



GRAND RIVER | SOLUTIONS

Reducing Bias in Sanctioning

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Vision

We exist to help create safe and equitable work and educational environments.



Mission

Bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.



Core Values

- ❖ Responsive Partnership
- ❖ Innovation
- ❖ Accountability
- ❖ Transformation
- ❖ Integrity

Your Facilitators

Tibisay Hernandez
(she/her/ella)

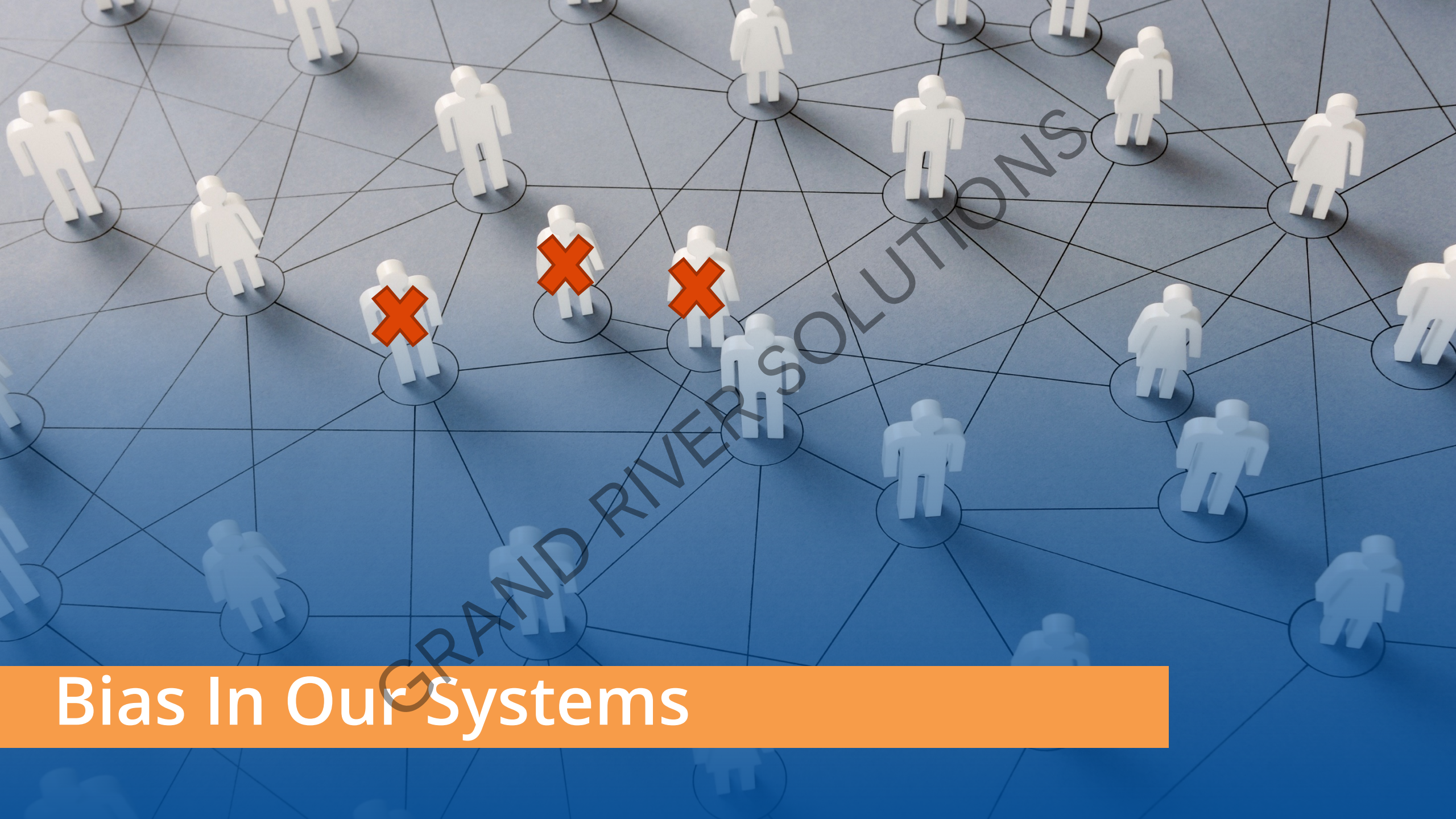


**Manager of DEI
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**Co-Founder
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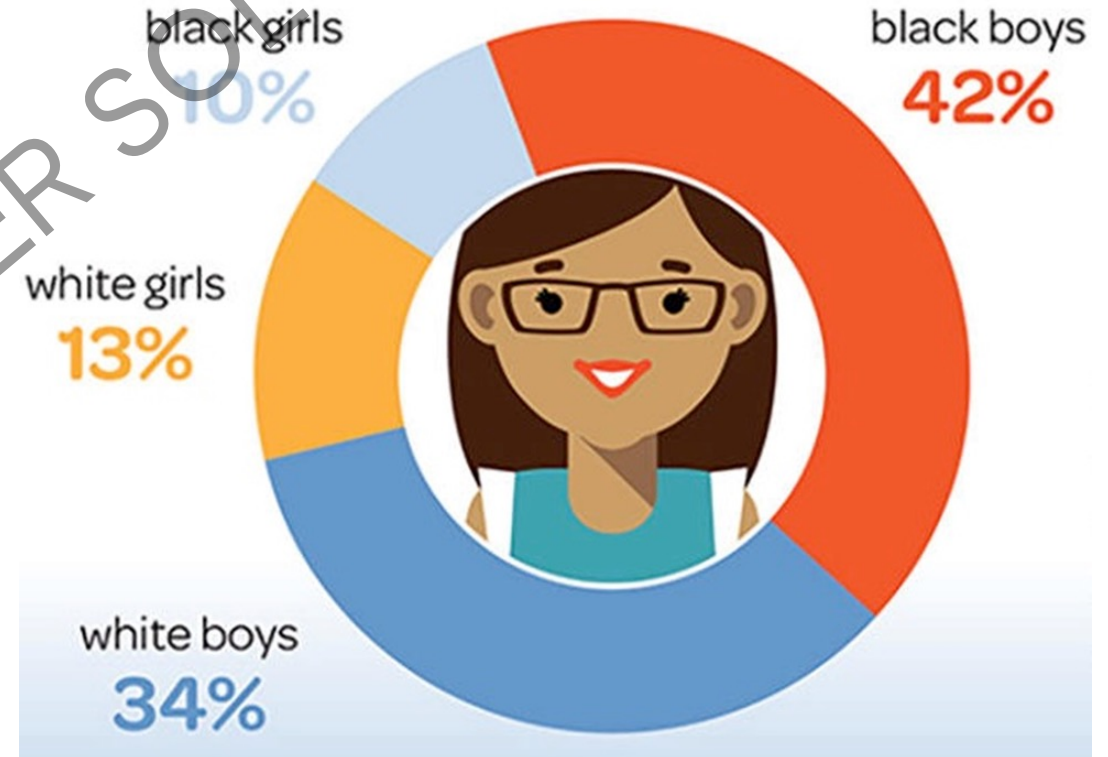
Bias In Our Systems

