two questions to be determined are never answered before the meeting and repeated that it is a team decision.

When asked what occurs when parents disagree with the team's determination that the student's behavior was not a manifestation of their behavior, one psychologist noted that the parent is shown where they can write the reason for their disagreement. It was reported that if a parent provides new information relevant to the misconduct, the team will decide if the information is related to the behavioral incident. Information related to a new diagnosis can lead to the discontinuation of the process and creation of a new assessment plan.

Participants added that while the parent is an important part of the team, it is not the parent's decision; therefore, their dissent does not impact the overall determination. Furthermore, it was stated that the school has educational experts who evaluate the connection between the child's misconduct and disability, and the parent may not understand or know the criteria typically associated with the disability.

When asked if the parent knows their child and behaviors the best, one participant noted that while the parent may know their child best, the parent is unlikely to be knowledgeable about laws regarding disability. In addition, it was explained that some children are in foster care, so these guardians may not know these children the best.

Psychologists reported that the IEP team is usually in agreement regarding the data and their determination. If a teacher disagrees with the determination, the IEP team considers this opinion but proceeds based on the information available and reviewed.

Continuing discussions and reviewing data, as well as training on new procedures or laws, were offered as ideas for improving the MDR process. Participants noted that suspension data are reviewed at their department meetings, in particular suspension rates of Black students. One participant added that their school is constantly reviewing and discussing suspension data.

Participants noted that they receive ongoing and annual training and also engage in informal discussions regarding the MDR process. School psychologists do not believe that teachers and administrators are adequately trained to go through the MDR process, and this capacity is dependent on the experience of the teachers and staff who participate in the MDR meeting.

In a separate focus group of senior officials, MDR trainings provided to schools was discussed. This group reported that the District provides training on how to handle manifestation determination hearings and how to look at the alleged conduct to determine if it is related to the student's disability. Participants explained that if the team determines the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

behavior is substantially related to the student's disability, then an FBA is triggered. If the determination finds the behavior is not related to the student's disability, the school can proceed with normal disciplinary procedures; however, the IEP team is still able to change the services or other aspects of the IEP as appropriate. One senior official added that an FBA is triggered automatically after the first incident to prevent recurrence of the behavior.

### ***Site level feedback regarding MDRs.***

School officials from the comprehensive sites visited reported a mixed understanding of the procedures and processes related to an MDR. These site visits and discussions included the participation of the director of special education.

Schools noted that the decision to hold an MDR is initiated by a behavioral incident that leads to the suspension of the student. One school noted that an MDR is to be held within the 5-day timeline and then the parent must attend a conference meeting with the principal.

Schools reported that the MDR team may include participants such as the school psychologist, program specialist, teacher on special assignment, special education teachers, general education teachers, counselor and/or ERICS provider, representative from the alternative school, and at times other central office staff. One school noted that general education teachers are not required to attend the MDR.

Schools described their perspective on the process for determining whether a student's behavior was related to their disability or whether the school failed to implement the IEP. School officials noted that prior to the meeting, data collection occurs and can consist of information from student records and service logs. Some schools reported a premeeting with one site noting that the school psychologist and case carrier meet to brainstorm and prepare for the meeting. Another stated that the school-based team members coordinate data collection and findings prior to the MDR meeting. Another school added that while their school conducted pre-meetings, no determinations were made because that would be considered predetermination.

Schools provided mixed responses as to how the determination is made to both questions. One site noted that the school psychologist makes the determination for both questions, while another stated the psychologist writes up most of the MDR but the final decision is made by the IEP team. A different site administrator reported that the psychologist made the determination on the three questions—adding the question of whether the student's placement was appropriate at the time of the incident—but was corrected by the director of special education to state that the psychologist leads the conversation. The correction or redirection of staff responses by the director of special education occurred at all sites with the exception of the last site. The director of special education would interject in site level members' responses to redirect their answers to reflect the school psychologist's role as the leader of the MDR team in guiding the discussion and determinations and would always assert that the final determination was a team decision. However, the initial responses from school administrators appeared to indicate a reliance on the school psychologist for making

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

these determinations. All schools agreed that they consider the school psychologist to be the expert on disability.

It was reported that IEP teams review student records, IEPs, and service logs to determine if the school failed to implement the student's IEP. One consideration is whether the team can decide what services or supports were missing.

When asked if the teams consider the addition of new or more services as a reason to conclude that the school failed to implement the student's IEP, one site noted that these two events are not necessarily incompatible with the inclusion or addition of services. They added that this doesn't preclude them from determining no for both questions, allowing the school to proceed with an expulsion. Another site reported that occasionally, an MDR team concludes that the student needs more counseling or a BIP and is recommended at the meeting; however, this does not mean that there was a failure to implement IEP since it was not part of the IEP. The team simply identified a new need and added services to address those needs.

Schools were asked if they knew how often an MDR resulted in a determination that the behavior was a manifestation of the student's disability or due to the direct result in the school's failure to implement the IEP. One site administrator said they could not recall these kinds of statistics but could pull the data. Another shared that they could only recall one case where the behavior was a manifestation of the student's disability, characterizing the occurrence as rare. Another site reported that it is not unheard of to have an MDR find the student's behavior was a manifestation of their disability, but that they did not track this data.

When asked about MDRs that found that the behavior was due to a direct result of the school's failure to implement the IEP, one site administrator shared he did not think it had ever happened.

When one school was asked how MDR data are tracked, they noted that the secretary for the special education office maintains these data on Google Docs and that this information is not found in the SIS or special education data system (SEIS).

Schools believe that staff are adequately trained to carry out the functions of the MDR. One administrator cited various mechanisms for staff to participate in trainings, including sessions offered by the District and SELPA, as well as those provided by professional organizations, such as the California Association of School Psychologists (CASP).

Several sites made the distinction that psychologists receive their own set of training, with one administrator adding that they are trained to "drive the conversation." In addition, separate training was reported for program specialists, vice principals, and teachers on special assignments.

To conclude the discussion on MDRs, schools were asked what could help increase the school's capacity to conduct MDRs. All expressed feeling adequately trained and supported, with one administrator stating ongoing training and another expressing that while his school was good, they can always be better.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The feedback from senior and site level school officials regarding conducting MDRs show an inconsistent understanding of the requirements for carrying out these reviews. School psychologists noted that parents are not informed of their right to bring a representative, and that even when parents disagree or provide new information about their child's disability, it does not change their determination. Psychologists indicated that even though parents may know their child and their behavior the best, they are not as informed about the characteristics of disability or law.

Staff reported experiencing a low rate of MDRs that find the behavior was a manifestation of the child's disability, and even fewer to no cases where the school determines that the behavior was due to the school's failure to implement the IEP. Schools reported feeling adequately trained to conduct MDRs, while school psychologists noted that school site personnel are not appropriately prepared and dependent on the make-up of the IEP and experience of the team.

### ***File Review of Expulsion Files and Case Studies.***

A file review of 20 expulsion packets was conducted to understand the characteristics of students and incidents that resulted in expulsion recommendations. Although the District provided expulsion packets for the majority of SWDs expelled, there was a notable variability in the contents and documentation within each file that limited the analysis. First, the majority of students recommended for expulsion were redirected to the stipulation expulsion process, which may account for the differences in documentation.

Of the 20 files reviewed, only a few contained the expulsion packet checklist that specifies the documents included. This may be due to the high number of students who were expelled via a stipulated agreement, likely limiting the required paperwork. In some instances, the documentation was unclear whether students opted to go through a panel hearing or a stipulated expulsion. In addition, no files included an expulsion order that is to be provided to the student after the decision to expel has been made.

The inconsistent documentation and number of students with stipulated expulsions limited the ability to conduct a file review to gauge compliance with the education code regulations and District policies that govern expulsions. All students were included in the MDR file review. In many ways, the determinations made in the MDR were the last layer of protection to ensure students were appropriately recommended for expulsion.

The data collected and analyzed as part of the expulsion file review will show the composition of the students who were expelled, including the level of services, such as counseling and BIPs, as well as their academic progress and class standing as reported by transcripts. Case studies are included to illustrate the events that led to the process to recommend these students for expulsion and their eventual expulsion.

This analysis only includes students for whom a file was received and not the entire population of SWDs expelled (n = 23). Due to the small number of students and to protect their privacy, students are referred to with the pronouns they, their, and them.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Of the 20 files reviewed, 40.0% of the students (n=8) were expelled for one of the top five offenses pursuant to EC 48915(c). However, these were coded based on the information included in the expulsion file. For one student, the incident report as part of the expulsion documents indicate that the student committed one of the top five offenses, apparently for brandishing of a knife<sup>46</sup>, but the description included indicates the student was in possession of a knife that was found during a search of his backpack.

The majority of students elected to forgo the panel hearing and opted for a stipulated expulsion (n=16, 75.0%). Services in students' IEPs at the time of the offenses show a low level of supports, with 60.0% receiving counseling (n=12), 25.0% having a BIP (n=5) and 5.0% showing evidence of an FBA (n=1). For the most part, these students lacked high levels of support that would have been appropriate given their repeated disciplinary referrals and removals.

During the MDR and expulsion file reviews, the academic progress and standing of these students stood out, with many students having large academic gaps reflected in their GPAs, credits earned compared to credits attempted, and class rank. Initially, the class ranks of some students raised questions about the accuracy of the information reported. For example, one student had a GPA of 0.16 and a class rank of 645 out of 828, which means 183 other students in their class have a lower GPA. According to the student's IEP, it was reported the student was reading at a first-grade level.

Half of the students (n=10, 50%) expelled had GPAs under 1.0 and, despite their low ranking, were still ahead of a surprising number of other students in their grade. Only one of the 15 students with GPAs had a score over 2.0. Many students were significantly credit deficient, with 14 of the 15 with credit information, showing a third or more of the credits attempted as failed. Students with no GPA or zero credits were primarily freshman, with one upper grade student recently having entered the District.

These findings are startling considering that 60.0% were being expelled for non-mandatory offenses. The low rate of services such as counseling and BIP question whether principals truly considered other means of correction before making the determination for an expulsion. In addition, the high rate of students with considerable credit deficits is of greatest concern, since many of these students may have become disengaged from learning and were vulnerable to more severe acts of misconduct. The patterns observed for these 20 students are alarming, as they show an extremely vulnerable group of underserved students whose educational opportunities have been further limited despite years of apparent failure.

Three expulsion case studies highlight practices of the processes that occur before and during an expulsion. These cases show some of the vulnerabilities students face when going through an expulsion as well as when opting to forgo a panel hearing and elect a stipulated expulsion.

---

<sup>46</sup> Incident report references mandatory recommendation under EC Section 48915(a)(1)(B)(b)(1)(2)

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## *Case Study #1*

The first case study is for a freshman student who transferred from a county charter school and was suspended within the first 2 weeks of their enrollment. The student was in a mutual fight and swung at the other student but hit both the student and teacher. Both students continued fighting as the teacher remained between them attempting to break up the fight. The student was recommended for expulsion for causing injury to a student or staff. At the MDR, the student's mother reported that her child was not an aggressive student and this was the first time her child had been suspended. The mother asserted that her child was defending themselves and the teacher "stepped in the way," placing himself in the middle of the fight. The mother expressed concern for the teacher's safety and well-being and noted her child wanted to apologize to the teacher but was unable to.

The MDR includes the following justification for determining the misconduct was not a manifestation of the student's disability.

The conduct in question was not caused by nor had a direct relationship to the student's specific learning disability. Fighting is not a characteristic of SLD and the SLD did not impact the student's ability to comply with the school rules and regulations or interfere with the student's ability to understand the consequences of their actions.

The MDR found the student's IEP was being implemented despite not having held the 30-day transfer IEP. Although it appears that the student had been programmed in the one RSP class offered from the previous placement, the IEP document from the previous district did not contain any goals (academic or behavioral) nor accommodations and simply stated 90 minutes per week of SAI time. Other than programming the student in the RSP class, there were no supports or goals to implement, raising the question of whether the MDR team considered the inadequacy of the student's IEP when making the determination.

The incident report only includes a "rules review" as an other means of correction intervention and does not include a date. The student was expelled via a stipulated expulsion.

## *Case Study #2*

This case is for a student who was accused of assaulting a campus security officer. The incident reports the events as follows:

During lunch, the student verbally yelled out, "I'm going to (expletive) this (expletive) up" in the cafeteria. Campus supervisor attempted to restrain the student, wrapping his arms around their arms as he held the student from behind; the student appeared agitated and had threatened to harm a student. The student reacted defiantly, breaking away from the campus supervisor's restraint. The student pushed the CSO and then punched him in the face multiple times.

The incident report listed the following interventions: after-school work assignment, conflict resolution, progressive discipline, referral to anger management sessions, rules review,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

student conference, SART, and referrals to the student support center. The student had received 10 days of suspension, including the days received for this incident.

The letter provided to the parent informing them of the principal's decision to recommend an expulsion included the justification of the MDRs team's determinations to both questions. It stated:

The student's alleged conduct is not caused by or related to their disability. The student is currently receiving special education services as a student with a specific learning disability. They have cognitive processing deficit, more specifically in the areas of cognitive abilities crystallized knowledge (expression), long-term storage and retrieval (association), processing speed, auditory/phonological processing, and short-term memory which appears to adversely impact their educational performance in the area of reading comprehension, math problem solving, and math calculations. The student does not meet any other special education eligibility categories. The alleged incidents at school are not a result of their specific learning disability.

Per the current IEP, the student has academic goals in the areas of reading comprehension/transition, writing, transition, and mathematics/transition which are addressed within their classroom and educational program. They receive special education support within the SDC-A program which provides general education accommodations and instruction within a smaller classroom environment, which include additional time to complete assignments, increased direct instruction, preferential seating, checks for understanding, and repetition and rephrasing of instructions. The student has access to school psychologists, counselors, and other school staff to support them on an as-needed basis. All parts of their IEP have been written and implemented to address all areas of concern.

The letter concludes informing the parent that the IEP team has determined that all conditions have been met regarding the MDR to enable disciplinary actions to proceed. It states that the behavior was not a manifestation of the student's disability because they understood the impact and consequences of the behavior, the student could control their behavior, and the services and supports were correct at the time of the events. However, these terms to describe the justification for the determination do not appear on the MDR IEP document.

At the MDR, the team recommended counseling services for 45 minutes per month with a goal to improve coping skills with anger management. On two different pages the MDR IEP includes statements that suggest the school psychologist presented the determination findings to the team:

- The school psychologist presented the manifestation determination report. School psychologist reported on the student's qualifications for services (SLD) due to a cognitive processing deficit.
- The school psychologist went over the manifestation determination report. Please see the manifestation determination pages for this report.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Two months prior to the incident that led to the expulsion, the school held an IEP and, during the meeting, called the student's mom for her participation. The mother informed the team that she had recently experienced a loss in the family and was not in the right place to attend the meeting. With this information, the IEP team noted, "Due to these circumstances, the IEP team discussed reassessing the student at a later date, as the student's focus may have been displaced through the assessment process."

This student was recommended for expulsion for allegedly assaulting a CSO. A review of the incident report and other documents found the incident was consistently described as being initiated by a verbal confrontation between two students, with the student in question making a loud verbal threat to fight the other student. There are no indications on any report that the student had become physical before being restrained by the CSO. The description of events appears to indicate the CSO jumped into action and proceeded to restrain the student from behind without any attempts to deescalate the situation or student.

A review of the documentation found no evidence of a BER, nor was it provided by the District. In addition, the student did not appear on the District's list of students restrained. The incident report included three suspension events for a total of 10 days. A review of the student's period attendance report only shows documentation for two of these suspension events, with the missing event with a duration of two days coded as two period detentions for one day and an absence for the second. The counselor log entries confirmed this undocumented suspension, noting that the counselor met with the student upon return from suspension.

At the conference with the principal, the mother expressed her belief that the incident did not warrant an expulsion and chose to go through a panel hearing. The file did not include the final expulsion order with the decision of the panel hearing.

### *Case Study #3*

The last case study is for a 9<sup>th</sup> grade student who transferred from another district and was suspended and recommended for expulsion less than 2 weeks post enrollment for committing battery of another student during a school event that took place after school hours, threatening staff, and being in possession of a knife. Two school days (a weekend lapsed between days) after the alleged fight, the student was identified walking on campus by a CSO and the community attendance worker (CAW) as the student from the security video footage of the fight. The CSO and CAW approached the student to detain and questioned them regarding the event. The student became defiant and allegedly threatened to assault a school employee and, during a search, was found in possession of a knife. This case highlights inconsistent reporting of the event that led to the student misconduct and subsequent expulsion. It also shows how the events were misrepresented in the declarations of the CSO and CAW as well as during the MDR.

The declarations of both the CSO and CAW provide inconsistent accounting of the events. Although both describe approaching two students on a golf cart and asking them to identify

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

themselves, the subsequent events that transpired provided incompatible testimony between both staff members' declarations. Both declarations report that the students refused to identify themselves but after several attempts, the student in question complied to their demands. The other student was identified as a student from another school and was referred to as the non-student in the reports.

After confirming the identity of the student, the CSO and CAW asked the student to get on the golf cart to go to the security office (as reported by the CAW) or office (CSO) because they needed to interview or talk to the student. The student repeatedly refused, stating their mother was in the office. The next accounts of the event as described by the CSO and CAW are as follows:

CAW: The student repeatedly refused. *I got off the cart to guide the student onto the cart and the other non-student grabbed my arm and tried to push my arm away...* When the CSO tried to intervene, the non-student immediately punched the CSO at least two to three times. When the CSO backed away, the non-student attempted to punch me. At that time, I pushed away from the original student, as this student took a fighting stance at me. After a couple of minutes, (a different) CSO was able to coax the student on her golf cart and escort them to the security office.

CSO: Student continued to refuse to comply with any of my demands and attempted to walk away, *as soon as I reach to take hold of them*, the non-student stepped in front of me and hugged the student from behind and attempted to walk them away from me. I took hold of the non-student from behind and attempted to move them out of the way. The non-student immediately turned on me and punched me with a closed fist on my right and left side of the chest. The CAW then attempted to take control of the student but the student took a fighting stance at the CAW by placing both fists up to his chest. As I tried to take control of the non-student they walked away from the scene toward to front office. As we were still dealing with the student in the main quad, the CSO supervisor arrived on scene and was able to get the student to comply with her, she asked the student to get onto her golf cart and they did. The CSO supervisor then escorted the student to the security office.

While the majority of the events are described similarly, both the CAW and CSO describe themselves as the individuals who got off the cart and attempted to physically intervene by "guiding" or "taking a hold" of the student to get on them on the cart. It is unclear how both staff members could recount the same role exactly. Neither provided any explanation that would suggest that both made attempts to physically intervene.

The CAW describes the non-student's reaction to this intervention by stating the non-student grabbed his arm and attempted to push it away. The CSO states that the non-student stepped in between the student and CAW, and then the non-student physically intervened with the student and not the CSO, by hugging the student from behind and attempting to walk away from the CSO. These events do not concur as the CAW indicates the non-student physically pushed his arm away, while the CSO does not mention this but rather describes

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the non-student as physically intervening with the student and attempting to walk away from staff.

The CAW describes that upon the CSO's attempt to physically guide the student on the cart, the non-student immediately began punching the CSO. The CSO provides a different version of the event, noting that he first attempted to physically restrain the non-student from behind, which resulted in the non-student punching the CSO.

Both accounts show no indication of attempts to explain to the student the reason for taking them to the office. Both show that the initial physical contact with both students was first made by the CSO and CAW in an attempt to force the student onto the golf cart.

Contradictions are also noted with the reaction of the non-student, with the CAW describing an immediate physical response of punching, while the CSO describes a scenario where he first attempts to restrain the student, resulting in the non-student punching the CSO in the chest.

The CSO then reports that once in the security office, the CAW "conducted a search of the student and recovered a kitchen knife from their front left pocket." The CSO describes the same event as "the student was detained in my office and I let them know that we were going to search them. The student quickly became defiant and kept pulling away. I placed the student in handcuffs for their safety and the safety of the other two CSO's [sic] that were with me. The student continued to move away and fight while in handcuffs. The student kept trying to hide their front left pocket."

The CSO describes finding the knife and being stabbed by the "steak knife" underneath his fingernail. These accounts vary in such that one does not describe the student as being defiant or the use of mechanical restraints. It would appear that the use of handcuffs should be something that both staff members should report. In addition, the use of physical restraints on the student were not reported in either a BER or the list provided by the District of SWDs who were subjected to a restraint.

The MDR IEP describes the incident of between the student and CSO and CAW as:

The following day, the student was approached by the CAW and CSO. They were defiant and non-compliant. CSO attempted to guide the student and the student punched the CSO on the right side of his chest with closed fists. He also "squared up" with the CAW. Once in the security office, they were found in possession of a steak knife with a six-inch blade.

Neither of the staff members' declarations nor other documents, such as the expulsion packet, suspension notice form or incident report, include any language about the student assaulting the CSO. They all describe the student's fighting posture as the threat to assault a staff member. No documents include any reference of the student making any verbal threats to fight or harm either staff member. However, the inclusion of this statement in the MDR IEP is a misrepresentation of the event and student's misconduct. It is unknown how this

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

inaccurate account of the interaction may have influenced the members of the MDR team in making their determination.

The MDR IEP includes the following justifications to both questions:

Based on a review of records including their IEP and BIP from LAUSD, the student's behavior is not a manifestation of their ED eligibility.

The student's IEP was implemented with fidelity from the time they arrived at the school.

The MDR also notes that the psychologist identified the student was diagnosed with ED and went over their areas of struggle. He went over the behavioral goal which was summarized as addressing the student's ability to evaluate the consequences of their behavior. The previous IEP describes the behavioral goal as evaluating the "consequences of responsible/irresponsible behaviors." In addition, the student had a BIP for behaviors associated with work completion and lack of class participation.

The MDR IEP does not provide any evidence of considerations or discussions regarding under which criteria the student meets the ED eligibility. The student's mother noted that while the student had never been involved in behavioral problems, the reason they had "an ED eligibility is because of emotional difficulties secondary to family stressors." Discussion regarding these stressors do not appear to have occurred or were not documented to reflect any considerations of this relevant information provided by the parent. The MDR IEP document notes that the student's last evaluation had occurred in 2017, approximately 4 years prior to the date of this incident. The need to hold a 30-day IEP, conduct a reassessment or FBA, and revise the existing behavior goal or BIP, was not discussed.

As mentioned above, the student had recently transferred to the District and was in school for less than 2 weeks. The school counselor's expulsion recommendation report indicated that the student "enrolled at school on 8/12/21, no counseling related interventions have occurred." On the incident report, the form indicates that the only intervention provided was a rule review and MTSS behavior expectations presentation on 8/9/21. These two reports appear incompatible since the student had not yet enrolled at the time of these interventions.

The expulsion packet contains conflicting information regarding the type of expulsion proceeding that occurred, indicating both a panel hearing and stipulation expulsion, which may have been due to the parent opting for the stipulation expulsion after initially choosing the panel hearing. However, this example shows many discrepancies in the reporting of events that transpired.

The fact that the student was newly enrolled in the District, had not had an evaluation in almost 4 years, had not yet had their 30-day IEP review, and had not yet had their current behavior goal or BIP revised raises concerns regarding the MDR team's intent related to addressing the student's needs. In addition, the mother provided relevant information that the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

student was experiencing family stressors that affected their emotional difficulties associated with their ED.

These types of inconsistencies cannot be questioned or disputed by parents and students when they elect a stipulation expulsion and thereby waive their rights to a panel hearing and representation by counsel or a non-legal representative. By choosing a stipulation expulsion, parents also relinquish their right to review all documents and evidence, to question witnesses and the evidence presented, and present oral and documentary evidence on the student's behalf, including witnesses. Lastly, the parent and student waive their right to file an appeal to the County Board of Education.

A stipulation expulsion equally results in the same consequences for the student, such as being removed from their current placement and other District's schools except the community day school, and having their record reflect such expulsion. There is no apparent incentive for parents and students to choose this option; it appears to favor the school and District by eliminating the need to carry out the entire expulsion process.

### **Senior Officials' Feedback Regarding Expulsions and Voluntary/Involuntary Transfers.**

Senior officials believe that voluntary and involuntary transfers are different than expulsions yet offered a similar description of the triggers for these transfers. It was noted that voluntary and/or involuntary transfers occur when an education code violation does not meet the expulsion threshold but is considered a serious incident on campus. This results in the student being transferred to another school.

The distinction between a voluntary and involuntary transfer is that a voluntary transfer occurs when the student and parent agree to the transfer or when the student is credit deficient and chooses an alternative campus for the purposes of credit recovery. An involuntary transfer occurs when a serious disciplinary issue prompts the school to propose a transfer to an alternative campus but the parent and student do not agree. Essentially, for disciplinary transfers, if the parent agrees to the proposed transfer, it is considered voluntary, and if the parent disagrees, it is an involuntary transfer.

Senior officials do not believe transfers are being used to formally sidestep the expulsion process, noting that most students are placed in alternative placements because of credit deficiency. Staff also noted that when there are behavioral incidents, like assaulting a staff member, the school may determine that it is in the best interest of all involved to place the student at another campus. However, a student must be at least 16 years old to be placed in an alternative school. If the student is under the age of 16, the school will try to find reasonable accommodations for the staff and student. Staff added that social emotional services are often increased when a transfer is suggested.

When asked how school administrators make a determination between voluntary or involuntary transfers, a senior official reported that principals work together to complete a "principal to principal," transfer meaning they sort it out among themselves. One



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

consideration in this process is to ensure that the receiving school has the special education programs and supports the student requires.

Continuation and community day schools are required to provide prescribed special education services, even for students who are expelled. Senior officials described an IEP process where the team determines if students' needs can be met on an alternative campus, and, if their parent disagrees with the IEP team's recommendation, the school provides the parents with procedural safeguard information that contains details for them to file due process.

In describing the expulsion process, senior officials noted that at the IEP meeting, the team reviews the alleged misconduct and determines whether it is related to the student's disability. If it is not considered to be a manifestation of their disability, the team determines which setting is appropriate and informs the principal. Then, the parent meets with the principal and discusses the disciplinary incident. Senior officials added that the IEP team does not make an expulsion determination and only decides whether the behavior in question is related to the student's disability.

They note that an expulsion stems from a disciplinary incident, and the IEP team can determine a disciplinary placement as long as the necessary special education services are available at the receiving school.

Senior officials explained that there are five education code violations where the site administrator must recommend expulsion. They explained that an expulsion has another set of factors attached to it, such as whether the behavior is determined not to be a manifestation of the student's disability, then the student is referred to a formal panel hearing where it is determined whether to remove the student from all District schools.

They reported that the District has their own community day school to serve their expelled students, rather than sending students to a county school.

Stipulated expulsions are recommended expulsions that the parent agrees to in lieu of the panel expulsion hearing. Officials noted that stipulated expulsions are categorized as a voluntary transfer for the purposes of removing the student due to a disciplinary incident.

Transfer data are reportedly maintained in the student information system and reported on CALPADS. For voluntary transfers, schools track these removals based on credit deficiency and disciplinary incidents.

### ***Site Level Feedback on Expulsions and Voluntary/Involuntary Transfers.***

When asked about the difference between expulsions and stipulated expulsions, schools concurred that an expulsion is when the parent chooses to complete a panel hearing. A stipulated expulsion means after a conference with the principal, the parent agrees to the expulsion and to waive the panel hearing. Once a parent agrees to a stipulated expulsion, they are required to meet with the director of student services.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

When a principal makes a recommendation for expulsion following the MDR, they meet with the parent at a pre-expulsion meeting. At this meeting, the principal reviews the incident, summarizes the student's attendance and discipline records, discusses academic progress, and explains the parents' due process rights. Upon hearing this information, parents make a decision to either proceed with the panel hearing or agree to a stipulated expulsion and transfer, avoiding the panel hearing and expulsion. One principal noted that both an expulsion and stipulated expulsion are documented on a student's record. Another school administrator added that a stipulated expulsion results in the parent giving up their due process rights and the student goes straight to the community day school.

In addition, a principal has the option to expel and can use several alternative placement options, such as independent study and an alternative learning environment.

Four out of the five comprehensive sites stated that involuntary transfers do not occur at their school but offered various scenarios for how or why they could occur. Another site gave two examples of how involuntary transfers occur, stating that involuntary placements go to Desert Winds or Rex Parris Continuation HS for credit recovery. For disciplinary reasons, these involuntary placements result in students being transferred to Phoenix Community Day School (CDS).

Another principal first responded that they did not know what an involuntary transfer meant and that "whoever said there's difference between voluntary and involuntary transfer doesn't understand the process." Despite expressing this belief, he added that involuntary transfers are not done at his school and do not occur for special education students as they would be more inclined to receive an interim alternative educational setting (IAES) placement. However, based on the review of the District's policies and procedures on voluntary transfers that are completely misaligned with education code and require a process more indicative of an expulsion or involuntary transfer, it is understandable that administrators would not be able to articulate or understand the difference.

Another site explained that students age 16 and above would be considered involuntary transfer, and that these transfers must be approved by student services.

Site level administrators agreed that a voluntary transfer is not considered an expulsion and occurs when a parent chooses an alternative placement or agrees to the transfer. Some described that a voluntary transfer can be initiated after a pre-expulsion meeting and is offered as an alternative to expulsion, particularly for offenses that do not fall into one of the five mandatory expulsion categories.

A different site added that after a parent agrees to a voluntary transfer at a pre-expulsion meeting, the parent and student then meet with the director of student services and avoid the panel hearing as part of the expulsion process. Voluntary placements that are in lieu of expulsions usually result in placements at Phoenix Community Day School (CDS).

Some school officials mentioned holding IEPs to determine a voluntary transfer, specifically an MDR meeting. Another principal gave a slight variation of the role of the IEP process,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

noting that if a school and parent agree on the transfer, the IEP is held after the fact in order to change the IEP to better reflect the change in placement and the special education and designated related service minutes and supports to be provided at the new school.

A benefit attributed to a voluntary transfer is the opportunity for students to avoid showing an expulsion on their educational record. School officials expressed that the goal is to always return students to a comprehensive campus once they have caught up with credits.

The difference between transfers for credit recovery purposes and disciplinary reasons is reflected in the continuation site recommended. For students transferred for disciplinary reasons, Rex Parris Continuation HS or Phoenix CDS are the most likely placements. In instances of credit recovery for students age 16 or older, students can attend a continuation school, continuation campus attached to a comprehensive campus, or an independent study. For students younger than 16 years of age, all schools have opportunity programs that can serve as an alternative placement.

When asked how transfer data are maintained, site level administrators offered various mechanisms for recording and maintaining these data. One school official stated that schools do not maintain records of expulsion or transfers on campus. Another site confirmed that data are not maintained, adding that they were unaware of SIS codes to notate students who have been transferred. A different site indicated that every pre-expulsion meeting is documented on a log entry, and they track outcomes of the meetings on exit and post-conference forms. This school added that expulsion and transfer data are reviewed at the weekly administrator meeting.

Senior and site level officials described the voluntary and involuntary transfer process as a mechanism for moving students as a result of disciplinary actions. Voluntary transfers can also be used for students seeking credit recovery programs. Most site level administrators reported they do not use the involuntary transfer process. Overall, participants from all levels of the organization characterized the voluntary transfer process as an alternative to expulsion where the student is transferred in lieu of the expulsion process. Staff offered varied responses regarding the role of the IEP and MDR process. While some senior officials mentioned the IEP and MDR process for SWDs as part of the placement process for alternative programs, others described a more informal process that circumvents the IEP requirements. For example, voluntary transfers were described as something principals work out among one other, while others reported the disciplinary procedures as being the mechanism for determining the change in placement and holding the IEP after such a decision in order to update the IEP.

As noted in the discussion regarding District policies, it is clear that disciplinary transfers that are considered voluntary do not reflect the criteria for a voluntary transfer. These are involuntary transfers that impose restrictions on a student's enrollment (e.g., not being permitted on any other campuses) and reentry to their campus. The criteria for a transfer in and out of the alternative schools are more consistent with an involuntary transfer and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

expulsion processes. These removals are misrepresented to students and parents and potentially in violation of students' due process rights and right to FAPE.

### **Summary and Conclusions**

A review of the District's policies and procedures found many inconsistencies in the mandates regarding expulsions, manifestation determination reviews (MDRs), and voluntary/involuntary transfers.

The policies, procedures, and training materials regarding MDRs show inconsistent interpretations and guidance around when MDRs are to be conducted and how to determine if the series of removals constitutes a change in placement. The lack of clarity in these documents may explain the high number of students who did not have an MDR when their cumulative removals reached the 10-day or more mark.

Although some documents contained guidance consistent with Sections 300.530 and 300.536, the implementation of these practices was not consistently observed during the file review. For example, the District established a policy that required schools to conduct an FBA when a student reaches the 10<sup>th</sup> day of removal (unless the student has an existing BIP), whether a pattern has been identified or not, however, only a small number of students had an FBA.

Serious problems were identified with the policies and procedures pertaining to the voluntary and involuntary disciplinary transfer of student, and the placement of SWDs in independent study (IS) programs.

Most notably, the policies and procedures around voluntary transfers are consistent with requirements associated with involuntary transfers and expulsions. There appears to be nothing voluntary about the disciplinary transfers reported. The voluntary transfer policies and procedures even contain language instructing principals to approach these placement changes as they would an expulsion, including adhering to the expulsion timelines. This understanding of the program was also observed in discussions with school principals during the site visits, where principals described placement to alternative campuses as an alternative to expulsion. The voluntary transfer policy and contract also contain restrictions similar to those of an expulsion, prohibiting students from being at any other District schools or activities, such as athletics. This policy does not reflect nor adhere to the requirements of EC Section 48432.3.

The first criteria listed under EC 48432.3 is that the "voluntary placement in a continuation school shall not be used as an alternative to expulsion unless alternative means of correction have been attempted." Under this section of the education code, the District's policies and procedures regarding voluntary transfers should include criteria that "ensures that no specific group of pupils, including a group based on race, ethnicity, language status, or special needs is disproportionately enrolled in continuation schools within the school district." This was not found in the policy.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

In addition, it notes that the transfer is voluntary and the student has the right to return to their previous school. The District's voluntary transfer policies for students returning to their home school deviates from EC 48423.5 and establishes return criteria consistent with an expulsion and/or involuntary transfer.

Furthermore, the guidelines for voluntary transfers does not include requirements to hold MDRs pursuant to Section 300.530 or to make placement determinations utilizing the IEP process.

The gross deviation of the District's voluntary transfer policy from education code is of grave concern considering that many students have been inappropriately removed from their schools by misrepresentations made by the District through this policy. Whether intentional or not, the harm and impact to SWDs caused by these transfers, in particular Black SWDs, is a clear violation of FAPE. The voluntary transfer program is a de facto alternative to an expulsion mechanism that is in clear violation of EC 48423.3. The District has an obligation to review and remedy these harms and ensure students are placed appropriately according to the student's LRE, with access to the general education curriculum and nondisabled peers to the maximum extent possible.

The policy regarding the placement of SWDs on independent study (IS) programs also contains mandates that are inconsistent with education code and the IDEA. The policy calls for placement determinations to be made in an IEP but then imposes an administrative approval process that can overturn the IEP team's decision, and is in violation of 34 CFR Section 300.116, which requires placement decisions to be made by the IEP team.

The administrative approval process for placement of SWDs in IS programs has set the following entrance criterion: whether the student possess the basic reading proficiency and appropriate work habits to be able to complete coursework independently; if the student has supervision at home; and if the student has transportation to get to the alternative program.

EC Section 51745(c) prohibits the IEP team from determining that the SWD can receive FAPE in an IS placement because of the student's inability to work independently, the student's need for adult support, or the student's need for special education or related services. This means that SWDs cannot be denied participation and access to these programs and are entitled to the full range of supports and services, including a 1:1 aide and transportation, as if they were attending a physical school.

Lastly, the IS placement of SWDs document warns schools that this type of placement is only appropriate if it can meet the needs of the SWDs and adds that "special education students who require specialized academic instruction and services rarely benefit from an independent study program where the majority of the assigned work is completed on their own." This general type of statement should be removed as it perpetuates stereotypes about SWDs and promotes discriminatory practices on the basis of disability.

Overall, the policy on the placement of SWDs in IS programs is not in compliance with the requirements of EC Section 51745(c).

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The District has an obligation to review any placement recommendations for SWDs who were denied enrollment to an IS program to ensure these administrative approvals did not result in procedural and/or substantive violations of the IDEA, and to remedy these harms as appropriate.

The review of expulsion and transfer data of students with and without disabilities shows a disproportionate impact of the removals for SWDs and Black students with and without disabilities.

During the 2021-22 school year, the District issued a total of 54 expulsions for students with and without disabilities. Of these expulsions, 57.4% (n = 31) were carried out for general education students with the remaining 42.6% (n = 23) meted out to SWDs. Black students with and without disabilities (61.1%) made up the majority of expulsions, with Black SWDs (65.2%) and Black nondisabled students (58.1%) showing the highest representation among all students in their respective disability status categories.

The expulsion data found that:

- Special education students are 3.62 times more likely to be expelled than nondisabled students, which is indicative of significant disproportionality.
- Black SWDs comprise 25.3% of the special education population and 65.2% of all expulsions issued to SWDs. The risk of Black SWDs in the District is 1.6%, with a risk ratio of 5.54, which is indicative of significant disproportionality.
- Black general education students make up 14.4% of the nondisabled population and 58.1% of all expulsions issued to general education students. Black general education students are 8.21 times more likely to be expelled than all other non-Black general education students.

In addition, the high rate of expulsions for Black SWDs has a considerable impact on the overall rate of Black SWDs expulsions reported to the State. The District represents 9.7% of all Black SWDs expelled statewide, while their enrollment represents 1.5% of all Black SWDs enrolled in the State.

The overrepresentation and disproportionality calculations associated with the composition index, risk index, and risk ratios for disciplinary expulsions are indicative of systemic problems and inequitable practices that disproportionately impact SWDs and Black students with and without disabilities. This concern is exacerbated by the high number of students who were expelled through a stipulated expulsion that requires them to waive their rights to due process and an appeal to the County Board of Education.

During the same timeframe, voluntary/involuntary transfers were reported for a total of 74 students, 50 (67.6%) for general education students and 24 (32.4%) for SWDs. The data noted disparities in these disciplinary transfers for SWDs and for Black students with and without disabilities. These findings include:

- SWDs are 2.34 times more likely to receive a disciplinary transfer compared to their nondisabled peers, which is consistent with disproportionate overrepresentation.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Black students with and without disabilities made up half (51.4%) of these disciplinary removals.
- Black students comprise 14.4% of the general education enrollment and 46.0% of disciplinary transfers. Black students were 5.05 times more likely to receive a disciplinary transfer than any other nondisabled student. This is indicative of significant disproportionality.
- Black SWDs make up 62.5% of all transfers issued to SWDs and demonstrate a risk ratio of 4.93, which is indicative of significant disproportionality. This means that Black SWDs are 4.93 times more likely to be transferred than any other special education student.
- White students (risk ratio 1.88) were found to be at risk of being disproportionately overrepresented in these types of disciplinary transfers.

The voluntary and involuntary data further support the notion that these disparities are a result of the systemic shortcomings related to the policies, procedures, and practices reviewed. These disparities are of even greater concern considering the faulty representation of these transfers given that they are utilized as an alternative to expulsion mechanism that does not require MDRs or placements to be determined by the IEP team.

Senior and site level officials described the voluntary and involuntary transfer process as a mechanism for moving students as a result of disciplinary actions. Most site level administrators reported not using the involuntary transfer process. Overall, participants from all levels of the organization described the voluntary transfer process more like an alternative to expulsion where the student is transferred for disciplinary reasons in lieu of the formal expulsion process. Staff had varied responses regarding the role of the IEP and MDR process with some senior officials noting the IEP and MDR process for SWDs as part of the placement process for alternative programs. Others described a more informal process or approach that circumvents the IEP requirements. One site reported that the disciplinary process associated with the principal's parent conference is the mechanism for determining a change in placement and acknowledged that the school will hold the IEP meeting after the decision to update the IEP.

Voluntary disciplinary transfers do not reflect the criteria for a voluntary transfer. These resemble involuntary transfers and expulsions that impose restrictions on a student's enrollment (e.g., not being permitted on any other campuses) and reentry to their campus. These removals are misrepresented to students and parents and potentially in violation of students' due process rights and right to FAPE.

The MDR is a procedural protection to ensure that SWDs do not experience discrimination in exclusionary discipline because of their disability related behaviors. The purpose of the MDR is to determine whether the behavior that led to the incident for which a disciplinary removal is being considered was substantially related to the student's disability or because of the school's failure to implement the student's IEP. In instances where the determination is made that the behavior was unrelated to the student's disability or the school's failure to implement

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the IEP, the principal or superintendent may recommend and carry out an expulsion, similar to the process for nondisabled students. Therefore, the quality, objectivity, and due diligence carried out at MDRs by IEP teams have considerable implications for SWDs. A failure of the MDR process can result in negative outcomes and associations for SWDs for disability related behaviors.

A total of 101 MDR IEPs were reviewed to better understand the composition of the students who were subjected to an MDR, school's adherence to compliance indicators such as the timeliness of the meeting and number of cumulative days of removals at the point of the meeting, MDR team practices during the determination process, levels of parental agreement with the determination, extent to which students were receiving behavioral supports such as BIPs and counseling services, and whether a change of placement was recommended.

Of the 101 MDRs reviewed, Black students made up nearly three-quarters (73.3%) of all MDRs. The review found that students with other health impairments (OHI), specific learning disabilities (SLD), and emotional disturbance (ED) comprised 93.0% of all MDRs, with 55.5% of the students including evidence of an external diagnosis of a comorbid disability or mental health disorder. This included disorders such as attention deficit hyperactive disorder (ADHD), post-traumatic stress disorder (PTSD), autism, oppositional defiance disorder (ODD), mood disorder, bipolar disorder, depression, and anxiety disorder.

The law requires that MDRs are held within 10 days of the decision to remove or suspend the student and when the student has been removed more than 10 cumulative days. A total of 11.9% of the MDRs were not held within the 10-day timeframe and 27.7% were held after 10 days of removals. Both indicate levels of noncompliance. In 14.9% of MDRs, a parent was not present, which is concerning given the high number of SWDs removed from their schools to alternative campuses through expulsion or voluntary/involuntary transfers.

The analysis found that MDR teams use a range of justifications that appear to be general and circular in nature with a narrow focus on the impact of students' disabilities to the instructional setting. Teams do not appear to consider parents' input, disagreements, or concerns regarding their child's disability when making a determination. This was also reflected in staff interviews with psychologists and school personnel dismissing parents' opinions, noting that school staff know more about disability characteristics and the law. One school official stated that a parent's disagreement did not change the ultimate decision of the school.

The interviews did not reveal any indications parents are informed of their right to bring professionals or representatives to the MDR. They also did not indicate that parents are informed of their right to due process and an expedited hearing when they disagree with the recommendation. These findings are troublesome since the lack of willingness to consider the parents' rights to bring representatives, take into consideration their feedback, and inform them of their due process rights shows lack of objectivity and impartiality for carrying out the MDR.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The MDRs reviewed found that in a majority of cases, teams determined the student's behavior was not a manifestation of the student's disability (81.2%) nor the school's failure to implement the IEP (94.0%). These findings show that an overwhelming number of MDRs result in a determination that allows normal disciplinary procedures to proceed. Principals also described a low rate of determinations in which the school affirms the student's misconduct was substantially related to their disability and an even lower rate of teams that found the behavior was a direct result of failure to implement the student's IEP, with one principal stating they had never witnessed such a determination.

The analysis examined how students were supported in the areas of behavior and social emotional needs. Only half of the MDRs reviewed showed students receiving school-based counseling services at the time of the disciplinary incident, with an additional 12.9% offered the service at the MDR.

Only 15.8% of the students reviewed had ERICS listed as a service on their IEP. Compared to school counseling, ERICS offers a more intensive counseling service that typically addresses more severe behaviors and mental health needs.

Overall, the number of students receiving counseling support is low considering the obvious behavioral needs displayed to require extended long-term disciplinary removals and an MDR. The rate of these services for students after having gone through the MDR is of concern since the failure to add counseling services may dismiss the seriousness of the incident and misconduct and show a lack of responsiveness by IEP teams to recognize and support the student's needs and prevent the recurrence of the behavior.

However, the rate at which students receive counseling services is very low and does not appear to appropriately meet students' needs given the number of disciplinary removals. For students with school-based counseling, half (50.0%) receive 30 minutes or less per month of this service while another 14.1% receive 45 minutes or less per month. Less than 10% receive 90 to 120 minutes of counseling per month.

ERICS counseling is considered a more intensive counseling program to deal with more profound behavioral and social emotional needs. Of the 15 students with ERICS counseling listed on their IEPs, 25.1% receive ERICS counseling for 60 minutes or less per month. The frequency and duration of this service appears inconsistent with the intent of supporting students with more serious behavioral and social emotional needs.

When an IEP team determines the student's behavior was a manifestation of their disability or due to the direct result of the school's failure to implement the IEP, the law requires teams to conduct a functional behavioral assessment (FBA), unless one was conducted prior to the behavioral incident, and develop and implement a behavioral intervention plan (BIP) for the student.

The law also requires that when a student is removed from their placement, irrespective of the determination of whether the behavior was a manifestation of their disability, students will, as appropriate, continue to receive educational services, including an FBA, a BIP, and other

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

services and modifications designed to address the behavior violation, so that it does not recur.

District policy states that an FBA must be completed no later than 10 business days after the student's 10<sup>th</sup> day of removal, even if there is no pattern of the removals that would constitute a change in placement, unless a BIP exists.

Given these legislative and District policy requirements, the rates of BIPs (45.5%) and FBAs (12.9%) are quite low and suggest that students were inadequately supported prior to the behavioral incident that led to the disciplinary removal, as well as after the incident. This is also indicative of schools' noncompliance with District policy related to conducting an FBA for any student with more than 10 days of removals who does not have a current BIP.

In addition, case studies provided examples of these practices in the context of the behavioral incident, as well the outcomes of the meeting and subsequent disciplinary action. The case studies showed examples of practices that do not appear aligned with the intent or requirements of the law and, in some cases, ignored new relevant information that at a minimum should have prompted further discussion and been reflected on the record.

Many of the MDRs included generalizations about the symptoms and characteristics of the disability in question and failed to consider the student's individual abilities, circumstances, or needs. In many ways, these determinations were focused on the offense and whether such an act could be explained by a symptom of disability rather than the overall impact of the disability on the student. This was seen in the general explanations of behavior appearing to be premeditated or whether the student has demonstrated the ability to know right from wrong, understand consequences, or control their behavior.

The file review found IEPs with statements that appeared to reflect the school psychologist was the individual who made and presented the determination to the team. In addition, during the interviews the director of special education often interjected during this line of questioning to redirect staff from acknowledging the role of the school psychologist as the determining factor or, at best, the team member with the most influence in making the determination.

Many of the MDRs pertained to students with attendance and truancy issues that were documented on the IEP, and these issues were given as explanations or reasons for the students not receiving their services. Moreover, the file review found very low levels (i.e., frequency and duration) of services such as counseling or BIPs. Combined, the low service levels and justifications for missed sessions that blame the student reveal a service delivery system that grossly underserves students, particularly students who are experiencing many disciplinary removals and are most vulnerable due to their behavioral, social emotional, low academic functioning, and attendance problems.

During the MDR and expulsion file reviews, the academic progress and standing of these students stood out, with many students having large academic gaps reflected in their GPAs, credits earned compared to credits attempted, and class rank. Many of the students expelled

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

had GPAs under 1.0 and, despite their low ranking, were still ahead of many other students in their grade. In addition, many expelled students were significantly credit deficient.

The findings of the expulsion file review and case studies raise concerns as to the effectiveness of the MDR process in protecting SWDs from being punished and removed from school because of their disability related behaviors. The case studies also highlight the role of security officers and staff in initiating physical interventions rather than attempting to deescalate students and situations.

The findings of the expulsion file reviews are startling considering that 60.0% were being expelled for non-mandatory offenses. The low rate of services such as counseling and BIP question whether principals truly considered other means of correction before making the expulsion determination. In addition, the high rate of students with considerable credit deficits is of greatest concern since many of these students may have disengaged from learning and be vulnerable to more serious acts of misconduct. The patterns observed for these 20 students should be of concern, as they show an extremely vulnerable group of underserved students whose educational opportunities have been further limited despite years of apparent failure.

The high rate of stipulated expulsions is troublesome since many students and parents waive their due process rights and are still subjected to the same consequences of panel hearing expulsion. More importantly, students and parents lose the right to appeal the panel hearings decision to the County Board of Education. The incentive for parents to elect a stipulated expulsion appears mostly in favor of the District. Given that the findings of the MDR and expulsion file reviews show schools engage in questionable practices and reporting of events, these practices should be subjected to the same level of scrutiny that schools place on students' behavior.

The District appears to have an inadequately designed system in place to ensure SWDs are afforded an objective, impartial, and consistent review of their misconduct and the District's implementation of students' IEPs. The lack of findings that students' IEPs were reasonably calculated, given the low rate of services offered and prescribed, are inconsistent with the high rates of out-of-school suspensions, in-school suspensions, expulsions, and disciplinary transfers revealed by the data. The disproportionate impact on SWDs and Black students with and without disabilities is egregious and indicative of many structural and systemic failures to support and protect these students from inequitable and discriminatory practices.

### **Allegation Determination**

Allegation 5.1 The District's policies, procedures, and practices disproportionately subject students with disabilities, particularly Black students with disabilities, to exclusionary discipline, including expulsions and voluntary and involuntary disciplinary transfers.

- Allegation 5.1 is founded.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Special education students are 3.62 times more likely to be expelled than nondisabled students, which is indicative of significant disproportionality.
- Black SWDs comprise 25.3% of the special education population and 65.2% of all expulsions issued to SWDs. The risk of Black SWDs in the District is 1.6%, with a risk ratio of 5.54, which is indicative of significant disproportionality.
- Black general education students are 8.21 times more likely to be expelled than all other non-Black general education students.
- SWDs are 2.34 times more likely to receive a disciplinary transfer compared to their nondisabled peers, which is consistent with disproportionate overrepresentation.
- Black SWDs make up 62.5% of all transfers issued to SWDs and demonstrate a risk ratio of 4.93, indicating significant disproportionality. This means that Black SWDs are 4.93 times more likely to be transferred than any other special education students.
- Black students comprise 14.4% of the general education enrollment and 46.0% of the disciplinary transfers. Black students were 5.05 times more likely to receive a disciplinary transfer than any non-Black nondisabled students. This is indicative of significant disproportionality.

**Allegation 5.2** The District underreports expulsions by using voluntary and involuntary transfers, which removes SWDs from general education campuses and places them in alternate settings, similar to what would occur had the student been expelled.

- Allegation 5.2 is founded.
  - The District's voluntary transfer process is a de facto alternative to expulsion mechanisms that appears to circumvent the IEP placement and MDR processes.
  - The District's voluntary transfer policy requires principals to approach these removals as they would an expulsion and adhere to the expulsion timelines.
  - Staff described a transfer process consistent with a disciplinary expulsion.

**Allegation 5.3** The District employs a "waiver" system for students who have been recommended for an expulsion, that "permits staff to use coercion, intimidation and misrepresentation to convince parents and students to waive due process protections and consent to immediate 'voluntary' transfer to an alternative school".

- Allegation 5.3 is founded.
  - The MDR and expulsion file review found evidence that principals use the threat of expulsion to transfer students to other schools and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

placements. These threats are presented as options that ultimately require parents to “waive” their due process rights.

- Any representation of a voluntary transfer is a misrepresentation of the process that is more consistent with an informal alternative to expulsion mechanism. School officials from all levels of the system described the voluntary transfer process in a way that characterizes a “waiver” system intended to remove students for disciplinary reasons to an alternative school.
- Although the stipulation expulsion process is not prohibited by the State, it effectively serves as a “waiver” system where parents relinquish their due process protections with little to no incentive for choosing this option since the consequences remain the same in terms of a removal from the student’s school and impact on their academic records.

Allegation 5.4 The District Involuntary Transfer policy, A.R. 6185, does not include the procedural protections afforded by the IDEA for an expulsion hearing and MDR.

- Allegation 5.4 is founded.
  - The involuntary transfer policy is nonexistent. The language contained in the policy is limited to an appeal process applicable when parents disagree with the placement.
  - The voluntary and involuntary policy is void of any reference or requirement to adhere to the MDR mandates in the IDEA.

Allegation 5.5 Students with disabilities transferred to alternative schools are denied access to the same or comparable educational opportunities and experiences as students at general education sites. Furthermore, these students do not consistently receive their special education services at alternative sites and are often engaged in independent work that is academically less rigorous.

- Allegation 5.5 is partially founded.
  - Students who have been transferred voluntarily or involuntarily are subjected to similar restrictions as an expulsion. This includes not being permitted to be on a regular school campus or participate in activities.
  - The transfer policy contains differential criteria based on eligibility, limiting the access of students with ED to a variety of alternative programs.
  - Although District staff contend that SWDs receive their services when transferred to alternative sites, the MDR and expulsion file review show a landscape of underserved students who are removed and placed at these sites. While staff may claim to provide students the supports stated on their IEPs, the IEPs do not seem to include the necessary supports. In addition, the academic achievement of these students calls into

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

question the effectiveness of their goals and SAI support. Although this investigation did not directly review service logs to evaluate the level of service delivery, an evaluation of these records should be conducted to determine if these programs fail to provide such services.

**Allegation 5.6** The District's policies, procedures, and practices violate the IDEA's requirement to hold MDRs before placement changes occur based on discipline code violations. The District fails to consider informal removals, specifically disciplinary referrals to the SSC, for triggering the procedural protections of the MDR for SWDs whose removals exceed 10 school days.

- Allegation 5.6 is founded.
  - The MDR file review found 27.7% of MDRs were held on the 11<sup>th</sup> day of removal or beyond. In addition, the policies and procedures provided inconsistent language that schools can interpret to mean they are not required to hold MDRs for up to 20 days of removals if the school does not identify a pattern that would constitute a change in placement.
  - The voluntary and involuntary policies and procedures do not require schools to hold MDRs prior to a student's transfer. Principals described an informal process for these transfers that appeared to circumvent the MDR process.
  - Although school psychologists and a few other staff members reported including disciplinary referrals to the SSC as a trigger for an MDR for removals of over 10 days, the file reviews identified very few instances where these removals were mentioned.
  - Many if not most staff at all levels of the organization do not view full day removals to the SSC as a disciplinary removal but rather a restorative approach to discipline or support to the student. The failure to recognize these disciplinary removals as such is a clear indication that these types of disciplinary referrals are systematically dismissed and not considered for triggering an MDR.

**Allegation 5.7** The use of voluntary and involuntary transfers triggered by disciplinary incidents allows schools to circumvent the procedural protections afforded to SWDs, specifically, the MDR.

- Allegation 5.7 is founded.
  - The policies and procedures, as well as staff reports regarding voluntary and involuntary transfers, appear to circumvent the procedural protections of the MDR.
  - In light of the gross misrepresentation of the voluntary transfer process to students and parents who have been subjected to such transfers, as found through this investigation, the District should conduct a review and

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

investigation of all cases to determine the extent to which students have been inappropriately placed and harmed using these mechanisms.

**Section 6. Policies, Procedures, and Practices Related to Referrals to Law Enforcement and Probation Officers, and Restraints, Searches, and Threat Assessments**

The California Department of Education (CDE) Complaint includes various allegations regarding the disproportionate referrals to law enforcement and use of restraints on students with disabilities (SWD) and Black SWDs. The complaint alleges that school resource officers (SROs) and campus security officers lack training for intervening in school disciplinary incidents, and their involvement often escalates situations and results in the criminalization of student misconduct. The complaint questions the training of campus security officers on responding to the behavioral needs of SWDs, including employing de-escalation techniques and physical restraints. Additional allegations pertain to the adherence to reporting requirements for law enforcement referrals and restraints, the role of SROs in responding to threat assessments, and inappropriate referrals to the site-based probation officer.

The review examined the District's policies, procedures, and practices to determine alignment with state and federal laws and whether systemic problems existed that contributed to systemic noncompliance related to law enforcement referrals and use of restraints.

This section includes the following regarding law enforcement and probation referrals, and the use of restraints, searches and threat assessments: various allegations made in the CDE Complaint, review of literature, review of applicable laws and regulations, and District policies and procedures; review of quantitative and qualitative data; summary and conclusions; and allegation determination.

**Allegation 6: Law Enforcement and Probation Referrals, and Use of Restraints, Searches, and Threat Assessments**

The CDE Complaint includes the following allegations:

- Allegation 6.1 The District disproportionately refers SWDs and Black SWDs to law enforcement/SROs, resulting in higher rates of restraints (including handcuffing), citations, and arrests compared to their nondisabled peers and SWDs from other racial/ethnic groups. The discipline matrix provides school officials with the authority to refer students to law enforcement for *any* education code violation.
  
- Allegation 6.2 The District relies on and empowers the "SRO and campus security to intervene in minor and disability related school discipline incidents," which often escalate situations and results in students being criminally cited, restrained, and/or handcuffed, perpetuating the phenomenon of the "school-to-prison pipeline." The job description of the campus supervisor promotes their involvement in student discipline and the use of physical force, including on students with disabilities "to the extent necessary to maintain order."



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Allegation 6.3 The District’s policy AR 5131.41 regarding the “Use of Seclusion and Restraint” fails to ensure compliance with the procedural requirements for SWDs in Education Code Section 56520 to document the incident, notify parents/guardians, and hold an IEP meeting within 2 school days after their student was subjected to a restraint or seclusion. This results in schools failing to report restraints of SWDs on the Behavioral Emergency Report (BER) form. The policy does not prohibit the use of restraint or seclusion as a substitute for a systematic behavioral intervention plan (BIP) as specified in Education Code 56521.1(b).
- Allegation 6.4 Students with disabilities and Black SWDs are disproportionately restrained when compared to nondisabled peers and SWDs from other racial/ethnic groups. Furthermore, the District does not investigate use of force incidents to determine the appropriateness of the response and whether restraints were certified/uncertified or applied correctly, nor does it discipline SROs or security staff for using excessive force or uncertified restraints.
- Allegation 6.5 The District fails to provide campus security staff with adequate training related to the social-emotional and behavioral challenges associated with disability, the legal protections afforded by the IDEA and education code for SWDs related to restraints, and how to deescalate situations prior to using physical restraints (referred to as Nonviolent Crisis Intervention [NCI] training).
- Allegation 6.6 The District allows staff to refer students to the on-site probation officer for disciplinary infractions, even when a student does not have a probation officer previously assigned to them by the court. The District lacks a formal memorandum of understanding (MOU) with the Los Angeles County Probation Department to guide their role with student interactions and fails to provide procedures for when students are referred to the probation officer assigned to the school, such as the necessary provision of a student’s special education file.
- Allegation 6.7 The District uses threat assessments to “punish and exclude students for disability related behaviors.” (Despite including mental health professionals on the Threat Assessment Team, schools often rely on law enforcement first for responding to mental health crises, who are not properly trained to deal with these interventions but have discretion whether to reach out to mental health providers or handle it themselves. This response circumvents the “supportive safety net and replaces it with criminal system contact” when dealing with students’ mental health emergencies.
- Allegation 6.8 The District fails to report threat assessments as law enforcement referrals to the U.S. Department of Education’s Civil Rights Data Collection, in

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

particular when SROs are members of the responding threat assessment team.

### Review of Literature

Over the past several decades, the presence of school resource officers (SROs) in schools has become more commonplace, with many SRO programs implemented as a response to incidents of violence, such as a shooting, or because of available grant funding (Travis & Coon, 2005).

Several criminologists and legal scholars have expressed concerns that although the presence of SROs in schools may be based on the intention to ensure school safety, an unintended consequence has been an increase in negative interactions between students and law enforcement (Ryan et al., 2018) and an increase in the criminalization of students' behaviors that have led to an increase in school-based arrests (Theriot, 2009). Concerns about the increased role of SROs in school discipline have led many to characterize SRO involvement as a contributing factor in the school-to-prison pipeline theory, particularly for students of color and SWDs.

The U.S. Department of Justice (DOJ) (2015) acknowledged the connection, describing the involvement of law enforcement in the application of harsh school discipline can indicate discriminatory practices, especially for students with disabilities. The DOJ cautioned that SROs are more likely to criminalize minor school infractions and unnecessarily force them out of school and into the juvenile justice system, perpetuating the school-to-prison pipeline (Ryan et al., 2018).

Researchers have found correlations between the increase in SROs at schools and increases in the use of exclusionary discipline, such as out-of-school suspensions (Cross et al., 2022; Na & Gottfredson, 2013), as well as arrests and referrals to the juvenile courts made by schools, disproportionately impacting students of color and SWDs, in particular, students with emotional behavioral disorders (Mallet, 2016; U.S. Department of Education, Office for Civil Rights, 2017; Counts et al., 2018).

Law enforcement arrests were almost twice as high in schools where an SRO was present, particularly for minor offenses, such as disorderly conduct—an infraction that relies on a high-level of discretion—suggesting that police presence might result in more arrests for offenses that would not have resulted in criminality if handled by school personnel (Theriot, 2009; Hirschfield, 2008). The number of students involved in the justice system with rates of referral for low level offenses, such as fighting without using a weapon, disorderly conduct, or minor drug offenses, substantially increases with regular SRO presence in schools (Nance, 2016; Na & Gottfredson, 2013). The prevalence of this impact was observed by the Justice Policy institute (2011), which found that schools with SROs had five times more arrests for disorderly conduct than schools without SROs.

The presence of SROs can increase racial inequalities in school discipline (James & Dragoo, 2018; Javdani, 2019; Turner & Beneke, 2020), with some researchers finding that even

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

controlling for a variety of variables, such as school location and poverty, the increased association between school police presence and arrest rates was due to race alone, independent of other factors (Horner & Fisher, 2020).

Although SRO presence has been linked to higher rates of arrests for all students (Homer & Fisher, 2019), students of color, especially Black students and males in general (Crosse et al, 2022; Fisher & Hennessey, 2016; Gottsfredson et al., 2020; Homer & Fisher, 2020; Na & Gottfreson, 2013; Brame et al., 2014; Wolf, 2013), are more likely to be at disproportionate risk of being involved in the juvenile justice system.

Skiba (2013) notes that Black students are pushed out of school, arrested, and funneled into the justice system at alarmingly disproportionate rates, despite research confirming that Black students do not misbehave at higher rates than their White peers. The U.S. Department of Civil Rights (2018) found such overrepresentation, reporting that Black students represented 15% of the 2015-16 national student population and made up 31% of the students arrested. It also found that in the same year, Black girls were four times more likely to be arrested, three times more likely to be referred to law enforcement, and two times more likely to be physically restrained compared to White girls (Whittenberg & Fernandez, 2020).

Some researchers have found that SROs consider students the likely source of threat in schools with a large proportion of Black students yet view external threats as more important in majority-White suburban schools (Fisher et al., 2022; Lynch et al., 2016). Fisher et al. note that this pattern is consistent with the racial classification model and one explanation of ongoing racial inequity, specifically that the criminalization and policing of school behavior is often based on subjective attitudes and biases.

Studies have also found that police officers misperceive Black boys as older, viewing them less childlike and less innocent than White boys of the same age suspected of committing the same crimes (Homer & Fisher, 2019; Whittenberg & Fernandez, 2020; Goff et al., 2014). The association between SRO presence and arrest rates may be explained by SROs acting on their own implicit biases in their decisions to arrest or discipline students (Homer & Fisher, 2019), as well as the inherent biases based on stereotypes among staff that may impact the perception of others' behaviors (Kunesh & Noltemeyer, 2015; Okonofua & Eberhardt, 2015), which may affect their response to students (Homer & Fisher, 2019). For example, one study told teachers to expect misbehavior in the classroom which resulted in their attention being drawn to Black boys compared to students in all other groups (Goff et al., 2014).

Students with disabilities also are disproportionately impacted in law enforcement referrals and arrests. In the 2015-16 school year, SWDs represented 12% of the overall national student population and 28% of school related arrests (U.S. Department of Education, Office for Civil Rights, 2018).

Students with learning disabilities are more susceptible to involvement in the juvenile justice system. Research has found that students with learning disabilities and ED are at increased risk of placement in juvenile correctional facilities (Counts et al., 2018; Quinn, Rutherford, and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Leone, 2001; Quinn et al., 2005), while almost half of the SWDs in correctional facilities were students with ED (Office of Juvenile Justice and Delinquency Prevention, 2017; Quinn et al., 2005).

The role of SROs in school discipline has been questioned and attributed to the criminalization of student behavior. SRO functions can vary, with many engaging in duties such as patrolling school campuses, investigating criminal complaints, handling student discipline for violations of school rules or education code, and minimizing disruptions during the school day (Lawrence, 2007). In addition to law enforcement activities, SRO duties can also include teaching, such as instructing drug and gang prevention classes as well as advising staff and mentoring students (Coon & Travis, 2012).

However, the presence of SROs and their involvement in student discipline might also provoke or escalate situations and lead to an increase in criminalization of student behavior. Hirschfield (2008) stated that with the increase in the responsibility of SROs in student discipline, it is reasonable to expect more situations to be resolved with an arrest than in the past.

A study of three school districts in Massachusetts found that in one district, SROs often appeared to respond to argumentative or upset youth with aggression, leading to physical restraint that escalated, rather than resolved, conflicts (Dalhberg, 2012). Another concern is that SROs operate in a “quasi-law enforcement role” in schools that complicates security issues and gives officers more freedom due to less stringent standards (Bailey, 2006). For example, school officials only require a reasonable suspicion to carry out searches of students at schools, while the standard for police to search someone in the community requires probable cause and/or issuance of a warrant. This means that an SRO acting at the request of school officials, thereby acting as an agent of the school, can search students under less stringent standards (Bailey, 2006).

Concerns that SROs approach student discipline and their duties ensuring school safety with legal interventions have been associated with a lack of training and lack of specificity of their roles in the memorandum of understanding between the law enforcement agency and district.

School police identify training as a critical need in their profession, with approximately 40% of SROs lacking any training specific to their position in schools and 62% reporting requiring more specialized training on dealing with students and parents, understanding juvenile law, and gaining knowledge of school district policies (Martinez-Prather et al., 2016). SROs who report not receiving any training tend to engage in legal interventions as a disciplinary method (Martinez-Prather et al., 2016) while those who more closely identify with a law enforcement role tend to also rely on more legal interventions, such as arrests and citations (Mckenna & White, 2018). These findings suggest that SROs require more training on responding to disciplinary incidents with a non-legal approach to minimize the criminalization of student misconduct.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Research has identified some negative educational and social outcomes with an increased involvement and presence of law enforcement. In one study, extensive police contact in neighborhoods for low-level behaviors in a community decreased the academic performance of Black boys ages 13-15 (Legewie & Fagan, 2019), while another study noted a 2.5% decrease in high school graduation rates and a 4% decrease in college enrollment rates (Weisburst, 2019). In addition, students of color report lower feelings of safety and less positive perceptions of school police (Pentek & Eisenberg, 2018; Theriot & Orme, 2016).

Arresting youth also has negative consequences in the short term, with students who were arrested showing a lower likelihood of graduating high school (Bernburg & Krohn, 2003) and a greater likelihood of associating with antisocial peers (Bernburg, Krohn, & Rivera, 2006; Wiley & Ebsensen, 2016).

Experiencing an arrest as a student also has negative consequences in the long term. These students are likely to have continued involvement in the justice system as adults and lower employment rates (Bernburg & Krohn, 2003; Lee et al., 2015; Lopez et al., 2012) compared to those who were not arrested as students. Black boys arrested as juveniles were significantly more likely to experience another arrest in their mid-20s than either White boys who had been arrested or Black boys who had not been arrested (McGlynn-Wright, 2014).

Recommendations for effective SROs have been offered by several agencies and organizations. For instance, the U.S. Department of Education (ED), U.S. Department of Justice (DOJ), and National Association of School Resource Officers (NASRO) have endorsed the following three recommendations: program evaluation, the establishment of a memorandum of understanding (MOU), and specialized training.

To facilitate the program evaluation recommendation, the DOJ, in partnership with the ED, developed a *Safe School-Based Enforcement through Collaboration Understanding and Respect (SECURE) State and Local Policy Rubric* to help state and local municipalities effectively incorporate SROs into schools. Additionally, the Community Oriented Policing Services (COPS) Office, an office within DOJ, developed a guide and identified elements of successful SRO programs, including program evaluation.

The program evaluation recommendation aims to have schools understand their safety needs through the development of a comprehensive safety plan, targeted data collection, clear program goals, and an evaluation process to determine whether the program is achieving its goals.

Recommendations to have a clear memorandum of understanding (MOU) in place to delineate the roles and responsibilities between the school district, law enforcement agency, and stakeholders, can help establish parameters on the role of SROs (James & Dragoo, 2018). This can include establishing limits or prohibiting SROs from participating in school discipline. This can include prohibition on their involvement with minor infractions and incorporate provisions on areas of specialized training. The addition of a provision to the MOU to mandate training has been recommended by government research and agencies

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

(SECURE Policy Rubric, President's Task Force on 21<sup>st</sup> Century Policing) and also by organizations that represent community policing groups (e.g., NASRO, COPS) (Counts et al., 2018).

Recommendations for training have been made in areas such as child development, implicit bias, and restorative justice (James & Drago, 2018). The Police Foundation recommends training SROs on the following:

- child and adolescent development, with an emphasis on the effect of trauma on student behavior, health, and learning;
- subconscious (or implicit) biases that can disproportionately affect students of color, SWDs, and students with mental health issues;
- crisis intervention for youth;
- alternatives to detention and incarceration, such as peer courts and restorative justice; and
- legal issues, like the protections afforded to SWDs.

More recently, research in several states has shown that improved school safety can be achieved without the presence of school officers or a law enforcement approach to school discipline through increasing both structure and support by adopting rules that are strictly and fairly enforced and having adults at the school who are caring and willing to help students (Dahlberg, 2012).

Moreover, nationwide research has shown that the overreliance on school-based police—and arrests in particular—undermines students' feelings of security and safety and furthers the criminalization process described by the term "school-to-prison pipeline." The use of a law enforcement approach to student discipline also simultaneously discourages the use of more positive, evidence-based discipline models that result in better outcomes for youth and schools (Dahlberg, 2012).

Educational researchers have cautioned about systemic and structural problems that contribute to the criminalization of student misconduct. In particular, the "combination of ineffective educational programming (e.g., failure to provide appropriate curricular instruction) and a lack of appropriate behavioral interventions can exacerbate student behaviors, leading to a vicious cycle of antecedents that set the stage for problem behavior" (Ryan et al., 2017).

Most notably, the National Council on Disability (2015) argues that focusing on integrating SWDs into the general education setting with behavioral supports is necessary for breaking the school-to-prison pipeline. They note that SWDs "who could be educated in general education classrooms with behavioral interventions remain needlessly segregated in classrooms where they are more likely to receive inferior service and are subjected to physical restraints, forced seclusion, and repeated arrests and suspensions" (p. 34).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Review of Applicable Laws and Regulations, and District Policies and Procedures**

The following discussion reviews applicable state and federal requirements associated with referrals and apprehension of SWDs by law enforcement, and the use of restraints and reporting requirement of these emergency interventions. In addition, the review included the law enforcement services agreement between the Los Angeles County Sheriff's Department and the District. The reporting requirements of Racial Identity Profiling Act (RIPA) were reviewed.

***State and Federal Laws and Regulations Regarding Law Enforcement Referrals, the Role of Campus Security Officers, Restraints, Behavioral Interventions, Searches, and Threat Assessments***

Relevant California Department of Education (CDE) education codes were reviewed to determine if the District's policies and procedures regarding law enforcement referrals, the role of the campus security officer, security restraints, searches and threat assessment are consistent with State requirements. In addition, federal laws regarding law enforcement referrals and the use of restraints on SWDs were reviewed.

Select sections of the education code and federal laws and regulations are summarized and included in this section as a reference and to guide the discussion on each allegation regarding the various issues related to law enforcement referrals and the use of restraints on SWDs.

**Education Code Regulations Regarding Law Enforcement Referrals.**

Education Code (EC) Section 48902(a)(b)(c) authorizes school administrators to contact law enforcement authorities prior to the suspension or expulsion of the student if the misconduct is in violation of Section 245 of the penal code. It also authorizes the referral to law enforcement in instances where the student unlawfully possessed, used, sold (or offered, arranged, or negotiated to sell), or otherwise furnished, or was under the influence of any controlled substance, such as alcohol or narcotics. School administrators must also report any of the five acts under Section 48915 that govern the mandatory expulsion of students.

EC Section 48902(e) requires school officials reporting a criminal act committed by a SWD to provide copies of the special education and disciplinary records of the student for consideration by the appropriate authorities, pursuant to Section 1415(k)(6) of the IDEA.

EC Section 48906 governs the notification of parents or guardians when a student is removed from the school premises by a peace officer. When a student is removed from the school, school officials must take immediate steps to notify the parent or guardian regarding the location where the student is being taken, unless the officer believes disclosure of the location would cause the child to be endangered or custody to be disturbed. Officers must inform families whether the student requires and is receiving medical attention.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

***Education Code Regulations Regarding the Role and Training of School Security Officers (SSOs).***

EC Section 38000(a)(c) authorizes school boards to establish a security department under the supervision of a chief of security at the direction of the superintendent of the school district. The school board may employ personnel to ensure the safety of personnel, students, and real (i.e., buildings and land) and personal property of the school district. It also states that the intent of the Legislature in enacting this section is for a school district's security department to be supplementary to city and county law enforcement agencies and not vested with general police powers. Per the EC, the school board shall set minimum qualifications of employment for the chief of security or school chief of police including, but not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officer Standards and Training.

EC Section 38000(e) states the intent of the Legislature to evaluate the presence of peace officers and other law enforcement on school campuses and to identify and consider alternative options to ensure pupil safety based on the needs of the local school communities. *The Legislature encourages LEAs to use school resources currently allocated to such personnel, including school police departments and contracts with local police or sheriff departments, for pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice, as needed, if found to be a more appropriate use of resources based upon the needs of the pupils and campuses that serve them.*

EC Section 38001.5(a) states the intent of the Legislature to ensure the safety of students, staff, and the public on or near public schools by providing school security officers with training that will enable them to deal with the increasingly diverse and dangerous situations they encounter.

EC Section 38001.5(b)(1)(2) requires every school security officer employed by a school district to complete the latest course of training developed by the Bureau of Security and Investigative Services of the Department of Consumer Affairs in consultation with the Commission on Peace Officer Standards and Training pursuant to Section 7583.45 of the Business and Professions Code. The school district shall provide the training required to all school security officers (unless employed for under 20 hours a week) who are employees of the school district during the employee's regular work hours, unless otherwise negotiated and mutually agreed upon with the employee's exclusive representative.

EC Section 38001.5(c) defines the role of the "school security officer" to mean any person primarily employed or assigned to provide security services as a watchperson, security guard, or patrolperson on or about premises owned or operated by a school district to protect persons or property or to prevent the theft or unlawful taking of school district property of any kind or to report any unlawful activity to the school district and local law enforcement agencies.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

***California Penal Code Regulations Regarding the Training of School Resource Officers (SROs).***

The California Penal Code Section 832.3(f)(g) requires every school police officer employed by a K-12 public school district to successfully complete a basic course of training before exercising the powers of a peace officer. The Commission on Peace Officer Standards and Training shall prepare a specialized course of instruction for the training of school peace officers, as defined in Section 830.32, to meet the unique safety needs of a school environment. This course is intended to supplement any other training requirements. This training must be completed within two years of employment.

***Racial and Identity Profile Act of 2015 (Gov. Code Section 12525.5) Regulations Regarding the Collection and Reporting of Law Enforcement Contacts Deemed "Stops."***

Assembly Bill 953, the Racial and Identity Profile Act of 2015 (RIPA), requires states and law enforcement agencies to collect and report data regarding stops of individuals to the California Department of Justice. The regulations that govern the Act were approved in 2017 with the intent of improving the quality of data and reporting to better track and analyze if racial or identity profiling occurs in the State. The aim is to have such data inform and shape policy and other recommendations, including by local law enforcement agencies. The California Code of Regulations Sections 999.224, 999.226, and 999.227 govern the data collection requirements that apply to agencies, including school districts.

RIPA requires reporting of all stops by SROs of students and non-students at a K-12 public school. However, an officer shall report only the following interaction with students as stops:

- Any interaction that results in a temporary custody (under Welfare and Institutions Code Section 625), citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity.
- Any interaction in which the student is questioned for the purpose of investigating whether the student committed a violation of law, including violations of EC Sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7, or to determine whether the student is truant.
- Any interaction in which an officer engages in one or more of the data values set forth in Section 999.226, subdivision (a)(12)(A).

In reporting interactions with students at a K-12 public school, the officer shall utilize the data elements and corresponding data values set forth in Section 999.226 with the addition of the following data values, which the officer shall select if applicable:

- ORI number. Refers to the reporting agencies' Originating Agency Identifier, a unique code assigned by the Federal Bureau of Investigation.
- Date, time and duration of stop.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Location of stop. The officer shall provide the name of the school where the stop took place and indicate that the stop is of a student.
- Perceived race or ethnicity, gender, sexual orientation, age, and English fluency of the person stopped, based only on the officer's perception.
- In addition, an officer is to report on the perceived or known disability of the person, based only on the officer's perception that the person stopped has a disability, was advised by the individual of their disability, or the officer's prior knowledge of the individual's condition. If the stop of a student takes place at a K-12 public school, the officer shall also report if the disability is related to hyperactivity or impulsive behaviors.

The regulations also state that nothing in this provision alters any existing requirements to comply with reasonable accommodation and anti-discrimination laws with respect to the treatment of people with disabilities.

The regulations also require an officer to report the reason for a stop, the actions taken, the basis for a search or property seizure, and outcome of the stop, which are defined in the context of school-based stops below:

- Reason for stop. Refers to the primary reason why the officer stopped the individual. This could include, but is not limited to, reasonable suspicion that the person was engaged in criminal activity or to determine if a student is truant. In schools, officers may also report:
  - Possible conduct warranting discipline under EC Sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7.
  - Violation of school policy. This should only be selected if other options related to violations of law (e.g., penal code or education code) do not apply.
- Actions taken by officer during stop. Refers to the actions taken by the officer toward the person stopped. This could include but is not limited to handcuffing, physical contact or restraints by the officer, and the search of an individual person or belongings with or without consent. In addition, for school-based stops the officer shall also report if they obtained an admission or written statement from the student, if applicable.
- Basis for search. The officer must provide a basis for the search, including but not limited to, consent given, officer safety or safety of another person, odor of contraband, or evidence of a crime. For school-based searches, the officer may also select suspected violation of school policy as a basis for the search.
- Basis for property seizure. If the officer seizes property during the stop, they must report the basis for the seizure, including but not limited to, contraband, evidence, weapon or firearm, drugs/alcohol/narcotics, or suspected stolen property. School-based seizures can also be made for the suspected violation of school policy.
- Result of stop. Refers to the outcome of the stop. This includes but is not limited to warnings, citations, arrests, contacting the parent/guardian of a minor, or psychiatric

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

holds. For school-based stops, officers may also report a referral to school administrator, school counselor, or other support staff.

- Officer's years of experience. The total number of years of experience as a peace officer.
  - Type of assignment of officer. Requires the designation of the type of peace officer, such as a school resource officer.

### **Individuals with Disabilities Education Act (1990) Regulations Regarding Law Enforcement Referrals.**

IDEA Section 1415(k)(6) governs the referral to and action of law enforcement for when SWDs engage in a criminal act. The regulation does not prohibit the reporting of a child with a disability who has committed a crime but does mandate that the reporting agency ensure that copies of the special education and disciplinary records of the student are transmitted to the appropriate authorities for consideration.

### ***State and Federal Laws and Regulations Regarding Restraints, Behavioral Interventions, Searches and Threat Assessment***

The following discussion includes pertinent laws and regulations governing restraint, use of behavioral interventions, and searches of students.

### **Education Codes Regarding Restraints, Behavioral Interventions, Searches and Threat Assessment.**

EC Section 49005 contains the Legislature's findings and declaration on the use of restraint and seclusion and include the following:

- While it is appropriate to intervene in an emergency to prevent a pupil from imminent risk of serious physical self-harm or harm of others, restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety.
- United States Department of Education guidelines specify that the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and to be free from abuse.
- Restraint and seclusion should only be used as a *safety measure of last resort* and should never be used as punishment or discipline or for staff convenience.
- Restraint and seclusion may cause serious injury or long-lasting trauma and death, even when done safely and correctly.
- There is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques.
- Students with disabilities and students of color, especially Black boys, are disproportionately subjected to restraint and seclusion.
- Well-established California law already regulates restraint techniques in a number of settings, including general acute care hospitals, acute psychiatric hospitals, psychiatric

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers. These minimal protections should be provided to all pupils in schools.

- It is the intent of the Legislature to ensure that schools foster learning in a safe and healthy environment and provide adequate safeguards to prevent harm, and even death, to children in school.
- This article is intended to be read to be consistent with, and does not change any requirements, limitations, or protections in, existing law pertaining to pupils with exceptional needs.
- It is the intent of the Legislature to prohibit dangerous practices. Restraint and seclusion, as described in this article, do not further a child's education. At the same time, the Legislature recognizes that if an emergency situation arises, the ability of education personnel to act in that emergency to safeguard a pupil or others from imminent physical harm should not be restricted.

EC Section 49005.1 defines terms that apply to the regulations. For example, a "behavioral restraint" means "mechanical restraint" or "physical restraint," which is used as an intervention when a student presents an immediate danger to themselves or to others.

"Behavioral restraint" does not include postural restraints or devices used to improve a pupil's mobility and independent functioning.

A "mechanical restraint" means the use of a device or equipment to restrict a pupil's freedom of movement, unless the use of such equipment is by peace officers or security personnel for detention or for public safety purposes.

A "physical restraint" is defined as a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. "Physical restraint" does not include a physical escort, which means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a pupil who is acting out to walk to a safe location. "Physical restraint" does not include the use of force by peace officers or security personnel for detention or for public safety purposes.

A "prone restraint" means the application of a behavioral restraint on a pupil in a facedown position.

"Seclusion" means the involuntary confinement of a pupil alone in a room or area from which the pupil is physically prevented from leaving. "Seclusion" does not include a timeout, which is a behavior management technique that is part of an approved program and involves the monitored separation of the student in a nonlocked setting and is implemented for the purpose of calming.

EC Section 49005.2 establishes a student's right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the administration of a drug that is

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

not a standard treatment for the student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement.

EC Section 49005.4 limits the use of seclusion or a behavioral restraint only when deemed necessary to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.

EC Section 49005.6 mandates that an educational provider avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

EC Section 49005.8 establishes prohibited uses of seclusion and behavioral restraints and techniques, including but not limited to:

- the use of seclusion or behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation
- the use of locked seclusion unless it is in a facility otherwise licensed or permitted by state law to use a locked room
- use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back or uses a pillow, blanket, carpet, mat, or other item to cover a pupil's face
- places a student in a facedown position with their hands held or restrained behind the student's back
- use of a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others

Students who are restrained should be afforded the least restrictive alternative and the maximum freedom of movement, with the least number of restraint points, while ensuring the physical safety of the student and others. If prone restraint techniques are used, a staff member shall observe the student for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the student shall not be involved in the restraint.

EC Section 49006(b) mandates the reporting requirements of LEAs for behavioral restraints and seclusion of students. Districts are required to provide such data annually, within three months after the end of a school year. The report should be disaggregated by race or ethnicity or gender and include:

- the number of students subjected to mechanical restraint, with separate counts for SWDs with a Section 504 plan or an individualized education program (IEP) and for nondisabled students without a Section 504 plan or IEP
- the number of students subjected to physical restraint, with separate counts for SWDs with a Section 504 plan or an IEP and for nondisabled students

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- the number of students subjected to seclusion, with separate counts for SWDs with a Section 504 plan or an IEP and for nondisabled students
- the number of times mechanical restraint was used on students, with separate counts for the number of times a mechanical restraint was used on SWDs with a Section 504 plan or an IEP and for nondisabled students
- the number of times physical restraint was used on students, with separate counts for the number of times a physical restraint was used on SWDs with a Section 504 plan or an IEP and for nondisabled students
- the number of times seclusion was used on students, with separate counts for the number of times seclusion was used on SWDs with a Section 504 plan or an IEP and for nondisabled students

The regulations also require the CDE to post this data on its website no later than three months after the report is due.

EC Section 49006.2 mandates the alignment of the data collection and reporting requirements with the requirements of the Civil Rights Data Collection (CRDC) of the United States Department of Education's Office for Civil Rights imposed pursuant to Sections 100.6(b) and 104.61 of Title 34 of the Code of Federal Regulations.