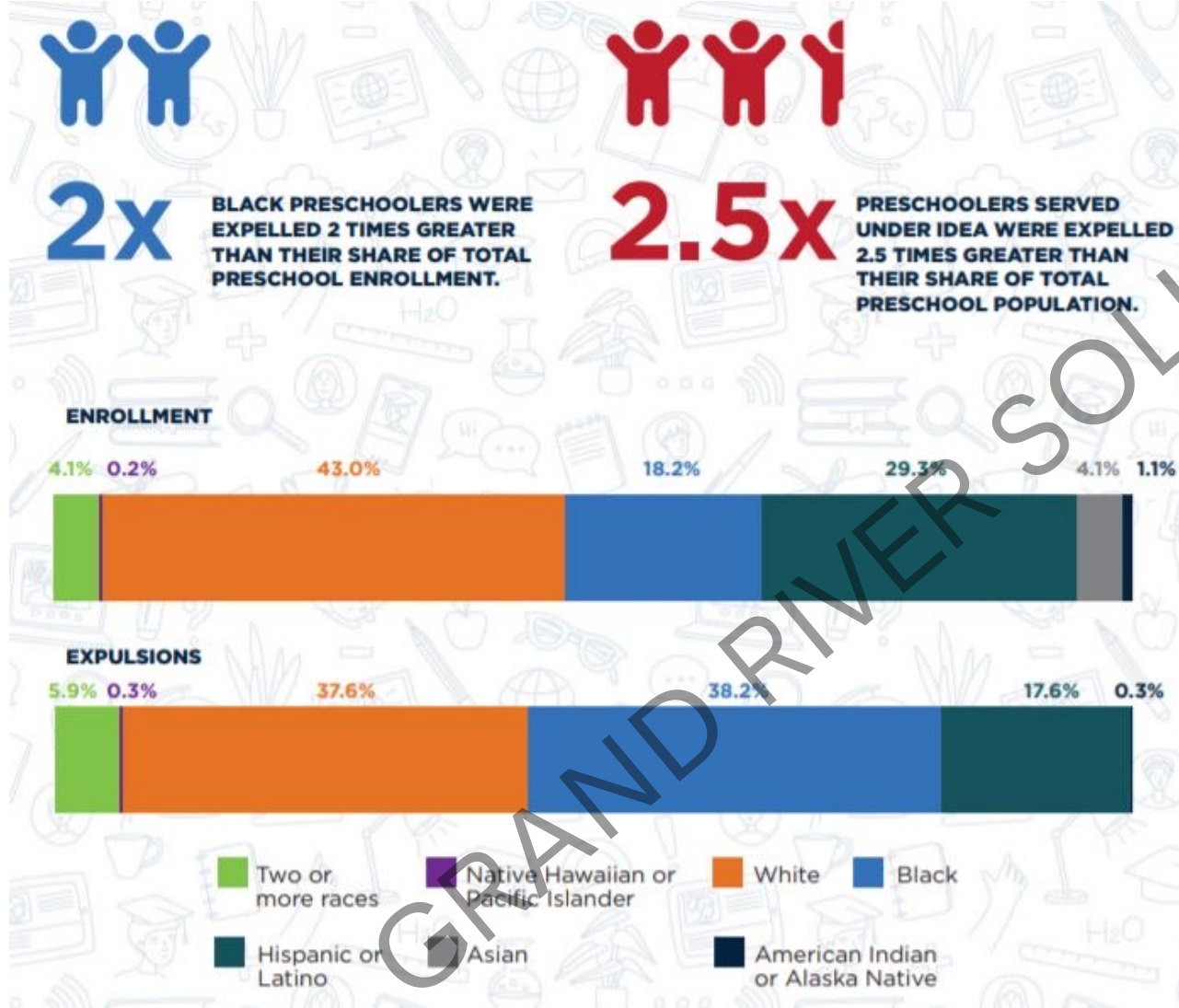
National Disciplinary Data

- Public K-12 systems are required via government reporting to provide demographic information for disciplinary cases.
- Research in the penal system is conducted to find bias in various points of the process including sentencing.
- Higher education institutions are NOT required via government reporting to provide demographic information for students facing discipline.

Implicit Bias in Early Education

- Teachers watched a video of a classroom and were asked to identify challenging behaviors.
- Eye tracking showed the amount of time they spent watching each child.