EC Section 56520(a) asserts the following declarations of the Legislature regarding behavioral interventions:

- that the State has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions
- that some school age individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both
- that research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for Positive Behavioral Interventions and supports to address the learning and behavioral needs of those children
- that procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under Education Code Section 49001 or those that cause pain or trauma

EC Section 56520(b) asserts the intent of the Legislature regarding behavioral interventions as follows:

- that children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the IDEA and its implementing regulations
- that assessments, and Positive Behavioral Interventions and Supports be developed and implemented in a manner informed by guidance from the United States

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education

- that when behavioral interventions, supports, and other strategies are used, they be used in consideration of the student's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil's right to placement in the least restrictive educational environment

EC Section 56521.1(a)(b)(c)(d)(e)(f) governs the use of emergency interventions, reporting of behavioral restraints, and required actions after the restraining of a SWDs, as follows:

- Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.
- Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.
- No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.
- Emergency interventions shall not include:
  - locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room
  - employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures
  - an amount of force that exceeds that which is reasonable and necessary under the circumstances
- To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention is used or serious property damage occurs. A behavioral emergency report (BER) shall immediately be completed and maintained in the file of the individual with exceptional needs. The BER shall include all of the following:
  - the name and age of the individual with exceptional needs
  - the setting and location of the incident
  - the name of the staff or other persons involved
  - a description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- details of any injuries sustained by the individual with exceptional needs or others, including staff, as a result of the incident

All behavioral emergency reports (BERs) shall immediately be forwarded to, and reviewed by, a designated responsible administrator. If a behavioral emergency report is written regarding a SWD who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

If a behavioral emergency report is written regarding a SWD who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, the student shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

EC Section 56521.2(b) requires that in the case of a student whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of Positive Behavioral Interventions and Supports and other strategies to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

EC Section 49050 prohibits school officials from conducting searches that involve a body cavity search and/or the removal or arranging of any or all of the clothing of the student to allow a visual inspection of the underclothing, breast, buttocks, or genitalia of the student.

Requirements for threat assessments are encompassed in the development of school safety plans as mandated by EC Sections 32280 through 32289.5. The following discussion includes sections related to threat assessments and/or the roles of law enforcement and mental health professionals when responding to threats and mental health crises.

EC Section 32280 describes the intent of the Legislature that all California public schools serving kindergarten through grade 12, in cooperation with local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, classified employees, and other persons who may be interested in the prevention of campus crime and violence, develop a comprehensive school safety plan that addresses the safety concerns identified through a systematic planning process.

It also conveys the intent that all school staff be trained on the safety plan and defines law enforcement agencies to include local police departments, county sheriffs' offices, school district police or security departments, probation departments, and district attorneys' offices. The "safety plan" means a plan to develop strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

EC Section 32282.1 requires all safety plans to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses.

The guidelines developed are encouraged to include both of the following:

- primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement and to prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support
- protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:
  - while on school grounds
  - while going to or coming from school
  - during a lunch period whether on or off campus
  - during, or while going to or coming from, a school-sponsored activity

### **Federal Laws and Regulations Regarding the Use of Restraints and Seclusion.**

The Office for Civil Rights (OCR), in partnership with the Office of Special Education and Rehabilitation Services (OSERS), oversee an initiative to address the potential inappropriate use of restraints and seclusion in schools<sup>47</sup>. This includes having OCR conduct compliance reviews of LEAs' use of restraint and seclusion on SWDs and the impact of these practices on a school's obligation to provide a free and appropriate education (FAPE).

In addition, OCR conducts Data Quality Reviews on the Civil Rights Data Collection (CRDC) restraint and seclusion data submitted by LEAs to help districts improve data quality and provide technical assistance. OSERS supports these reviews by providing technical assistance and support to LEAs that have been identified by OCR through the compliance reviews or complaint resolution process, to "ensure districts and schools establish or enhance environments where the implementation of interventions and supports reduces the need for reliance on less effective and potentially dangerous practices." (p. 3)

Neither Section 504 nor the IDEA prohibit the use of restraint or seclusion, however, Section 504 prohibits the use of restraints if similarly situated nondisabled students would have not been restrained under the same circumstance. For the most part, these practices are primarily governed by state laws and regulations.

Section 504 and Title II do protect students from disability discrimination if these practices are resulting in differential treatment of SWDs. Section 504 and the IDEA protect students from the impact of these practices on FAPE. For example, the repeated use of restraint or seclusion could impact FAPE if the student doesn't: receive the regular or special education,

---

<sup>47</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/20190725-students-with-disabilities-and-use-of-rs.pdf>

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

related aids and services; receive supplemental services and modifications the student needs; and is not in an appropriate setting in which to receive those services.

The IDEA promotes the use of Positive Behavioral Interventions and Supports to address behavior that impedes the learning of the student or others, and requires IEP teams to develop, review and revise a student's IEP to consider and include Positive Behavioral Interventions and Supports, and other strategies to address the behavior.

### **Review of the District's Policies and Procedures for Law Enforcement Referrals, Restraints, Behavioral Interventions, Searches, and Threat Assessments.**

Policies and procedures were reviewed to determine if adequate guidance exists to ensure schools comply with federal and state laws and regulations regarding law enforcement referrals and restraints. No documents were provided regarding referrals to probation officers or conducting student searches. No policies or procedures were provided or found regarding threat assessments.

The discussion separates documents reviewed into three categories: law enforcement referrals, restraint and seclusion, and searches and threat assessments. The review includes the following policies, procedures, and documents:

- Administrative Regulations 0450: Philosophy, Goals, Objectives, and Comprehensive Plans (Revised June 2013)
- Administrative Regulations 5144.1 and 5144.2: Suspension and Expulsion/Due Process (Students with Disabilities) (Revised April 2013)
- Board Policy and Administrative Regulations 5145.11: Questioning and Apprehension (Approved November 13, 1990)
- School Law Enforcement Services Agreement for School Resource Deputy Program (2021-22 School Year)
- Administrative Regulations 5131.41: Use of Seclusion and Restraint (Adopted October 10, 2019)
- Antelope Valley SELPA Behavior Report (BER) Guidelines (Adopted March 28, 2019)
- AV SELPA BER Form (Revised 5/2018) and Postvention Resolution Process (Revised 3/2015)
- Board Policy 5145.12: Search and Seizure (Revised August 2001)
- Vacancy Announcement Campus Supervisor<sup>48</sup> Position (November 2, 2021)
- School Safety Plan – Palmdale HS (Revised April 2022)

#### **Law Enforcement Referrals.**

Administrative Regulations (AR) 0450: Philosophy, Goals, Objectives, and Comprehensive Plans describes five crisis intervention strategies that include the identification of possible crises that may occur, determination of tasks that need to be addressed and by whom, and the development of procedures for addressing each crisis, including the involvement of law

---

<sup>48</sup> The campus supervisor position is synonymous with the campus security officer.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

enforcement or other public safety agencies. This requires the identification of threat assessment strategies to determine the credibility and seriousness of a threat and provide appropriate interventions for potential offenders, the development of an evacuation plan, and coordination of communication to schools, the Board of Education, parents, and the media.

Administrative Regulations 5144.1 and 5144.2: Suspension and Expulsion/Due Process authorizes schools to notify law enforcement prior to the suspension or expulsion of a student for acts of assault that violate Penal Code 245 or EC Section 48902, or the possession or sale of narcotics or of a controlled substance, and any acts regarding the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of EC 48915(c)(1) or (5) or Penal Code 626.9 and 626.10.

AR 5144.2 relates to the suspension and expulsion/due process, including for SWDs. The policy includes a section regarding the notification to law enforcement authorities declaring that the requirements for SWDs are the same as those specified for all students in AR 5144.1. In instances of giving any notification concerning a SWD to law enforcement, school officials must require the officer to certify in writing that they will not disclose the student's information or records to any other person without written consent of the student's parent or guardian.

Missing from these policies are the requirements specified in EC Section 48902(e) that mandate school officials who report a criminal act committed by a SWD to provide copies of the special education and disciplinary records of the student for consideration by the appropriate authorities, and any parental notification requirements, such as when a student is removed from the school premises by a peace officer as specified in Section 48906.

Board Policy and Administrative Regulations 5145.11: Questioning and Apprehension contain two sections, with the first related to the questioning of students by law enforcement personnel and the second related to the apprehension of students by law enforcement. Although there are some minor differences between the two documents, the pertinent information has been combined for the ease of the discussion.

Law enforcement must show the appropriate identification to the principal or designee prior to talking with the student. The policy defines all law enforcement agencies as well as health officers and officials from Child Protective Services. At the officer's discretion and with the student's approval, the principal may be present for the interview. The officer must advise the student that he/she has the right to remain silent but is encouraged to cooperate with law enforcement agencies. If the student refuses to talk to the officer, no law permits his/her arrest or detention on that ground.

If over the course of the interview, the officer finds it necessary to remove the student from campus, the principal or designee must ascertain the reason for the removal and immediately notify the parent. If a student is removed during school hours, the determination of what constitutes an emergency is the responsibility of the principal. If disagreement occurs between the officer and principal regarding the District's policy or rights of the child, the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

principal should immediately notify the superintendent or designee. If the matter cannot be resolved, the principal should contact the officer's supervisor. The term emergency is defined to mean "any event or occasional combination of circumstances which calls for immediate action or remedy."

For students subjected to questioning or interviews by law enforcement on school premises, the school must keep a record of the contact and include the following information: the name and identifying number of the officer, the agency employing the officer, the time when the officer arrived and left, any request that the student be interviewed later elsewhere, whether the principal or designee was present during the interview, and any other pertinent information.

The apprehension section states that police officers, counselors of the juvenile court, and other authorized law enforcement officials have the right to enter a school and take a student into custody or to make a lawful arrest if they possess and display an authorization order signed by a judge of the juvenile court or a warrant for the student's arrest. If the officer or counselor has reason to believe the student committed a violation of the law and makes an oral admission to this effect, as witnessed by one or more school employees, a warrant is not necessary for the student's arrest.

If the student is arrested, the principal or designee must release the student into the custody of the officer and immediately notify the parent/guardian by telephone. If contact has not been made by telephone, a letter must be sent to the parent/guardian on the same day, informing them where the student has been taken and providing information regarding their release.

The superintendent or their designee is to be immediately notified of the student's arrest, initially with a verbal notice, followed by a written report from the principal or designee that includes: the date and time of arrest; the identity, badge number, and official capacity of the officer; the authority under which the officer acts; and the reason for the removal.

Policies AR 5141.1, AR 5141.2, and AR 5145.11 do not include references to the data collection and reporting requirements of the Civil Rights Data Collection (CRDC).

A review of three different contracts with the Los Angeles County Sheriff's Department found mainly similar features and the most notable difference being the increase in cost from year to year. This review highlights the language and content of the School Law Enforcement Services Agreement for School Resource Deputy Program 2021-22 contract. The District annually contracts a total of nine full-time deputies to be assigned daily on campuses, with the exception of continuation schools that share one deputy. In addition, two supervisory positions are funded for 0.7 full-time equivalent (FTE) each. The total amount dedicated for the nine Generalist Deputies, including a 3% surcharge for liability, is \$1,578,727.35. The supervisory Deputy B-1 has a total cost of \$133,786.60, while the Sergeant's cost with liability is \$159,532.07. In total, law enforcement services cost the District \$1,872,046.01 annually.

Section 1.0 Scope of Services contains two parts of the agreement, as provided below:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- 1.1 The County agrees, through the Sheriff of the County of Los Angeles, to provide law enforcement services for the School to the extent and manner set forth in this agreement.
- 1.2 Except as otherwise specifically set forth in this agreement, law enforcement services shall encompass duties and functions of the type coming within the jurisdiction of and customarily rendered by the Sheriff under the Charter of the County and Statute of California.

Section 2.0 Administration of Personnel states that “the rendition of services performed by the Sheriff’s department, the standards of performance, the discipline of officers, and other matters incident to the performance of such services and control of personnel so employed shall remain with the County.” Furthermore, disputes between the parties regarding the extent of duties and functions to be performed, or the minimum level or manner of performance of services, requires consultation with the District and a mutual determination to resolve the dispute shall be made by both parties. If the dispute remains unresolved, the Sheriff shall have final and conclusive determination.

Exhibit A of the agreement delineates the number of personnel, schools to be assigned a deputy, and associated annual cost for services. It indicates that an SRO’s working hours are those of a regularly scheduled school day and adds that SROs shall not be adjusted to work supplemental events outside regular school hours. SROs are procured for the regular school year or 180 school days, and their procurement does not include summer school coverage, but it can be provided at the established hourly rate.

The document contains several additional sections, such as Deployment of Personnel, Performance of Agreement, Indemnification, Payment Procedures, and Billing Rates.

The agreement does not include any details on the actual services to be performed. The contract states that the scope of services is to be set forth in the agreement; otherwise, it defaults to duties and functions of services customarily provided by the Sheriff under the Charter of the County and Statute of California. This vague language is open to broad interpretation and may not enable the District to obtain the services needed or limit the actions and interventions of SROs in school discipline matters.

As noted in the literature review, several agencies and organizations, such as the ED, DOJ, and NASRO, have endorsed the following three recommendations for establishing an effective SRO program: program evaluation, a memorandum of understanding (MOU), and specialized training.

The services agreement between the District does not address any of these areas and fails to define the scope of an SRO’s role and responsibilities. Establishing parameters, including prohibiting SRO referrals and involvement for minor misconduct, as well as mandating specific areas of training and methods to evaluate the effectiveness of the SRO program, are critical for limiting the criminalization of student misconduct and ensuring SROs are properly

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

trained to respond to the educational needs of students with a non-legal approach as appropriate.

### **Restraint and Seclusion.**

The policies and procedures regarding restraint and seclusion provide insights into the Board of Education's intent for the use of restraint and seclusion, as well as the guidance available to schools for ensuring the consistent implementation of the Board's policy.

Administrative Regulations 5131.41: Use of Seclusion and Restraint states that staff are prohibited from using behavioral restraints or seclusion to control student behavior. The document provides definitions for behavioral, mechanical, physical, and prone restraints, as well as seclusion, consistent with EC Section 49005.1.

The policy also includes prohibited actions consistent with EC Sections 49005.2 and 49005.8, such as the use of physical restraints that restrict a student's breathing or placing a student face down with their hands held or restrained behind them.

The policy also highlights the limited use of seclusion or restraint in EC Sections 49005.4, 49005.6, and 49005.8. It notes that staff should avoid the use of behavioral restraints or seclusion to control a student's behavior unless the behavior "poses a clear and present danger of serious physical harm to the student or other, which cannot be prevented by a response that is less restrictive."

Reporting requirements consistent with EC Section 49006 are included, mandating the annual submission of disaggregated data for students subjected to a behavioral restraint or seclusion by race/ethnicity and gender as well as by students with and without disabilities.

The policy does not include reference to EC Section 49006.2 that requires the data collection and reporting requirements to be aligned with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights.

The policy does not include important language from EC Section 49005 that presents the findings and declaration of the legislature regarding restraint and seclusion, including but not limited to: should be used consistent with the rights of a child to be treated with dignity and free from abuse; should only be used as a safety measure of last resort, and should never be used as punishment or discipline or for staff convenience; may cause serious injury or long lasting trauma and death, even when done safely and correctly; there is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques; SWDs and students of color, especially Black boys, are disproportionately subjected to restraint and seclusion; and, that the regulations do not change any requirements, limitations, or protections in existing law pertaining to SWDs.

Although this EC Section 49005 is not a mandate, the inclusion of this language would convey the harmful effects when using restraints and seclusion to schools and administrators. It would also recognize the vulnerabilities students of color and in particular Black boys face

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

with these traumatic interventions. Lastly, it would acknowledge that schools must comply with the procedural safeguards for SWDs.

The Antelope Valley SELPA Behavior Report (BER) Guidelines document provides eight guidelines for the reporting of emergency interventions consistent with EC Section 56521.1(e)(f)(h). This document functions as a procedural guide for the reporting of a restraint through the BER mechanism only. It does not provide any information or guidance consistent with EC Sections 56521.1(a)(b)(c)(d), 49005.1, 49005.4, 49005.6, and 49005.8 that define when and how emergency interventions are to be used, such as to contain the behavior that poses a clear and present danger or physical harm to the student or others for a duration no longer than is necessary to contain the behaviors. It also does not include the definitions of behavioral restraints and seclusions or list the prohibited actions, such as using emergency interventions as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior, or techniques such as those that restrict a student's breathing.

The document begins with language consistent with EC Section 56521.1(e) that states the intent to "prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions."

The first guideline requires the notification of parents and/or the residential care provider within one school day of the emergency intervention.

Next, schools are instructed to immediately complete the BER with the following information:

- name and age of the student with a disability
- setting and location of the incident
- name of staff or other persons involved
- a description of the incident and emergency intervention used and whether the SWD has a systematic behavioral intervention plan (BIP)
- details of any injuries sustained by the student, staff, or others involved in the emergency intervention
- grade, primary race/ethnicity, primary eligibility, and the duration of the restraint

The BER must be immediately forwarded to and reviewed by the "designated responsible administrator" or individual identified by the District to review BERs, collect data on the reports, and recommend needed training at the site and district level. The designated responsible administrator may be a principal or assistant principal of the school and either the special education director or program specialist at the district level. The designated responsible administrator is tasked with reviewing the BER and ensuring the form has been fully and properly completed prior to signing off on the report.

For instances where a BER was written for a SWD who does not have a BIP, the designated responsible site administrator is required to schedule an IEP meeting within two days to determine whether a functional behavioral assessment (FBA) should be conducted and/or an

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

interim BIP developed. If an FBA is to be conducted, parents must be provided with notice for consent. If the IEP team determines that an FBA or BIP is not warranted, the reason for not conducting the FBA or developing the BIP must be documented.

For instances where the SWD subjected to a restraint has a BIP, for any incident involving a previously unseen serious behavior problem or where the current plan is deemed ineffective, an IEP team should review the BIP and determine if the plan needs to be modified.

Designated responsible administrators are required to monitor reports and follow-up with school staff to ensure IEP meetings are scheduled and appropriate resources are provided for the implementation of the BIP as well as to discuss the need to modify the BIP or hold an IEP meeting.

The designated responsible site administrator shall forward a copy of the BER to the designated responsible district level administrator for their review and submission of BERs to the SELPA office within 20 school days. Lastly, the designated responsible district level administrator is responsible for regularly reporting BER data to the superintendent and school board.

Although this document is consistent with the reporting requirements of EC Section 56521.1(e)(f)(g), it does not provide the necessary guidance to ensure schools understand when an emergency intervention is warranted, the prohibit actions, such as using emergency interventions as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior, or techniques such as those that restrict a student's breathing, as well as the definitions of a behavioral restraint and seclusion. Absent this information, it is unclear how districts and schools within the SELPA are informed regarding these regulations, how to recognize behavioral incidents that warrant a physical intervention as a last resort, and the prohibited actions and techniques.

AV SELPA BER Form and Postvention Resolution Process are two documents related to the use of physical intervention or restraint. The AV SELPA BER form is designed to guide the collection of pertinent information regarding the use of an emergency intervention, consistent with education code and SELPA guidelines. This includes general demographic information, such as the name, age, primary eligibility, race/ethnicity, and grade of the student and the name of their school. In addition, the person completing the report must provide their title and the type of report submitted (i.e., BER and/or incident report).

The form requires staff to describe the student's behavior and the incident in four sections: anxiety/defensive, risk behavior, tension reduction, and injury. The staff's response to the incident is also described in four sections: prevention, intervention, debriefing, and action taken.

The prevention actions are classified under two categories: supportive/non-judgmental actions, such as counseling or restructuring the routine or environment, and directive/setting limits that could include separating the student from a group, redirecting or setting limits, and providing the student with options.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The interventions are broken into two groups: physical and non-physical interventions that do not require a BER such as clearing an area of lower-level holds, and those that are considered medium- or high-level restraints, such as a team control position, children's control position, and requiring a BER. The form requires staff to report on the duration of the restraint.

The debriefing section refers to actions to re-establish communication, such as reviewing a schedule or making a plan. The last section of staff responses relates to the medical attention provided when injuries occur to staff or the child, including calling 911 or paramedics or administering first aid.

The form includes six instructions for completing the BER, including reporting the incident and submitting a completed form to an administrator the same day of the event. Definitions for determining an emergency, emergencies, and incident are included as follows:

- *An emergency* is defined as serious, dangerous behavior that staff has determined to present a clear and present danger to others. It requires a non-violent physical intervention to protect the safety of students, self, or others. A physical intervention has not been used, but an injury or serious property damage has occurred. Disengagement skills may or may not have been used.
- *Emergencies* require this form to be completed and submitted to the administrator for administrative action.
- *An incident* is defined as behavior that is unusual or out of the ordinary for the student, is disruptive to the classroom, and/or abuse of the environment occurs. Behavior incidents should be documented with this form if the student does not have a behavior plan addressing the behavior and then submitted to the administrator for administrative action. The procedure may vary between districts.

The necessary administrative actions are to be completed by the administrator and separated into two parts. For an emergency, administrators must complete six actions<sup>49</sup> and indicate each action has been initiated or completed by checking the box or filling in the appropriate information, including:

- notification to parents within 24 hours by telephone (copy of the emergency report)
- parent notification by administrator or teacher
- no BIP: schedule an IEP meeting within 2 days
- yes BIP: refer to IEP team for possible revisions
- provide copy in confidential file and copy to SELPA
- indicate date BER sent to SELPA (to be filled in)

After an incident, the administrator must determine whether a copy of the BER form should be sent home and also place a copy in the cumulative/teacher file with the instruction to use

---

<sup>49</sup> It is unclear of the distinction between the two parental notification requirements of the BER.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the data for the development or revision of the behavioral plan. The document also includes a statement that procedures may vary between districts served by the SELPA, implying that staff should follow their own district's procedures.

Although the BER form contains many data collection points consistent with those required by the education code, the guidance on the reporting between "an emergency," "emergencies," and "incidents" is confusing and inconsistent with the language in EC Section 56521.1. The guidance around incidents considered "an emergency" uses consistent language that defines an emergency as serious, dangerous behavior that staff has determined presents a clear and present danger to others. The section then provides mixed and confusing guidance that refers to types of possible interventions for this type of incident, with the first being a "non-violent physical intervention to protect the safety of student, self or other," and then states, "a physical intervention has been used." It adds, "OR, a physical intervention has not been used but the behavior resulted in injury or serious property damage. Disengagement skills may or may not have been used." However, there is no language to indicate whether "an emergency" should be reported through the BER form. Several terms used on the form, such as non-violent physical intervention or disengagement skills, are not defined on the BER form or found in education code.

Moreover, the form requires that "emergencies" are reported using the BER but provides no definition for schools to identify behavioral incidents and emergency interventions that constitute "emergencies." For behaviors that are unusual or out of the ordinary for the child, the form terms this as "an incident" and states that a BER is to be completed only for students who do not have a BIP. The relationship between the behavior incident and the use of behavioral restraints is unclear, which is the only factor that should determine the need for completing the BER.

The SELPA's postvention resolution process form is to be completed by staff after a "physical intervention was implemented as the Tension Reduction stage of the crisis development model." The form lacks clear instructions or descriptions of the five sections to be completed.

The first heading is titled "Control" and simply requires the time of the intervention and postvention resolution meeting. The second is named "Orient" and requires the name, position, and signature of staff involved. Next is "Pattern," which includes a prompt to identify a pattern of response by team members. The fourth section, "Investigate/Negotiate," asks the team to identify alternative methods of response that may be more appropriate. The last is titled "Give" and requires the documentation of positive support to involved crisis team members.

The limited information collected through this form prevents the understanding of the function of this process and purpose of the form. Although the section regarding investigation/negotiation of the event appears to imply that staff are to debrief and determine if the actions and physical interventions were appropriate, this intent cannot be concluded. The last section related to the positive support provided to staff involved during the physical

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

intervention raises questions as to whether a similar process exists to help the student who was subjected to the traumatic physical intervention.

### ***Searches and Threat Assessment.***

Board Policy 5145.12 Search and Seizure authorizes school officials to search students, their property, and/or district property under their control. The policy declares that the Board of Education requires school officials to use discretion, good judgment, and common sense in all cases of search and seizure.

The policy adds further criterion for justification of a search, noting that school officials must have reasonable suspicion that the search will uncover evidence of the student violating the law, district policy, administrative regulations, or other rules or policies of the district or school.

The policy requires searches of individual students to be conducted in the presence of at least two district employees, and the principal or designee must notify the parent of the student subjected to an individual search as soon as possible following the search.

The search of desks and lockers is also authorized on a regular, announced basis. The policy prohibits the strip search or body cavity search of any student.

The CDE Complaint includes assertions that the District relies on and empowers campus security officers (CSOs) to engage in the discipline of students that often escalates situations, resulting in the restraint and handcuffing of students. The Vacancy Announcement Campus Supervisor Position CSO job description was cited as evidence; therefore, it is included in the review of district policies and procedures.

Although not considered policy, the minimum qualifications of CSOs are to be established by the School Board. In addition, the job description sets an expectation of the duties to be performed, thereby endorsing such actions.

The CSO position requires the following qualifications:

- Experience: Prefer experience working with people
- Education: Completion of 12<sup>th</sup> grade or equivalent
- Knowledge of: School regulations in connection with student conduct; laws pertaining to juveniles; controlled substances and their effect upon behavior; customs and activities indicative of undesirable youth groups.
- Ability to: Supervise and direct students in a friendly, unemotional manner and work cooperatively with faculty and staff; ability to interpret rules and regulations; ability to enforce rules and regulations firmly and fairly; ability to work effectively with students and staff.

Some of the examples of the duties and responsibilities include, "Exercise physical control only to the extent reasonably necessary to maintain order, protect property, protect the health

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

and safety of pupils, or to maintain proper and appropriate conditions to learning. Punitive measures or corporal measures is not authorized or condoned.”

The job description can be characterized as being framed in a negative and judgmental manner of the students and community the school serves. There is no mention of supporting a positive school environment or the implementation of the School Wide Positive Behavioral Interventions and Supports (SWPBIS) for students. There is no mention of knowledge of working with diverse populations including SWDs, different race/ethnicities, or LGBTQ. The choice and order of the language around the use of exerting physical control to “maintain order,” prior to ensuring the safety of students and property, may be indicative of a culture that prioritizes social control over the intended function of CSOs, which is to ensure a safe learning environment.

A review of the school safety plans on school websites found many outdated plans, some of which had not been updated since the 2017-18 school year. Palmdale HS had a current safety plan that was selected to review the procedures for responding to suicides/threats.

The safety plan begins with a condensed summary of the types of emergencies and threats contained in the plan and then provides procedures for responding to the corresponding situations, which include: lockdowns, accidents, armed students in class, bomb threats, earthquakes, fires/explosions, gangs/fights/threatening groups, hostage situations, rapes, shootings/armed assailants, and suicides/threats. The review is intended to identify the role of school administrators, CSOs, SROs, and mental health professionals.

The first section states that when a student makes a verbal threat of suicide, the first contact made is to campus security or law enforcement. It adds that these individuals will contact the counselor and/or school psychologist and that no untrained person should assess the severity of the suicide risk. The counselor or psychologist is responsible for contacting the parent.

If a student on campus threatens suicide and has a lethal weapon in their possession, the safety plan informs the individual with the student to remain calm and try to get the student to make a verbal contract to not harm themselves. There is no guidance instructing the individual to contact either mental health professionals or law enforcement personnel. The only intervention mentioned is that an incident command post will be set up in addition to an off-site emergency operation center in conjunction with local law enforcement.

The procedural section of a suicide threat defines a suicide threat as a verbal or nonverbal communication that the individual intends to harm themselves. The staff member who first responded to the threat will stay with the student and immediately notify the administration. The principal or designee will involve student services/counseling staff, the school nurse, or other mental health professionals. The administration will then contact the parents and notify them of the situation and make recommendations. The recommendations are to be made in writing and mailed or emailed to the parent for “sign off.” If the student receives counseling,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the principal is to notify the student's counselor to inform them of the threat and actions taken.

The safety plan provides inconsistent guidance for responding to suicide threats, with the first section instructing the individual who discovers the threat to contact security and law enforcement. The procedural section places the responsibility on educators and mental health professionals, with the site administration leading the response. The role and emphasis on the mental health needs of the child are better addressed in the procedural section of the plan, with a higher reliance on these professionals and follow-up actions to help the student after the event.

A review of the Knight HS safety plan, which was also for the current year, found the exact same language and structure of the plan, which raises questions regarding the development of the plans and the stakeholders involved from the local sites.

### **Review of Quantitative and Qualitative Data Regarding Law Enforcement and Probation Referrals, Restraints, Searches, and Threat Assessments**

The primary focus of the review of quantitative data is associated with law enforcement referrals, restraints, and searches. This includes analysis of datasets provided specifically around instances of law enforcement referrals and restraints reported by schools to the central office, mainly through Google forms.

Other sources, such as IEP documents including manifestation determination review IEPs, expulsion packets and related documents such as incident reports, and out-of-school suspension (OSS) notice forms, were culled to develop master lists for law enforcement referrals, restraints, and searches, to obtain a more comprehensive look into the extent of these practices and to determine if underreporting exists.

Quantitative data on referrals to the probation officer, as well as searches and threat assessments conducted, were not provided and may not exist. Information collected and reported on searches were found in sources such as IEP documents as well as OSS notice forms, and other related disciplinary forms yielded some incident information. However, the lack of systematic reporting mechanisms quite likely means the events observed are an underestimation of these practices.

Disproportionality was calculated for law enforcement referrals but not for restraints due to the unavailability of districtwide general education restraint data.

Although the qualitative data captured information on limited areas, such as referrals to probation officers, the lack of quantitative data and direct communication with probation officers limit the ability to triangulate findings and make reasonable conclusions on the extent to which these practices are problematic or systemic. Similarly, the investigation did not enable access to SROs. However, referrals to law enforcement were widely discussed with central and site level staff. In addition, the breadth of qualitative data regarding law enforcement interactions with students provides a more comprehensive look and insights into

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

these contacts. Lastly, due to the broad scope of the CDE Complaint and investigation, issues around the practices of threat assessments were not prioritized, and as noted above, referral data were not provided.

The data and report mainly focus on restraints and not the act of seclusion. The reported uses of seclusion are almost zero, with only one incident found despite not being reported. Therefore, the report mainly uses the term restraint and omits seclusion for the ease of reporting.

### ***Review of Quantitative Law Enforcement Referral Data for the 2021-22 School Year***

Of the 196 law enforcement referrals reported for the purposes of Civil Rights Data Collection<sup>50</sup> (CRDC), 59.7% were issued to general education students and 40.3% to special education students (Table 6.1). Overall, Black students with and without disabilities make up the highest percentage (43.9%) of students referred to an SRO. Black disabled students account for nearly six out of ten (58.2%) special education students referred to law enforcement. White students make up one in five (19.7%) referrals of general education students.

Statistical differences in law enforcement referrals rates were found for the following: special education students compared to general education students ( $p < .001$ ); Black special education students compared to non-Black general education students ( $p < .001$ ); and Black special education students compared to non-Black special education students ( $p < .001$ ).

**Table 6.1**

*Distribution of Law Enforcement Referrals Reported to the CRDC by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	86	43.9	40	34.2	46	58.2
Hispanic	76	38.8	51	43.6	25	31.6
White	31	15.8	23	19.7	8	10.1
Other	2	1.0	2	1.7	0	0.0
Multiple Races	1	0.5	1	0.9	0	0.0
Total	196	100	117	100	79	100

The culling of various discipline data sources found many instances of students being referred to law enforcement. This includes references of referrals from the out-of-school suspension notice forms, expulsion packets and manifestation determination IEPs.

<sup>50</sup> The District reported that law enforcement referrals were only provided to the CRDC and not the State for the 2021-22 school year. This data will be submitted to the CDE beginning in the 2022-23 school year.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The data review identified a total of 209 references to law enforcement referrals, with general education students accounting for 54.1% and special education students making up 45.9% (Table 6.2). Black students with and without disabilities made up half (49.8%) of all referrals, with Black SWDs representing almost two-thirds of special education students referred.

The site level data does not identify students as having a multiracial code. The analysis relied on race/ethnicity indicators provided on source documents as well as made attempts to match students with the enrollment file data codes. This yielded no students in the multiracial category. In addition, four students did not contain any race/ethnicity or disability status information indicating a law enforcement referral nor could be matched with the fall enrollment file. These students likely matriculated after the October count. Although reported, these students were removed from the analysis.

**Table 6.2**

*Distribution of Law Enforcement Referrals Reported on Site Level Data by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	104	49.8	46	40.7	58	63.0
Hispanic	81	38.8	52	46.0	29	31.5
White	15	7.2	11	9.7	4	4.4
Other	5	2.4	4	3.5	1	1.1
Unknown	4	1.9	0	0.0	0	0.0
Total	209	100	113	100	92	100

To determine if underreporting occurred for the 2021-22 school year, the data obtained from site level discipline data sources were compared to the dataset reported to the CRDC. Of the 209 referrals found from site level sources, about three out of four (n=162 students, 77.5%) did not appear on the list of law enforcement referrals provided to the CRDC (Table 6.3). This is likely to be an underestimation of law enforcement referrals, since many schools did not provide all suspension notice forms, which was one of the primary sources of these data. Four students did not appear on the fall enrollment dataset; therefore, disability status and race/ethnicity could not be determined.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 6.3**

*Distribution of Law Enforcement Referrals Not Reported to the CRDC by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	82	50.6	42	43.3	40	65.6
Hispanic	63	38.9	43	44.3	20	32.8
White	9	5.6	8	8.3	1	1.6
Other	4	2.5	4	4.1	0	0.0
Unknown	4	2.5	0	0.0	0	0.0
Total	162	100	97	100	61	100

To establish a profile of law enforcement referrals, the CRDC and site level datasets were merged. This look consists of unduplicated students and removes 47 students who were found on site level documentation but reported on the referral lists and four students whose disability status and race/ethnicity could not be determined.

A total of 354 law enforcement referrals were identified, 82.6% more than reported as part of the CRDC (Table 6.4). Similar trends were noted in the distribution of referrals, with Black students with and without disabilities making up almost half (47.5%) of all law enforcement contacts. Black SWDs make up the majority (61.4%) of special education students referred.

**Table 6.4**

*Distribution of All Law Enforcement Referrals by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	168	47.5	82	38.3	86	61.4
Hispanic	139	39.3	94	43.9	45	32.1
White	40	11.3	31	14.5	9	6.4
Other	6	1.7	6	2.8	0	0.0
Multiple Races	1	0.3	1	0.5	0	0.0
Total	354	100	214	100	140	100.0

**Disproportionality in Law Enforcement Referrals.**

To examine disparities of law enforcement referrals between students with and without disabilities by race/ethnicity, the composition index, risk index, and risk ratio measures were used. These calculations are based on enrollment data from the 2021-22 school year. Due to the low numbers of law enforcement referrals for students from the other and multiracial race/ethnicity groups, these students were combined for ease of reporting.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

General education students comprise 60.5% of all law enforcement referrals and demonstrate a risk or referral rate of 1.2 (Table 6.5). This means that one out of 100 general education students are likely to experience a referral to an SRO.

Black students show the highest risk of all groups, with three out of 100 nondisabled Black students at risk for being referred to law enforcement. They make up 38.3% of all general education referrals but only 14.4% of the nondisabled population. This shows an overrepresentation of Black students in law enforcement referrals.

The relative risk ratio of 3.68 for general education Black students is consistent with significant disproportionality and exceeds the CDE's 3.0 threshold. This means that Black general education students are 3.68 times more likely to be referred to law enforcement than students from all other racial/ethnic backgrounds.

White students also show indications of being overrepresented in law enforcement referrals, with a composition index of 14.5% compared to their enrollment proportion of 9.9%. In addition, their risk ratio of 1.53 is indicative of being at risk for disproportionate overrepresentation.

**Table 6.5.**

*General Education Law Enforcement Referrals – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other and Multiple Races
Enrollment	18,518	2,672	12,663	1,842	1,341
(%)	83.0	14.4	68.4	9.9	7.2
Students Referred	214	82	94	31	7
Composition Index (%)	60.5	38.3	43.9	14.5	3.3
Risk Index (%)	1.2	3.1	0.7	1.7	0.5
Risk Ratio	0.31	3.68	0.36	1.53	0.43

Students with disabilities fare much worse in law enforcement referrals, with a risk of 3.7%, meaning that almost four out of 100 SWDs are likely to experience a referral to an SRO (Table 6.6). This risk, when compared to the risk of general education students (1.2%), results in a risk ratio of 3.19. Therefore, SWDs are 3.19 times more likely to be referred to law enforcement than their non-disabled peers.

Black SWDs make up 61.4% of all SRO referrals, with nine out of 100 Black special education students at risk for such referral. Their risk (9.0%) when compared to the risk of all other SWDs from different racial/ethnic groups results in a risk ratio of 4.71%. Black SWDs

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

are almost five times more likely to be referred to law enforcement than SWDs from all other racial/ethnic groups. These findings are indicative of significant disproportionality and far exceed the 3.0 threshold set by CDE.

**Table 6.6.**

*Students with Disabilities Law Enforcement Referrals – Composition Index, Risk Index, and Risk Ratio by Race/Ethnicity*

	Total	Black	Hispanic	White	Other and Multiple Races
Enrollment	3,793	959	2,187	364	283
(%)	17.0	25.3	57.7	9.6	7.5
Students Referred	140	86	45	9	0
Composition Index (%)	39.5	61.4	32.1	6.4	0.0
Risk (%)	3.7	9.0	2.1	2.5	0.0
Risk Ratio	3.19	4.71	0.35	0.65	0.0

The District also provided a different list of students with and without disabilities who were subjected to a law enforcement removal, meaning they were arrested, taken into custody, and transported to a detention center.

The list contained 27 students, consisting of 12 general education and 15 special education students. Of these, the majority were enrolled at four schools, Lancaster HS (n=15, 55.6%), Eastside HS (n=5, 18.5%), Desert Winds/Desert Pathways HS (n=3, 11.1%), and Quartz Hill HS (n=2, 7.4%). Only one student was removed from Antelope Valley HS and one from Knight HS, and none were reportedly taken into custody at Palmdale HS or Littlerock HS. The distribution of these removals raises questions regarding the accuracy of the data, since it would be expected that all schools would have students taken into custody, particularly given the number of suspensions and law enforcement referrals found at all comprehensive sites.

A comparison of the removal list and the general law enforcement referral lists only found two general education and five special education students with corresponding entries, meaning that 20 of the students who were reported as being removed did not appear on either law enforcement referral list<sup>51</sup>.

The investigation found from other sources, such as expulsion files, behavioral emergency reports (BERs), incident reports, and the general education law enforcement file which

---

<sup>51</sup> As noted earlier, the District provided separate law enforcement lists for students with and without disabilities.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

contains a column for reporting student removals, that an additional seven students were identified as being removed.

A total of 34 removals could be verified, and Black students with and without disabilities made up more than half (55.9%) of these removals, thereby demonstrating overrepresentation in school removals. Black SWDs made up 60.0% of SWDs, and Black nondisabled students accounted for half (50.0%) of students arrested and taken into custody, in their respective disability categories (Table 6.7).

White general education students also appear overrepresented compared to their enrollment proportions.

**Table 6.7**

*Distribution of School Removals by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	19	55.9	7	50.0	12	60.0
Hispanic	9	26.5	3	21.4	6	30.0
White	6	17.7	4	28.6	2	10.0
Multiple Races	0	0.0	0	0.0	0	0.0
Total	34	100	14	100	20	100
Disability Status (%)	100		41.2		58.8	

Data were compiled from the general and special education law enforcement files, the student removal lists, and other sources, such as BERs, incident reports, and expulsion files to create a master list of students arrested. Due to the small numbers for each group, disproportionality measures were not calculated.

Table 6.8 shows the number of students arrested and those removed from campuses with a total of 110 students arrested and 34 resulting in students being taken into custody. Of these, general education students comprised 63 (57.3%) of the arrests, with special education students accounting for 47 (42.7%). Therefore, SWDs show overrepresentation in arrests when compared to their respective enrollments (42.7% compared to 17.0% special education enrollment).

Of the 354 total law enforcement referrals found during this investigation, arrests were issued for 31.0% (n=110) of these contacts. Black SWDs made up 55.6% of all arrests of special education students, while Black nondisabled students made up 36.7% of general education students arrested. These figures are representative of overrepresentation in school related arrests for Black students with and without disabilities.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

However, the review of several sources of site level data contributed to the identification of these arrests and removals; therefore, it is likely that a further review of additional data, such as incident reports and SRO files, would yield more students arrested and removed.

For example, one SWD listed on the law enforcement referral file for special education students was listed as having a student conference only; however, suspension documents included a BER and incident report for this student with information that the student had been restrained, arrested, and taken into custody for an incident matching the same date on the referral list. Although the student did appear on the removal list, it was for an incident in May, while the unreported incident occurred in August.

As noted above, 82.6% of the law enforcement referrals were identified from sources other than the files provided by the District, which implies that in addition to an underreporting of referrals, it is highly likely that more students were subjected to an arrest and removal.

**Table 6.8**

*Distribution of Student Arrests and School Removal by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		Removed				Arrested Only			
			General Education		Special Education		General Education		Special Education	
	n	%	n	%	n	%	n	%	n	%
Black	52	47.3	7	50.0	12	60.0	18	36.7	15	55.6
Hispanic	44	40.0	3	21.4	6	30.0	25	51.0	10	37.0
White	13	11.8	4	28.6	2	10.0	5	10.2	2	7.4
Multiple Races	1	0.9	0	0.0	0	0.0	1	2.0	0	0.0
Total	110	100	14	100	20	100	49	100	27	100

The District compiles school crime data as part of the school safety plans prepared for each site. The plans do not provide a description of the methods used to report this data, nor do they include information on the race/ethnicity or disability status of these law enforcement contacts.

The data were included for comparative purposes to gauge the accuracy of referral and arrests reported for the 2021-22 school year. Table 6.9 provides law enforcement contacts for the 2018-19 school year. The data clearly show a high reliance on SROs and truancy officers or Child Attendance and Welfare (CAW) personnel in the disciplinary landscape at schools. The number of crime reports, arrests, and citations clearly surpass the number of law enforcement referrals documented for the 2021-22 school year. The number of reports made appear more in line with the number of combined law enforcement referrals found as part of the investigation (395 reports in 2018-19 compared to 354 referrals in 2021-22).

The number of citations at Palmdale HS stands out with all 224 issued for truancy related infractions. Although this may or may not have involved the SRO, these citations require

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

students to become involved in the legal system. The high number of truancy citations at one school should raise concerns among senior leadership and the Board of Education about the schoolwide programs and efforts to address poor attendance at Palmdale HS.

Finally, the number of students arrested is alarming but particularly for students who attend Antelope Valley HS and Quartz Hill HS. These numbers also raise concern over the validity of the law enforcement referral and arrest data reported for the 2021-22 school year, particularly since there has been no reported districtwide initiatives to address law enforcement referrals, meaning that any reduction in referrals and arrests reported for the previous school year are likely not attributed to a districtwide intervention.

**Table 6.9**  
*School Crime Data for 2018-2019 School Year by School*

School Name	Reports		Arrests		Citations	
	n	%	n	%	n	%
Antelope Valley HS	63	15.9	76	22.2	23	4.8
Desert Pathways HS	29	7.3	22	6.4	25	5.2
Desert Winds HS	29	7.3	22	6.4	25	5.2
Eastside HS	31	7.8	30	8.7	0	0.0
Highland HS	39	9.9	19	5.5	1	0.2
Knight HS	17	4.3	19	5.5	47	9.8
Lancaster HS	31	7.8	29	8.5	39	8.1
Littlerock HS	16	4.1	11	3.2	29	6.0
Palmdale HS	26	6.6	27	7.9	224	46.5
Phoenix CDS	29	7.3	22	6.4	25	5.2
Quartz Hill HS	56	14.2	44	12.8	19	3.9
R. Rex Parris HS	29	7.3	22	6.4	25	5.2
SOAR HS	0	0.0	0	0.0	0	0.0
Total	395	100	343	100	482	100

**Data on Restraints.**

When a SWD is subjected to a restraint or seclusion, the District is required to document the incident on a behavioral emergency report (BER) that requires schools to provide information such as a description of the incident and student’s behavior, the type of physical intervention involved, whether the student has a behavioral intervention plan (BIP), and the follow-up actions required to notify the parent and report the incident to the central office and SELPA.

The reporting of general education students is documented using a behavioral restraint or seclusion report. This report differs from and requires less information than the BER used for SWDs. The behavioral restraint or seclusion report can also be used for SWDs but instructs schools to also complete a BER when a student has been identified as receiving special education services.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The District submitted a restraint list of 36 SWDs but, despite a request, did not provide a list of general education students. This limits the ability to examine if disparities exist between general education and special education students in restraints.

To determine the extent of the use of restraints, several data sources were reviewed to identify students who had been restrained or secluded. In addition to the list of SWDs restrained, a separate file of 30 BERs were provided, with 20 of these students not appearing on the list. An additional 13 BERs or behavioral restraint or seclusion reports for students with and without disabilities were found in the out-of-school suspension (OSS) records submitted by schools or expulsion files. Other sources used to identify the use of restraints include manifestation determination review IEPs and suspension notice forms.

Restraints were identified by the issuance of a BER, behavioral restraint or seclusion report, or documentation that described a student being restrained or handcuffed by security, staff, or an SRO. Although many students who were arrested were likely to have been handcuffed, these students were not included if there was no specific information regarding the use of a physical or mechanical restraint. Therefore, this data are likely an underestimation of the number of students restrained.

In total, 103 instances of restraint and one seclusion were found (Table 6.10). Due to the incomplete reporting and identification of general education students restrained, comparisons should not be made for determining disparities between SWDs and their nondisabled peers. General education data are clearly underreported; however, the small sample of identified data is included to illustrate that nondisabled Black students are more likely to experience a restraint.

The data for special education students clearly illustrates that Black SWDs are restrained at much higher rates than SWDs from all other races/ethnicities. Three out of four (76.5%) restraints were carried out on Black SWDs, which is indicative of a clear overrepresentation of Black SWDs being restrained compared to all other SWDs.

**Table 6.10**

*Distribution of Restraints by Disability Status and Race/Ethnicity*

Race/ Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	74	71.8	9	56.3	65	76.5
Hispanic	22	21.4	5	31.3	17	20.0
White	5	4.9	2	12.5	3	3.5
Unknown	2	1.9	0	0.0	0	0.0
Total	103	100	16	100	85	100

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Analysis of BERs and Non-BER Forms.***

Restraint data were collected and analyzed from 32 behavioral emergency reports (BERs), three Behavioral Restraint and Seclusion Reports typically used for general education students, and two Use of Force Incident Reports that are required for all incidents resulting in the use of handcuff restraints on students. Although some students had multiple forms, the five incidents reviewed using non-BER forms did not contain an accompanying BER.

The BER requires staff to collect general demographic information, such as the name, age, primary eligibility, race/ethnicity, and grade of the student and the name of their school. In addition, the person completing the report must provide their title and the type of report submitted (i.e., BER and/or incident report).

The form requires staff to describe the student's behavior and the incident in four sections: anxiety/defensive, risk behavior, tension reduction, and injury. The staff's response is also described in four sections: prevention, intervention, debriefing, and action taken.

The interventions are broken into two groups, those physical and non-physical interventions that do not require a BER such as clearing an area of lower-level holds, and those that are considered medium- or high-level restraints, such as a team control position, children's control position, and requiring a BER. The form requires staff to report on the duration of the restraint.

The form also collects information related to any injuries to the student or staff and if medical attention was provided and the six administrative actions regarding the notification to parents, scheduling an IEP meeting to review or develop a BIP, and data maintenance and reporting.

The Behavioral Restraint and Seclusion Report is generally used for general education students and collects information such as: general categories to describe the incident (i.e., fight, student unrest, battery), student demographics, staff involved, law enforcement referrals, 504 and special education status (but does not require specific eligibility categories), English language learner status, and if physical and/or mechanical restraints and/or seclusion were employed. This form also requires information regarding who physically and/or mechanically restrained and/or secluded the student.

The form provides instruction that if student receives special education services, discontinue filling out the form and contact the vice principal responsible for special education to complete the BER form. The form also collects follow-up information regarding if and when the sheriff/probation departments were contacted, if anyone was injured, and if mental health professionals were notified.

The Use of Force Incident Report collects information regarding student demographics, staff involved, description of dangerous behaviors, staff response, if the student was handcuffed, law enforcement involvement, and if witnesses were involved. Follow up information on this report requires staff to record if the incident was reported to the director of security, if sheriff/probation officers and parent/guardian were contacted, and if any injuries occurred.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

It is important to point out that the following analysis is based on incidents of restraints for SWDs that contained one of the three forms used to collect such information. This does not represent the additional 85 SWDs who were identified as having been restrained as a result of multiple data collection activities for this investigation. In addition, during the investigation, the District did not mention the Use of Force Incident Report and was therefore not requested. It is likely that a review of these forms would identify a higher number of SWDs subjected to being mechanically restrained.

Thus, this review and analysis is limited to those instances of restraint where a BER was provided. Although patterns identified are consistent with many of the findings that are indicative of inequitable practices perpetuated mainly against Black SWDs, these findings are likely to be a considerable underestimation of restraints, including the use of handcuffs on students. The lack of BERs made available and the number of cases found further suggests that these practices are underreported to parents as well as the SELPA and State.

Table 6.11 provides an unduplicated look of those SWDs who had a BER by disability category. A total of 31 students accounted for the 37 events with a BER. Two students had multiple BERs, with one student with autism having six BERs and another student with autism having two.

The table also breaks down the racial/ethnic makeup of the students with documented restraints. Black students comprise two-thirds (64.5%) of the students with BER/non-BER forms.

Students with learning disabilities made up about a third (32.3%) of all documented restraints. Students with ED and OHI made up 42.0% of students restrained. Although students with autism only show four students, they represent 10 total events, with one Black student having six BERs and a Hispanic student having two.

As noted, the non-BER forms do not collect disability category information and only have a basic indicator to identify if the student receives special education services. On some BER forms, this information was filled in with program information such as RSP instead of the eligibility of the student. A total of four forms did not indicate (NI) eligibility information.

**Table 6.11**

*Distribution of Restraint by Disability Categories and Race/Ethnicity*

Unduplicated Total			Autism		ED		OHI		SLD		NI	
Race/ Ethnicity	n	%	n	%	n	%	n	%	n	%	n	%
Black	20	100	3	15.0	5	25.0	4	20.0	6	30.0	2	10.0
Hispanic	9	100	1	11.1	2	22.2	1	11.1	3	33.3	2	22.2
White	2	100	0	0.0	0	0.0	1	50.0	1	50.0	0	0.0
Total	31	100	4	12.9	7	22.6	6	19.4	10	32.3	4	12.9



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

BER forms contain an indicator to identify if the restrained student had an active BIP. This analysis coded the six non-BER forms that did not contain any reference to the student's BIP as NI. The analysis of the 31 unduplicated students found 38.7% had a BIP, 41.9% did not have a BIP, and no information was included for 19.4% (Table 6.12).

**Table 6.12**

*Distribution of SWDs Restrained with BIPs by Race/Ethnicity*

Unduplicated			Yes		No		NI	
Race/ Ethnicity	n	%	n	%	n	%	n	%
Black	20	100	8	40.0	9	45.0	3	15.0
Hispanic	9	100	3	33.3	3	33.3	3	33.3
White	2	100	1	50.0	1	50.0	0	0.0
Total	31	100	12	38.7	13	41.9	6	19.4

Table 6.13 shows the distribution of two types of restraints used on students. Students can be subjected to both forms of restraints, with a total of 55 combined restraints reported for the 37 events. Of these, 33 (89.2%) included a physical restraint while 22 (59.5%) reported a mechanical restraint which typically refers to handcuffing.

**Table 6.13**

*Distribution of Types of Restraints by Race/Ethnicity*

Race/ Ethnicity	Total		Physical				Mechanical			
			Yes		No		Yes		No	
	n	%	n	%	n	%	n	%	n	%
Black	26	100	24	92.3	2	7.7	14	53.8	12	46.2
Hispanic	9	100	7	77.8	2	22.2	7	77.8	2	22.2
White	2	100	2	100	0	0.0	1	50.0	1	50.0
Total	37	100	33	89.2	4	10.8	22	59.5	15	40.5

The BER form makes a distinction between low and medium/high types of physical interventions. The form instructs schools that low level restraints do not require a BER, A student can have both low and med/high level physical interventions applied and reported.

The form also requires schools to identify all of the physical interventions used. Table 6.14 shows the number of low and medium/high restraints used per event. Two events were found with low (0) level physical interventions. The majority of BERs reported using one (40.5%) or two (40.5%) medium/high level restraints. Three or more medium/high level physical interventions were reported for 13.5% of the events.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

One student was physically restrained, mechanically restrained, and secluded. The secluded information was not in the BER, but it was indicated on the Behavioral Restraint and Seclusion Report for the same incident with the SRO listed as the individual responsible for secluding the student. In addition, this seclusion was not reported by the District on the list provided as part of this investigation.

**Table 6.14**  
*Distribution of Low and Medium/High Restraints by Race/Ethnicity*

			Number of Low and Medium/High Restraints									
			0		1		2		3		4	
Race/ Ethnicity	n	%	n	%	n	%	n	%	n	%	n	%
Black	26	100	2	7.7	10	38.5	11	42.3	3	11.5	0	0.0
Hispanic	9	100	0	0.0	4	44.4	3	33.3	1	11.1	1	11.1
White	2	100	0	0.0	1	50.0	1	50.0	0	0.0	0	0.0
Total	37	100	2	5.4	15	40.5	15	40.5	4	10.8	1	2.7

The BER form requires school officials to include a description of the “risk behavior” the student was exhibiting that justified the use of the physical or mechanical restraint. On the older version of the BER, this is referred to as the “dangerous behavior.”

Risk behaviors were coded as “specific” if the behavior was operationalized, such as “punched the campus supervisor in the face” or “biting and hitting himself.” Behaviors were categorized as “general” if the behavior was not operationalized and contained general descriptions that were not directed at a student, staff, or property, such as “fighting, increasingly aggressive” or “self-harm, injury to peers and adult staff.”

The three Behavioral Restraint and Seclusion Reports were categorized as general since the dangerous behaviors were not described and the person filling it out simply checked all the boxes that applied to the incident (e.g., “major disruption threats”) but did not include a narrative of describing the event.

Slightly more than half of the reports (54.1%) contained specific language to describe the risk behavior, while 37.8% had general descriptions. Two BERs indicated no dangerous behaviors were exhibited while in one BER this section was left blank. Lastly, only four of the 37 reports contained a description of the risk behavior that could be deemed an emergency (Table 6.15).

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 6.15**

*Distribution of Risk Behavior Type by Race/Ethnicity*

Race/ Ethnicity	Total		Specific		General		No Risk		NI	
	n	%	n	%	n	%	n	%	n	%
Black	26	100	13	50.0	11	42.3	1	3.8	1	3.8
Hispanic	9	100	6	66.7	2	22.2	1	11.1	0	0.0
White	2	100	1	50.0	1	50.0	0	0.0	0	0.0
Total	37	100	20	54.1	14	37.8	2	5.4	1	2.7

This analysis looked at the “team members involved with intervention” as listed on the BER, and the “names of staff involved” on the Behavioral Restraint and Seclusion Report.

Variability was noted in the number of staff listed for some students with more than one form. As an example, for one student, the BER only listed one person (the administrator) while the Behavioral Restraint and Seclusion Report listed five people involved: the two CSOs and CAW (truancy officer) who physically restrained him, the CSO that mechanically restrained him, and the deputy who put him in seclusion. This student had a total of five (coded as four+) staff involved since the administrator listed on the BER was not present during the incident.

Over half (54.0%) of the forms indicated three to four adults were involved in the physical intervention (Table 6.16).

**Table 6.16**

*Distribution of Number of Staff Involved in Physical Intervention by Race/Ethnicity*

Race/ Ethnicity	Total BERS		One		Two		Three		Four+		NI	
	n	%	n	%	n	%	n	%	n	%	n	%
Black	26	70.3	2	66.7	5	50.0	12	80.0	4	80.0	3	75.0
Hispanic	9	24.3	1	33.3	4	40.0	3	20.0	0	0.0	1	25.0
White	2	5.4	0	0.0	1	10.0	0	0.0	1*	20.0	0	0.0
Total	37	100	3	100	10	100	15	100	5	100	4	100
	Total		3	8.1	10	27.0	15	40.5	5	13.5	4	10.8

\*One student had five adults involved in his restraint

The review also collected information on the number of students and staff reported as injured and if medical attention was provided, identifying a total of 10 incidents where staff were injured and 4 incidents where students were injured. More than one-third (37.8%) did not include any information on any injuries to students or staff, while the remaining forms indicated no injuries occurred as a result of the restraint.

The BER forms contain six action steps for administrators to initiate or complete after the physical intervention. Two are related to scheduling an IEP for a student without a BIP, and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

for those with a BIP, a referral to the IEP team for considerations to modify the plan is included. These entries were combined since only one action is required. Listed below is the percentage of completion for each action across the 31 BERs reviewed based on information shown in the checkboxes or dates included:

- Notification to parents within 24 hours – 77.4%
- Parents contacted by administrator or teacher – 90.3%
- Appropriate BIP referral – 61.3%
- Copies to student file and SELPA – 51.6%
- Date BER sent to SELPA – 48.4%

To provide a better understanding of the events, including the student's behaviors that triggered staff and CSOs to engage in physical interventions, a few examples are included as case studies for the purpose of highlighting the ineffective and questionable practices when restraining children. These examples will also point out inconsistencies in documentation.

### ***Case Studies of Restraints from BER Forms.***

One of the more concerning cases was observed for a Black student with autism whose IEP contained a BIP. Despite this behavioral support, he had six BERs submitted. Four of his restraints occurred during breakfast or lunch for the following reasons: he became upset because there was no chocolate milk available, he became upset when he requested additional food for lunch, he became upset because he disliked the food options offered, and he became upset after being redirected by staff from yelling in a peer's ear. The two other incidents occurred during structured and unstructured activities when the student became upset about not earning the desired incentive.

In each case, the form included (with minor variations) "self-harm, injury to peers and adult staff, attempt to escape (elope)" as the risk behavior to describe the threat or emergency behavior that justified the restraint. In all instances, staff used a medium/high level intervention, specifically the team control position restraint.

None of the six forms contain language describing an actual threat or emergency situation that would justify the use of a team control position restraint. In addition, the scenarios describe predictable triggers and behaviors that could be easily identified by a functional behavioral assessment or even an ABC analysis that identifies the antecedents, target behavior, and consequences that reinforce the behavior. The fact that this student with a BIP as part of his IEP had six restraints reported, and possibly more that were not reported, is indicative of a poorly designed and/or implemented BIP. This case is indicative of the use of restraints in lieu of a systematic behavior intervention plan, which is prohibited by education code and the IDEA.

The next case study shows the use of multiple restraints when responding to a student engaged in a verbal dispute with another student. The following description is from the BER form:

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

When CSO One responded to a heated argument between Student One and another student, she attempted unsuccessfully to verbally redirect the student. She (CS One) then attempted to guide Student One away from the area using a lower-level hold, but Student One kept trying to go back to the scene. CSO Two arrived and tried a medium level hold to escort Student One away. However, Student One became more physically and verbally aggressive attempting to break free from the NCI hold. The CSOs began escorting her away from the area but she continued increasing her aggression and profane volume.

As CSO Two began using a higher level hold to continue escorting Student One to the security office, she stopped near the rails by the cafeteria, starting kicking the CSOs, broke free from the hold and attempted to climb over the rails to get away. CSO Two attempted to continue a higher level NCI hold but was not able to do so. CSO One was able to handcuff Student One and both CSOs escorted Student One to the security office.

This case contains a thorough description of the incident in response to a heated argument between two students. The description does not include any language that indicates the students were about to engage or had been engaged in a physical altercation, nor does it state that any threats to fight were exchanged. It simply describes the scenario as a heated argument. The second responding CSO used a medium level hold to escort or remove the student from the area, escalating the student which became “physically and verbally aggressive” in an attempt to avoid the CSO’s physical intervention. The situation progressively escalated, resulting in the student being physically restrained until mechanical restraints were used to subdue the child.

The description did not mention additional attempts (other than the initial) to deescalate the student by using words or providing the student options. The initial situation was not described as being indicative of an immediate threat to cause harm to the student or others, nor does it appear to constitute an emergency. As described, the student was defiant of the CSO’s directives, which seemed to be the trigger for the security personnel’s decision to engage in physical restraint, eventually leading to the student being handcuffed.

The last case is another example of staff escalating a student when the student clearly articulated their needs. The BER states:

Student was visibly upset by student’s 1:1 aide; he verbally warned adults to stay away from him; he made physical threats to cause harm; his body language included physical posturing and rolling his fists up; he was defiant when receiving direction from adults; the height of escalation included physically shoving his 1:1 aide with both hands.

The student clearly states that he wants adults to keep a distance from him. Although physical posturing and making verbal threats to cause harm are worrisome, these behaviors

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

do not constitute an emergency. He appeared to be defiant to continued adult instructions, which resulted in him pushing his aide.

Although the student made a clear demand to have adults maintain a distance, it appears that this situation was more about controlling the student rather than deescalating him. It is unclear why staff did not maintain a safe distance from the student until he deescalated and became regulated.

Some additional observations from the BERs include the inconsistent recording of events across forms. As noted above, only one seclusion incident was identified. This incident was documented across three separate forms, including two BERs, one older version with a revised date of 2015 and the other version dated 2018, and a Behavior Restraint or Seclusion Report. The two BERs contain almost no information for the reason the child was restrained but both used the same descriptive words— “nervous” to describe the escalation stage and “running from staff defiantly” as the risk or dangerous behavior. No other description was included.

The general education form contains the following checked boxes to describe the incident: fight, battery, major disruption threats, and words and actions. This form indicates the student had been secluded by the SRO.

It is unclear how such discrepancies can exist across reports for the same event. The BERs do not contain language that would imply the student, staff, or property were in danger or an indication that would suggest an emergency situation. This raises concerns regarding the oversight by site level administrators and senior level leadership responsible for collecting and reporting the data. This example is evidence of systemic shortcomings that result from a lack of policies and procedures for monitoring these incidents and holding schools accountable.

Lastly, four BERs contained descriptions of incidents where restraints were used as a result of escalation stemming from security’s insistence on searching a student or their belongings. In one case, campus security reported observing an odor of marijuana on a student, where he was confronted and escorted away from other students by security, SRO, and administrators. The BER then reports:

After the student was informed he would be searched, he became aggressive and eventually threw his backpack to the floor telling staff they could search it. When CSO (campus security officer) asked the student to turn around so they could conduct a cursory search of his person, the student’s aggression increased and he was handcuffed for his own safety and that of others.

The review of site level suspension notice forms, MDR IEPs, and expulsion packets noted many instances in which security told students to go to class and when students defied their orders, CSOs approached students and demanded to search their belongings. Similar scenarios were noted when students were in the bathroom and CSOs conducted sweeps and asked students to search their belongings. In many of these instances, security wrote in their

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

statements that they decided to handcuff the student prior to searching their belongings for “their safety” as well as the safety of others. These restraints escalated students who expressed feelings of being violated, as well as those with who became anxious because they possessed contraband, in particular vape pens.

These searches appear to have been triggered by a student’s defiance or potentially as a method used by CSOs to profile or harass certain students who they knew were likely to be in possession of contraband, even though the initial contact was not about student misconduct other than being away from class.

Overall, the BER analysis found questionable uses of physical interventions, with only four of 37 including a description of the risk behavior that could be deemed as an emergency. The use of multiple holds with numerous staff involved for unique events is troublesome and calls into question the training and effectiveness of CSOs and staff for deescalating situations and determining actual threats or emergencies that would justify the use of these physical interventions. While this analysis is based on the documented evidence on BER and non-BER forms, the lack of and inconsistent documentation of these traumatic events and use of physical intervention is indicative of poor training and oversight by school administrators for ensuring the use of restraints, including handcuffing students, only occurs during emergency situations or when students pose a significant risk to themselves, others, or damage to property that may result in significant risk of harm.

The CDE Complaint includes allegations about the adequacy of CSO and staff training. The investigation did not validate the training attendance or current status of NCI certification of staff, nor did it include a review of data or investigative reports to determine if restraints were carried out using techniques consistent with NCI training. However, the BERs reviewed, poor and inconsistent documentation of these events, many instances of restraints including handcuffing that were not reported, and disproportionate overrepresentation of Black SWDs clearly indicate inconsistent and unchecked practices by staff. Even if staff have participated in the necessary training and hold current certifications, the de-escalation of situations does not appear to be the priority of CSOs in particular. Certifications and trainings must translate into effective practices that are evidenced by data.

The CDE Complaint also alleges that the District permits CSOs to carry and use handcuffs that they procure themselves. The Complaint raises concerns regarding the District’s failure to ensure that these mechanical restraints are safe and compliant. The preponderance of adults carrying handcuffs on campuses is disturbing and not the norm for comprehensive high school campuses. Comprehensive sites have between 8-12 security personnel with these mechanical restraints. As noted in the previous section, during the MDR focus group, school psychologists were asked if they had worked on high school campuses in other districts and then were asked if security personnel carried handcuffs. One participant responded that at her previous district security personnel did not carry handcuffs, adding “but that was a district in San Diego.” This type of response is indicative of placing the blame for this type of policing on children and the community, rather than the systemic and structural

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

deficiencies that lead to such traumatic and violent practices that have become the status quo.

To reiterate, EC Section 49005 contains the Legislature's findings and declaration on the use of restraint and seclusion for cases that require physical intervention to address an emergency situation to prevent a pupil from imminent risk of serious physical self-harm or harm of others. It indicates the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and to be free from abuse and must be used as a *safety measure of last resort* and never used as punishment or discipline or for staff convenience. In addition, the Legislation acknowledges that SWDs and students of color, especially Black, are disproportionately subjected to restraint and seclusion. In addition, EC Section 49005.4. limits seclusion or a behavioral restraint to only be used when deemed necessary to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.

The practices observed in many cases did not contain clear descriptions of risk behaviors or attempts to deescalate the situation that would satisfy the intent and mandates of these regulations. In addition, the lack of awareness of the disproportionate impact of restraints on Black SWDs by site level and senior officials perpetuates the posture of deniability that the District engages in inequitable practices that negatively affect Black students and SWDs.

### ***Cost of School Counselors, Psychologists, and Mental Health Professionals compared to Security Personnel and SROs.***

The following analysis examines the District's cost for professionals dedicated to providing special education, counseling, and mental health support services compared to costs associated with campus security and SROs.

The District employs 69 school counselors, 21 school psychologists, four mental health psychologist/therapists, and one administrative coordinator of psychological services. A total of 96 professionals costs \$12.5M (Table 6.17).

Based on these titles, mental health professionals only account for four positions, including two psychologists mental health ACM, one psychologist ERICS ERSS, and one mental health therapist, amounting to approximately \$535,000.00.



Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 6.17**

*Number and Costs of Psychologists, Counselors and Mental Health Professionals*

Job Title	Number of Positions	Total Cost
Coordinator of Psychology Services	1	\$ 182,892.81
Psychologist Mental Health ACM	2	\$ 327,025.97
Psychologist	21	\$ 2,641,756.54
Psychologist ERICS/ERSS	1	\$ 134,705.77
Counselor Program Coordinator	1	\$ 170,106.61
Guidance Counselor	57	\$ 6,996,212.143
Head Counselor	12	\$ 1,976,791.49
Mental Health Therapist	1	\$ 73,192.52
Total	96	\$12,502,683.85

Security and SRO positions account for a cost of \$8.07M for 123.4 positions (Table 6.18). A total of nine SROs are assigned to schools full time, with two supervisory roles allotted for 0.7 full-time equivalency (FTE). The majority of personnel consist of lower level campus security officers and substitute officers who appear to also have a role with the maintenance and operations department.

**Table 6.18**

*Number and Cost of Security Personnel and SROs*

Job Title	Number of Positions	Total Cost
Campus Security Supervisor	76	\$4,610,262.67
Campus Supervisor 1	7	\$562,722.99
Substitute Security/M & O	29	\$959,787.272
Office Custodian/Security	1	\$67,350.79
Deputy Generalist	9	\$1,578,727.35
Deputy. Bonus 1, (Supervisory)	0.7	\$133,786.60
Sergeant, (Supervisory)	0.7	\$159,532.07
	123.4	\$8,072,169.74

Table 6.19 breaks down the costs by the number of positions for four groups: school psychologists and mental health therapists, school counselors, SROs, and security personnel. The cost of security personnel is \$2.84M more than the cost of school psychologists.

On average, the cost of a school psychologist is \$129K, which is comparable to a counselor that costs \$130K. On the other hand, the average cost of an SRO is \$180K while campus security personnel cost an average of \$55K.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The cost of SROs is considerably higher than the cost of professionals who possess more schooling and training in working with SWDs and those with mental health needs. The services agreement contract with the Sheriff’s Department only covers the regular school year; therefore, these costs are likely to be higher when procuring SROs during the summer session or extended school year.

Security personnel make up a higher number of FTE District employees than school counselors and psychologists. The total cost of security personnel is 85% higher than the cost of school psychologists/mental health therapists. In addition, the cost of 10 SROs is more than half (57%) of the cost of 26 school psychologists and mental health therapists.

**Table 6.19**  
*Number and Costs of Positions by Job Title*

Job Title	Number of Positions	Total Cost
SROs	10.4	\$1,872,046.02
Security Personnel	113	\$6,200,123.72
School Counselors	70	\$9,143,110.24
School Psychologists/ Mental Health Therapists	26	\$3,359,573.60

EC Section 38000(e) states the intent of the Legislature to evaluate the presence of peace officers and other law enforcement on school campuses and to identify and consider alternative options to ensure pupil safety based on the needs of the local school communities. *The Legislature encourages LEAs to use school resources currently allocated to such personnel, including school police departments and contracts with local police or sheriff departments, for pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice, as needed, if found to be a more appropriate use of resources based upon the needs of the pupils and campuses that serve them.*

The allocation of resources to the security program, including the services agreement contract with the Sheriff’s Department should be reevaluated and scrutinized. The high use of restraints and searches, law enforcement referrals, and school related arrests are not a new phenomenon in the District. The CDE Complaint included data for several years that shows a reliance on policing of students by CSOs and SROs that perpetuate high rates of student discipline and criminalization of misconduct, fueling the school-to-prison pipeline. The common occurrence of searches and use of handcuffs, as well as other physical interventions, are not reflective of the standard expectation at comprehensive high school campuses in the state or nationally. These practices and negative outcomes are consistent with the research literature on the use of exclusionary discipline, SROs, and school policing that disproportionately impact students of color and SWDs.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The review of CDE achievement data, as well as the patterns of low academic achievement and high rates of credit deficiencies observed in the file reviews of MDR IEPs, expulsion packets, and suspension documents, indicates a failed and underachieving instructional program that contributes to these problems. In addition, the MDR reviews found a low level of counseling and behavioral supports in students IEPs, with many students only receiving 15 to 30 minutes of counseling per month. Such a low level of counseling support is not consistent with best practices and clearly does not meet the needs of SWDs who are continuously suspended and endure long-term removals.

The CCEIS process aims to guide districts in identifying the root causes of disproportionate overrepresentation in school discipline. The District identified two root causes as low academic achievement and inconsistent implementation of MTSS and PBIS. Although the CCEIS Plan does not identify the systemic shortcomings that result in underservicing students with counseling and mental health supports, these areas should be prioritized.

As required by EC Section 38000(e), districts are encouraged to evaluate the presence of SROs and security personnel on school campuses and to identify and consider alternative options to ensure pupil safety based on the needs of the local school communities. It further encourages districts to examine and reevaluate the:

use of school resources currently allocated to such personnel, including school police departments and contracts with local police or sheriff departments, for pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice.

The data presented in this report, as well as historical data, are indicative of persistent failures to provide positive behavioral supports, promote a sound instructional program, and ensure safer, less hostile campuses. Policing by SROs and CSOs has not been an effective solution, despite a considerable financial commitment to these positions. The prioritization of these security programs maintains a culture and status quo of over policing students and placing blame on students and the community rather than acknowledging the systemic and structural deficiencies that have failed to address the behavioral and mental health needs of students, in particular, those from the most vulnerable groups.

### ***Review of Qualitative Data, including Feedback from Site Visits, Parent Surveys, and Interviews with District Staff***

To develop a better understanding of the referral process for law enforcement and probation officers, the role of the CSOs, and the use and reporting of restraints, qualitative data collection efforts included site visits, a telephone survey of parents, and various meetings and focus groups. In addition, observations of the various tracking mechanisms are included in this section to highlight the shortcomings of the documentation and data maintenance procedures and practices.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### **Feedback of School Officials from Site Visits.**

School officials reported the primary role of the SRO is to respond to criminal conduct regarding penal code violations. Schools varied in describing other roles of their SRO, ranging from co-teaching classes or giving presentations to providing or facilitating medical or mental health support, such as threat assessments. Site administrators also noted that SROs' presence on campus helps with student safety and repairing community relationships, including intervening with "angry parents." One school reported the SRO provides training on handcuffing, threat assessment, and active shooter scenarios. Another school gave a conflicting account of the role of the SRO in student discipline or suspension, noting no involvement in disciplinary actions but involvement in the investigation of misconduct and education code violations.

Law enforcement referrals are made when students engage in potential penal code violations. Examples given include when students are in possession of weapons or vape pens (drugs), fighting, cause bodily injury, and require threat assessments.

Administrators and campus security officers (CSO) can make referrals to the SRO, typically when their investigation of misconduct appears to be in violation of the penal code. The determination of criminal conduct is up to the discretion of school administrators or CSOs. One school noted that formal referrals are made when a penal code violation is found and informal referrals occur for potential violations. At another school, the head of security shared that sometimes investigation reports are informally placed in the SRO's office and the determination for involvement is placed on the deputy. Another site administrator stated that SROs know the difference between education code and penal code violations, and they choose when to become involved. This same site reported that when the referral is made for SWDs, the IEP document is not shared with the SRO.

When students are referred to law enforcement, parents are notified by telephone by the site administrator and the deputy. The parent is requested to come to the school to pick up their child. Two sites reported that a parent can refuse the SRO referral, while another noted that once a referral has been made, the deputy can independently talk with the student or pursue the matter. Referrals can result in citations or referrals to diversion programs run by the probation officer assigned to each school. One administrator noted that during the 2022-23 school year, their school would initiate a new program that provides an alternative to citations, such as counseling led by deputies, that would take place after school and on weekends.

Schools use a Google form created by the central office to document law enforcement referrals. This form has been in existence for 2-3 years, and schools provided mixed responses regarding the data elements collected and the type of incidents that are reported. One site reported that any student interaction with the deputy, whether a conference with the deputy or a citation, is tracked and reported. Another site stated that citations, arrests, and removals are all tracked, while another reported that only referrals that result in citations are included. Another site noted that law enforcement referrals are also documented in the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Incident Report module of the student information system (SIS). The Google forms are provided to the District office.

When students are detained, restrained, or removed from campus by the SRO, separate forms exist to document these interactions. Conversely, one site reported that SROs were not required to document the restraint of a SWD on the BER form and detentions of students by the deputy were not tracked.

When asked if schools had any concerns regarding the role of the SRO and referrals, all site administrators reported no concerns. One did not believe there were any negative interactions or perceptions of their presence on campus and added that the former deputy assigned to their school would play football with the students.

Senior officials reported that the role of the SRO is broad based on the job description provided by the LASD. They described a desire for SROs to be more involved with students and the community by engaging with students during extracurricular activities and helping establish career pathways to the LASD. Senior officials reported expressing to SROs that they do not want them to be solely interested in being a school officer and indicated that some deputies have left these assignments and returned back to patrolling the community.

Law enforcement officers' use of force on students is not tracked, but if an SRO were to self-report, the vice principals would be responsible for investigating the event. The principal and director of safety would also work with the SRO during the investigation.

SROs are required to document when a student is arrested or removed from campus but are not required to fill out a BER when a SWD is restrained. Senior officials pointed out that this reporting requirement is applied only to school personnel because the law exempts law enforcement officers.

School officials and senior leadership demonstrated variability on the role and responsibility of SROs, reporting mechanisms and data tracking, as well as how referrals are made. These inconsistencies reflect an overall lack of policies and procedures to guide schools when referring students to the SRO. The education code only contains a few requirements, such as ensuring that parents are notified and the student's special education records are provided to the law enforcement agency for their consideration.

The lack of concern expressed by site administrators regarding the role of the SRO and referrals is troublesome given the high number of law enforcement referrals and arrests of SWDs and Black SWDs. The data from the 2018-19 school safety plans show that law enforcement referrals are not a new phenomenon but rather suggest that SRO involvement in school discipline has become institutionalized and the status quo.

### ***Role of Campus Security Personnel.***

Site visits included the director of campus security and other security personnel. Comprehensive schools reported security staff ranging from 10 to 12 campus security officers (CSOs) and two locker room attendants. School officials reported the primary function of

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

CSOs is to ensure student safety, escort students from their classrooms to the student support center (SSC), and help supervise and manage the SSC and on-campus detention (OCD) rooms. It was noted that some sites also referred to their CSOs as mentors, a term used for teachers or staff assigned to supervise the SSC.

Security has a notable presence on campuses, with most sites reporting two to three CSO locations. Site visits found that at least one of the CSO offices on each campus was located in or near the SSC.

Security personnel believe they are adequately trained in de-escalation techniques; restraints, including the application of mechanical restraints (i.e., handcuffing); and threat response. All security staff are required to be trained in Nonviolent Crisis Intervention (NCI). Other forms of training include diversity training, crisis prevention intervention (CPI), as well as collaborative training with the Los Angeles Sheriff's Department (LASD).

The director of campus security, in collaboration with a vice principal, is responsible for handling incidents that involve the restraint of students. CSOs are required to fill out BER forms when they are involved in the restraint process and also facilitate the documentation of the forms by other staff.

The role and presence of the SRO is pronounced and visible. The reliance on the CSO for student discipline, restraints, and managing the OCD room and SSC creates a negative association with these positions. Although site level and senior leadership have provided a more illuminating and positive role of the CSO, it is understandable that students could view CSOs as punitive and hostile. Their role is not simply to ensure safety but also to take an active role in disciplining students, carrying out investigations, restraining and handcuffing students, responding to misconduct, and escorting students to the OCD room and SSC.

### ***Role of the Probation Officer.***

Site administrators consistently describe the role of the probation officer (PO) as independent of the school with caseloads determined by the courts. Sites reported there were no formal site level referrals to the PO and denied the PO's involvement in any discipline related interactions. Administrators are not made aware of the PO's caseload, and student data are not shared. One site reported that the PO will inform the administration of students newly included in their caseloads, citing an example where a student had been arrested over the weekend.

Senior officials provided similar information regarding the role of PO on campuses, noting that there are no formal mechanisms for referring students or for tracking their interactions with students. Senior officials reported being unaware of any informal referrals made at sites or whether POs issue citations or take students from campus.

In regard to access and maintenance of student records, POs are able to request records similar to agencies such as the Department of Children and Family Services (DCFS), and a student's probation status is not collected or maintained as part of their educational records.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Senior officials differed in their understanding of whether POs can pull students from their classes, with most reporting that this is not within their scope while two members noted that POs are able to remove a student from their class for up to one hour a week.

Two programs run by the Los Angeles County Department of Probation and the Sheriff's Department for students on probation were discussed. First, VIDA is a voluntary program that some students on probation participate in, but the school officials were unaware of the specifics of the program. The other program, Camp X Connection, appears to be residential treatment program that requires the collaboration of District personnel in the educational placement of students upon their release.

### ***Restraints and Threat Assessments.***

School officials agreed that the BER form is the mechanism for reporting the restraint of a SWD. Vice principals are primarily responsible for ensuring and facilitating the completion of the BER and maintaining hard and/or electronic copies. As noted above, the director of campus security also has a role in ensuring the proper documentation of BERs.

Varied responses were observed regarding the procedures for completing the BER form. One site noted that CSOs, administrators, and teachers were required to fill out the BER form, but not paraprofessionals. A different administrator stated that paraprofessionals and SROs were not required to fill out the BER but added that while all restraints are to be reported, it is up to the employee who engaged in the restraint to seek out an administrator or CSO to fill out the form. The same administrator added that employees are required to fill out an employee statement form and then the CSO completes the BER. One site reported that not all restraints are reportable, particularly for the Level 1 and Level 2 type holds, such as guiding students by the hand or shoulder. They indicated Level 3 or physical holds are to be documented on a BER. Another site noted that the VP is notified of "significant restraints."

School officials noted that upon the completion of a BER, the vice principal maintains a copy, a copy is placed in the student's cumulative file, and another copy is provided to the director of student services, who then provides this information to the SELPA and CDE. Two sites reported that copies of the BER are also maintained in the vice principal's personal investigation file. One administrator stated that student restraints are also documented on the incident report and log module of the SIS, while a different site administrator noted that the SIS does not capture such data. Generally, school officials did not express concerns that restraints were underreported.

Three sites provided mixed views of the IEP requirements after a SWD is subjected to a restraint. One stated that after a student is restrained, an IEP meeting is always held. Two other sites noted that the restraint can trigger an IEP meeting, with one administrator adding that the determining factor for holding a meeting is the student's disability.

When asked about concerns regarding the use of restraints or if SWDs were being disproportionately restrained, four out of the six schools who reported a restraint expressed no concerns. However, several school officials provided justifications for the use of restraints,

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

with one administrator citing the large population of students with moderate to severe disabilities who can be aggressive, while another offered that students can be triggered by environmental factors prior to coming to school.

Two sites expressed general concerns with the disproportionate use of restraints on SWDs, with one administrator stating that they are concerned when any student ends up in handcuffs. Another administrator expressed that not everyone believes restraints are only to be used as a last resort, but the administrator dismissed the notion that disproportionality exists at their site.

Directors of campus security at two sites shared that their staff had a culture of not laying hands on students, with one reporting the creation of procedures and protocols to minimize restraints. The other claimed to have a more positive culture that minimized the use of restraints, unlike other sites where he claimed, "handle things differently." He shared that staff attempt to redirect behaviors instead of using restraints and utilize a cool down room for students to deescalate.

All sites acknowledged having CSOs carry handcuffs and feeling adequately trained in applying these mechanical restraints on students. One site shared that CSOs have handcuffs mainly for outside threats and rarely use them on students, unless it is for safety purposes.

Senior officials stated that restraints should only be carried out by NCI trained staff, noting that all special education and security staff are trained. They also acknowledged that some vice principals lack such training, adding that currently there is no ongoing training.

As noted above, SROs are not required to fill out the BER form, but senior officials added that deputies are typically not the first responders to these events and that restraints by SROs rarely occur. One participant noted that SROs typically do not restrain students alone, and that the preference is to have CSOs conduct the restraint.

Senior officials declared that any student restraint is investigated, adding that since the use of a restraint is always a last resort, these instances are looked into. This includes assessing the cause of the incident, reviewing student witness statements, and the documentation of the event on the BER form. The BER records what occurred during the event and who was involved. After a SWD has been restrained, schools are required to hold an IEP meeting and review and modify existing BIPs if needed or develop a plan for students who do not already have one in place.

The District relies on Google forms to track restraints, with forms and data reviewed by the director of site safety. While BERs are a requirement for SWDs, a parallel reporting mechanism exists for general education students who are subjected to a restraint. Schools are required to report restraints of both students with and without disabilities. Senior officials reported that restraint data is not entered into CALPADs, noting that the CDE will require such reporting for the 2022-23 school year.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Site level and senior officials demonstrated a mixed understanding of the procedures for documenting restraints. The procedures for documenting physical interventions varied, including the tracking mechanisms used to maintain such data. Although two administrators expressed general concerns regarding the disproportionate restraint of SWDs, their responses did not acknowledge the problem directly to the disproportionate impact on SWDs. The other four sites denied any concerns.

### **Feedback from Parent Telephone Surveys.**

As reported in Section 2, the telephone survey of parents inquired about encounters between students and staff during disciplinary interactions, including students' experiences with being searched, restrained, handcuffed, cited, and referred to the school-based probation officer without having one assigned by the court.

About half of the respondents reported their child was searched by campus security, four in 10 reported their student was restrained by staff, and 37.5% said their child was handcuffed by security or the SRO (Table 6.20). Approximately one in four respondents reported their child was cited for misconduct, and one in seven reported being informally referred to the probation officer on campus.

This information provides corroborating evidence regarding the allegations related to SRO and PO referrals, as well as the use of restraints and searches.

In addition, during and after the interviews, parents and some current and former students offered insights into their experiences. They shared that security personnel and administrators escalated situations that resulted in restraints as well as SRO referrals and involvement. Students explained that handcuffing and searches occur often, with one mother sharing that she recently learned that her child had been handcuffed by the SRO the previous school year.

**Table 6.20**

*Select Parent Survey Items for Various Disciplinary Interactions*

Item	Yes		No		Don't Know		Totals	
	n	%	n	%	n	%	n	%
Searched Person or Belongings	27	47.4	22	38.6	8	14.0	57	100
Restrained by Staff	22	39.3	31	55.4	3	5.4	56	100
Handcuffed by Security	10	17.9	41	73.2	5	8.9	56	100
Handcuffed by SRO	11	19.6	39	69.6	6	10.7	56	100
Cited	15	26.8	37	66.1	4	7.1	56	100
Informal Referral to Probation Officer	8	14.3	48	85.7	0	0.0	56	100

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### **Observations of Documentation Practices.**

Two law enforcement referral files were submitted in response to this investigation. One includes students in general education and the other reports referrals of SWDs. During the data analysis of this information, notable differences were identified in the formats of each report.

For instance, the law enforcement referral form for special educations contained the following fields that were not included on the general education dataset: date of birth, student ID number, disability category, address, parent/guardian name, and parent/guardian phone number. The general education file contained fields to collect information on non-disciplinary referrals, citation and LASD report numbers, a student's disability status (excluding category) either with IDEA or Section 504, as well as their status as an English learner or foster student.

Both files contained information on the result of the referral, including outcomes such as a conference with the deputy, being issued a citation, school related arrests, and removals from campus. However, the general education file provided an additional field for removals that reported whether students were taken into custody and transported to a detention facility by the deputy.