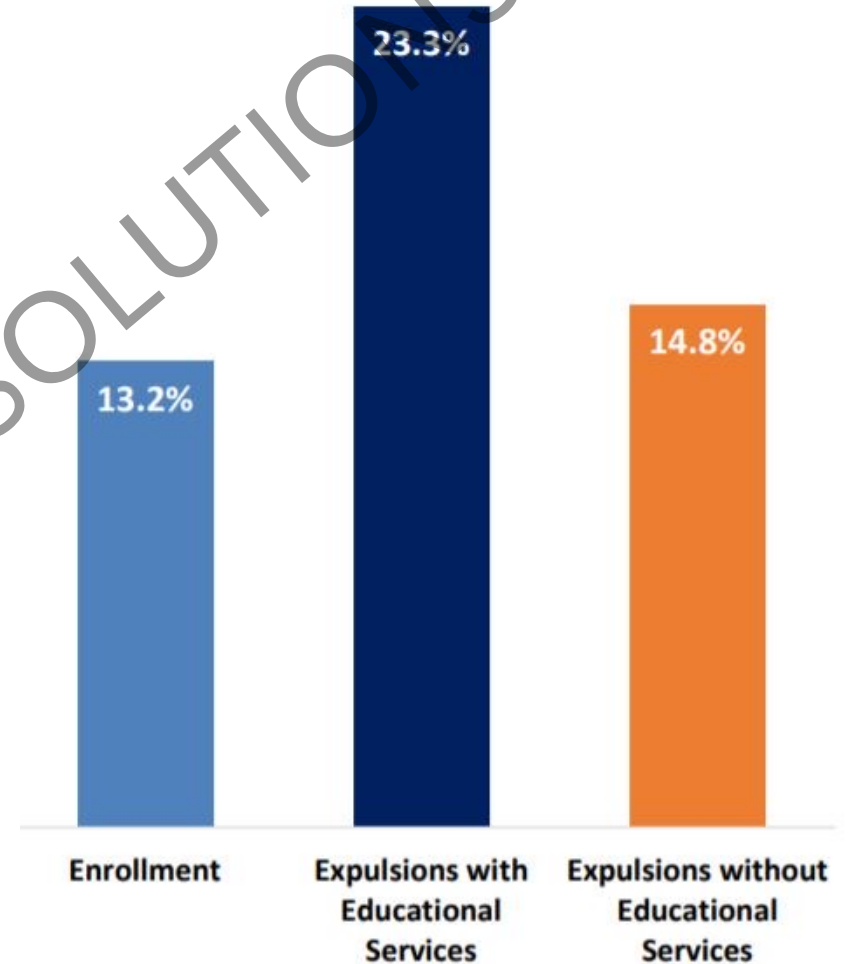




Expulsions Among Pre-School Students in 2017-18

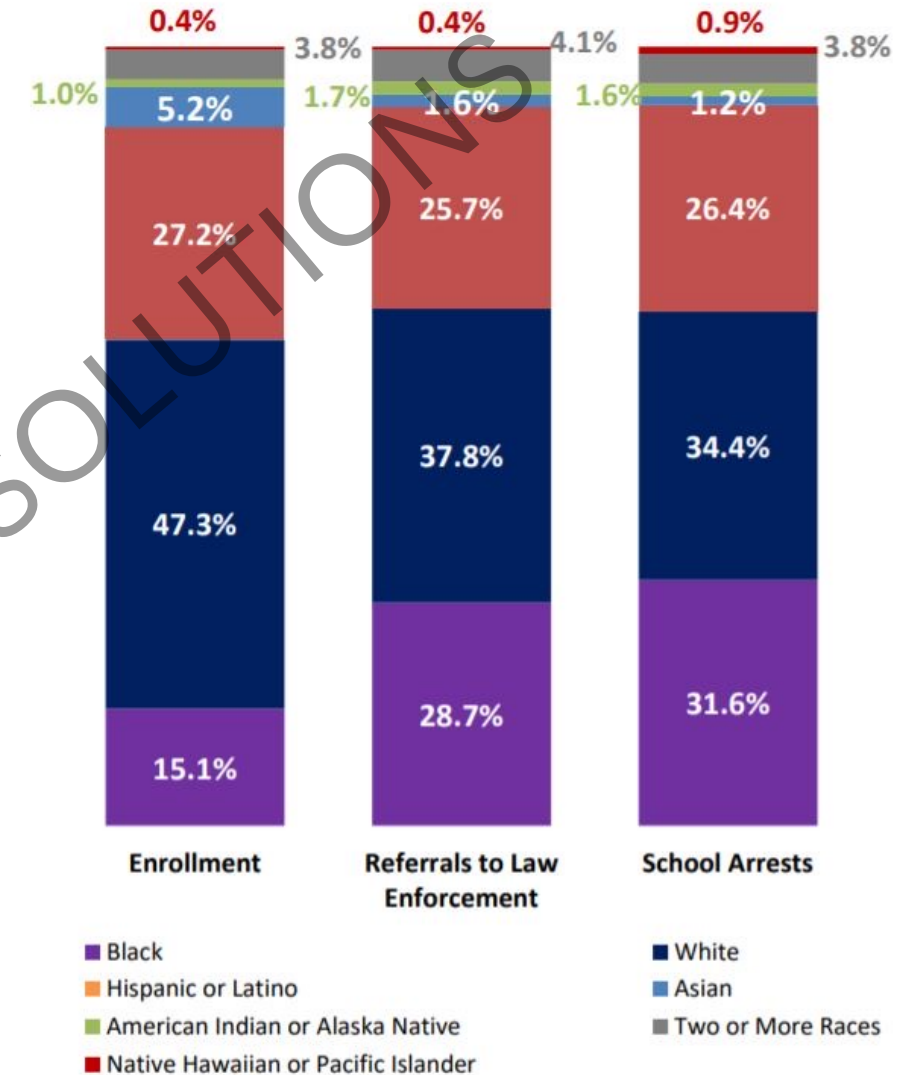
School Expulsions Among Students Served Under IDEA (2017-2018)

- Students with disabilities served under IDEA represented 13.2% total enrollment.
- Received 23.3% of all expulsions with educational services.
- Received 14.8% of expulsions without education services.