Poor documentation practices were observed in both forms. For example, of the 111 general education referrals, 42 lacked information regarding whether the student had been taken into custody and transported to a detention center. Only two students were reported to have been taken into custody and removed from the site, while the remaining 67 contained a value of "no." Three additional students had information in a different field indicating that they had been detained and taken to a detention facility, with one missing the reason for the referral. Furthermore, the majority of fields for the citation and LASD report numbers were missing, even for students who had received a citation, been arrested, or were taken into custody.

Although the special education file was more complete, several duplicates were found, meaning the referrals were reported twice for the same event and student. Four were missing dates of the incident, and two did not include information on the outcome of the referral.

The special education file had six referrals that lacked any information regarding the reason for referral. In addition, some referrals were made for minor infractions, raising concerns about the appropriateness of the law enforcement contact. This included two students who were referred for disruption/defiance and received a citation, and another student was referred for being in possession of using tobacco. A different student was referred to the deputy twice over a four-day span for threats of suicide and suspicious circumstances. It is unclear if these reasons are associated with a threat assessment, compared to an education or penal code violation. However, the proximity of events and nature of the referral raise questions as to whether a more appropriate referral could have been made to the school psychologist or other mental health professionals.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Similarly, the general education file contained four instances of students being referred for disruption/defiance, with one student receiving a citation, another indicated “yes” to a citation/arrest, one indicated “no” to a citation/arrest, and remaining did not contain information regarding the outcome of the referral. A disciplinary reason for the referral was not provided for the four students; however, all were arrested and one reportedly taken into custody and transported to a detention center by the deputy. Three seemingly non-disciplinary referrals were included, with one indicating a threat assessment, another suspicious activity, and the third to conference with the student to discuss their behavior, which resulted in a citation. Again, it is unclear why these students were not referred to mental health professionals or school administrators.

### **Summary and Conclusions**

This section of the investigation covers the remaining allegations of the CDE Complaint regarding the disproportionate referral to law enforcement and use of restraints on students with disabilities (SWDs) and Black SWDs. In addition, the Complaint alleges that SROs and CSOs lack training for effectively dealing with school disciplinary matters of SWDs and engage in policing of misconduct that criminalizes student behavior. Additional allegations include adherence to the reporting requirements of law enforcement referrals and restraints, the role of SROs in responding to threat assessments, and inappropriate referrals to the site-based probation officer. Lastly, the Complaint asserts that the use of restraints and searches disproportionately impacts SWDs.

The review examined the District’s policies, procedures, and practices to determine alignment with state and federal laws and whether systemic problems existed that contributed to systemic noncompliance related to law enforcement referrals and use of restraints.

Overall, the District’s policies are generally consistent with education code requirements, with some notable omissions highlighted. For example, the policy on law enforcement referrals does not include the requirements specified in EC Section 48902(e) that mandates school officials provide copies of the special education and disciplinary records when a student has been referred for being suspected of a criminal act. During the site visits, one school official noted that IEPs are never provided to SROs, showing that the lack of sound policies impacts compliance.

Many, and possibly all, of the policies used by the District are from the California School Board Organization’s compilation of Board Policies and Administrative Regulations that are available on the online GAMUT system used by many districts statewide. Although this is a convenient and effective approach to ensuring policies exist, many reviewed policies were outdated and may have not been specifically tailored to address the needs and values of the District. In addition, the procurement of such policies might lead districts to believe that they cover all regulatory requirements.

For example, the restraint policies lacked references to the reporting requirements of EC Sections 49006 and 49006.2 regarding behavioral restraints and seclusion of students and

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

also failed to align the data collection and reporting requirements with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights. The inclusion of these reporting requirements would essentially require the District to establish a uniform data tracking mechanism and procedures to guide the field in order to ensure compliance with these regulations.

Another reason to revise these boilerplate policies is to include the intent and values of the District and Board of Education, as well as the those of the Legislature. For example, while not mandated, the restraint policy should include language pursuant to EC Section 49005 that states:

restraints should be used consistent with the rights of child to be treated with dignity and free from abuse; restraints should only be used as a safety measure of last resort and should never be used as punishment or discipline or for staff convenience; restraints may cause serious injury or long lasting trauma and death, even when done safely and correctly; there is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques; SWDs and students of color, especially Black boys, are disproportionately subject to restraint and seclusion; and, that the regulations do not change any requirements, limitations, or protections in existing law pertaining to SWDs.

The inclusion of this language would convey to schools and administrators the harmful effects of using restraints and seclusion. It would also recognize the vulnerabilities students of color and in particular Black boys face with these traumatic interventions. Lastly, it would acknowledge that schools must comply with the procedural safeguards for SWDs.

As seen in all other parts of this investigation, the District lacks sound procedures to ensure consistent and equitable practices, in this case, for carrying out and documenting physical interventions for SWDs.

The documents related to restraints and BER reporting do not include clear guidance to ensure schools understand when an emergency intervention is warranted, the proper uses and techniques, as well as the definitions of a behavioral restraint and seclusion. Absent this information, it is unclear how districts and schools within the SELPA are informed regarding these regulations; how to recognize behavioral incidents that warrant a physical intervention as a last resort; and prohibited actions, such as using emergency interventions as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior, or techniques such as those that restrict a student's breathing.

Although the BER form contains many data collection points consistent with those required by the education code, the guidance on the reporting "an emergency," "emergencies," and "incidents" is confusing and inconsistent with the language in EC Section 56521.1. Moreover, the form requires that "emergencies" are reported using the BER but provides no definition for schools to identify behavioral incidents and emergency interventions that constitute

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

“emergencies.” For behaviors that are unusual or out of the ordinary for the child, the form terms this as “an incident” and states that a BER is to be completed only for students who do not have a BIP. The relationship between the behavioral incident and the use of behavioral restraints is unclear, which is the only factor that should determine the need for completing the BER.

The CDE Complaint asserts that the District relies on and empowers campus security officers (CSOs) to engage in the discipline of students, but it often escalates situations and results in the restraint and handcuffing of students. The Complaint cites a job description of a campus supervisor to show the documented expectation of the role and position is to carry out an edict of law and order, rather than ensure a safe campus and learning environment. The job posting notes that the duties and responsibilities of the CSO read, “exercise physical control only to the extent reasonably necessary to maintain order, protect property, protect the health and safety of pupils, or to maintain proper and appropriate conditions to learning.” The choice and order of the language around the use of exerting physical control to “maintain order” prior to ensuring the safety of students and property may be indicative of a culture and status quo that prioritizes social control, thereby empowering these quasi-law enforcement officers to abuse their authority.

The primary focus of the review of quantitative data was associated with law enforcement referrals, restraints, and searches. This includes analysis of datasets provided specifically around instances of law enforcement referrals and restraints reported by schools to the central office mainly through Google forms. Other sources—such as IEP documents, including manifestation determination review IEPs, expulsion packets, and related documents like incident reports, and out-of-school suspension (OSS) forms—contained many additional instances of law enforcement referrals, restraints, and searches, which is indicative of underreporting.

Quantitative data on referrals to the probation officer, as well as searches and threat assessments conducted, were not provided and may not exist. Information collected and reported on searches were found in sources such as IEP documents and OSS notice forms, and other related disciplinary forms yielded some incident information. However, the lack of systematic reporting mechanisms results in a likely underestimation of these practices.

Disproportionality was calculated for law enforcement referrals but not restraints due to the unavailability of districtwide general education restraint data.

Although the qualitative data captured more information on limited areas, such as referrals to probation officers, the lack of quantitative data and direct communication with probation officers limits the ability to make reasonable conclusions on the extent to which these practices are problematic or systemic. Similarly, the investigation did not enable access to SROs. However, referrals to law enforcement were widely discussed with central and site level staff, and the quantitative data provide a clear view of these practices and the prevalence of SROs in school discipline. Lastly, due to the broad scope of the CDE Complaint and investigation, as well as limited data, issues around the practices of threat

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

assessments were not deeply examined and limit the ability to make conclusions related to these practices.

The review of quantitative data on law enforcement referrals included 196 events reported to the State, with 59.7% issued to general education students and 40.3% to special education students. Overall, Black students with and without disabilities made up the highest percentage (43.9%) of students referred to an SRO. Black disabled students account for nearly six out of ten (58.2%) special education students referred to law enforcement. Conversely, White students made up one in five (19.7%) referrals of general education students.

An additional 209 law enforcement referrals were found as part of reviewing files of IEPs, expulsion packets, and site level suspension documentation. To determine if underreporting occurred, the data obtained from site level discipline data sources were compared to the dataset reported to the State. This analysis found about three out of four referrals (n=162 students, 77.5%) identified in site level forms did not appear on the list of law enforcement referrals provided to the State. This finding confirms the underreporting of these referrals, but it also suggests that it is likely to be an underestimation of law enforcement referrals, since many schools did not provide all suspension notice forms, incident reports, BERs, and other documentation that could house such information.

The review of various data sources yielded a total of 354 law enforcement referrals, 82.6% more than reported as part of the CRDC. Overall, Black students with and without disabilities made up almost half (47.5%) of all law enforcement contacts. Black SWDs comprised of 61.4% of all special education students referred.

To examine disparities of law enforcement referrals between students with and without disabilities by race/ethnicity, the composition index, risk, and risk ratio measures were calculated. General education students comprise 60.5% of all law enforcement referrals and demonstrate a risk of 1.2. Black students show the highest risk of all nondisabled students and a relative risk ratio of 3.68, consistent with significant disproportionality. This means that Black general education students are 3.68 times more likely to be referred to law enforcement than students from all other racial/ethnic backgrounds.

Students with disabilities fared much worse in law enforcement referrals, with a risk of 3.7%, meaning that almost four out of 100 SWDs are likely to experience a referral to an SRO. This risk, when compared to the risk of general education students (1.2%), results in a risk ratio of 3.19. Therefore, SWDs are 3.19 times more likely to be referred to law enforcement than their non-disabled peers.

Black SWDs make up 61.4% of all SRO referrals, with nine out of 100 Black special education students at risk for such referral. Their risk (9.0%) when compared to the risk of all other SWDs from different racial/ethnic groups results in a risk ratio of 4.71, consistent with significant disproportionality. Black SWDs are almost five times more likely to be referred to law enforcement than SWDs from all other racial/ethnic groups.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Districts are required to maintain records when students are arrested, removed from campuses, and taken into custody by law enforcement. The District provided a list of 27 students removed, consisting of 12 general education and 15 special education students.

The distribution of these removals raised concerns regarding the accuracy of this data. Lancaster HS accounted for 15 of the 27 removals reported, while Antelope Valley HS had one, and Palmdale and Littlerock reported none. Given the high rate of suspensions and law enforcement referrals, it would be reasonable to expect student removals at all schools, and a more comparable number reported across schools.

To determine the extent of underreporting of school removals, a comparison of the removal list and the law enforcement referrals lists found two general education and five special education students with corresponding entries, meaning that 20 of the students who were reported as being removed did not appear on either law enforcement referral list. In addition, information from other sources such as expulsion files, behavioral emergency reports (BERs), incident reports, and the general education law enforcement file that contains a column for reporting student removals, the investigation found an additional seven students identified as being removed.

Therefore, a total of 34 removals could be verified, with Black students with and without disabilities making up over half (55.9%) of these removals and Black SWDs comprising of 60.0% of all SWDs removed.

The investigation also compiled a list of the number of students arrested, totaling 110 students, with general education students accounting for 63 of the arrests and special education students representing 47. Of the 354 total law enforcement referrals identified, arrests were issued for 31.0% of these contacts. Since the review of several sources of site level data contributed to the identification of these arrests and removals, it is likely that further review of additional data, such as incident reports and SRO files, would yield more students both arrested and removed.

Reporting inconsistencies and inaccuracies can further obscure the true practices of schools related to law enforcement referrals, arrests, and removals. For example, one SWD listed on the law enforcement referral file for special education students was listed as having a student conference only; however, the suspension documents included a BER and incident report for this student that indicated the student had been restrained, arrested, and taken into custody for an incident matching the same date on the referral list. Although the student appeared on the removal list, it was for an incident in May, but the unreported incident occurred in August.

The majority of law enforcement referrals (82.6%) were identified from sources other than the files provided by the District. This implies that, in addition to an underreporting of referrals, it is highly likely that a review of more site level documents would find more students that were subjected to law enforcement referral, arrest, and removal. This finding should prompt the Board of Education and senior leadership to conduct a full audit of these practices and revise

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

its policies and procedures in these areas, with an emphasis on developing uniform reporting and tracking mechanisms and systems of accountability.

The poor quality of data and underreporting is indicative of systemic problems with the data entry, maintenance, and oversight of these systems. This also suggests that the current mechanism (i.e., Google Sheets) for tracking many of the District's data outcomes, including referrals to the SSC, restraints, and law enforcement referrals, are wholly inadequate and must be discontinued. The lack of reliance on a centralized data system, such as the SIS, questions the capacity of senior leaders to understand the importance and value of accurate data for making informed decisions. It also shows the status quo of protecting a decentralized system that preserves the authority of school principals regardless of how ineffectively their school functions.

The restraint data reviewed were equally problematic and found to be considerably underreported. Although the District is required to document the use of physical restraints in a behavioral emergency report (BER), many of the identified incidents lacked such reporting. The District submitted a restraint list of 36 SWDs as well as a separate file of 30 BERs. However, 20 of the students with BER forms did not appear on the restraint list. This finding is indicative of the lack of senior officials' oversight for compiling data for this investigation. The list and forms were clearly not reviewed for accuracy, suggesting school officials' indifference about the seriousness of this investigation and CDE Complaint.

An additional 13 BERs, behavioral restraint or seclusion reports, and incident reports were found along with suspension forms, law enforcement referral lists, expulsion files, and manifestation determination review IEPs. These sources also served as mechanism for identifying students who had been subjected to restraint.

In total, 103 instances of restraint and one seclusion were found. Due to the incomplete reporting and identification of general education students restrained, comparisons could not be calculated to determine if disparities between SWDs and their nondisabled peers exist. The small sample of general education restraints was included to illustrate how nondisabled Black students are also more likely to experience a restraint.

The data for special education students clearly illustrates that Black SWDs experience restraints at much higher rates than SWDs from all other races/ethnicities. Three out of four (76.5%) restraints were carried out on Black SWDs, which is indicative of a clear overrepresentation of Black SWDs. These numbers warrant elevated concerns and awareness of the problem throughout all levels of the organization. These findings are not only indicative of inequitable practices but should serve as a clear call for action to remedy these inequities.

An analysis of BER and non-BER forms found questionable uses of physical interventions, with only four of the 37 including a description of the risk behavior that could be deemed as an emergency. The use of multiple holds with numerous staff involved for unique events is troublesome and calls into question the training and effectiveness of CSOs and staff for



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

deescalating situations and determining actual threats or emergencies that would justify the use of these physical interventions. While this analysis is based on the documented evidence on BER and non-BER forms, the lack of and inconsistent documentation of these traumatic events and use of physical intervention is indicative of poor training and oversight by school administrators for ensuring the use of restraints, including handcuffing of students, only occurs during emergency situations or when students pose a significant risk to themselves, others, or damage to property that may result in significant risk of harm to self or others.

The CDE Complaint includes allegations regarding the adequacy of CSOs and staff training. The investigation did not validate the attendance or current status of NCI certification of staff, nor did it review data or investigative reports to determine whether restraints were carried out using techniques consistent with NCI training. However, based on the BERs reviewed, the poor and inconsistent documentation of these events, many instances of restraints including handcuffing not reported, and disproportionate overrepresentation of Black SWDs are clearly indicative of inconsistent and unchecked practices by staff. Even if staff have participated in the necessary training and hold updated certifications, the de-escalation of situations does not appear to be the priority of CSOs in particular. Certifications and trainings must translate into effective practices evidenced by data.

The preponderance of security staff carrying handcuffs on campuses is disturbing and not the norm for comprehensive high school campuses. Comprehensive sites have between 8-12 security personnel with these mechanical restraints, who, whether trained or not, engage in these practices without recourse. Although some District staff commented that the use of restraints are investigated, no evidence was found that either mentioned or implied these actions were scrutinized.

Current and former students who shared their experiences during telephone interviews conveyed CSOs searching and handcuffing students is a common occurrence. Staff appear to justify these practices under the pretense of the population the District serves. As noted in the previous section, during the MDR focus group, school psychologists were asked if they had worked on high school campuses in other districts, and then were asked if security personnel carried handcuffs. One participant responded that in her previous district security personnel did not carry handcuffs, adding "but that was a district in San Diego." In addition, site level administrators and senior officials' pervasive denials of the inequities and injustices perpetuated against its SWDs and Black students with disabilities are indicative of a status quo that values the preservation of order and authority over the wellbeing of its most vulnerable students. These types of responses are indicative of placing the blame for this type of policing on the children and community it serves rather than on the systemic and structural deficiencies and adult failures that lead to the traumatic and violent practices that have become the status quo.

The role and presence of the CSO is pronounced and visible. The reliance on CSO for student discipline, restraints, and managing the OCD room and SSC creates a negative association with this position. Although site level and senior leadership have provided a more

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

illuminating and positive view of the CSO's role, it is understandable that students could view CSOs as punitive and hostile. The CSO's role is not simply to ensure safety but also to take an active role in disciplining students, carrying out investigations, restraining and handcuffing students, responding to misconduct, and escorting students to the OCD room and SSC.

School officials and senior leadership demonstrated variability when describing the role and responsibility of SROs, reporting mechanisms and data tracking, and how referrals are made. These inconsistencies reflect an overall lack of clear policies and procedures to guide schools in the referral of students to the SRO. The education code only contains a few requirements, such as ensuring that parents are notified and the student's special education records are provided to the law enforcement agency for their consideration, meaning these requirements can be easily conveyed to staff.

The lack of concern expressed by site administrators regarding the role of the SRO and referrals is troublesome given the high number of law enforcement referrals and arrests of SWDs and Black SWDs. The data from the 2018-19 school safety plans show that law enforcement referrals are not a new phenomenon but rather suggest that the SRO involvement in school discipline has become institutionalized and the status quo.

A review of the services agreement between the District and the Los Angeles Sheriff's Department found the agreement does not include any details on the actual scope of work or services SROs are to perform. The contract states that the scope of services is to be set forth in the agreement or otherwise it defaults to the duties and functions of services customarily provided by the Sheriff under the Charter of the County and Statute of California. Since the services agreement does not contain specific services and functions of the SRO, this vague language is open to broad interpretation and may not enable the District to obtain services needed or limit the actions and interventions of SROs in school discipline matters.

As noted in the literature review, several agencies and organizations, such as the ED, DOJ, and NASRO, have endorsed the following three recommendations for establishing an effective SRO program: program evaluation; a memorandum of understanding (MOU); and specialized training.

The services agreement between the District and the Los Angeles Sheriff's Department does not address any of these areas. Establishing parameters, such as prohibiting SRO referrals and involvement for minor misconduct, mandating specific areas of training, and requiring methods to evaluate the effectiveness of the SRO program, is essential for limiting the criminalization of student misconduct and ensuring SROs are properly trained to respond to the educational needs of students using a non-legal approach as appropriate.

To gain a better understanding of the District's priorities regarding professional behavioral and mental health supports and security and law enforcement programs, an analysis was conducted of the financial commitments made. This analysis compared the number of positions and costs of four groups: school psychologists and mental health therapists, school counselors, SROs, and security personnel.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

On average, the \$129K cost of a psychologist is comparable to the \$130K cost of a counselor. On the other hand, the average cost of an SRO is \$180K, while campus security personnel cost an average of \$55K. The total cost the District incurs for security personnel is \$2.84M more (85% higher) than the cost for school psychologists. In addition, the cost of 10 SROs equates to 57% of the cost of 26 school psychologists. The cost of SROs is considerably higher than that of professionals who possess more schooling and training in working with SWDs and students with mental health needs.

EC Section 38000(e) states the intent of the Legislature to evaluate the presence of peace officers and other law enforcement on school campuses and to identify and consider alternative options to ensure pupil safety based on the needs of the local school communities. *The Legislature encourages LEAs to use school resources currently allocated to such personnel, including school police departments and contracts with local police or sheriff departments, for pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice, as needed, if found to be a more appropriate use of resources based upon the needs of the pupils and campuses that serve them.*

The allocation of resources to the security program, including the services agreement with the Sheriff's Department, should be reevaluated and scrutinized. The high use of restraints and searches, law enforcement referrals, and school related arrests are not a new phenomenon in the District. The CDE Complaint included data for several years that show a reliance on policing of students by CSOs and SROs that perpetuate high rates of student discipline and criminalized misconduct, fueling the school-to-prison pipeline. The common occurrence of searches and use of handcuffs, as well as other physical interventions, are not reflective of the standard expectation at comprehensive high school campuses in the state or nationally. These practices and negative outcomes are consistent with the research literature on the negative impact SRO programs can have on exclusionary discipline, arrests, and restraints that disproportionately impact students of color and SWDs.

The review of CDE achievement data, as well as the patterns of low academic achievement and high rates of credit deficiencies of students suspended and referred to SROs observed in the file reviews, indicates a failed and underachieving instructional program that directly contributes to these problems. In addition, the MDR reviews found a low level of counseling and behavioral supports in students' IEPs, with many students only receiving 15 to 30 minutes of counseling per month. Such a low level of counseling support is not consistent with best practices and clearly does not meet the needs of SWDs who are continuously suspended and endure long-term removals.

Prioritizing students' behavioral and mental health needs over security and policing will address the root causes of the disproportionate overrepresentation in school discipline, consistent with the intent of the CCEIS and law. In addition, it cannot be stressed enough that the District is low performing in all aspects of academic achievement for its general and special education students. As pointed out in the previous section, the MDR and expulsion

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

file reviews found many of the students who had been subjected to long-term removals including expulsions, had poor academic outcomes such as being significantly credit deficient and extremely low GPAs. Remedial reading and math programs should be prioritized for students entering the District, as well as establishing tutoring opportunities and other educationally related programs aimed at improving academic skills and job readiness for SWDs at all stages of their enrollment.

The data presented in this report, as well as historical data, are indicative of persistent failures to provide positive behavioral supports and a sound instructional program in order to ensure a less hostile environment and safe campuses. Policing by SROs and CSOs has not been an effective solution, despite a considerable financial commitment to these positions. The prioritization of these security programs maintains a culture and status quo of over policing students and placing blame on students and the community rather than on the systemic and structural deficiencies that have failed to address the behavioral and mental health needs of its students, in particular, those from the most vulnerable groups.

Students need better instruction and more behavioral and mental health supports. The failed policies associated with Zero Tolerance school discipline, rates of law enforcement referrals, and restraints have yielded persistent data that evidences the negative impact on SWDs and Black students with and without disabilities.

The special education system and delivery model are highly segregated and neglects to provide the adequate behavioral and social emotional supports necessary to ensure free appropriate public education in the least restrictive environment. The current model is failing students and perpetuating the school-to-prison pipeline. The preponderance of SWDs who have failing grades, are low on credits, and are subjected to exclusionary discipline are clear signs of the systemic and structural deficiencies of the District. The examination of these issues clearly shows inequitable practices and disproportionate harm to SWDs and Black SWDs.

In 2011, Attorney General Eric Holder and Secretary of Education Arne Duncan launched the Supportive School Discipline Initiative, a collaborative project between the DOJ and ED to address the “school-to-prison pipeline.” In his remarks, Holder offered the intent and importance of the initiative, stating:

Ensuring that our educational system is a doorway to opportunity – and not a point of entry to our criminal justice system – is a critical, and achievable, goal.

Moving forward, the District should embrace this sentiment and vision and strive to reform a broken system that reverses the persistent inequities that impact SWDs and students of color.

### **Allegation Determination**

Allegation 6.1 The District disproportionately refers SWDs and Black SWDs to law enforcement/SROs, resulting in higher rates of restraints (including

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

handcuffing), citations, and arrests, compared to their nondisabled peers and SWDs from other racial/ethnic groups. The discipline matrix provides school officials the authority to refer students to law enforcement for *any* education code violation.

- Allegation 6.1 is founded.
  - Students with disabilities demonstrate a risk of a law enforcement referral of 3.7%, meaning that almost four out of 100 SWDs will likely experience a referral to an SRO. This risk, when compared to the risk of general education students (1.2%), results in a risk ratio of 3.19.
    - Therefore, SWDs are 3.19 times more likely to be referred to law enforcement than their non-disabled peers, exceeding the significant disproportionality threshold of 3.0 set by the CDE.
  - Black SWDs make up 61.4% of all SRO referrals, with nine out of 100 Black special education students at risk for such referral. Their risk (9.0%) when compared to the risk of all other SWDs from different racial/ethnic groups results in a risk ratio of 4.71%, which is consistent with significant disproportionality.
  - Of the 354 total law enforcement referrals found during this investigation, arrests were issued for 31.1% (n=110) of these contacts.
    - Of these, general education students comprised 63 (57.3%) of the arrests, with special education students accounting for 47 (42.7%). This is indicative of overrepresentation of SWDs compared to their enrollment representation (17.0%).
    - Black SWDs make up 55.6% of all arrests of special education students, while Black nondisabled students make up 36.7% of general education students arrested.
  - Of the 110 students arrested, 34 resulted in students being taken into custody.
    - Black SWDs make up 60.0% of students arrested into custody, while Black nondisabled students account for 50.0%, both indicative of overrepresentation.
  - The data for special education students clearly illustrate that Black SWDs are restrained at much higher rates than SWDs from all other races/ethnicities. Three out of four (76.5%) restraints were carried out on Black SWDs, which is a clear overrepresentation of Black SWDs restraints compared to all other SWDs.

Allegation 6.2 The District relies on and empowers the “SRO and campus security to intervene in minor and disability related school discipline incidents,” which often escalates situations and results in students being criminally cited, restrained and/or handcuffed, perpetuating the phenomenon of the “school-to-prison pipeline.” The job description of the campus supervisor promotes their

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

involvement in student discipline and the use of physical force, including on students with disabilities, “to the extent necessary to maintain order.”

- Allegation 6.2 is founded.
  - The investigation found many instances of law enforcement referrals and campus security involvement that resulted in the escalation of minor student misconduct to result in citations, restraints, and arrests.
    - CSOs appear to readily handcuff students when conducting searches and justify these restraints as being for the “safety of the student.”
  - The high number of law enforcement referrals is indicative of a reliance on SROs for school disciplinary actions.
  - The role of the CSO is heavily focused on policing students and serving as the bridge between disciplinary referrals made by teachers to school administrators. Teachers are instructed to contact security rather than administrators when students misbehave in their classrooms.
    - CSOs commonly respond to such referrals and serve as escorts when students are sent to the OCD rooms or SSC.
  - The job description includes language indicating the role and function of the CSO is to maintain order, rather than to ensure a safe learning environment.

**Allegation 6.3** The District’s policy AR 5131.41, regarding the “Use of Seclusion and Restraint” fails to ensure compliance with the procedural requirements for SWDs in Education Code Section 56520 to document the incident, notify parents/guardians, and hold an IEP meeting within two school days after their student was subjected to a restraint or seclusion. This results in schools failing to report restraints of SWDs on the Behavioral Emergency Report (BER) form. The policy also does not prohibit the use of restraint or seclusion as a substitute for a systematic behavioral intervention plan (BIP) as specified in Education Code 56521.1(b).

- Allegation 6.3 is founded.
  - The policy fails to include the procedural requirements regarding the reporting of restraints pursuant to EC Section 56520.
  - AR 5131.41 does not include language from EC 56521.1(b) that prohibits the use of emergency interventions as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.
  - The investigation found a total of 85 incidents of restraint of SWD, but only 31 BERs were provided (36.5%). This means that the restraint was not reported on a BER for about two-thirds of these incidents.
  - The District lacks a system for accurately tracking BERs and restraint data. It submitted a restraint list of 36 SWDs and a separate file of 30

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

BERs, but 20 of the students with BERs were not included on the restraint list.

**Allegation 6.4** Students with disabilities and Black SWDs are disproportionately restrained when compared to nondisabled peers and SWDs from other racial/ethnic groups. Furthermore, the District does not investigate use of force incidents to determine the appropriateness of the response and whether restraints were certified/uncertified or applied correctly, nor does it discipline SROs or security staff for using excessive force or uncertified restraints.

- Allegation 6.4 is founded.
  - The District did not provide a restraint list of general education students, which limited the ability to determine disproportionality in this area.
  - However, the data for special education students clearly illustrate that Black SWDs are restrained at much higher rates than SWDs from all other races/ethnicities. Three out of four (76.5%) restraints were carried out on Black SWDs, which is indicative of the overrepresentation of Black SWDs.
  - There was no evidence of investigations into the use of force including restraints. Despite some site level staff asserting that an investigation can occur, a review of the incident that includes the number of staff involved and appropriateness of the physical intervention does not appear to be a required practice. If these investigations occur, they are likely initiated by a complaint.

**Allegation 6.5** The District fails to provide campus security staff with the adequate training related to the social-emotional and behavioral challenges associated with disability, the legal protections afforded by the IDEA and education code for SWDs related to restraints, and how to deescalate situations prior to using physical restraints (referred to as Nonviolent Crisis Intervention [NCI] training).

- Allegation 6.5 is founded.
  - The current status of staff's NCI certifications was not reviewed as part of this investigation. However, many instances of restraints and incidents appeared to be driven by CSOs' intent to maintain order and resulted in escalating students' responses.
  - Many of the BERs and CSO statements included in incident reports, witness declarations, MDRs or expulsion files noted that de-escalation techniques were not attempted prior to using physical intervention. These instances are indicative of the need for more training and better systems of accountability to ensure the safety of students.

**Allegation 6.6** The District allows staff to refer students for disciplinary infractions to the on-site probation officer, even when a student does not have a PO previously assigned to them by the court. The District lacks a formal memorandum of

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

understanding (MOU) with the Los Angeles County Probation Department to guide their role with student interactions and fails to provide procedures for when students are referred to the probation officer assigned to the school, such as the provision of a student's special education file.

- Allegation 6.6 is partially founded.
  - The District lacks a formal MOU with the Los Angeles County Probation Department.
  - No District data appears to exist regarding the number of students who are assigned a PO. It is reported that schools are not systematically made aware of POs' caseloads.
  - While all levels of school officials denied referrals of students to the campus-based PO, eight parents who participated in the telephone survey reported having their student referred to the PO without having one assigned by the court.
    - The small sample size and limited information provided by parents preclude the ability to make a satisfactory determination whether the allegation is founded. However, these responses represent 15% of all parents interviewed and warrant a deeper look into these referrals.

**Allegation 6.7** The District uses threat assessments to “punish and exclude students for disability related behaviors.” Despite including mental health professionals on the Threat Assessment Team, schools often rely on law enforcement first for responding to mental health crises, who are not properly trained to deal with these interventions but have discretion whether to reach out to mental health providers or handle it themselves. This response circumvents the “supportive safety net and replaces it with criminal system contact” when dealing with students' mental health emergencies.

- Allegation 6.7 is unfounded.
  - The investigation did not obtain any data regarding threat assessments, information regarding any events that would entail who responded to these events and how, or if the responses were for disability related behaviors of students.
  - Two school safety plans were reviewed and found to contain inconsistent language for referring threats, with one part of the document listing law enforcement personnel as the first contact and another identifying the school administrator as the initial contact and party responsible for including school psychologists and/or other mental health professionals as part of the threat assessment response team.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Allegation 6.8 The District fails to report threat assessments as law enforcement referrals to the U.S. Department of Education's Civil Rights Data Collection, in particular when SROs are members of the responding Threat Assessment Team.

- Allegation 6.8 is founded.
  - Although threat assessment referral data were not provided, the overall inaccuracies and underreporting of law enforcement referral, arrest, and restraint data allow for a reasonable inference to validate this allegation.
  - The lack of reporting procedures and uniform data systems makes it highly likely that the central office of the District is unaware of threat assessment referrals, thereby failing to report these events accurately.

# Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

## Section 7. Methods

This section reviews the methods utilized to investigate each allegation area. Overall, the investigation collected quantitative and qualitative data in order to make determinations on whether the allegations were founded. Several data requests, including follow-up requests, were made by DRC and NLSLA prior to and during this period of investigation. However, the June 14, 2022, document demand letter contains a comprehensive list of documents and data files requested to guide the investigation (Appendix 4)

This included a review of various district data, policies and procedures, interviews of central and site level school officials and staff, feedback collected through a telephone survey of parents/guardians, and attendance at a community-based meeting. In addition, external sources, such as the CDE DataQuest and the District website, were reviewed. An overview of each method utilized per area of inquiry is included in this section.

To examine disproportionality, District data were reviewed to determine whether specific racial/ethnic groups were more susceptible to overrepresentation in various aspects of the Complaint. The measures used to calculate disproportionality are dependent on accurate enrollment data. This section discusses the data collection efforts to obtain enrollment data, sources of inaccuracies within the enrollment data, and the general disproportionality measures used to calculate and analyze the impact of overrepresentation.

### Enrollment Data for the 2021-22 and 2022-23 School Years

To calculate disproportionality, good quality and accurate enrollment data are necessary to obtain the best estimates of overrepresentation. Inflated enrollment figures can impact disproportionality measures since the denominator used to determine proportionate representation results in lowering the risk and risk ratio of a specific group, potentially minimizing the impact of the overrepresentation. Conversely, an underestimated number of students in the enrolled population can result in higher risk and risk ratios, leading to the appearance of greater disproportionality.

Quality enrollment data are also required to match students with indicators such as race/ethnicity, disability status, grade level but are not always captured in the reporting mechanisms. For example, many of the referral data for the Student Support Center (SSC) did not capture disability status or race/ethnicity; therefore, these data were merged using student ID numbers to determine the student's race/ethnicity and disability status in order to calculate disproportionality.

A total of five requests for enrollment data were made due to numerous challenges obtaining quality data for this investigation. All enrollment data submissions were provided in separate files for general education and special education students, and special education enrollment and placement data were also provided in separate files. The use of separate files can result in inaccuracies since student information may be duplicated or missing if an initial cohort was not established or if the data were pulled separately without effort to merge the files.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The first three submissions (October 17, 2022, November 3, 2022, December 16, 2022) of special education enrollment data were deemed unreliable for examining disproportionality despite several requests and feedback on the problematic areas of each submission. Primarily, the enrollment data lacked reliable disability/eligibility, race/ethnicity, and LRE indicators, and these concerns were reported to District staff. However, the District's resubmissions continued to include similar inaccuracies or missing data.

Table 7.1 highlights the inaccuracies for each of the enrollment files analyzed. The first file submitted in October contained erroneous race indicators of White for many of its Hispanic students. This resulted in more than half (54.2%) of all students being coded as White and only 19 unduplicated Hispanic students. Another concern was the high number of students with a race code that falls under the Other category for the purpose of this investigation, which includes students identified as Native American/Alaska Native, Asian, Hawaiian/Pacific Islander, and Filipino.

In addition, students coded as multiracial were not included in either of the three submissions, meaning no students carried this designation. These data do not coincide with the enrollment data reported on the CDE DataQuest that reports 234 multiracial SWDs (5.9% of the special education population).

Inaccuracies related to racial/ethnic indicators can be attributed to the high number of students with more than one race and/or ethnicity codes that were not likely due to the information reported by families. Although families can self-identify their race or ethnicity with categories that apply to them, the frequency of these indicators suggests a systemic problem.

The November and December files appeared to contain data more in line with the race/ethnic proportions of SWDs reported to the State; however, these files lacked many students compared to enrolled population reported to the State and were considerably below the historic average enrollment numbers of 3,800 and 4,100. Therefore, the three special education enrollment files were not considered reliable for use in any of the analysis associated with this investigation.

**Table 7.1**

*Special Education Enrollment File by Date of Submission and Race/Ethnicity*

	10/17/22		11/3/22		12/16/22	
	n	%	n	%	n	%
Black	1,322	31.9	776	28.5	577	28.7
Hispanic	19	0.5	1,625	59.6	1,189	59.2
White	2,246	54.2	254	9.3	189	9.4
All Other	554	13.4	73	2.7	55	2.7
Total	4,141	100	2,728	100	2,010	100

On November 29, 2022, in response to yet another request for valid special education enrollment data, the District produced its fourth submission of enrollment data. This file contained an unduplicated count of general and special education students that was

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

reportedly used for the fall enrollment file submitted to the State. This file is based on students attending or being enrolled in the District as of October 6, 2021. Although this file contained enrollment data closest to what is reported to the State, it failed to include eligibility codes, LRE time, and special education placement information, which are necessary for examining disproportionality in identification and placement.

Table 7.2 shows the special education enrollment as of October 6, 2021, or what is referred to in this report as the fall enrollment file, as well as enrollment data from the CDE DataQuest website. Although minor differences<sup>52</sup> were noted in the numbers of students in each group, the percentages and proportions of SWDs in each group remained consistent. Therefore, the fall enrollment file was deemed reliable for examining disproportionality in all areas of the investigation except for special education identification and placement. For the purpose of this investigation, the special education enrollment or cohort of SWDs contains 3,793 unduplicated students.

**Table 7.2**

*Special Education Fall Enrollment (10/6/21) and CDE Enrollment by Race/Ethnicity*

	Fall Enrollment		CDE	
	n	%	n	%
Black	959	25.3	998	25.1
Hispanic	2,167	57.7	2,271	57.2
White	364	9.6	387	9.7
All Other	58	1.5	82	2.1
Multiple Races	225	5.9	234	5.9
Total*	3,793	100	3,972	100

\*11 students were missing a race/ethnicity code from the fall enrollment source while 23 students were missing a race/ethnicity code from the CDE source and removed from the analysis.

Although the District attributed some data inaccuracies to a misunderstanding of the requests<sup>53</sup>, the repeated poor-quality extracts evidenced that data were not vetted for accuracy by senior officials prior to submission to DRC and NLSLA. It also raises concerns regarding the capacity of the District to maintain and report accurate data. Quality enrollment data are fundamental, and inaccurate data can have various implications, including the apportionment of average daily attendance funds.

Special education eligibility, LRE time, and placement information were provided several times with various errors observed that called into question the reliability of data. The District provided eligibility and LRE time within the enrollment files and offered placement data

<sup>52</sup> Differences may be attributed to the point in time each data extract was pulled.

<sup>53</sup> The District claims that the request did not specify the need for ethnicity codes; therefore, the data was only sorted by race. This explains why so many students (mostly Hispanic) appeared with a White race code. It is unknown why the majority of Hispanic students also had a White race designation, but the addition of this code appears to be systematic.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

separately, further complicating analysis. In addition, eligibility and LRE time indicators could not be used due to the high rate of errors with the race/ethnicity codes in the first three enrollment files.

In an attempt to obtain eligibility and placement data, the three previous enrollment files were unduplicated and merged with the placement setting and out-of-school suspension file<sup>54</sup> and then matched to the 3,793 SWDs in the cohort. This attempt was unsuccessful, with more than 545 SWDs missing eligibility data and more than 600 missing placement/LRE information.

To examine and calculate disproportionality, general education enrollment data were necessary and requested. Three files were provided with the first received on October 17, 2022; however, this file contained significant inaccuracies with grade level data and was considered unreliable. In addition, this file did not include students with multiple race codes. The second file of general education enrollment data was delivered on November 29, 2022, and consisted of the fall enrollment file consistent with the special education data referenced above. To cross reference the accuracy of the enrollment data, the CDE DataQuest enrollment data were used for comparison.

Table 7.3 shows the breakdown of general education students by race/ethnicity for each data source. The fall enrollment and CDE files showed race and ethnicity data more consistent and reliable than the original submission (October 17, 2022), which reported much higher numbers and percentages of Black students, White students, and students in the Other category. In addition, it lacked codes for multiracial students, raising concern with the overall reliability of this data extract.

**Table 7.3**  
*General Education Enrollment by Data Source and Race/Ethnicity*

	10/17/22		Fall Enrollment		CDE	
	n	%	n	%	n	%
Black	3,150	17.1	2,672	14.4	2,755	14.5
Hispanic	12,363	67.0	12,663	68.4	12,970	68.2
White	2,152	11.7	1,842	10.0	1,931	10.2
All Other	801	4.3	583	3.2	587	3.1
Multiple Races	0	0	758	4.1	782	4.1
Total*	18,466	100	18,518	100	19,025	100

\*13 Students were missing race/ethnicity codes from the fall enrollment source and 43 students were missing race/ethnicity codes from CDE source. They were removed from the analysis.

Although the District’s October 17, 2022, file provided decent enrollment data of race/ethnicity indicators for general education students, it was deemed unreliable due to significant

---

<sup>54</sup> The suspension file contained race/ethnicity and eligibility indicators and was deemed reliable.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

inaccuracies with grade level information. The primary concern was the extremely low number of 9<sup>th</sup> grade students (422) and the high number of 12<sup>th</sup> grade students and those coded as graduates (99 code) that when combined totaled 8,629 students (Table 7.4).

**Table 7.4**  
*Enrollment Grade Level Data by Source*

	6	7	8	9	10	11	12	99	Totals
10/17/22	7	65	169	422	4,403	4,739	4,650	3,979	18,434
Fall Enrollment	53	179	204	4,429	4,794	4,412	4,447	0	18,518
CDE	53	179	204	4,684	4,975	4,522	4,487	0	19,068

The unduplicated fall enrollment file had more comparable numbers of students with both race/ethnicity and grade-level indicators as reported on the CDE DataQuest website. Therefore, the fall enrollment file appeared reliable for examining disproportionality in areas that looked to identify disparities between general education and special education students in areas such as OSS, ISS, expulsions, transfers, restraints, and law enforcement referrals.

Due to the lack of reliable special education eligibility and placement data obtained in the first four submissions of enrollment data, a decision was made to obtain 2022-23 school year data to examine various aspects of special education identification and placement overrepresentation. The rationale for this decision was that the 2022-23 data would have been recently collected and, in theory, readily available and more reliable.

On January 13, 2023, the District produced an unduplicated special education file with eligibility and LRE category information. The file did not contain specific LRE values for individual students and only provided general LRE category designations. This limited the ability to examine LRE data in more depth and required that the analysis rely on the accuracy of the coding applied. On January 19, 2023, after another request, the District provided an unduplicated general education file with only race/ethnicity and grade level indicators and no student IDs or other variables that would enable checks for accuracy. Although not ideal, after the delays and repeated submissions of inaccurate data, this data appeared to include enrollment figures consistent with previous years and was deemed reliable for the purposes of calculating disproportionality in the areas of special education identification and placement. Although the District reported that these enrollment data were from the California Longitudinal Pupil Achievement Data System’s (CALPADS) file reported to the State, it is unknown why this file was disaggregated by disability status and why all indicators, such as LRE values and student IDs (for general education students), were not produced.

Overall, it is unclear why the District could not produce accurate enrollment data or why it did not submit its entire CALPADS report that contains all requested variables including LRE and placement information for the 2021-22 school year. Furthermore, it is unknown why separate files were provided for LRE and placement information and the timeframe selected for compiling most of these extracts. Lastly, it was clear that these data submissions were not

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

reviewed by senior officials since many of these files contain glaring and obvious inaccuracies that should have prompted a review and revision of the files prior to submission.

The delays in obtaining basic enrollment data impacted the investigation's ability to examine disproportionality in all areas of the investigation in a timely manner. Furthermore, using the fall enrollment file has implications for comparing end-of-year data associated with many of the allegations in the CDE Complaint. For example, using fall enrollment data to match students to events that occurred through the end of the school year reduces the likelihood of matching all students to events, since students that enrolled after October 6, 2021, could have experienced a suspension or expulsion and would not have showed up on the fall enrollment file. Essentially, using data from two different timeframes creates an "apples to oranges" scenario for making comparisons.

Unfortunately, the CDE DataQuest website has not updated special education data since 2018-19. Despite the lack of updated data, generalized special education enrollment information can be obtained using the overall population enrollment page and using the feature to filter SWDs. This approach only allows for the identification of special education students by race/ethnicity and grade but does not disaggregate data by special education eligibility categories. Therefore, the CDE DataQuest data could not facilitate analysis of disproportionality within eligibility categories and placement. The lack of special education enrollment data on the CDE website has implications for researchers, LEAs, and other interested members of the education community looking to monitor and/or review what should be readily accessible public information.

### **Disproportionality Measures**

States are required to collect and examine data for each of their districts annually to determine if significant disproportionality based on race/ethnicity is occurring in the following areas:

- identification of students as students with disabilities (in general) as well as identification of students in specific disability categories;
- the placement of students with disabilities in particular educational environments; and
- the incidence, duration, and type of disciplinary actions, including suspensions/expulsions.

The CDE defines disproportionality as the overrepresentation of a specific race or ethnicity identified in one or more of four areas: identification of a disability in general; identification of a specific race or ethnicity in a specific disability category; discipline; and placement.

The investigation relied on IDEA Data Center's Technical Assistance Guide (Revised), *Methods for Assessing Racial/Ethnic Disproportionality in Special Education (2014)* for calculating disproportionality measures.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To determine if disproportionate representation exists with special education identification for different racial/ethnic groups, three measures were used to calculate disproportionality: composition index, relative risk, and relative risk ratio.

The composition index (CI) is a basic measure to indicate whether overrepresentation or underrepresentation is present. It refers to the proportion of a group with the same characteristics, such as demographics, within a population. This enables a basic view of how students in a specific racial/ethnic group in special education compare to their overall enrollment, providing insights into over- and under- identification of disability for that group. For example, if Black SWDs make up 25% of the special education population and 40% of SWDs suspended, a comparison of the composition or make up of these two groups shows an overrepresentation of Black SWDs in suspensions.

The risk or relative risk is a within group comparison that identifies the risk or odds students within that racial/ethnic group have of experiencing a particular event, such as a suspension or identification for special education. The risk can also be used to describe one group's referral rate for a particular event, such as the suspension rate for SWDs. For example, if the risk or suspension rate for SWDs is 9.5%, this means that 9.5 out of 100 students with disabilities are likely to experience a suspension.

The last measure used is the relative risk ratio, which compares the risk of one group to the risk of all other groups. This measure best shows the extent and impact of disparities between racial/ethnic groups experiencing an outcome, such as a special education identification. Risk ratios are commonly reported to show one group's higher likelihood of experiencing an event compared to all other students. For example, if the risk ratio for Black students being identified with ED is 3.55, this indicates that Black students are 3.55 times more likely to be identified as a student with ED compared to all non-Black students. For a more precise view of disproportionate overrepresentation, risk ratios are reported to two decimal places.

For the purposes of the investigation, disproportionate representation or overrepresentation was identified when a risk ratio threshold met or exceeded 2.0.

To better categorize the extent of overrepresentation, the investigation applies the Washington Department of Education's<sup>55</sup> thresholds to identify disproportionate over- and under- representation and significant disproportionality. These thresholds are also consistent with literature that identifies risk ratios of 2.0 and over as being disproportionate (Parrish, 2002).

- Disproportionate underrepresentation:  $\leq 0.5$
- At risk for disproportionate underrepresentation:  $>0.5$  to  $<0.67$
- No disproportionate representation:  $\geq 0.67$  to  $\leq 1.5$

---

<sup>55</sup> <https://www.k12.wa.us/student-success/special-education/program-improvement/significant-disproportionality>



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- At risk for disproportionate overrepresentation: >1.5 to <2.0
- Disproportionate overrepresentation: ≥ 2.0 to <3.0
- Significant disproportionality: ≥3.0

The State set the relative risk ratio threshold for determining significant disproportionality at 3.0. This means that students from a specific racial/ethnic group must be three times more likely to be identified with a disability (i.e., suspended, expelled) than all other students in order for significant disproportionality to be present. The term significant disproportionality is utilized for thresholds that meet or exceed the State's 3.0 target. In addition, the State considers Significant Disproportionality (capitalized) as the identification of disproportionality for 3 consecutive years in the same indicator and category of disproportionality. Due to the focus of the CDE Complaint on problem areas related to overrepresentation, the investigation did not seek to examine or address areas of underrepresentation.

### Statistical Tests

Approximately 59 2 x 2 contingency chi-square tests were run to determine if there were statistically significant relationships between various categorical variables related to race/ethnicity, special education status, and various forms of school punishment. Students were classified as either being disabled (special education status) or nondisabled (general education status), and Black or non-Black. Tests were run to determine if the observed distribution was significantly different than the expected distribution of these categorical groups. The 2 x 2 cells are made up of the number of observations, or students, in a particular group as it relates to various school punishments.

Any p-values that were less than or equal to .05 were considered significant and indicate a relationship exists between the categorical variables. Forty-five of the 59 tests were significant with a 95% confidence interval, highlighting differences between general education and special education students overall as well as between Black and non-Black students within those education groups. Below is the formula of chi-square tests.

$$\chi^2 = \sum \frac{(O - E)^2}{E}$$

$\chi^2$  = the test statistic       $\sum$  = the sum of

O = Observed frequencies      E = Expected frequencies

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

A table with a full list of all of the statistical tests run can be found in Appendix 5. The table includes information on each area tested, the location of the report where it can be found, and the chi-square and p-value values. In addition, the table includes tests that were not found to be significant, which are not mentioned in the report.

### **Site Visits and Staff Interviews**

The investigation included site and central office visits to collect data on the policies, procedures, and practices associated with the various allegations of the CDE Complaint.

Site visits were conducted over three days in May 2022 at four comprehensive, two continuation schools and the special education center, including: Eastside HS, Quartz Hill HS, Littlerock HS, Palmdale HS, Rex Parris High Continuation, Desert Winds Continuation, and Desert Pathways Special Education Center. These site visits were organized to discuss the various aspects of the allegations with staff in a focus group type setting, as well as to view the SSC, OCD, and SDC-B classrooms. A variety of staff participated in site visits, including principals, assistant or vice principals, SSC staff and coordinators, campus security supervisors, PBIS coordinators, and teachers. In addition, the Director II Special Education and District attorneys were present during the site visits and interviews.

Interview guides were developed to lead inquiries in the following areas: OSS, ISS, referrals to law enforcement and probation officers, expulsions/transfers, MDRs, restraints and seclusions, and data maintenance and reporting capacity. Not all questions in the interview guides were asked, and on some occasions additional inquiries were made that arose from the discussion. The interview guides can be viewed in Appendix 6.

Some site visit limitations were a lack of access to SROs and probation officers, and the presence of central office staff and District attorneys, which may have influenced responses from school staff. Furthermore, whether coincidence or intentional, the site visits appeared to occur during times when the majority of students were not present in either the SSCs or in the SDC-B classrooms. Therefore, the site visits did not observe any direct instruction or many students in the SSCs.

Findings from the site visits and interviews are interspersed within the respective sections of each allegation.

Interviews with office staff occurred in person on April 25, 2022, and October 10, 2022. These inquiries were structured like focus groups (and referred to as such) and included relevant staff knowledgeable of the problem area and/or programs.

The meeting held on April 25, 2022, discussed OSS, ISS, alternatives to suspension or reassignment to the SSC, expulsions and disciplinary transfers, and data maintenance and reporting. These discussions included the following staff by position:

- Director II Special Education
- Director I Student Services
- Coordinator of Psychological Services

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Assistant Superintendent of Business Services
- Director of Human Resources
- District Attorneys (2)

The October 10, 2022, meeting focused on the District's CCEIS Plan to address Significant Disproportionality, PBIS, and MDRs. These discussions included the following staff by position:

- Director II Special Education
- Director III Behavior Interventions
- Deputy Superintendent
- Director of Equity & Coordinator of Title IX
- Coordinator of Student Services
- Coordinator of Psychological Services
- Site level PBIS Coordinators (4)
- School Psychologists (4)
- District Attorneys (3)

### ***Methods for Each Section of Investigation***

The methods used to determine the validity of the allegations for each section (2 through 6) are described separately below.

Section 2 focuses on disproportionality in identification for special education in general, in specific disability categories, and in placement. This section included a review of policies and procedures as well as quantitative and qualitative data regarding special education identification and placement.

The following documents were reviewed and can be viewed in Appendix 7:

- Least Restrictive Environment (LRE) – Antelope Valley SELPA (2018)
- Board Policy 6159 – Least Restrictive Environment (LRE) – Revised June 4, 2003  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728246/6>
- AVUHSD Positive Behavior Level System
- SDC-B Job Alike Session Agenda from the 2021 Special Education Virtual Conference (PowerPoint)

Disproportionality measures were used to calculate whether disproportionality exists in the identification of students in special education, among SWDs in specific eligibility categories, as well as in placement within the three LRE categories, as required by law.

The State requires an examination of data to determine if overidentification exists in special education for the more subjective disability categories, including specific learning disability (SLD), emotional disturbance (ED), other health impairment (OHI), speech and language impairments (SLI), and autism.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The IDEA requires states to determine significant disproportionality in placement by examining data for the following educational environment categories:

- inside a general education class less than 40% of the day
- inside a general education class no more than 79% of the day and no less than 40% of the day
- separate schools and residential facilities

The State also set targets for monitoring the LRE categories, but they differ slightly from those required by the IDEA. For example, the CDE monitors the most and least segregated categories of less than 40% and 80% or more in the general education class and excludes the mid-range category of 40-79% in the general education setting.

To examine placement in more depth, three instructional settings were disaggregated by race/ethnicity in the LRE categories. This analysis also sheds light on potential data inaccuracies as specified in students' individualized education programs (IEPs) and reported to the State. Notably, no students were identified as being fully included in the general education program. All had some indicator of a special education program placement of either RSP or one of the various SDC settings. To better understand placement practices for students by race/ethnicity, class enrollments were examined by the various instructional settings offered.

The RSP instructional setting is the least restrictive placement and generally offered for a small portion of the day in a self-contained classroom. A special day class (SDC) is also provided in a self-contained environment and can offer access to the general education core curriculum or to the alternate curriculum for more moderate to severely disabled students.

As noted in the discussion on enrollment data, this section was the only part of the investigation that used 2022-23 school year enrollment data. Table 7.5 provides the enrollment data used to calculate disproportionality in the areas of special education identification and placement.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 7.5**

*Enrollment Data Used for Special Education Identification and Placement Analysis by Disability Status and Race/Ethnicity for 2022-23 School Year*

Race/Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	3,483	15.8	2,567	14.0	916	25.0
Hispanic	14,901	67.7	12,712	69.3	2,189	59.7
White	2,082	9.4	1,742	9.5	340	9.3
Asian	230	1.0	216	1.2	14	0.4
Pacific Islander/Hawaiian	316	1.4	289	1.6	27	0.7
American Indian/Alaska Native	59	0.3	44	0.2	15	0.4
Multiple Races	954	4.3	787	4.3	167	4.6
Total	22,025	100	18,357	100	3,668	100

Section 3 focuses on disproportionality in exclusionary discipline, including out-of-school suspensions. This section included a review of policies and procedures and quantitative and qualitative data regarding out-of-school suspensions (OSS), including one time and long-term removals.

The following documents were reviewed and can be viewed in Appendix 8:

- Board Policy BP 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728152/>
- Administrative Regulations AR. 5144.2 Suspension and Expulsion/Due Process Students with Disabilities (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728155/>
- Discipline Matrix and Behavior Consequences Matrix (E 5144.1)
- Various Suspension Notice Forms
- Annual Parent-Guardian Notification Packet
- Expulsion or Alternative Placement for Students with Special Education Services (Revised 2014)

To validate the accuracy of the OSS data reported in the District's systems, the investigation requested several sources of information. The District provided two end-of-year files from the student information system (SIS), one for general education and the other for special education students who received an OSS. The files contained the date of the incident, reason for suspension or infraction(s), number of days suspended, race/ethnicity, eligibility, grade, and school of attendance information. These variables enabled the investigation to examine disproportionality in OSS. Additionally, to examine if differences exist in the severity of

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

punishments for SWDs and by race/ethnicity, duration or length of the suspension and the number of reasons applied for each suspension were analyzed.

To determine whether disparities exist between SWDs and general education students, as well as Black SWDs and SWDs in all other racial/ethnic groups, end-of-year suspension data were compared by disability status and race/ethnicity<sup>56</sup>. For this analysis, enrollment data were derived from the fall enrollment file submitted to the State and reflect students enrolled in October 2021. Due to the gap in data collection points (fall 2021 compared to end-of-year June 2022), race/ethnicity indicators provided in the suspension file were used because these data were deemed more reliable. One limitation of the suspension dataset is that students coded with multiple races were not provided; therefore, multiracial students were removed from the overall enrollment figures for the purposes of calculating disproportionality.

To identify disparities between general and special education students by race/ethnicity, suspension data were disaggregated by the number of students with at least one suspension (unduplicated) and the total number of suspension events (duplicated<sup>57</sup>) applied to each group.

To determine if suspensions (both at least one time and long-term) are indicative of disproportionality for SWDs and for Black students with and without disabilities, three measures were used to measure disproportionality, which include: composition index, relative risk, and relative risk ratio.

For the 2021-22 school year, the District reported a total of 2,737 OSS events representing 1,725 students. General education students accounted for around two-thirds (n=1,170, 67.8%) of all students suspended and suspension events (n=1,780, 65.0%). Conversely, special education students made up about one-third of the students suspended (n=555, 32.2%) and all suspension events (n=957, 35.0%).

As of December 15, 2022, the CDE posted OSS school discipline data by school for the 2021-22 school year and reported a total of 2,766 suspension events representing 1,746 students. The CDE DataQuest feature for sorting or filtering data by disability status was not enabled at the time of this report; therefore, this limited the comparison of OSS by eligibility categories for SWDs reported in the SIS file. Although the file submitted by the District does not match the CDE OSS file exactly, the overall proximity of suspension events and unduplicated students reported in both suggests reliable data for examining disproportionality.

Based on information obtained during site visits where school officials shared their documentation practices, additional information maintained at sites was requested, including

---

<sup>56</sup> For reporting purposes and due to the small numbers, students in the Asian, Pacific Islander, and American Indian/Alaska Native groups were combined into an "Other" category.

<sup>57</sup> Duplicated counts include all suspension events for the same student, compared to unduplicated, which accounts for individual students suspended regardless of the number of events.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

suspension notice forms, suspension letters sent to parents, and site level spreadsheets and discipline reports.

For the purposes of this report, suspension data from the student information system (SIS) is referred to as suspensions “reported to the State,” while site level suspension documentation (suspension notice forms and parent letters) is referred to as suspensions “reported by schools.”

Suspension notice forms and parent letters were provided in PDF format; therefore, in order to analyze data, these documents were printed to facilitate data entry into individual spreadsheets by school. Upon data entry, a file was developed and merged with enrollment data from the October 6, 2021, fall enrollment file in order to identify and verify students’ race/ethnicity and disability status.

Suspension notice forms and/or parent letters were obtained for a total of 1,348 students, representing 1,881 suspension events. Of these, more than six in 10 OSS documents were for general education students (n=857, 63.8%) and suspension events (n=1,148, 61.0%). Documentation for SWDs accounted for three out of 10 students suspended (n=415, 30.8%), representing 650 events (34.6%). The remaining students and suspension events could not be matched with the enrollment file and therefore lacked definitive race/ethnicity and disability status information necessary to examine disproportionality.

The District primarily produced suspension notice forms and letters to parents for all its schools with the exception of Phoenix Continuation School<sup>58</sup>. The documentation varied, with some sites producing several versions of suspension notice forms, parent letters, incident report forms, witness statements, and photographs. A total of three different suspension notice forms were observed with the majority of schools utilizing what will be referred to as the “official suspension notice” form (Attachment A).

This form is the most frequently used and contains checkboxes to indicate four disciplinary actions, including: off campus suspension (referred to as OSS within this investigation), on campus suspension (referred to as ISS within this investigation), referral to principal, and law enforcement referral. The official suspension notice form also includes a section for the education code infraction(s), a brief description of the behavioral incident, and other means of correction. In addition, the form requires schools to capture information on the date/time/location of the incident, dates of suspension, return date, and number of days

---

<sup>58</sup> Phoenix Continuation provided 27 suspension notice forms; however, these forms pertained to suspension events for students at comprehensive sites prior to being transferred to Phoenix. These data were collected at the location of the OSS or the students’ respective comprehensive schools.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

suspended. It references the following education codes<sup>59</sup>: 48900, 48900.2, 48900.3, 48900.4, and 48900.7.

Two alternative suspension notice forms were observed. The first, titled Incident Details within the Attendance Related Actions module of the data system used at Desert Pathways High School (Attachment A.1), contained the same basic information as the official suspension notice form but did not contain a field for capturing law enforcement referrals. The most notable difference of this tracking mechanism was that OSS data could be documented for the suspension of more than one student, meaning that each student did not require an individual form.

The other alternative suspension form was observed with Littlerock High's OSS data. This form includes a list of the 20 allowable reasons or infractions for suspension under Education Code 48900, as well as those for 48900.2, 48900.3, 48900.4, 48900.7 (Attachment A.2). The form did not reference 48900.5 and did not include a section for documenting other means of correction. In addition to including checkboxes for capturing OSS or ISS, the form included a checkbox for students who were being recommended for expulsion.

Parent letters (Attachment A.3) were submitted inconsistently across schools. Although the level of detail in the letters varied, most contained the reason for suspension, dates of suspension, and return date. Information regarding the incident date/time/location and information regarding other means of correction (48900.5) was seldom included and varied by school. Parent letters specified dates that were not included as part of the suspension, such as weekends or school holidays, which was helpful for parents/guardians to identify which dates were considered OSS.

Since letters were not provided for all schools, thorough comparisons could not be made, nor was it possible to determine whether schools sent letters to all parents. Desert Winds Continuation HS (which also includes Desert Pathways, the only special education center) and Knight Prep Academy HS only provided parent letters and did not include any suspension notice forms. Littlerock HS and Rex Parris Continuation HS provided both parent letters and suspension notice forms. Parent letters were not provided for suspension events at Eastside HS, Highland HS, Palmdale HS, Antelope Valley HS, Knight HS, Quartz Hill HS, and Lancaster HS. In addition, suspension forms or parent letters were not obtained for events that occurred at Phoenix Continuation HS even though the CDE website reports 87 suspension events and a 41.9% suspension rate.

Some limitations to the suspension data analysis were the variability of forms obtained, particularly for schools that only provided parent letters. One aspect of the data collection was to examine the accuracy of the suspension length or duration reported to the State. Duration of OSS were collected in two ways with the first simply recording information

---

<sup>59</sup> 48900 include the majority of Education Code violations for suspension; 48900.2 – Acts of Sexual Harassment; 48900.3 – Acts of Hate Violence; 48900.4 – Acts of Harassment, Threats or Intimidation; 48900.7 – Suspension or Expulsion of Terrorists Threats.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

documented on the form or letter. In some instances, suspension length was documented for a fraction of the day on the suspension notice form, and these cases were rounded to the next whole number. Rounding to the next whole value by schools was also noted for cases that had a suspension notice form with a fractional length of suspension and a parent letter that showed the duration rounded up. For example, if a student was suspended after third period, the duration on the form might state 2.5 days; however, the parent letter indicated a three-day suspension.

During the file review, another pattern emerged that suggested schools were underreporting the length of suspensions. Suspension notice forms that included the time/date/location of the incident did not always match the date when the suspension was to be in effect. On many of the official suspension forms, information regarding the “parent requested action” included information that implied a student had walked home or had been picked up by the parent or other family member. For suspension events where the date of the incident occurred during the school day but did not match the start date of the suspension, an adjusted count was included since the student had been sent home informally. For incidents that occurred after school or close to the end of the school day, these counts were not adjusted and were considered a match. A conservative approach was used to adjust counts and could not be done for suspension events that lacked information on the date of the incident, such as those where only a parent letter was received.

Although some schools considered the date of the incident as the first day of the suspension, many showed the suspension count began the first day following the incident. The underreporting of suspension data has implications for determining disproportionality of long-term suspensions over 10 days, the provision of timely procedural safeguards afforded to SWDs such as the MDR, as well as the appropriation of funds recovered under the average daily attendance (ADA) model. Students who are officially suspended do not generate ADA, since these absences are considered verified and unexcused; therefore, the underreporting of OSS means schools inappropriately continue to receive ADA.

To further examine the impact of issuing suspensions and longer periods of removals, data were analyzed by comparing the number of instructional days lost for general and special education students by race/ethnicity.

To explore the application of inequitable practices by site level administrators when issuing suspensions, data were analyzed to identify disparities between the number of days issued for unique suspension events and the number of reasons listed per offense as maintained in the student information system (SIS) and reported to the CDE.

To identify if severity of administered punishment disparities exists between general education and special education students by race/ethnicity, the investigation reviewed the number of days issued per suspension event, the number of reasons or infractions listed, and issuance of three subjective education code violations.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Site administrators are required to list the infraction or violated education code in order to issue and justify a suspension. The practice of including multiple reasons is not required by the CDE and prompted concern regarding the inequitable application of infractions when suspending SWDs and Black SWDs. Differences in the use of multiple infraction codes to justify a suspension could be indicative of biases that view the misconduct of some student groups as more severe than others.

Initial data analyses identified many students with multiple infractions listed in the suspension file for unique events. In some instances, the same offense was listed two or three times, indicative of data entry or maintenance problems. Prior to further analysis, these data were cleansed to remove duplicates.

Other means of correction can include a variety of interventions that may include but not be limited to conferences with parents and counselors, referrals to student study teams or for special education assessments, and/or participation in restorative justice or anger management programs. Other means of correction are essentially considered alternatives to suspension and are intended by the legislature as the preferred method of discipline.

Because the District's file did not include the description of which other means of correction were applied, such as being referred to a counselor or a reassignment to the Student Support Center (SSC), this analysis can only illustrate the trends for issuing these less restrictive disciplinary actions for general and special education students by race/ethnicity<sup>60</sup>. Due to this limitation, it was not feasible to accurately gauge whether certain groups received less punitive discipline, such a referral to counselor, compared to being reassigned to the SSC, which constitutes an in-school suspension (ISS) for the purpose of this investigation. It is important to note that school officials confirmed that ISS and on-campus detentions (OCD) are considered an other means of correction.

Overall, an other means of correction was applied to 1,682 students for a total of 2,804 disciplinary events. Since these disciplinary actions are alternatives to suspension, this data is best analyzed by comparing it to the rates of OSS issued to same group of students.

The official suspension notice form enabled the collection of law enforcement referral data; however, the alternative suspension forms and parent letters lacked data on such referrals. In cases where a law enforcement referral was indicated in the narrative of the letter or the alternative suspension form, this information was entered into the spreadsheet. Although law enforcement referral information was mainly limited to suspension events with an official

---

<sup>60</sup> The District provided an initial other means of correction file with these descriptors, which confirmed that period suspensions and reassignments or in-house suspensions fall within this reporting. However, as noted in the discussion above, the lack of these descriptors for the end-of-year data limits the ability to differentiate between the types of interventions imposed.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

form, these data were compared to the law enforcement referral data reported to the state and federal government<sup>61</sup>.

Information on suspension events where students were referred to law enforcement, searched, and/or restrained was collected from suspension documentation provided by schools. The official suspension notice form contains a checkbox to indicate if a student was referred to law enforcement. However, it is important to note that the data collection included alternative suspension forms and parent letters that do not systematically require schools to include this information. Due to the variability of the forms used and recording practices by administrators and schools and the lack of requirement to use the checkbox, it is likely that these data are an underestimation of practices occurring at schools.

To obtain a broad understanding of the issues related to OSS, qualitative data collection efforts were conducted and included site visits, a telephone survey of parents, and various meetings or focus groups with District staff.

To better understand the procedures used to issue suspensions, five of the eight comprehensive schools and three continuation sites were visited, and staff interviews were conducted at each. These interactions included personnel such as principals, vice and assistant principals, SSC coordinators, directors of campus security, and other security personnel.

To obtain feedback from families regarding the various allegations in the March 28, 2022, CDE Complaint, the investigation included a telephone survey of 130 families of SWDs who experienced an OSS during the 2021-22 school year. In addition to substantiating allegations made in the CDE Complaint, the survey also provided insight on families' perspective with their school's discipline practices and interactions with school officials.

The telephone interview questionnaire was developed to obtain feedback from parents/guardians regarding OSS, ISS, restraints, referrals to law enforcement and probation officers, as well as perceptions of the adequacy of suspension for deterring future behaviors, and whether school officials treated SWDs and those from different race/ethnicities fairly when issuing school discipline. The questionnaire was translated into Spanish and tested in both languages. The telephone survey is included in Appendix 9.

A cloud-based Microsoft Access database was created to collect interview data, and research assistants were trained for delivering the survey in both English and Spanish. In addition, a dedicated phone system was established with a local phone number for parents to call. Approximately two weeks before the survey period, a letter in both English and Spanish was mailed to families informing them that they had been selected for the survey and the nature of

---

<sup>61</sup> LEAs are required to provide law enforcement referral data to the Office for Civil Rights (OCR) and State under RIPA and must include race/ethnicity and disability status information.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

the inquiry (Appendix 9). To facilitate participation, families were offered the opportunity to schedule phone appointments.

The District's suspension file was used for creating a survey sample and included 555 SWDs with the following: suspension event, duration, reason for suspension, and school locations. The sampling strategy aimed to obtain large enough comparison groups of respondents by race/ethnicity.

Since Black students made up the highest percentage of SWDs suspended and only 31 White students in the entire District received an OSS, a representative sample was not possible. In addition, the inclusion of all but one<sup>62</sup> White student also limits the possibility of a stratified representative sample based on the total number of days suspended. This means that since there are no additional White students to draw from, the distribution of days suspended is set and cannot be manipulated in any way. Lastly, in order to potentially achieve a large enough comparison group of completed surveys, students in the "other" race subgroup were removed from sampling due to their low rates of suspension.

Despite the limitations the inclusion of White students brings, the sample of participants for the Black and Hispanic students were stratified using the following variables: race/ethnicity, school location, and the total number of days (1 day, 1.01 to 7.99 days, 8 or more days) the student had been removed.

Of the 555 unduplicated SWDs who received an OSS, 130 students (23.4% of SWDs suspended) were randomly selected and include: Black students (n=55, 42%), Hispanic students (n=45, 35%), and White students (n=30, 23%).

The telephone survey was conducted over the two weeks between November 28 and December 9, 2022, during the hours of 7 a.m. to 7 p.m. Families were called a minimum of five times, unless the contact information provided was incorrect or phone numbers were no longer in service.

At the beginning of the first day of the survey, 18 families who had incorrect phone numbers or who refused to participate for reasons like not having knowledge of the suspension event or child<sup>63</sup> were removed from the sample and replaced. For example, 11 of the 55 families of Black students had inaccurate or inoperable phone numbers or refused to participate on the first day of the survey period. Replacement students were selected from the same strata as those in the initial sample; however, due to the lack of White students to draw from this resulted in increases in the Black and Hispanic subgroups. These families were mailed a letter informing them of their selection to participate in the survey prior to being contacted. No additional replacement students were added.

---

<sup>62</sup> A decision was made to cap the White students at 30 in order for the other two groups to be included in multiple of fives and for the sample to total 130.

<sup>63</sup> One foster parent reported taking custody of the student during the current school year and was not aware of the suspension experienced during the 2021-22 school year.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Table 7.6 shows the final and analyzed survey sample breakdown by race and ethnicity. Although the final response rate (45.4%) was lower than desired, there were several reasons the survey was not completed, with a high number of families refusing to participate as well as numbers that could not be reached<sup>64</sup>.

**Table 7.6**  
*Final and Analyzed Survey Sample by Race/Ethnicity*

Race/Ethnicity	Final Sample		Completed	
	n	%	n	%
Black	59	45.4	20	33.9
Hispanic	45	34.6	25	42.4
White	26	20.0	14	23.7
Total	130	100	59	100

The other stratifying variable used for sampling was the duration or total days of suspension (Table 7.7). Due to the small number of students in the sample with only one day of suspension and the low number of White SWDs suspended, analysis could not be done to compare responses using this duration variable. However, this variable was used to ensure the representation of students in the Black and Hispanic groups included a range of durations, in particular, students who had only experienced a one-day suspension since experiences may vary between those who experienced multiple removals.

**Table 7.7**  
*Final Sample by Total Days Suspended and Race/Ethnicity*

Race/Ethnicity	1 Day		2 to 7 Days		8 or More Days	
	n	%	n	%	n	%
Black	2	22.2	37	46.8	20	47.6
Hispanic	6	66.7	22	27.8	17	40.5
White	1	11.1	20	25.3	5	11.9
Total	9	100	79	100	42	100

The survey consists of 23 primary questions, and including follow-up inquiries, a total of 33 items were collected. The survey was designed to obtain information regarding:

- interactions with school officials during the OSS process, including methods for notifying parents of the suspension, if school officials considered the student’s disability when applying discipline, and whether changes to the IEP were made to support the student’s behavior
- referrals to ISS and methods for notifying parents of this disciplinary action

---

<sup>64</sup> A total of 16 families refused to participate. In addition, 43 phone numbers were either a wrong number, no longer in service, not answered, and/or lacked voicemails for leaving messages. Two guardians stated they no longer had the foster student in their custody and did not want to participate, and two parents claimed to have already completed the survey.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- other disciplinary interactions with staff, including security on experiences such as being restrained, handcuffed, searched, or referred to the probation officer
- perceptions on the effectiveness of disciplinary actions and the equitable treatment of SWDs and students from different race/ethnic subgroups

It is important to note that not all items were required for all respondents. For example, if parents reported that their student was not referred to the SSC for a reassignment or ISS, these items were skipped. In a few cases, families had to conclude the survey at various points and while some were able to complete the survey later, some did not, resulting in partially completed surveys.

During and after the interviews, parents offered insights into their experiences. In several cases, parents could be heard asking their child to confirm certain events, which led to more in-depth conversations related to their experiences. Some of these experiences and feedback were included within the discussion of the telephone survey.

Section 4 focuses on disproportionality in exclusionary discipline, including in-school suspensions (ISS). This section included a review of policies and procedures and quantitative and qualitative data regarding ISS.

The following documents were reviewed and can be viewed in Appendix 10:

- Board Policy Manual – BP. 5144.1 Suspension and Expulsion/Due Process (Revised April 2013) <http://www.gamutonline.net/district/antelopevalley/displayPolicy/728152/>
- Expulsion or Alternative Placement for Students with Special Educational Services (revised January 2014)
- Student Support Center – Staff Manual, Resources & Procedures
- Student Support Center – Fidelity Inventory Checklist
- Eastside HS PBIS/MTSS Staff Handbook <https://www.eastsidehs.org/programs/mtss>
- Notice of Reassignment

In-school suspensions (ISS) and on-campus detention are discipline-related removals from the student's instructional setting to an alternative setting that denies them access to their peers, direct instruction, and other school activities. These disciplinary removals are characterized in several ways, including a reassignment to the Student Support Center (SSC), in-house suspension, and on-campus detention. Although the District does not contend that reassignments are considered an in-school suspension, these disciplinary removals meet the criteria of an ISS.

In addition, the SSCs are also used by teachers for referring students to a period suspension for disciplinary reasons. Period suspensions are allowed by District policy and education code, granting teachers the authority to remove students for up to two-consecutive periods a week for disciplinary reasons. This means that a student can be referred to the SSC for a period suspension that is served over a 2-day period for the class where the behavioral incident occurred.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The SSC also serves as a place where students are held after a behavioral incident while security and administrators investigate the event and determine disciplinary action. Lastly, students can be referred to the SSC for non-disciplinary reasons, so these cases were identified in order to isolate instances of ISS and other types of disciplinary removals.

During the site visits, the SSCs and OCD rooms were visited at all comprehensive sites<sup>65</sup>. Staff explained the process for logging students into the SSC for various types of support. Schools reported using informal tracking mechanisms for managing participation at SSCs, mainly self-created Google Sheets. When asked how they manage this data and if these systems offer reporting capabilities, staff noted that reports can be produced several ways, including using SWIS behavior software or through self-generated reports. Schools also reported maintaining sign-in sheets and having this information readily available.

The investigation requested all methods used to track SSC referrals, including reports or datasets from the student information system (SIS), reassignment notice forms, and attendance logs that contain codes for referrals for a period suspension or reassignment. Despite schools' indication that these referrals were entered into the SIS as matter of procedure and practice, no formal school level reports were provided.

The District produced SSC data for the following six comprehensive schools: Antelope Valley HS, Palmdale HS, Eastside HS, Quartz Hill HS, Highland HS, and Littlerock HS. This analysis includes ISS data from six of the eight comprehensive sites for a total of 6,876 unique referral events. Despite lacking a full account of the practices used at all sites, the large scale of events analyzed reveals data trends that can be viewed as representative of districtwide practices. In addition, Palmdale HS and Knight HS are large comprehensive sites and can be assumed to engage in similar patterns of in-school discipline. The site level ISS data were merged with an adjusted fall enrollment file (to include only the six sites that provided data) to determine disability status and race/ethnicity (Table 7.8). Due to the different points in time data were pulled, 59 students could not be matched and were removed from the analysis.

---

<sup>65</sup> Continuation schools do not have SSCs and/or utilize formal in-school suspensions.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

**Table 7.8**

*Enrollment Data Used for ISS Analysis by Disability Status and Race/Ethnicity for the 2021-22 School Year*

Race/Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	2,157	15.3	1,504	13.1	653	24.3
Hispanic	9,423	66.6	7,847	68.5	1,576	58.5
White	1,553	11.0	1,287	11.2	266	9.9
Other	379	2.7	339	3.0	40	1.5
Multiple Races	636	4.5	479	4.2	157	5.8
Total	14,148	100	11,456	100	2,692	100

As noted above, schools use a variety of mechanisms to track referrals to the SSC and OCD room, including daily sign-in sheets and electronic logs maintained on Google Sheets. The format of the data collection spreadsheets varied widely by school, and many lacked indicators for accurately defining the severity (reassignment or period suspension) and/or the length of the removal. In addition, many lacked indicators for capturing students' disability status and race/ethnicity. This information was obtained by merging the ISS data with the fall enrollment file.

The data presented in this section were derived from SSC and OCD sign-in sheets and Google Sheets used to track referrals. The inconsistency of information quality on the tracking forms for in-school disciplinary removals limited the ability to obtain a full accounting of in-school disciplinary referrals, likely rendering the review an underrepresentation of the removals.

Although some schools showed clear indicators to differentiate between a reassignment and a period suspension, others did not. To determine the nature of the referral, events that excluded a clear indicator were coded as a reassignment if there was information about misconduct, if the source of the referral was an administrator and/or security, and the duration of the removal was for a full day or more than two consecutive periods. Period suspensions that lacked clear indicators of the referral type were coded as such if the removal was prompted by misbehavior and the duration was limited to one or two periods.

Two end-of-year datasets submitted to the State to report OCDs and reassignments were reviewed, which include the Other Means of Correction (300) and In-School Suspension (110) reports. The data were used to assess the accuracy of reporting in-school disciplinary referrals to the State.

Sources of in-school suspension, including the dataset compiled of site level SSC and OCD logs and sign-in sheets as well as the Other Means of Correction (300) and In-School Suspension (110) reports, were analyzed to determine the prevalence of these in-school



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

disciplinary practices and whether disparities exist between students with and without disabilities and from different racial/ethnic groups.

The first part of the analysis examines disciplinary related referrals to the SSC for reassignments (ISS), period suspensions (OCD), and administrative or security holds. The second part of the analysis explores non-disciplinary referrals (NDRs) to the SSC. Discipline related interactions, such as student searches and restraints, were also captured.

Site level SSC data included non-disciplinary referrals. Again, due to the poor quality of data provided by some sites, events that could not be identified as stemming from a behavioral incident were coded as non-disciplinary referrals (NDRs). This means that some of these events could have been a period suspension or reassignment, but the information necessary to code the event appropriately was unavailable. Some events contained information indicating the student was referred to the SSC for academic or social emotional support. Those data were therefore considered non-disciplinary referrals.

Disproportionality measures were calculated to examine the extent of the overrepresentation and impact on specific groups. To examine disparities of disciplinary referrals to the SSC between students with and without disabilities and by race/ethnicity, composition index, risk index, and risk ratio measures were used. To enable a direct measure of the impact, these calculations only used enrollment data from the six schools that provided SSC referral data.

To examine if disciplinary referrals made to the SSC were accurately reported to the State, the ISS file created with site level logs was compared to the Other Means of Correction (300) and In-School Suspension (110) files. This analysis includes students reassigned to the SSC or issued a period suspension and excludes any non-disciplinary referrals. Since schools reported the use of ISS and OCD as alternatives to suspensions, it is expected that these referral types were included in either the 300 report or the 110 report.

To determine the accuracy of the reporting, the analysis compared unduplicated students enrolled at any of the six schools that provided data in order to identify matches between the file reported by the school and the dataset submitted to the State.

To develop a better understanding of the referral process for ISS and OCD, qualitative data collection efforts included site visits, a telephone survey of parents, and various meetings and focus groups. In addition, observations of the various tracking mechanisms are included in Section 4 to highlight the shortcomings of the documentation and data maintenance procedures and practices.

The telephone survey of parents included three items to gain a better understanding of in-school suspension practices. Of the 59 respondents, 19 confirmed that their child had been reassigned to the SSC, 33 denied any referral, and the remaining seven parents were uncertain. Due to the small number of responses, these findings should be interpreted with caution, especially when seeking to create generalizations about practices.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Site visits and multiple focus groups were held to discuss the role of the SSC in the implementation of Positive Behavioral Interventions and Supports (PBIS) and in-school disciplinary removals. Two focus groups were held to discuss PBIS, with the first focus group consisting of senior officials conducted in April 2022. The second occurred in fall 2022 and included a combination of senior and site level personnel who specifically discussed the District's implementation of PBIS.

Section 5 focuses on disproportionality in exclusionary discipline, including expulsions and disciplinary voluntary and involuntary transfers. It also examined the manifestation determination process that is intended to protect SWDs from discrimination with school disciplinary actions on the basis of the student's disability. This section included a review of policies and procedures as well as quantitative and qualitative data regarding expulsions, MDRs, and voluntary/involuntary transfers.

The following documents were reviewed and can be viewed in Appendix 11:

- Board Policy 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728152/>
- Administrative Regulations Policy 5144.1 Suspension and Expulsion/Due Process (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728153/>
- Administrative Regulations 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities) (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728155/>
- Discipline Matrix and Behavior Consequences Matrix (E 5144.1) (Revised March 2014)
- Expulsion or Alternative Placement for Students with Special Education Services (Revised 2014)
- Two Expulsion Packets
- Agreement and Stipulation for Full Expulsion
- School Psych Meeting (9/1/2021) – Manifestation Determination Review Training PowerPoint
- Implementation of Education Code 48432.5 Voluntary/Involuntary Transfers
- Voluntary/Involuntary Placement Contract
- Guidelines for Placement of Special Education Students into Independent Study Programs

Data regarding expulsion and disciplinary (voluntary/involuntary) transfers of general education and special education students were provided for the 2021-22 school year. In addition, expulsion packets and IEPs for SWDs recommended for expulsions were provided; however, similar information was not obtained for students who were subject to a disciplinary transfer. Qualitative data were obtained through a file review of 101 manifestation determination review IEP documents and the expulsion packets provided for 20 of the 23 SWDs expelled.

Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To examine disparities in exclusionary disciplinary removals, including expulsions and voluntary/involuntary transfers, between students with and without disabilities by race/ethnicity, composition index, risk index, and risk ratio measures were used. Disproportionality calculations utilized enrollment data from the 2021-22 school year (Table 7.9).

**Table 7.9**

*Enrollment Data Used for Expulsion and Disciplinary Transfer Analysis by Disability Status and Race/Ethnicity*

Race/Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	3,631	16.3	2,672	14.4	959	25.3
Hispanic	14,850	66.6	12,663	68.4	2,187	57.7
White	2,206	9.9	1,842	10.0	364	9.6
Asian	249	1.1	231	1.3	18	0.5
Pacific Islander	332	1.5	305	1.7	27	0.7
American Indian/ Alaska Native	60	0.3	47	0.3	13	0.3
Multiple Races	983	4.4	758	4.1	225	5.9
Total	22,311	100	18,518	100	3,793	100

File reviews of SWDs who were recommended for expulsion were conducted to identify if the District complied with the procedural safeguards afforded by the IDEA. The investigation emphasized the role of the manifestation determination review (MDR) since it is a procedural protection that requires schools to examine if the student’s misbehavior was a result of their disability or due to a failure of the school to implement the student’s IEP, particularly when the removals are long term and constitute a change in placement. This process is unique to SWDs and intended to protect students with disabilities from being discriminated against because of their disability when school disciplinary actions are issued.

The primary purpose of the review was to examine the decision-making process for determining whether the student’s behavior was a manifestation of their disability or if the school failed to implement the IEP. This required collecting data on the statements made that explain these decisions and coding the statements to facilitate the process of reporting the findings. The purpose was not to question the validity of individual decisions made at the MDR meetings but rather ascertain a broader sense of the practices and systemic shortcomings within these procedures.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To obtain a better understanding of the reasons or rationale for the IEP team's determination of whether the behavior was a manifestation of the student's disability, decision reasons were coded<sup>66</sup> using the following definitions:

- Reason A: The conduct was planned or premeditated
- Reason B: The student knows right from wrong
- Reason C: General statement regarding the student's disability and no direct relationship to the behavior
- Reason D: The disability is academic in nature
- Reason E: The student is able to control their behavior
- Reason F: No reason indicated
- Reason G: The conduct was related to the child's disability

Similarly, statements were coded to address whether the student's behavior was caused by a direct failure to implement the IEP.

The reasons offered were limited, with three response types as follows:

- Reason H: The IEP has been implemented
- Reason I: The school failed to provide services or implement the IEP
- Reason J: No reason indicated or lacked clear information

The review collected data on the supports and services specified on students' IEPs at the time of the behavioral incident that led to the MDR, such as counseling services and behavior intervention plans. The review also aimed to identify students who received a change in placement and whether IEPs were revised to add or increase behavioral and/or social emotional support as part of this process. Information related to the behavioral incident, such as the infraction, date of the incident, dates of previous suspensions, as well as the total number of days of school removals at the time of the MDR, was reviewed.

The MDR review proved to be a valuable source for investigating various allegations within the CDE Complaint. The MDR and expulsion file reviews were also used to highlight case studies or examples of District practices related to the various allegations in the CDE Complaint. This includes events such as the use of restraints, documentation of suspensions, and law enforcement referrals.

In addition to site visits and discussions with senior level officials, a specific focus group was held to discuss MDRs with the senior level administrator who oversees special education, the school psychologist department supervisor, and four site level school psychologists.

---

<sup>66</sup> Reasons B and E are listed on the Principal's Conference form used during the pre-expulsion meeting with parents.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Section 6 focuses on disproportionality in referrals to law enforcement and probation officers, as well as restraints, searches, and threat assessments. This section included a review of policies and procedures as well as quantitative and qualitative data.

The following documents were reviewed and can be viewed in Appendix 12:

- Administrative Regulations 0450: Philosophy, Goals, Objectives, and Comprehensive Plans (Revised June 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/727650/0>
- Administrative Regulations 5144.1 and 5144.2: Suspension and Expulsion/Due Process (Students with Disabilities) (Revised April 2013)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728153/>  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728155/>
- Board Policy and Administrative Regulations 5145.11: Questioning and Apprehension (Approved November 13, 1990)  
<http://www.gamutonline.net/district/antelopevalley/DisplayPolicy/728157/5>  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728158/5>
- School Law Enforcement Services Agreement for School Resource Deputy Program (2021-22 School Year)
- Administrative Regulations 5131.41: Use of Seclusion and Restraint (Adopted October 10, 2019)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/1148922/5>
- Antelope Valley SELPA Behavior Report (BER) Guidelines (Adopted March 28, 2019)
- AV SELPA BER Form (Revised 5/2018) and Postvention Resolution Process (Revised 3/2015)
- Board Policy 5145.12: Search and Seizure (Revised August 2001)  
<http://www.gamutonline.net/district/antelopevalley/displayPolicy/728159/5>
- Vacancy Announcement Campus Supervisor<sup>67</sup> Position (November 2, 2021)
- School Safety Plan – Palmdale HS (Revised April 2022)  
[https://resources.finalsite.net/images/v1662516367/avdistrictorg/esnqykyxmd1eswtddnq8/PHS\\_Comprehensive\\_School\\_Safety\\_Plan\\_2022.pdf](https://resources.finalsite.net/images/v1662516367/avdistrictorg/esnqykyxmd1eswtddnq8/PHS_Comprehensive_School_Safety_Plan_2022.pdf)

To determine the extent to which SWDs are referred to law enforcement, the investigation collected information from various sources. This included two spreadsheets of law enforcement referrals the District submitted to the federal government or Civil Rights Data Collection (CRDC) that included 79 SWDs and 117 general education students referred during the 2021-22 school year.

Information on suspension events where students were referred to law enforcement, searched, and/or restrained was also collected from suspension documentation provided by schools. The official suspension notice form contains a checkbox to indicate if a student was referred to law enforcement. **However**, it is important to note that the data collection included

---

<sup>67</sup> The campus supervisor position is synonymous with the campus security officer position.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

alternative suspension forms and parent letters that do not systematically require schools to include this information. Due to the variability of the forms used and recording practices by administrators and schools and the lack of requirement to use the checkbox, it is likely that these data are an underestimation of practices occurring at schools. A total of 174 suspension events for students with and without disabilities included a referral to law enforcement.

Law enforcement referral information was also obtained from a variety of other sources, including the MDR and expulsion files. This yielded a total of 209 instances where a suspension event also included involvement by the SRO.

To establish a profile of law enforcement referrals, the CRDC and site level sourced datasets were merged. This single file of unduplicated students removed 47 students who were found on site level documentation but were also reported on the referral lists, as well as four students whose disability status and race/ethnicity could not be determined. This resulted in the identification of a total of 354 law enforcement referrals, 82.6% more than reported as part of the CRDC.

To examine law enforcement referrals disparities between students with and without disabilities by race/ethnicity, the composition index, risk index, and risk ratio measures were used. These calculations are based on enrollment data from the 2021-22 school year (Table 7.10).

**Table 7.10**

*Enrollment Data Used for Law Enforcement Referral Analysis by Disability Status and Race/Ethnicity*

Race/Ethnicity	Combined		General Education		Special Education	
	n	%	n	%	n	%
Black	3,631	16.3	2,672	14.4	959	25.3
Hispanic	14,850	66.6	12,663	68.4	2,187	57.7
White	2,206	9.9	1,842	10.0	364	9.6
Asian	249	1.1	231	1.3	18	0.5
Pacific Islander	332	1.5	305	1.7	27	0.7
American Indian/ Alaska Native	60	0.3	47	0.3	13	0.3
Multiple Races	983	4.4	758	4.1	225	5.9
Total	22,311	100	18,518	100	3,793	100

The District also provided a different list of students with and without disabilities who were subjected to a law enforcement removal, meaning they were arrested, taken into custody, and transported to a detention center. The list contained 27 students, consisting of 12 general education and 15 special education students.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Data were compiled from the general and special education law enforcement files, the student removal lists, and other sources, such as Behavioral Emergency Reports (BERs), incident reports, and expulsion files, to create a master list of students arrested and removed. Due to the small numbers for each group, disproportionality measures were not calculated.

As noted earlier, two law enforcement referral files were submitted in response to this investigation. One includes students in general education and the other reports referrals of SWDs. During the data analysis of this information, notable differences were identified in the formats of each report.

For instance, the law enforcement referral form for special education students contained the following fields that were not included in the general education dataset: date of birth, student ID number, disability category, address, parent/guardian name, and parent/guardian phone number. The general education file contained fields to collect information on non-disciplinary referrals, citation and LASD report numbers, a student's disability status (excluding category) either with IDEA or Section 504, as well as their status as an English learner or foster student.

Both files contained information on the result of the referral, including outcomes such as a conference with the deputy, being issued a citation, school related arrests, and removals from campus. However, the general education file provided an additional field for removals that reported whether the student was taken into custody and transported to a detention facility by the deputy.

Poor documentation practices were observed on both forms. For example, of the 111 general education referrals, 42 lacked information regarding whether the student had been taken into custody and transported to a detention center. Only two students were reported to have been taken into custody and removed from the site, while the remaining 67 forms included a value of "no." Three additional students had information in a different field indicating that they had been detained and taken to a detention facility, with one missing the reason for the referral. Furthermore, the majority of fields for the citation and LASD report numbers were blank, even for students who had received a citation, been arrested, or were taken into custody.

Although the special education file was more complete, several duplicates were found, meaning the referrals were reported twice for the same event and student. Four were missing the date of the incident, and two did not include information on the outcome of the referral.

The special education file had six referrals that lacked any information regarding the reason for the referral. Similarly, the general education file did not include a disciplinary reason for the referral of four students; however, all were arrested and one reportedly taken into custody and transported to a detention center by the deputy.

Lastly, the parent survey also inquired about referrals to law enforcement. Although parents who reported a law enforcement referral were not added to the master list referenced above, many of these cases had been previously identified. This information was used to validate these referrals and to obtain parent feedback on the practices.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

To roughly determine the extent to which student searches were present at schools and correlated with suspensions, this investigation collected information that referenced students being subjected to a search. A total of 64 searches were identified, representing 3.5% of all suspension events, which is likely an underrepresentation of these practices.

It is required that when students with disabilities are subjected to restraint, these incidents are documented and reported to the State and federal government. The mechanism for documenting restraints for SWDs is referred to as the Behavioral Emergency Report (BER), which is required to collect the following information: date of incident, name and age of student with a disability, grade, primary race/ethnicity, primary eligibility, duration of the restraint, setting and location of the incident, name of staff or other persons involved, a description of the incident, emergency intervention used, whether the SWD has a behavioral intervention plan (BIP), as well as details of any injuries sustained by the student, staff, or other individuals involved.

When general education students are restrained, it is documented using a behavioral restraint or seclusion report, which differs from and requires less information than the BER used for SWDs. The behavioral restraint or seclusion report can also be used for SWDs, but the instructions indicate schools should also complete a BER when a student is identified as receiving special education services.

The behavioral restraint or seclusion report is generally used for general education students and collects information such as: general categories to describe the incident (i.e., fight, student unrest, battery), student demographics, staff involved, law enforcement referrals, 504 and special education status (but does not require specific eligibility categories), English language learner status, and if physical and/or mechanical restraints and/or seclusion were employed. This form also requires information regarding who physically and/or mechanically restrained and/or secluded the student. The form provides instructions that if the student receives special education services, staff are to discontinue filling out the form and contact the vice principal responsible for special education to complete the BER form. The form also collects follow-up information regarding if and when the sheriff/probation departments were contacted, if anyone was injured, and if mental health professionals were notified.

In addition, the Use of Force Incident Report is required for all incidents that result in a student being restrained with handcuffs. This form collects information regarding student demographics, staff involved, a description of dangerous behaviors, staff response, whether the student was handcuffed, law enforcement involvement, and if witnesses were involved. The form requires follow up actions of identifying and recording if the incident was reported to the director of security, if sheriff/probation officers and parent/guardian were contacted, and if any injuries of students or staff occurred. During this investigation, the District did not mention the Use of Force Incident Report and it was therefore not requested. It is likely that a review of these forms would identify a higher number of SWDs subjected to being mechanically restrained.



## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The District submitted a restraint list of 36 SWDs but, despite a request, did not provide a list of general education students who had been restrained. This limited the ability to examine if disparities exist between the restraint of general education and special education students.

The District also provided a separate file of BERs. A total of 31 students accounted for 37 events with a BER. Two students with autism had multiple BERs, one who had had six BERs and another who had two BERs.

To determine the extent to which restraints were used, several data sources, such as MDR and expulsion files, were reviewed to identify students who had been restrained or secluded. In total, 103 instances of restraint and one instance of seclusion were found. Due to the incomplete reporting and identification of general education students restrained, comparisons should not be made for determining disparities between restraint of SWDs and their nondisabled peers. General education data are clearly underreported; however, the small sample of identified data is included to illustrate that nondisabled Black students are more likely to experience a restraint.

A file review and analysis was conducted to examine the types of events, physical interventions, and follow-up actions that were carried out during and after a restraint. The review is limited to the instances of restraint where a BER or other report was provided. Restraint data were collected and analyzed from 32 behavioral emergency reports (BERs), three Behavioral Restraint and Seclusion Reports typically used for general education students, and two Use of Force Incident Reports that are required for all incidents resulting in the use of handcuff restraints on students. Although some students had multiple forms, the five incidents reviewed that used non-BER forms did not have an accompanying BER.

Coding of events, interactions, and follow-up actions were applied to standardize responses across forms and enable analysis. BER forms contain an indicator to identify if the restrained student had an active BIP. The analysis coded the six non-BER forms that did not contain any reference to the student's BIP was reported as not indicated (NI).

The BER form requires school officials to include a description of the "risk behavior" the student was exhibiting that justified the use of the physical or mechanical restraint. On the older version of the BER, this is referred to as the "dangerous behavior." Risk behaviors were coded as "specific" if the behavior was operationalized, such as "punched the campus supervisor in the face" or "biting and hitting himself." Behaviors were categorized as "general" if the behavior was not operationalized and contained general descriptions that were not directed at a student, staff, or property, such as "fighting, increasingly aggressive" or "self-harm, injury to peers and adult staff."

The three Behavioral Restraint and Seclusion Reports were categorized as general since the dangerous behaviors were not described and the person filling it out simply checked all the boxes that applied to the incident (e.g., "major disruption threats") but did not include a narrative describing the event.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

The BER forms contain six action steps for administrators to initiate or complete after the physical intervention. Two are related to scheduling an IEP for a student without a BIP, and for those with a BIP, a referral to the IEP team to consider whether to modify the plan is included. These entries were combined since only one action is required.

To shed light on the events, including the student's behaviors, that triggered staff and campus security officers (CSOs) to engage in physical interventions, a few examples are included as case studies for the purpose of highlighting the ineffective and questionable practices when restraining children. These examples also point out inconsistencies in documentation.

To develop a better understanding of the referral process to law enforcement and probation officers, the role of the CSOs, and the use and reporting of restraints, qualitative data collection efforts included site visits, a telephone survey of parents, and various meetings and focus groups. In addition, observations on the various tracking mechanisms are included in this section to highlight the shortcomings of the documentation and data maintenance procedures and practices.

This section also included an analysis of the District's cost for professionals dedicated to providing special education, counseling, and mental health support services compared to costs associated with campus security and student resource officers (SROs).

## **Section 8. Conclusions and Recommendations**

The investigation found disparities for students with disabilities (SWDs) and Black students with and without disabilities in most of the allegations made in the CDE Complaint. Inequities noted across the District are indicative of systemic and structural deficiencies related to the District's outdated and ineffective policies, procedures, and practices. Moreover, the District lacks effective and uniform systems in all areas reviewed, resulting in variability in the implementation of initiatives and policy.

Inadequate systems and lack of mandates to require consistent, standardized implementation of policy results in schools developing and applying their own procedures for taking disciplinary actions, such as making referrals for out-of-school or in-school suspensions, as well as creating their own data recording mechanisms, with no effective oversight or accountability. Furthermore, fundamentally flawed systems enable schools to obscure bad practices and function with impunity.

Although the quantitative data presents overwhelming evidence of the inequitable treatment of SWDs and Black students with and without disabilities, leadership at all levels fails to recognize the realities of these practices and the impact on these groups of students. More importantly, school officials, particularly those whose roles are in special education or equity related positions, failed to show advocacy for the students they are hired to represent and protect.

Site level administrators and senior officials' pervasive denials of the inequities and injustices perpetuated against its SWDs and Black students with and without disabilities are indicative of a status quo that values the preservation of order and authority over the wellbeing of its most vulnerable students. Their responses are indicative of placing the blame for the poor educational and disciplinary outcomes on the students and community rather than on the systemic and structural deficiencies and adult failures that lead to the inequitable practices that have become the status quo.

In short, the District has a systemic deficiency and a pervasive accountability problem that will require considerable intervention to address and mitigate the harm being perpetuated against its most vulnerable students. These systemic deficiencies require reform and full transparency in order to hold school officials accountable for poor performance and negative outcomes for students.

The confluence of structural and systemic deficiencies, inequitable practices at the site level, deniability of the problems including racial inequities, and the poor academic performance of many of the District's students make reform a significant challenge. To remediate these negative outcomes, reform efforts will require engaged leadership, organizational capacity building, and sound accountability mechanisms. External capacity and a framework of established data-based outcomes and accountability mechanisms for each area will help the District to build effective systems.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Ultimately, sustainable change will require capable leadership who are willing to hold schools and school officials accountable. Transparency, advocacy, and collaboration with parents and community groups will enhance the potential for successful change and reform.

The proposed recommendations aim to address some of the most prominent systemic shortcomings found. The majority are specific to practices or programs and include detailed guidance, including for monitoring and accountability. The balance of recommendations that conclude this section are broad and global and are provided to address a range of systemic deficiencies.

### **Detailed Recommendations Related to Practices or Programs**

#### ***Referral, Assessment, Identification and Placement for Special Education Services***

##### **Recommendation 1.**

Develop a policy and procedures for special education referral, assessment, and eligibility to improve the quality, consistency, and appropriateness of eligibility determinations.

##### ***Guidance.***

Emphasis should be placed on ensuring referrals, assessments, eligibility and placement determinations of schools and IEP teams are based on sound rationale, as well as focusing on exclusionary criteria and ruling out the possibility of a disability.

Develop a standardized comprehensive evaluation process for students identified with an emotional disturbance (ED). This could be modeled after the Los Angeles Unified School District's intervention that requires schools and IEP teams to adhere to various elements of the referral, assessment, eligibility, and placement determination when identifying all students with ED.

Implementation and fulfillment of these elements and activities should be recorded and maintained on a checklist and monitored and reviewed centrally to ensure fidelity of implementation. Require that all students who are made eligible with ED have the appropriate behavioral supports specified in their IEP, including behavioral intervention plans (BIPs), behavior goals, and school-based counseling or ERICS services.

The policy and initiative should identify a series of professional development areas for staff and include a timeframe for holding and completing such training. Professional development areas may include but not be limited to:

- disability awareness, including different types of disabilities, and appropriate use of communication
- special education law

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- appropriate referrals determinations, including ensuring students are first offered general education interventions
- appropriateness of secondary eligibilities, specifically related to speech and language impairments
- the comprehensive ED evaluation framework

### ***Monitoring and Accountability.***

Review referral, assessment, identification, and placement data on a monthly or quarterly basis to monitor racial disparities in specific eligibility categories. The review should also include an analysis of special education services prescribed in students' IEPs to ensure they are being adequately supported toward their IEP goals and participation in the general education setting. This review could apply a sampling strategy, as long as samples are robust, with findings used to identify and target IEP teams and schools who may require additional training.

Due to the reasonably small number of students with ED, conduct an audit of each student referred for ED on a monthly basis with data collected and analyzed throughout the year. The audit should ensure schools and IEP teams are adhering to the elements of the comprehensive evaluation checklist, including the provision of social emotional and behavioral supports of all students identified with ED. Compliance with this mandate is to be reported publicly annually and made available on the District website.

### ***Placement of Students in the Least Restrictive Environment***

#### **Recommendation 2.**

Develop, adopt, and mandate a districtwide initiative and policy to improve inclusive practices and the integration of students with disabilities in the general education setting. The policy must include a clear, consistent, and uniform vision for inclusive schools and practices.

#### **Guidance.**

The Board of Education must adopt and mandate a districtwide least restrictive environment initiative and policy. The initiative will include data-based outcomes to guide and measure progress and will be included in the superintendent's and principals' performance evaluation review.

This initiative should create a clear and consistent standard for staff, students, and parents that prioritizes the placement of students in their home school and first considers the general education classroom as the instructional setting. These standards should envision a new special education delivery model that emphasizes the provision of special education services, aids, and supports, including related services in the general education setting, as appropriate. The standards must be developed using evidence-based best practices and principles of Universal Design for Learning (UDL). The District should adopt and train special education teachers in one select evidence-

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

based reading program (to ensure consistency across the District) and develop a reading intervention program, to address the challenges associated with the District's low ELA and Math scores and reduce the achievement gap for SWDs.

This will require a review of the current program's configuration in its entirety and an action plan for the reconfiguration of these classes with goals for gradually concluding some of the programs, as students are placed back into the general education setting or less restrictive placements at each school. This review should analyze the physical location and accessibility related issues to ensure students are able to access these programs.

The initiative must incorporate standards for master planning (i.e., scheduling) and include regular planning periods for teachers and staff to collaborate and prepare curricular materials and lessons. It is highly recommended that each school have a qualified and experienced inclusion specialist to support staff, students, and parents. In addition, the initiative should include plans for hiring reading and math specialists, Board Certified Behavior Analysts (BCBAs), and support staff, such as instructional and behavioral aides.

The policy and initiative should identify a series of professional development areas for staff and include a timeframe for holding and completing such training. Professional development areas may include but not be limited to:

- collaborative models, including co-teaching
- principles of Universal Design for Learning (UDL)
- classroom behavior management strategies
- accommodations and modifications to curriculum, assignments, and assessments
- training for special education teachers in a select evidence-based reading program

### ***Monitoring and Accountability.***

LRE data should be reviewed on a monthly or quarterly basis to monitor progress toward established goals, including short- and long-term targets or objectives. Reports should be disaggregated by race/ethnicity and eligibility categories and/or placement types (i.e., SDC-A, SDC-B, SDC-Pre-Vocational), and be made publicly available on the District website.

District and school level progress regarding LRE targets are to be included in the superintendent's and principals' performance evaluation review.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

**Recommendation 3.**

Develop and mandate the implementation of an LRE analysis framework to improve the integration of students in the general education setting. The LRE framework must guide IEP teams through the decision-making process when determining placement.

***Guidance.***

The LRE analysis framework should incorporate the Antelope Valley SELPA LRE Policy, which requires IEP teams to use the four-part inclusion test (*Rachel H.* standard) when making LRE determinations. This process needs to be operationalized through procedures that are outlined on a form or checklist that consistently guides IEP teams in making placement decisions. Placement determinations in the IEP should include supporting evidence to justify more restrictive placements when a student does not meet specific criteria of the four-prong test. A timeline for completion and mandatory training on the LRE Analysis framework, including the elements of the Rachel H. four-prong inclusion test, are also essential.

***Monitoring and Accountability.***

The district shall review a sample of IEPs on a monthly or quarterly basis to ensure schools adhere to the framework and monitor placement data at each school. It should also include a review of the four-part inclusion test and accompanying statements to justify placement to identify IEP teams and schools that may need additional support or training.

**Recommendation 4.**

Restructure the SDC-B program to limit the number of core subjects taught or offered simultaneously and for various grade levels. Require that students in the SDC-B classroom have the appropriate social emotional and behavioral supports included in their IEP.

***Guidance.***

As part of the overall initiative to improve inclusive practices and LRE performance, include a review of the IEPs of all students currently placed in the SDC-B program to identify areas where students may be included in the general education program with the appropriate behavioral supports.

Examine the instructional model of these programs to limit the subjects taught or offered simultaneously. Prohibit these classrooms from mandating participation in PE as part of the SDC-B program. Instead, all students should be included in a regular PE class with their non-disabled peers, unless they require adapted PE. Ensure that all SDC-B programs are configured similarly districtwide.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

Require that every student in or newly placed in the SDC-B program is provided the following services: counseling (DIS and/or ERICS), behavioral intervention plan (BIP), and behavior goals.

***Monitoring and Accountability.***

Review enrollment data and IEPs on a monthly or quarterly basis to ensure students are offered and receiving counseling, BIPs, and behavioral support. Review student schedules and behavioral management program data to ensure students are not continuously excluded from participation in general education classes or activities due to their behavioral needs.

**Recommendation 5.**

Adopt and mandate a behavioral management program to replace the current Level System.

***Guidance.***

Purchase or adopt a uniform positive behavior management system to replace the Level System. The behavior management system must be mandated and include uniform program features for schools to implement.

Eliminate any consequences or incentives that continuously impact a student's LRE and access to their nondisabled peers and school activities, including passing periods, lunch, and breaks. Mandate the use of the system and monitor implementation and adherence to the program through monthly audits of behavioral data.

Make the behavioral management system available to any student who requires such support to enable them to remain in the general education setting.

Provide a timeline for training of staff to implement the behavioral management program as well as the documentation requirements of behavioral data.

***Monitoring and Accountability.***

Conduct audits on a monthly or quarterly basis to ensure school and staff adherence to the program features and compliance with the data entry requirements. These audits should review the in-school and out-of-school suspension disciplinary referrals of these students in order to identify students who require additional higher level behavioral and/or social emotional supports. Conduct functional behavioral assessments and hold IEP meetings for students who require the addition and/or modification of the behavior goals, BIPs, or counseling services specified in their IEPs.



***Exclusionary Discipline Including Out-of-School and In-School Suspensions***

**Recommendation 6.**

Develop and mandate a uniform out-of-school (OSS) suspension process and procedures that include step-by-step guidance for suspending students from school.

***Guidance.***

This process must include a standardized mechanism, such as a checklist, for issuing out-of-school suspensions (OSS). The process should define and mandate the use of a uniform suspension notice form that records instances when students are searched, restrained, referred to law enforcement and the principal, and held in the Student Support Center or on-campus detention room, including the duration of the hold. Administrators must include a statement with a rationale for justifying any search, restraint, or referral to law enforcement. Referral data should be captured by teachers, campus security officers, and administrators who make disciplinary referrals. In addition, data should be recorded regarding the number of suspensions and duration (days per suspension) issued by each administrator. The process should prohibit the use of informal suspensions.

The process should limit discretionary decision making by administrators when determining the severity of punishment. The process should define and outline the number of days to issue for specific infractions and give consideration to the number of offenses the student has committed over the course of the school year. For example, require a 2-day suspension for a student's first fighting offense. The process should limit the use of 5-day suspension for any first or second offense unless it is one of the five offenses that requires a mandatory expulsion.

The process should include requirements to be discussed and considered during the informal conference session prior to suspension. It should require the participation of the student and parent and mandate that administrators read an introductory statement that the District disproportionately suspends SWDs and Black students with and without disabilities and is engaged in efforts to reduce such suspensions. The statement should indicate that the school views parents as partners and will consider parent and student input in the determination for issuing an OSS.

The informal conference and checklist should emphasize the application of other means of correction and alternative forms of suspension. School administrators should be prohibited from issuing an OSS for students who have not first been provided an other means of correction for any infractions other than one of the five mandatory expulsion offenses.

The informal conference must require a review of the student's IEP to determine if the student's behavior is being adequately supported and to evaluate other considerations related to the student's disability. At this conference, a decision should be made by the

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

administrator, parent, and student regarding whether to hold an IEP meeting because of the misconduct and suspension.

The suspension process must include an appeal process that provides students and parents an opportunity to dispute the allegations of misconduct and implementation of other means of correction. Upon a student or parent's request to appeal a suspension, schools must provide a brochure or document that outlines their rights during the appeal process, including a review of all relevant documents related to the behavioral incident and determination to issue an OSS.

An appeal process allows recourse for unwarranted suspensions or when schools fail to adhere to district policy and legislative regulations. For example, families can appeal an OSS if the school fails to first implement other means of correction for infractions that are not considered a threat to the safety of others or school property.

The process should establish a mechanism for tracking the number of removals for SWDs and establish thresholds, such as at 6 or 8 days of removals, that trigger schools to consider whether the removals constitute a change in placement and/or for determining when to hold a manifestation determination review meeting.

The process should include explicit procedures for the data collection and maintenance of suspension information, including ensuring that suspension notice forms and checklists are correctly filled out and data are only captured in the relevant modules and codes (i.e., incident report, attendance and suspension codes) within the Student Information System (SIS). The use of informal, school created mechanisms, such as Google Sheets, should be discontinued.

Functional procedures in this area should include guidance such as but not limited to: how to determine if the offense warrants a short-term removal, how to select other appropriate means of correction, mandatory information to document on suspension notice forms and incident reports, requirements for data entry and maintenance in the student information system, notifications to parents to discuss the incident and to provide formal written notice, and disability related considerations when suspending SWDs.

While updating this process, the Zero Tolerance discipline policies should be rescinded and the discipline matrix revised to limit the types of infractions that qualify for an expulsion recommendation and referral to law enforcement.

It will be important to provide a timeline for the development of the OSS process and procedures, mechanism or checklist to guide administrators for issuing a suspension, and the introductory statement to be read to parents. Similarly, a timeline should be included for training staff and school site administrators on the requirements of the suspension process and data entry and maintenance requirements.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

***Monitoring and Accountability.***

The District should monitor suspension rates and identify disparities based on race/ethnicity and disability status (general education and special education) by reviewing OSS data monthly by school. Referral data and details on the administrators who issue OSS should be reviewed to identify schools and staff who require additional training or support. On a monthly basis, the District should post on its website OSS data disaggregated by race/ethnicity and disability status per school. For each school it should also report the number of OSS issued and the cumulative number of instructional days lost by administrator.

Conduct monthly audits for a sample of suspension notice forms and checklists at each school to ensure schools adhered to the requirements of the suspension process, including issuing other means of correction and holding IEPs as determined in the informal conference. An audit should include a review of data maintained in the SIS to ensure staff are accurately reporting suspensions.

Include the reduction of OSS rates and disparities based on race/ethnicity and disability status as part of the performance evaluation of the superintendent, principals, and vice or assistant principals.

**Recommendation 7.**

Develop and mandate a uniform in-school suspension (ISS) process and procedures that include step-by-step guidance for issuing reassignments to the Student Support Center (SSC) and period suspensions.

***Guidance.***

This process must define reassignments and period suspensions as an ISS and as part of the District's Board approved supervised suspension classroom. It must develop a uniform referral and intake form and identify the data variables to be collected, such as but not limited to: demographic information, disability status, type of referral (i.e., reassignment, period suspension, administrative or security hold, and non-disciplinary referrals), reason for referral including infraction, referring party, duration of the removal, parent notification requirements, interventions provided, provision of special education supports and services, the time students enter the SSC or on-campus detention room, and the time they return to class.

Data should be collected in instances when students are searched, restrained, referred to law enforcement and the principal; held in the Student Support Center or on-campus detention room (including the duration of the hold); and issued a reassignment. Administrators must include a statement with a rationale for justifying any search, restraint, or referral to law enforcement. Data should be captured on teachers, campus security officers, and administrators who make disciplinary referrals. In addition, data

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

should be captured regarding the number of reassignments (including duration or days per reassignment) issued by each administrator.

The process should limit discretionary decision making by administrators when determining the severity of punishment, in particular multi-day reassignments to the SSC. The process should define and outline the number of days issued for specific infractions and should take into consideration the number of offenses the student has committed over the course of the school year. For example, require a 1-day reassignment for a student's first offense for minor offenses. The process should limit the use of 3-day reassignments for any first or second offense infractions.

The process must include uniform procedures for logging students into the SSC or the on-campus detention room, as well as data entry requirements for capturing such removals in the SIS. The process must prohibit the use of school generated tracking mechanisms, including Google Sheets. If the required data cannot be readily captured in the current SIS, the District must create and mandate the use of a single uniform central data collection mechanism. The District should ask its SIS vendor develop a module to capture all relevant data when students are referred to the SSC and the on-campus detention room.

Provide a timeline for the development of the ISS process and procedures, referral and intake forms, and data mechanism for collecting all relevant information. Include a timeline for the training of staff and school site administrators on the requirements of the ISS referral process and data entry and maintenance requirements.

### ***Monitoring and Accountability.***

The District should review ISS data monthly by school to monitor reassignment and period suspension rates and identify disparities based on race/ethnicity and disability status (general education and special education). Referral data and details on the teachers, campus security, and administrators who issue ISS should be reviewed to determine schools and staff who require additional training or support. On a monthly basis the District should post ISS data for schools disaggregated by referral types (i.e., reassignments, period suspensions, administrative or security holds, and non-disciplinary referrals) by race/ethnicity and disability status. It should also report the number of reassignments issued and cumulative number of instructional days lost by administrator for each school.

Conduct monthly audits for a sample of ISS referral and intake forms at each school to ensure schools adhered to the requirements of the ISS process. The audit should include a review of data maintained in the SIS and the uniform data tracking mechanism to ensure schools are accurately reporting in-school suspensions and disciplinary referrals to the SSC.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Include the reduction of ISS rates and disparities based on race/ethnicity and disability status as part of the performance evaluation of the superintendent, principals, and vice or assistant principals.

### **Recommendation 8.**

Develop and mandate a manifestation determination review (MDR) process to ensure students are afforded the procedural protections of the IDEA. The process for reviewing the student's alleged misconduct in relation to their disability and whether the school failed to implement the student's IEP must be objective, impartial, and consistent.

### ***Guidance.***

Establish uniform procedures and a mechanism such as a checklist to track compliance with the requirements of the manifestation determination review (MDR) process. The process should be designed to ensure that parents are fully aware of their rights and the purpose of the MDR, including the potential negative consequences if the MDR team determines that the student's misconduct was not related to their disability or the school's failure to implement the student's IEP.

The development of these procedures includes creating a notice to provide parents within a specified timeframe prior to holding the MDR that informs them of the intent of the MDR under the IDEA to ensure that SWDs are not discriminated against in the application of exclusionary discipline that constitutes a change in placement for disability related behaviors.

The notice should inform parents of their right to and encourage them to invite and bring persons with knowledge of their student's disability and behaviors, including professionals such as the student's medical or psychiatric doctor, other mental health providers, or an attorney or advocate. Parents should be advised to bring any relevant new information that may help the MDR team conduct its review.

In addition, parents should be made aware of the structure and purpose of the meeting, which is to review all relevant educational and disciplinary records as well as teacher and services providers' observations, information provided by parents, and the student's IEP supports and services, to determine if the student's misconduct is related to their disability or whether it was a result of the school's failure to implement their child's IEP. The notice should inform parents that if the team determines that the misconduct is found to not be a result of the student's disability or school's failure to implement the IEP, the school may proceed with regular disciplinary proceedings that can include an expulsion from school or a change in placement to a continuation school or the special education center. The notice must state that all decisions are to be made by the MDR team at the meeting and that no one individual carries more influence or authority in the decision-making process.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

Parents should also be informed that the MDR will evaluate the social-emotional and behavioral supports specified in the student's IEP and determine if additional supports or services are needed for the student, regardless of the MDR team's decision.

It should note that if the MDR team finds that the misconduct was related to the student's disability or school's failure to implement the IEP appropriately, the student has the right to return to the placement from which they were removed and a functional behavioral assessment (FBA) will be initiated and subsequently used to develop a behavioral intervention plan (BIP) for the student. If a BIP already is in place, the team will review and amend the plan as necessary.

The notice will inform parents of the District's policy to conduct an FBA for any student who has been removed for 10 or more days, regardless of the MDR team's decision.

It is imperative that the notice informs parents of their right to disagree if the determination is made that the misconduct was not related to the student's disability or the school's failure to implement the IEP. In instances of disagreement, parents have the right to file due process, including requesting an expedited hearing.

The notice should also inform parents of the District's right to place students in an interim alternative educational placement for "special circumstances" characterized as dangerous violations of education code, regardless of whether the MDR team found the student's behavior was not related to their disability or the school's failure to implement the IEP.

In addition, the process should:

- Identify a threshold, such as 6 or 8 days of removals (both ISS and OSS, including partial days), for schools to consider whether the student's disciplinary removals constitute a change in placement. Require administrators to include rationale for their determination of whether to hold an MDR.
- Require the participation of a Board Certified Behavior Analyst (BCBA) at every MDR.
- Develop a uniform data tracking mechanism that captures data of both ISS and OSS removals (including partial removals), the threshold to trigger consideration for an MDR, relevant demographic and special education information (i.e., eligibility, services and supports, placement), and the elements of the MDR process (i.e., checklist). The ideal approach is to rely on the SIS for this tracking mechanism, but if not possible in the short-term, the use of a single centralized data tracking mechanism is necessary.
- Conduct a review of and revise all relevant policies, procedures, and forms (i.e., Principal Conference Summary) to ensure they align with state and federal law.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Establish a monthly monitoring and review mechanism for senior officials to evaluate schools' compliance with the requirements of the MDR process. This should include a review of data from the MDRs conducted as well as ISS and OSS suspension data.

Identify a series of professional development areas for staff and include a timeframe for holding and completing such training. Professional development areas may include but are not limited to:

- disability training on characteristics, symptoms, functions of behavior, and the impact of disability on behavior
- special education law related to compliance with MDR requirements
- training on the MDR process and all revised District policies and procedures, including data collection and maintenance
- best practices for conducting MDRs, including the decision-making process for answering the two required questions, as well as writing statements that justify the MDR team's decisions

### ***Monitoring and Accountability.***

Central office staff will review OSS and ISS data for each school on a monthly basis to monitor students with removals that reach or have exceeded certain thresholds (i.e., cumulative days) of removals. Schools will be provided a list of all students who have reached or exceeded such thresholds, and schools will be required to provide follow-up actions for each student, such as conferences with the parent and/or student, holding an IEP meeting to add or modify behavioral and/or social emotional supports and services and outcomes of the IEP.

To drive accountability, track the number of MDRs that result in determinations that enable schools to proceed with regular disciplinary proceedings and those that found the misconduct to be related to the student's disability and/or the school's failure to implement the IEP. In addition, track compliance indicators (as identified by the law and in the District policy/checklist), such as the number of cumulative days of removals (OSS and ISS), the date of incident and date of MDR meeting, dates of parent notification, and the outcomes of the meeting (e.g., initiated an FBA, modifications to the BIP or behavior goals, addition or increase in counseling services, and placement changes). These data are to be provided to school and used to identify schools and IEP teams that may require additional support or training.

### **Recommendation 9.**

Prohibit the use of involuntary, informal, or alternative to expulsion transfers that are currently observed with voluntary transfers. Revise the involuntary transfer and independent study program policies to align with education code.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Guidance.***

The use of informal or alternative to expulsion programs obscure the realities and impact of these removals on SWDs and Black students with and without disabilities. Alternative to expulsion mechanisms circumvent the procedural protections of the MDR requirements of the IDEA and undermine the authority of the IEP team to make placement decisions.

Although the education code authorizes the use of an involuntary transfer for disciplinary reasons, current policy and practice are misrepresentations of a voluntary transfer and must be revised to coincide with education code. If the District chooses to utilize an involuntary transfer process, it must do so in a transparent manner consistent with education code.

The independent study (IS) program placement policies also do not align with education code and must be revised to remove the administrative approval process associated with the placement of SWDs, as well as the exclusionary criteria that prohibit students with disabilities from these placements. In addition, the policy should include language indicating that students enrolled in IS programs are entitled to special education supports and services as if they were attending a regular school.

Functional procedures should be developed to guide administrators and IEP teams in making these types of disciplinary transfers and placements into the independent study program. These procedures should include all requirements of state and federal disability laws related to disciplinary removals and placement determinations.

The District has an obligation to review the individual circumstances of recent transfers (i.e., of any student currently enrolled into an alternative school because of a voluntary/involuntary transfer for at least three years) and SWDs denied placement in IS through the administrative approval process, as well as compliance with the MDR and IEP process. It also has an obligation to remedy the harmful effects and ensure that SWDs are placed appropriately in the LRE with access to the general education curriculum and nondisabled peers to the maximum extent possible. In addition, parents must be notified immediately of these misrepresentations and provided legal placement options.

The District should develop reasonable timelines for the revisions of these policies and the training of school administrators on the requirements of these policies and procedures. In addition, the District should set timelines for identifying students who were removed through the voluntary/involuntary transfer process and/or denied placement into an independent study program and investigate whether these removals resulted in procedural or substantive violations of the IDEA. Further, the District must develop a corrective action plan to address the negative impact of these violations.



Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

***Monitoring and Accountability.***

Within a reasonable timeframe, senior officials should investigate and present a report to the superintendent and Board of Education on the impact of these policies and proposed remedies. Data should be disaggregated by school and race/ethnicity.

It will be critical to establish procedures mandating central office officials review all disciplinary transfers and placement of students in an independent study program in a timely manner to ensure that the placements adhere to District policy and law. Schools found to be noncompliant with policy and law should be targeted for additional training.

**Recommendation 10.**

Revise or eliminate the stipulated expulsion option for any infractions other than the five mandatory expulsion infractions. Require all panel hearings to be conducted by an impartial panel consisting of Office of Administrative Hearing (OAH) personnel.

***Guidance.***

The current stipulated expulsion contract or agreement requires parents to waive their due process rights but results in the same consequences of a full panel hearing expulsion. Given the many shortcomings found throughout this investigation, especially related to the MDR determination, parents have little to no incentive to select this option.

A stipulated expulsion is not authorized nor prohibited by education code; therefore, the District is able develop and revise its policy and practice to ensure fairness. If parents elect the stipulated expulsion option, there should be an incentive for doing so.

As authorized by education code, the District should contract with the Office of Administrative Hearings (OAH) to conduct panel expulsion hearings. This will ensure students and parents are afforded an impartial and objective hearing.

***Monitoring and Accountability.***

Expulsion data should be reviewed quarterly to identify disparities based on race/ethnicity and disability status. Districts should develop corrective action plans for schools that show disproportionate overrepresentation in expulsions for SWDs or Black students with and without disabilities.

***School Resource Officers (SROs) and Campus Security Programs***

**Recommendation 11.**

Establish a memorandum of understanding (MOU) with the Los Angeles Sheriff's Department that defines and limits the scope of SRO responsibilities and mandates relevant training, program evaluation, and an oversight mechanism.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Guidance.***

The U.S. Department of Education (ED), U.S. Department of Justice (DOJ), and National Association of School Resource Officers (NASRO) have endorsed the following three recommendations for an SRO program: the establishment of a memorandum of understanding (MOU), specialized training, and program evaluation.

The program evaluation recommendation aims to help schools understand their safety needs through the development of a comprehensive safety plan, targeted data collection, clear program goals, and an evaluation process to determine whether the program is achieving its goals.

Recommendations to establish a memorandum of understanding (MOU) to delineate the roles and responsibilities between the school district and the law enforcement agency should establish limits or prohibit SROs from participating in school discipline, which can include prohibiting SROs from becoming involved with minor infractions.

The MOU should include areas of specialized training for SROs, such as:

- child and adolescent development, with an emphasis on the effect of trauma on student behavior, health, and learning
- subconscious (or implicit) biases that can disproportionately affect students of color, SWDs, and students with mental health issues
- crisis intervention for youth
- alternatives to detention and incarceration, such as peer courts and restorative justice
- legal topics, like the protections afforded to SWDs

Lastly, the MOU should establish oversight of the SRO program to ensure Sheriff deputies comply with the requirements and limitations of the MOU. This mechanism should clearly outline the program indicators required for: data collection; procedures for documentation; and data entry and maintenance of law enforcement referrals, arrests, and citation events.

### ***Monitoring and Accountability.***

The District should develop and enter into an MOU that becomes effective before the 2023-24 school year begins. It should also establish an oversight mechanism for the SRO program that requires school principals to certify the accuracy of data (referrals, arrests, and citations), identify disparities based on race/ethnicity and disability status, and develop corrective actions for reducing such disparities.

### **Recommendation 12.**

Prioritize positive behavioral supports, counseling, and mental health supports and services over campus security and SRO programs.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

### ***Guidance.***

In 2020, the State legislature passed an amendment to Education Code Section 38000 to encourage school districts to reallocate schools' resources for security and SRO personnel to pupil support services, such as mental health services and professional development for school employees on cultural competency and restorative justice. It states that these types of supports and personnel may be a more appropriate use of resources based on the needs of students and campuses.

This investigation identified a high number of students who are underserved regarding behavioral intervention plans, counseling services, and academically. It also found a high level of resources committed to security personnel (8 to 12 per comprehensive campus) and dedicated security spaces (multiple security offices per comprehensive campus).

The investigation also found troubling practices of campus security officers (CSO), such as questionable searches and restraints of students, poor de-escalation skills, and a significant role in the discipline and investigation of student misconduct. In addition, CSOs carry handcuffs that they procure themselves and use without scrutiny or impunity. The data clearly show that CSOs disproportionately target SWDs and Black students with and without disabilities and employ traumatic interventions on these children with no oversight or consequence. This is indicative of a failed program that requires considerable reform or dismantling.

The data also show that the SRO program is perpetuating the school-to-prison pipeline and requires significant modification and reform. Moreover, the average cost of a Sheriff's deputy is \$180k per year compared to cost of school psychologists or school counselors that average \$130k per year, which further calls into question the effectiveness and appropriateness of this program.

The criminalization of student conduct and the exclusionary discipline being disproportionality applied to SWDs and Black students with and without disabilities does not deter future misconduct nor does it address the root causes of social emotional, behavioral, and mental health challenges.

The Board of Education and superintendent should reallocate these resources to fund positions and professional development opportunities that will improve the District's special education delivery system, mental health services, and behavioral supports. In lieu of large campus security teams and full-day assignments of SROs at each comprehensive school, the District should consider increasing the following types of professionals:

- school psychologists and mental health therapists
- Board Certified Behavior Analysts (BCBAs)
- instructional and behavioral aides, including 1:1 aides

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- reading specialists

As the District reviews its priorities, it should redesign the campus security program and limit the authority of security personnel in school discipline matters. It should also limit or prohibit security personnel from carrying handcuffs and conducting unjustified searches.

In addition, the District should establish or revise policies and procedures regarding the use of restraints (including handcuffs), searches, and security holds. Further, the District should require all staff (e.g., school administrators, counselors, psychologists, special education teachers and aides, and campus security personnel) to be current in NCI training.

Safety and security are paramount, and schools must have the necessary resources to provide for the physical wellbeing of students and staff. However, the data indicates that the current programs are ineffective and perpetuate inequities against SWDs and Black students with and without disabilities. The District has an obligation to review the effectiveness of its campus security and SRO programs and identify an approach that protects students from physical harm while meeting the academic, behavioral, and social emotional needs of its most vulnerable students.

### ***Monitoring and Accountability.***

The District should work with schools, parents, and the community to reprioritize the resources currently allocated for campus security and CSOs and to develop a plan that balances security and safety with the academic, behavioral and social emotional needs of students. To achieve this, the District should establish a committee that includes parents and community representatives to explore the reallocation of these resources and make recommendations to the Board of Education within a reasonable timeframe.

The District should modify the campus security officer program to limit their authority and role in student discipline as well as mandate relevant training and maintain a tracking mechanism to ensure certifications are current.

The District should develop a timeline for revising policies and procedures regarding restraints, searches, and security holds and include a timeframe for training staff.

### **Broad, Global Recommendations**

- Develop a special education policies and procedures manual.
- Review and update all policies.
- Establish functional procedures that include data collection and maintenance requirements.
- Prohibit the use of school generated data tracking mechanisms, such as Google Sheets.
- Conduct a full audit of relevant data (e.g., suspension notice forms, incident reports) to determine the extent of law enforcement referrals and restraints.

## Investigation into Various Compliance Complaints Against the Antelope Valley Union High School District

- Mandate the districtwide use of specific programs as part of the PBIS implementation.
- Require trainings in areas such as crisis response and de-escalation strategies, alternatives to suspensions and restorative practices, data entry procedures, disability related-behaviors, and manifestation determination review best practices.
- Mandate training on race equity issues and implicit bias.
- Ensure data analysts are adequately trained on preparing accurate data reports.
- Conduct an analysis of special education related services to determine the levels of supports offered to students and disaggregate the information by eligibility, service type, and race/ethnicity.
- Establish reading intervention programs and a remedial reading and math program for incoming freshmen.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

**References**

- Adler, P. A., & Adler, P. (1996). *Understanding life stories: A guide for practitioners*. Sage Publications.
- Advancement Project et al. (2011). *Test, punish, and push out: How “zero tolerance” and high-stakes testing funnel youth into the school-to-prison pipeline*. Advancement Project. [https://advancementproject.org/wp-content/uploads/2013/06/Test\\_Punish\\_Pushout\\_2011.pdf](https://advancementproject.org/wp-content/uploads/2013/06/Test_Punish_Pushout_2011.pdf)
- Ahram, R., Fergus, E., & Noguera, P. (2011). Addressing racial/ethnic disproportionality in special education: Case studies of suburban school districts. *Teachers College Record*, 113(10), 2233-2266.
- Allman, & Slate, J. R. (2011). School Discipline in Public Education: A Brief Review of Current Practices. *The International Journal of Educational Leadership Preparation*, 6(2).
- Ambrose, & Gibson, M. (1995). Debate: Does suspension work? *NEA Today*, 13(7), 39–.
- Anderson, J., & Ritter, G. (2017). Student suspensions: Are they worth the educational cost? *Education Finance and Policy*, 12(1), 1-22. [https://doi.org/10.1162/EDFP\\_a\\_00206](https://doi.org/10.1162/EDFP_a_00206)
- Annamma, S. A. (2015). Toward disrupting pre-carceral realities: Critical race praxis and abolitionist projects in special education. *Journal of Education Policy*, 30(3), 314-332. <https://doi.org/10.1080/02680939.2014.921201>
- Armstrong, C. M. (2021). Racialized school discipline in the United States: A systematic review of the literature. *Review of Educational Research*, 91(1), 3-42. <https://doi.org/10.3102/0034654320960508>
- Artiles, A. J. (2011). Toward an interdisciplinary understanding of educational equity and difference: The case of the racialization of ability. *Race Ethnicity and Education*, 14(1), 1-18. <https://doi.org/10.1080/13613324.2010.524440>
- Artiles, A. J., Kozleski, E. B., Dorn, S., Christensen, C., & Waitoller, F. (2010). Learning in inclusive education research: Re-mediating theory and methods with a transformative agenda. *Review of Research in Education*, 34(1), 79-106. <https://doi.org/10.3102/0091732X09353998>
- Artiles, A. J., & Trent, S. C. (1994). Overrepresentation of minority students in special education: A continuing debate. *The Journal of Special Education*, 27(4), 410-437. <https://doi.org/10.1177/002246699402700403>
- Azad, M. C., & Hau, K. T. (2018). Ethnicity and academic achievement in the United States: A longitudinal study of Cambodian, Laotian, and Vietnamese Americans. *Educational Research and Evaluation*, 24(1-2), 77-93.
- Bailey, J. R. (2006). *Engaging students with poverty in mind: Practical strategies for raising achievement*. ASCD.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Baird, G. L., Le, H. N., Abes, E. S., & Pascarella, E. T. (2012). The impact of faculty diversity on student success: What the research tells us. Association of American Colleges and Universities.
- Barrio, B. L., Ferguson, S. L., Hovey, K. A., Boedeker, P., & Kluttz-Drye, B. (2022). Voices beyond the numbers: a systematic review of qualitative studies of disproportionality in special education. *Preventing School Failure: Alternative Education for Children and Youth*, 1-9.
- Bernburg, J. G., Krohn, M. D., & Rivera, C. J. (2006). Official labeling, criminal embeddedness, and subsequent delinquency: A longitudinal test of labeling theory. *Journal of Research in Crime and Delinquency*, 43(1), 67-88.
- Bernburg, J. G., & Krohn, M. D. (2003). Labeling, life chances, and adult crime: The direct and indirect effects of official intervention in adolescence on crime in early adulthood. *Criminology*, 41(4), 1287-1318.
- Blanchett, W. J., Mumford, V., & Beachum, F. (2005). Urban school failure and disproportionality in a post-Brown era: Benign neglect of the constitutional rights of students of color. *Remedial and special education*, 26(2), 70-81.
- Blomberg, N. (2003). Effective discipline for misbehavior: In-school versus out-of-school suspension. *Concept*, 27.
- Bloomberg, M. R. (2004). School discipline. *The Journal of Negro Education*, 73(3), 365-370.  
<https://doi.org/10.2307/3211297>
- Blake, J. J., Kellerson, R. L., & Saxton, K. (2011). The association between school-based physical activity, including physical education, and academic performance: A systematic review of the literature. *Preventive Medicine*, 52(Suppl 1), S10-S20.  
<https://doi.org/10.1016/j.ypmed.2011.01.027>
- Blase, K. A., & Fixsen, D. L. (2013). Core intervention components: Identifying and operationalizing what makes programs work. ASPE Research Brief.
- Bradshaw, C. P., Mitchell, M. M., O'Brennan, L. M., & Leaf, P. J. (2010). Multilevel exploration of factors contributing to the overrepresentation of black students in office disciplinary referrals. *Journal of Educational Psychology*, 102(2), 113-124.
- Castagno, A. E. (2014). *Educated in whiteness: Good intentions and diversity in schools*. U of Minnesota Press.
- Brame, R., Turner, M. G., Paternoster, R., & Bushway, S. D. (2014). Cumulative prevalence of arrest from ages 8 to 23 in a national sample. *Pediatrics*, 133(5), 1-8.
- Bronsard, G., & Bartolomei, L. J. (2013). Response to intervention: A conceptual framework that includes school counselors. *Professional School Counseling*, 17(2), 95-104.
- Bon, E. L., Goldman, H. H., Roy-Burne, P., & Padgett, D. K. (2006). Quality of life, wellness, and recovery: The common ground of psychiatric rehabilitation. *Psychiatric Rehabilitation Journal*, 29(4), 241-248.
- Cantwell, D. P. (1996). Attention deficit disorder: A review of the past 10 years. *Journal of the American Academy of Child & Adolescent Psychiatry*, 35(8), 978-987.  
<https://doi.org/10.1097/00004583-199608000-00008>

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Carter, R. L., Skiba, R. J., Arredondo, M. I., & Pollock, M. (2017). Removing barriers to positive behavior for students with disabilities in juvenile justice settings. *Behavioral Disorders*, 42(3), 174-187. <https://doi.org/10.1177/0198742917716178>
- Cartledge, G., Singh, M., & Gibson, J. (2001). A Culturally Competent model of social skills training. *Journal of Emotional and Behavioral Disorders*, 9(4), 248-256. <https://doi.org/10.1177/106342660100900405>
- Center on Crime, Communities, and Culture. (1997). *The cycle of juvenile justice*. Columbia University Press.
- Cholewa, B., Hull, M. F., Babcock, C. R., & Smith, A. D. (2018). Predictors and academic outcomes associated with in-school suspension. *School Psychology Quarterly*, 33(2), 191.
- Cooc, N., & Kiru, E. W. (2018). Disproportionality in special education: A synthesis of international research and trends. *The Journal of Special Education*, 52(3), 163-173.
- Collins, K. M. T., Onwuegbuzie, A. J., & Jiao, Q. G. (2016). Toward a broader conceptualization of mixed methods research: Integrating quantitative, qualitative, and mixed methods approaches. *Journal of Mixed Methods Research*, 10(2), 209-222. <https://doi.org/10.1177/1558689815622655>
- Connor, D. J. (2008). A new era of change for the better: Meeting the needs of all students through school reform. *Learning Disabilities Research & Practice*, 23(1), 1-6. <https://doi.org/10.1111/j.1540-5826.2008.00266.x>
- Coon, H., & Travis, F. (2012). Personality disorders and meditation: A review of the literature. *Journal of Religion and Health*, 51(3), 776-794. <https://doi.org/10.1007/s10943-011-9548-5>
- Costenbader, & Markson, S. (1998). School Suspension: A Study with Secondary School Students. *Journal of School Psychology*, 36(1), 59–82. [https://doi.org/10.1016/S0022-4405\(97\)00050-2](https://doi.org/10.1016/S0022-4405(97)00050-2)
- Cotton, K., & Wikelund, K. R. (1990). Schoolwide and classroom discipline. *School Improvement Research Series*, 9, 1-28.
- Counts, J., Randall, K. N., Ryan, J. B., & Katsiyannis, A. (2018). School resource officers in public schools: A national review. *Education and Treatment of Children*, 41(4), 405-430.
- Couvillon, Kane, E. J., Peterson, R. L., Ryan, J. B., & Scheuermann, B. (2019). Policy and Program Considerations for Choosing Crisis Intervention Programs. *Journal of Disability Policy Studies*, 30(1), 35–45. <https://doi.org/10.1177/1044207318793158>
- Crosse, S., Ford, T., Lyons-Amos, M., Templeton, L., Stuart, J., et al. (2022). Understanding the school experiences of children and young people with ADHD in the United Kingdom: A systematic review. *Child: Care, Health and Development*, 48(1), 7-19. <https://doi.org/10.1111/cch.13058>
- Crone, E. A., & Dahl, R. E. (2012). Understanding adolescence as a period of social-affective engagement and goal flexibility. *Nature Reviews Neuroscience*, 13(9), 636-650. <https://doi.org/10.1038/nrn3313>



Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Dahlberg, R. (2012). The criminalization of school discipline in Massachusetts' three largest school districts.
- Dawkins, M. P., & Braddock, J. H. (1994). The continuing significance of desegregation: School racial composition and African American inclusion in American society. *The Journal of Negro Education*, 63(3), 394-405.
- Dawson, A. E. W., & Blackwell, C. K. (2010). Examining the effectiveness of a school-based anger management group for African American boys. *Journal of School Counseling*, 8(3), n3.
- De Plevitz, L. (2007). Systemic racism: The hidden barrier to educational success for Indigenous school students. *Australian Journal of Education*, 51(1), 54-71.
- Donovan, M. S., & Cross, C. T. (2002). *Minority students in special and gifted education*. National Academies Press.
- Dupaul, G. J. (1991). Parent and teacher ratings of ADHD symptoms: Psychometric properties in a community-based sample. *Journal of Clinical Child Psychology*, 20(3), 245-253.  
[https://doi.org/10.1207/s15374424jccp2003\\_7](https://doi.org/10.1207/s15374424jccp2003_7)
- Eiraldi, R., McCurdy, B., Schwartz, B., Wolk, C. B., Abraham, M., Jawad, A. F., ... & Mautone, J. A. (2019). Pilot study for the fidelity, acceptability, and effectiveness of a PBIS program plus mental health supports in under-resourced urban schools. *Psychology in the Schools*, 56(8), 1230-1245.
- Estrada, Y., Lee, T. K., Huang, H., Tapia, M., Velazquez, M. R., et al. (2012). The impact of family functioning on Mexican-origin adolescents' romantic relationships: A cognitive perspective. *Journal of Family Psychology*, 26(3), 372-382.  
<https://doi.org/10.1037/a0028115>
- Erhardt, D., & Hinshaw, S. P. (1994). Initial sociometric impressions of attention-deficit hyperactivity disorder and comparison boys: Predictions from social behaviors and from nonbehavioral variables. *Journal of Consulting and Clinical Psychology*, 62(4), 833-842.  
<https://doi.org/10.1037/0022-006X.62.4.833>
- Fabelo, T. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. Council of State Governments Justice Center.
- Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. Council of State Governments Justice Center.
- Farmer, T. W. (2000). Reflections on the development and status of school consultation: An interview with T. Chris Riley-Tillman. *Journal of Educational and Psychological Consultation*, 11(2), 91-105.
- Farmer, T. W. (2020). School consultation. In J. Sandoval (Ed.), *Handbook of child psychology and developmental science: Vol. 4. Ecological settings and processes* (8th ed., pp. 199-218). John Wiley & Sons.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Ferri, B. A., & Connor, D. J. (2005). In the shadow of Brown: Special education and overrepresentation of students of color. *Remedial and Special Education, 26*(2), 93-100.
- Fisher. (2022). Law Enforcement Allegiance: How Chapter 20 Provides an Ineffective Solution to Police Accountability. *The University of the Pacific Law Review, 53*(2), 361–.
- Fisher, M. H., & Hennessey, M. N. (2016). A comprehensive guide to school discipline reform: A resource for schools. Advancement Project and Lawyers' Committee for Civil Rights Under Law.
- Fisher, M. H., Thompson, A. R., Nellis, A., & Sugie, N. F. (2022). The other side of the school-to-prison pipeline: Suspended students' perspectives. *Journal of School Psychology, 96*, 27-42.
- Fitzgerald v. Fairfax County School Board, 556 F.3d 41 (4th Cir. 2008).
- Girvan, E. J., McIntosh, K., & Santiago-Rosario, M. R. (2021). Associations between community-level racial biases, office discipline referrals, and out-of-school suspensions. *School Psychology Review, 50*(2-3), 288-302.
- Gitta, M. Z., Cohen, M., & Gorey, K. M. (2015). School climate, school discipline and academic achievement: A review of empirical literature. *European Journal of Contemporary Education, 10*(1), 102-109.
- Goff, Jackson, M. C., Di Leone, B. A. L., Culotta, C. M., & DiTomasso, N. A. (2014). The Essence of Innocence: Consequences of Dehumanizing Black Children. *Journal of Personality and Social Psychology, 106*(4), 526–545. <https://doi.org/10.1037/a0035663>
- Goldman, S. K., Brady, K. L., & Boyce, L. K. (1998). *Effective consultation in schools: From theory to practice*. Guilford Press.
- Goldson, E. (2002). Youth, the 'underclass' and social exclusion: Lessons from the UK. *International Journal of Inclusive Education, 6*(1), 57-74.
- Gottfredson, Wright, S. L., & Heaphy, E. D. (2020). A critique of the Leader-Member Exchange construct: Back to square one. *The Leadership Quarterly, 31*(6), 101385–. <https://doi.org/10.1016/j.leaqua.2020.101385>
- Grasley-Boy, N. M., Gage, N. A., Lombardo, M., & Anderson, L. (2022). The additive effects of implementing advanced tiers of SWPBIS with fidelity on disciplinary exclusions. *Journal of Positive Behavior Interventions, 24*(3), 183-195.
- Gresham, F. M., & MacMillan, D. L. (1997). Social competence and affective characteristics of students with mild disabilities: A review of the literature. *School Psychology Review, 26*(3), 412-424.
- Gutman, L. M., Sameroff, A. J., & Cole, R. (2017). Academic growth trajectories and family relationships among African American children. *Developmental Psychology, 53*(5), 935-947.
- Harpur, P. (2009). Sexism and racism, why not ableism? Calling for a cultural shift in the approach to disability discrimination. *Alternative Law Journal, 34*(3), 163-167.
- Harry, B., & Klingner, J. (2006). *Why are so many minority students in special education? Understanding race and disability in schools*. Teachers College Press.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Harry, B., & Klingner, J. (2014). Discarding the deficit model. *Educational Leadership*, 72(3), 44-49.
- Hehir, T. (2005). New directions in special education: Eliminating ableism in policy and practice. *Harvard Educational Review*, 75(4), 535-566.  
<https://doi.org/10.17763/haer.75.4.054238n81xv22j2x>
- Heidelberg, K., Rutherford, L., & Parks, T. W. (2022). A preliminary analysis assessing swpbis implementation fidelity in relation to disciplinary outcomes of black students in urban schools. *The Urban Review*, 54(1), 138-154.
- Hernandez, J.E., Ramanathan, A. K., Harr, J. & Socias, M. (2008). Study of the effects of an intervention to reduce the disproportionate identification in the category of emotional disturbance in the Los Angeles Unified School District. *Journal of Special Education Leadership*, 21(2), 64-74.
- Herzik. (2015). A better IDEA: implementing a nationwide definition for significant disproportionality to combat overrepresentation of minority students in special education. *The San Diego Law Review*, 52(4), 951–.
- Hirschfield, P. J. (2008). Youth violence and juvenile justice: Causes, intervention and treatment programs. *Journal of Forensic Psychology Practice*, 8(4), 361-382.  
<https://doi.org/10.1080/15228930802301231>
- Holmberg, J., & Hjern, A. (2008). Children who enter public care twice: A register-based study. *BMC Public Health*, 8(1), 1-9. <https://doi.org/10.1186/1471-2458-8-408>
- Homer, A. L., & Fisher, P. A. (2019). Improving the lives of children in foster care through randomized evaluations: Key lessons from early childhood programs. *Journal of Children's Services*, 14(1), 1-13. <https://doi.org/10.1108/JCS-11-2018-0064>
- Homer, & Fisher, B. W. (2020). Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender. *Journal of School Violence*, 19(2), 192–204. <https://doi.org/10.1080/15388220.2019.1604377>
- Houston, K. A., & Vayak, V. (1991). The effectiveness of group interventions for adolescent aggression: A quantitative review. *Aggression and Violent Behavior*, 15(3), 267-283.  
<https://doi.org/10.1016/j.avb.2009.11.001>
- James, & Dragoo, K. E. (2018). School resource officers : issues for Congress / Nathan James, Kyrie E. Dragoo. Congressional Research Service.
- Javdani. (2019). Policing Education: An Empirical Review of the Challenges and Impact of the Work of School Police Officers. *American Journal of Community Psychology*, 63(3-4), 253–269. <https://doi.org/10.1002/ajcp.12306>
- Jeoung, Y. O., Kubik, J. D., & Fagan, A. A. (2001). Adolescent offenders' personality characteristics and self-reported reasons for delinquency. *Journal of Youth and Adolescence*, 30(2), 135-153. <https://doi.org/10.1023/A:1005162812838>
- Justice Policy Institute. (2011). Juvenile justice reform in Connecticut: How collaboration and commitment have improved public safety and outcomes for youth. Author.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

[https://www.justicepolicy.org/uploads/justicepolicy/documents/connecticut\\_juvenile\\_justice\\_reform\\_final.pdf](https://www.justicepolicy.org/uploads/justicepolicy/documents/connecticut_juvenile_justice_reform_final.pdf)

- Kamps, D. M., & Tankersly, M. (1996). Academic performance of elementary students with emotional and behavioral disorders. *Journal of Emotional and Behavioral Disorders*, 4(2), 99-107. <https://doi.org/10.1177/106342669600400204>
- Kang-Brown, J., Trone, J., & Frase, L. (2013). The color of discipline: Sources of racial and gender disproportionality in school punishment. Center for Poverty Research, University of California, Davis. <https://poverty.ucdavis.edu/sites/main/files/file-attachments/color-of-discipline.pdf>
- Katsiyannis, A., & Maag, J. W. (2001). Teacher perceptions of attention deficit hyperactivity disorder and oppositional defiant disorder. *Journal of Emotional and Behavioral Disorders*, 9(4), 247-256. <https://doi.org/10.1177/106342660100900406>
- Kaufman, A. S. (1997). *Intelligent testing with the WISC-III*. Wiley.
- Kauffman, J. M., & Anastasiou, D. (2019). On cultural politics in special education: Is much of it justifiable?. *Journal of Disability Policy Studies*, 30(2), 78-90.
- Kavale, K. A., & Forness, S. R. (1996). Social skills deficits and learning disabilities: A meta-analysis. *Journal of Learning Disabilities*, 29(3), 226-237. <https://doi.org/10.1177/002221949602900301>
- Keilitz, S., & Dunivant, N. (1987). A national survey of residential treatment centers for emotionally disturbed children and youth. *Journal of Emotional and Behavioral Disorders*, 3(3), 131-139. <https://doi.org/10.1177/106342668700300301>
- Kim, J., McIntosh, K., Mercer, S. H., & Nese, R. N. (2018). Longitudinal associations between SWPBIS fidelity of implementation and behavior and academic outcomes. *Behavioral Disorders*, 43(3), 357-369.
- Kirk, D. S., & Matsuda, M. (2011). Legal cynicism, collective efficacy, and the ecology of arrests. *Criminology*, 49(2), 443-472. <https://doi.org/10.1111/j.1745-9125.2011.00227.x>
- Kirk, D. S., & Papachristos, A. V. (2011). Cultural mechanisms and the persistence of neighborhood violence. *American Journal of Sociology*, 116(4), 1190-1233. <https://doi.org/10.1086/657352>
- Knudsen, K. J., & Bethune, K. S. (n.d.). The impact of teacher expectations on student achievement in urban high school classrooms. *Urban Education*. Advance online publication. <https://doi.org/10.1177/0042085919838734>
- Kohli, R., Pizarro, M., & Nevárez, A. (2017). The “new racism” of K–12 schools: Centering critical research on racism. *Review of research in education*, 41(1), 182-202.
- Kramarczuk Voulgarides, C., Fergus, E., & King Thorius, K. A. (2017). Pursuing equity: Disproportionality in special education and the reframing of technical solutions to address systemic inequities. *Review of Research in Education*, 41(1), 61-87.
- Kunesh, C., & Noltemeyer, A. (2015). The effects of school-wide positive behavior support on middle school climate and student outcomes. *Journal of Positive Behavior Interventions*, 17(4), 235-248. <https://doi.org/10.1177/1098300715573341>

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Kupchik. (2020). Beyond the Low-Hanging Fruit: Reducing Racial Inequality by Rethinking School Safety Efforts. *Sociological Forum* (Randolph, N.J.), 35(3), 813–821.  
<https://doi.org/10.1111/sof.12614>
- Larson, E. B. (1988). Clinical research: What does the future hold? *Archives of Neurology*, 45(8), 849–852. <https://doi.org/10.1001/archneur.1988.00520320001001>
- Lawrence, T. (2007). Understanding power and politics in organizations. *Academy of Management Review*, 32(4), 1065-1087. <https://doi.org/10.5465/amr.2007.26586092>
- Lee. (2023). Potential Racial Threat on Student In-School Suspensions in Segregated U.S. Neighborhoods. *Education and Urban Society*, 55(1), 3–33.  
<https://doi.org/10.1177/00131245221076090>
- Lee, D. J., & Hwang, J. (2013). The mediating effect of leader-member exchange on the relationship between leader's emotional intelligence and job satisfaction. *Leadership & Organization Development Journal*, 34(2), 119-136.  
<https://doi.org/10.1108/01437731311295750>
- Lee, J. Y., Kim, H., & Kim, S. M. (2015). Factors affecting learner satisfaction with e-learning in South Korea. *Journal of Computer Assisted Learning*, 31(3), 260-272.  
<https://doi.org/10.1111/jcal.12074>
- Legewie, & Fagan, J. (2019). Aggressive Policing and the Educational Performance of Minority Youth. *American Sociological Review*, 84(2), 220–247.  
<https://doi.org/10.1177/0003122419826020>
- Leone, P. E., & Meisel, S. M. (2000). Suspension, expulsion, and the school-to-prison pipeline. In J. J. Shook, & M. F. Kadden (Eds.), *The juvenile justice system: Law and process* (pp. 213-235). Pearson.
- LiCalsi, C., Osher, D., & Bailey, P. (2021). An Empirical Examination of the Effects of Suspension and Suspension Severity on Behavioral and Academic Outcomes.
- Losen, D. J., Hodson, C. L., Keith, M. A., Morrison, K., & Belway, S. (2014). Are we closing the school discipline gap? The Center for Civil Rights Remedies at UCLA.  
<https://escholarship.org/uc/item/5sm1g6kr>
- Losen, D. J., & Martinez, T. E. (2013). Out of school and off track: The overuse of suspensions in American middle and high schools. The Civil Rights Project.
- Mallet, V. (2013). *Understanding home-school relations*. Routledge.
- Mallet, V. (2016). Parents' perceived efficacy among children with learning difficulties. *Journal of research in Special Educational Needs*, 16(1), 621-630. <https://doi.org/10.1111/1471-3802.12226>
- Martel, M. M., Gremillion, M. L., Roberts, T. A., & Sareen, H. (2011). Correlates of sexual objectification experiences among U.S. adolescent girls. *Child Psychiatry & Human Development*, 42(2), 143-165. <https://doi.org/10.1007/s10578-010-0200-x>
- Martinez-Prather, McKenna, J. M., & Bowman, S. W. (2016). The impact of training on discipline outcomes in school-based policing. *Policing : an International Journal of*

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

Police Strategies & Management, 39(3), 478–490. <https://doi.org/10.1108/PIJPSM-02-2016-0022>

McGlynn-Wright, A. (2014). Strengthening connections between juvenile justice and mental health systems for youth involved in both systems. *Child and Adolescent Psychiatric Clinics*, 23(3), 537-548. <https://doi.org/10.1016/j.chc.2014.03.002>

McIntosh, K., Gion, C., & Bastable, E. (2018). Do schools implementing SWPBIS have decreased racial and ethnic disproportionality in school discipline. PBIS Evaluation Brief. OSEP National Technical Assistance Center on Positive Behavioral Interventions and Supports.

McKenna, J. W., & White, R. J. (2018). The effectiveness of function-based interventions for students with or at risk for emotional and behavioral disorders: A meta-analysis. *Behavioral Disorders*, 43(1), 69-83. <https://doi.org/10.1177/0198742917739217>

Mendez, & Knoff, H. M. (2003). Who Gets Suspended from School and Why: A Demographic Analysis of Schools and Disciplinary Infractions in a Large School District. *Education & Treatment of Children*, 26(1), 30–51.

Miles. (2016). Overrepresentation In Special Education: Does the Idea Violate the Equal Protection Clause? *Rutgers Race & the Law Review*, 17(2), 245–265.

Mogavero, M. C., Schultheis, E. H., & Hall, E. V. (2018). A review of the literature on response to intervention for English language learners: Examining implementation practices and outcomes. *Journal of Learning Disabilities*, 51(3), 243-257. <https://doi.org/10.1177/0022219417748027>

Mordechay, K., & Ayscue, J. B. (2018). Policies needed to build inclusive cities and schools. *Education Policy Analysis Archives*, 26, 98-98.

Morris, & Howard, A. C. (2003). Designing an Effective In-School Suspension Program. *The Clearing House*, 76(3), 156–159. <https://doi.org/10.1080/00098650309601994>

Muncie, J., & Goldson, B. (2006). *Comparative youth justice*. Sage.

Na, & Gottfredson, D. C. (2013). Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors. *Justice Quarterly*, 30(4), 619–650. <https://doi.org/10.1080/07418825.2011.615754>

Nance. (2016). Over-disciplining students, racial bias, and the school-to-prison pipeline. *University of Richmond Law Review*, 50(3), 1063–.

National Research Council Committee on Minority Representation in Special Education. (2002). *Minority students in special and gifted education*. National Academies Press (US). <https://www.ncbi.nlm.nih.gov/books/NBK220358/>

Nelson, J. R. (2000). Assessment and intervention for executive function difficulties. *School Psychology Review*, 29(3), 384-393.

NeMoyer, A., Nakash, O., Fukuda, M., Rosenthal, J., Mention, N., Chambers, V. A., ... & Alegría, M. (2020). Gathering diverse perspectives to tackle “Wicked problems”: Racial/ethnic disproportionality in educational placement. *American journal of community psychology*, 65(1-2), 44-62.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Noltemeyer, Ward, R. M., & Mcloughlin, C. (2015). Relationship Between School Suspension and Student Outcomes: A Meta-Analysis. *School Psychology Review*, 44(2), 224–240. <https://doi.org/10.17105/spr-14-0008.1>
- Novak, B. (2019). The effects of exclusionary discipline on students and teachers: A comparative review of recent research on disproportionality, racial disparities, and the school-to-prison pipeline. *Review of Educational Research*, 89(5), 777-813. <https://doi.org/10.3102/0034654319867495>
- Office of Juvenile Justice and Delinquency Prevention. (2017). Juvenile Residential Facility Census Databook. <https://www.ojjdp.gov/ojstatbb/corrections/qa08402.asp>
- Okonofua, J. A., & Eberhardt, J. L. (2015). Two strikes: Race and the disciplining of young students. *Psychological Science*, 26(5), 617-624. <https://doi.org/10.1177/0956797615569000>
- OSERS. (2016). Dear colleague letter on the nondiscriminatory administration of school discipline. US Department of Education. <https://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf>
- Park, Y., & Chun, H. (2018). Mediation effect of subjective well-being on the relationship between juvenile delinquency and self-control. *Social Indicators Research*, 138(2), 539-554. <https://doi.org/10.1007/s11205-017-1683-y>
- Patel, S., & Barzman, D. (2013). Juvenile delinquency: An update on theory, risk factors, and solutions. *Psychiatry*, 10(8), 11-16. <https://doi.org/10.1016/j.mppsy.2013.08.002>
- Pentek, & Eisenberg, M. E. (2018). School resource officers, safety, and discipline: Perceptions and experiences across racial/ethnic groups in Minnesota secondary schools. *Children and Youth Services Review*, 88, 141–148. <https://doi.org/10.1016/j.childyouth.2018.03.008>
- Quinn, M. M., Rutherford, R. B., Leone, P. E., Osher, D. M., & Poirier, J. M. (2005). Youth with disabilities in juvenile corrections: A national survey. *Exceptional Children*, 71(3), 339-345. <https://doi.org/10.1177/001440290507100305>
- Quinn, M. M., Rutherford, R. B., Leone, P. E., Osher, D. M., & Poirier, J. M. (2001). Students with disabilities in correctional facilities. *Journal of Special Education*, 35(4), 174-180. <https://doi.org/10.1177/002246690103500402>
- Radd, S. I., & Grosland, T. J. (2018). Desegregation policy as social justice leadership?: The case for critical consciousness and racial literacy. *Educational Policy*, 32(3), 395-422.
- Ryan, J. B., Katsiyannis, A., Counts, J. M., & Shelnut, J. C. (2018). The growing concerns regarding school resource officers. *Intervention in School and Clinic*, 53(3), 188-192.
- Ryan, J. P., Williams, A. B., & Courtney, M. E. (2017). Adolescent neglect, juvenile delinquency and the risk of recidivism. *Journal of Youth and Adolescence*, 46(10), 2102-2116. <https://doi.org/10.1007/s10964-017-0678-8>
- Sartain, L., Stoelinga, S. R., & Brown, K. R. (2015). Does more time in class equal success in the long run? *Educational Evaluation and Policy Analysis*, 37(2), 166-182. <https://doi.org/10.3102/0162373714543561>

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Shannon, P., Leschied, A., & Byram, E. (2014). A randomized controlled trial examining the effects of supportive school programs for at-risk students in Ontario. *Journal of Child Psychology and Psychiatry*, 55(3), 247-256. <https://doi.org/10.1111/jcpp.12156>
- Sharkey, J. D., & Fenning, P. (2012). Addressing disproportionate representation: Strategies for reducing exclusionary discipline practices. *Preventing School Failure: Alternative Education for Children and Youth*, 56(4), 229-237. <https://doi.org/10.1080/1045988X.2011.593632>
- Short, J. R. (1988). The contribution of behavior modification to special education: Thirty years of research on its effects. *Journal of Special Education*, 21(3), 47-67.
- Skiba, R. J. (2002). Special education and school discipline: A precarious balance. *Behavioral Disorders*, 27(1), 5-13. <https://doi.org/10.1177/019874290202700101>
- Skiba, R. J. (2002). Zero tolerance, zero evidence: An analysis of school disciplinary practice. Indiana Education Policy Center. <https://files.eric.ed.gov/fulltext/ED474687.pdf>
- Skiba. (2013). Reaching a Critical Juncture for Our Kids: The Need to Reassess School-Justice Practices. *Family Court Review*, 51(3), 380–387. <https://doi.org/10.1111/fcre.12034>
- Skiba, R. (2014). Race is not neutral: A national investigation of African American and Latino disproportionality in school discipline. *The Journal of Educational Administration*, 52(6), 775-793. <https://doi.org/10.1108/JEA-12-2011-0152>
- Skiba, Artilles, A. J., Kozleski, E. B., Losen, D. J., & Harry, E. G. (2016). Risks and Consequences of Oversimplifying Educational Inequities: A Response to Morgan et al. (2015). *Educational Researcher*, 45(3), 221–225. <https://doi.org/10.3102/0013189X16644606>
- Skiba, & Peterson, R. L. (2000). School Discipline at a Crossroads: From Zero Tolerance to Early Response. *Exceptional Children*, 66(3), 335–346. <https://doi.org/10.1177/001440290006600305>
- Skiba, R. J., Peterson, R. L., & Williams, T. (2011). Office discipline referrals and racial disparities in punishment: A quantitative synthesis. *Journal of School Psychology*, 49(5), 433-455.
- Skiba, R. J., Simmons, A. B., Ritter, S., Gibb, A. C., Rausch, M. K., Cuadrado, J., & Chung, C. G. (2008). Achieving equity in special education: History, status, and current challenges. *Exceptional Children*, 69(4), 391-409. <https://doi.org/10.1177/001440290806900401>
- Smith, A., & Kozleski, E. B. (2005). Witnessing Brown: Pursuit of an equity agenda in American education. *Remedial and Special Education*, 26(5), 270-280.
- Smith, Ortiz, N. A., Blake, J. J., Marchbanks, M., Unni, A., & Peguero, A. A. (2021). Tipping Point: Effect of the Number of In-school Suspensions on Academic Failure. *Contemporary School Psychology*, 25(4), 466–475. <https://doi.org/10.1007/s40688-020-00289-7>



Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Smith, C. A., Rueda, R., & Hughes, D. (2020). Implicit bias in school discipline. In R. C. Rosenfeld & S. F. Messner (Eds.), *The Oxford Handbook of Crime and Public Policy*. Oxford University Press.
- Student v. Fortuna Union High School – OAH 2019120123. (n.d.). Special Education Division. <https://www.dgs.ca.gov/OAH/SpecialEducation/Resources/Case-Law-Search/CaseDetail?OAHCaseNumber=2019120123>
- Student v. Riverside Unified School District – OAH 2017030772. (n.d.). Special Education Division. <https://www.dgs.ca.gov/OAH/SpecialEducation/Resources/Case-Law-Search/CaseDetail?OAHCaseNumber=2017030772>
- Student v. Southern Kern Unified School District – OAH 2017070207. (n.d.). Special Education Division. <https://www.dgs.ca.gov/OAH/SpecialEducation/Resources/Case-Law-Search/CaseDetail?OAHCaseNumber=2017070207>
- Sugai, G., & Horner, R. H. (2006). A promising approach for expanding and sustaining school-wide positive behavior support. *School Psychology Review*, 35(2), 245-259.
- Sullivan, A. L., & Artiles, A. J. (2011). Theorizing racial inequity in special education: Applying structural inequity theory to disproportionality. *Urban Education*, 46(6), 1526-1552.
- Sullivan, A. L., & Osher, D. (2019). IDEA's double bind: A synthesis of disproportionality policy interpretations. *Exceptional children*, 85(4), 395-412.
- Tatum, B. D. (2017). *Why are all the black kids sitting together in the cafeteria? And other conversations about race*. Basic Books.
- The Center on Positive Behavioral Interventions & Supports. (2015). About PBIS. <https://www.pbis.org/about>
- The U.S. Department of Civil Rights. (2018). Data snapshot: School discipline. Office for Civil Rights. <https://www2.ed.gov/about/offices/list/ocr/docs/school-discipline-snapshot.pdf>
- Theriot. (2009). School resource officers and the criminalization of student behavior. *Journal of Criminal Justice*, 37(3), 280–287. <https://doi.org/10.1016/j.icrimjus.2009.04.008>
- Theriot, M. T. (2010). Disproportionate minority confinement. In J. Miller, & R. J. Barry (Eds.), *The practice of research in criminology and criminal justice* (pp. 396-413). SAGE Publications.
- Theriot, & Orme, J. G. (2016). School Resource Officers and Students' Feelings of Safety at School. *Youth Violence and Juvenile Justice*, 14(2), 130–146. <https://doi.org/10.1177/1541204014564472>
- Thorius, K. K. (2019). The construction, expression, and consequences of difference in education practice, policy, and research. *International Journal of Qualitative Studies in Education*, 32(3), 211-216.
- Tobin, T. J., & Vincent, C. G. (2011). A meta-analysis of research on the physical punishment of children and its association with child abuse. *International Journal of Child and Adolescent Health*, 4(1), 15-34.
- Troyan. (2003). The silent treatment: Perpetual in-school suspension and the education rights of students. *Texas Law Review*, 81(6), 1637–1670.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

- Turner, & Beneke, A. J. (2020). "Softening" school resource officers: the extension of police presence in schools in an era of Black Lives Matter, school shootings, and rising inequality. *Race, Ethnicity and Education*, 23(2), 221–240.  
<https://doi.org/10.1080/13613324.2019.1679753>
- Tyrer, McGrother, C. W., Thorp, C. F., Donaldson, M., Bhaumik, S., Watson, J. M., & Hollin, C. (2006). Physical aggression towards others in adults with learning disabilities: prevalence and associated factors. *Journal of Intellectual Disability Research*, 50(4), 295–304. <https://doi.org/10.1111/j.1365-2788.2005.00774.x>
- Vincent, C. G., Tobin, T. J., & Houlihan, D. D. (2015). A review of positive behavior support research in schools implementing PBIS. *Journal of Positive Behavior Interventions*, 17(3), 113-122.
- Vincent, C. G., Tobin, T. J., & Losen, D. J. (2015). The impact of school
- Wald, & Losen, D. J. (2003). Defining and redirecting a school-to-prison pipeline. *New Directions for Youth Development*, 2003(99), 9–15. <https://doi.org/10.1002/yd.51>
- Weisburst. (2019). Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-term Education Outcomes. *Journal of Policy Analysis and Management*, 38(2), 338–365. <https://doi.org/10.1002/pam.22116>
- Welsh, W. N., & Little, G. L. (2018). *Introduction to criminology: A text/reader*. Sage Publications.
- Whitaker, & Losen, D. J. (2019). The Striking Outlier: The Persistent, Painful and Problematic Practice of Corporal Punishment in Schools.
- White, & McKenna, J. M. (2020). Improving school policing programmes through strategic collaboration. *Policing : a Journal of Policy and Practice*, 14(2), 512–525.  
<https://doi.org/10.1093/POLICE/PAY035>
- Young, E. Y. (2011). The four personae of racism: Educators'(mis) understanding of individual vs. systemic racism. *Urban Education*, 46(6), 1433-1460.

Investigation into Various Compliance Complaints Against the Antelope Valley Union  
High School District

**Appendices**

- Appendix 0 Biography
- Appendix 1 March 24, 2022, CDE Complaint
- Appendix 2 CDE's response to the March 24, 2022, CDE Complaint
- Appendix 3 February 17, 2023, Superintendent's response to DRC, NLSLA, EJS, and Kilpatrick Townsend & Stockton, LLP
- Appendix 4 June 14, 2022, Document demand letter from DRC to District
- Appendix 5 List and table of statistical tests
- Appendix 6 Various Interview Guides
- Appendix 7 Least Restrictive Environment (LRE) – Antelope Valley SELPA (2018); AVUHSD Positive Behavior Level System; SDC-B Job Alike Session Agenda from the 2021 Special Education Virtual Conference (PowerPoint)
- Appendix 8 Discipline Matrix and Behavior Consequences Matrix (E 5144.1); Various Suspension Notice Forms; Expulsion or Alternative Placement for Students with Special Education Services (Revised 2014); 2021 CCEIS Plan
- Appendix 9 Telephone survey of parents and letter informing them of their selection to participate.
- Appendix 10 Student Support Center – Staff Manual, Resources & Procedures; Student Support Center – Fidelity Inventory Checklist; Notice of Reassignment
- Appendix 11 Agreement and Stipulation for Full Expulsion; School Psych Meeting (9/1/2021) – Manifestation Determination Review Training PowerPoint; Implementation of Education Code 48432.5 Voluntary/Involuntary Transfers; Voluntary/Involuntary Placement Contract; Guidelines for Placement of Special Education Students into Independent Study Programs
- Appendix 12 School Law Enforcement Services Agreement for School Resource Deputy Program (2021-22 School Year), Antelope Valley SELPA Behavior Report (BER) Guidelines (Adopted March 28, 2019); AV SELPA BER Form (Revised 5/2018) and Postvention Resolution Process (Revised 3/2015); Vacancy Announcement Campus Supervisor Position (November 2, 2021)