School-Related Arrests and Referrals to Law Enforcement in 2017-18

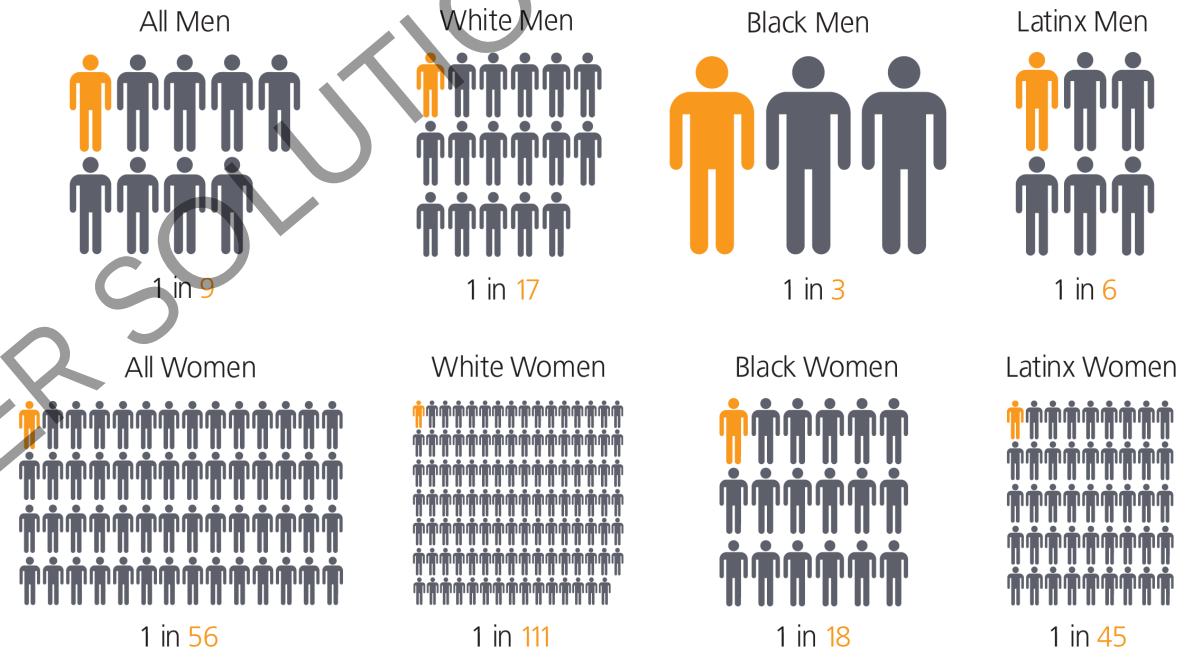
- Black students accounted for 15.1% of total student enrollment and 28.7% of all students referred to law enforcement.
- Black students were 31.6% of all students arrested at school or during a school-related activity— double their rate of enrollment.
- Similar patterns of disparities were observed for Black students served under IDEA who accounted for 2.3% of total student enrollment.
 - 8.4% of students referred to law enforcement
 - 9.1% of students who were arrested



Penal System Data

- Of the 277,000 people imprisoned nationwide for a drug offense, over half (56%) are African American or Latino.
- Nearly half (48%) of the 206,000 people serving life and “virtual life” prison sentences are African American and another 15% are Latino.

Lifetime Likelihood of Imprisonment of U.S. Residents Born in 2001



Algorithms vs. Humans

- Algorithms are more accurate than humans in predicting recidivism.
- Algorithm-based tools in some tests approached 90% accuracy.
- Human prediction had a 60% accuracy rate.



“Pre-sentence investigation reports, attorney and victim impact statements, and an individual’s demeanor all add complex, inconsistent, risk-irrelevant, and potentially biasing information.”

Applying Theory to Practice



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Why Sanction?

Once a determination is made and the institution has determined that conduct did violate its values (as set forth in its policies), the institution needs to decide what to do in response:

- Educate
- Rehabilitate
- Punish
- Set conditions
- Reparations
- Remediation

Goals of Sanctions/Discipline

End	Prevent	Remedy
End the harassment	Prevent the recurrence	Remedy the harm



Holding People and Institutions Accountable

"Rules of the road" (policy)

School expects community to follow the policy

Community expects school to follow the policy

Poor policy/poor practices → lack of enforcement → lack of accountability



What Does the Sanction Say?

Who is valued?
Who is not?

Community
values?

Sanctioning and Foreseeability

Regents of University of California, Los
Angeles

Schaefer v. Fu





BEWARE
RISK

Sanctioning is Not...

A way to indicate
disagreement with
the findings.

The Sanction Does Not Undo the Finding



No lesser sanction if you disagree with findings.



Sanctioning officer must assume findings are correct.

Articulating the Rationale as a way to Reduce Bias?

Does everyone have to get
fired/expelled? (Hint: NO)

Can you articulate why the action
taken is reasonably calculated to
end the harassment?

Can you articulate why the action
is reasonably calculated to
prevent the recurrence?

Remedy: To restore or preserve
equal access; implemented by
Title IX Coordinator.



Determining the Sanction

Five Methods

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Sanctioning

Start from scratch each time – no system.

Expel for all violations .

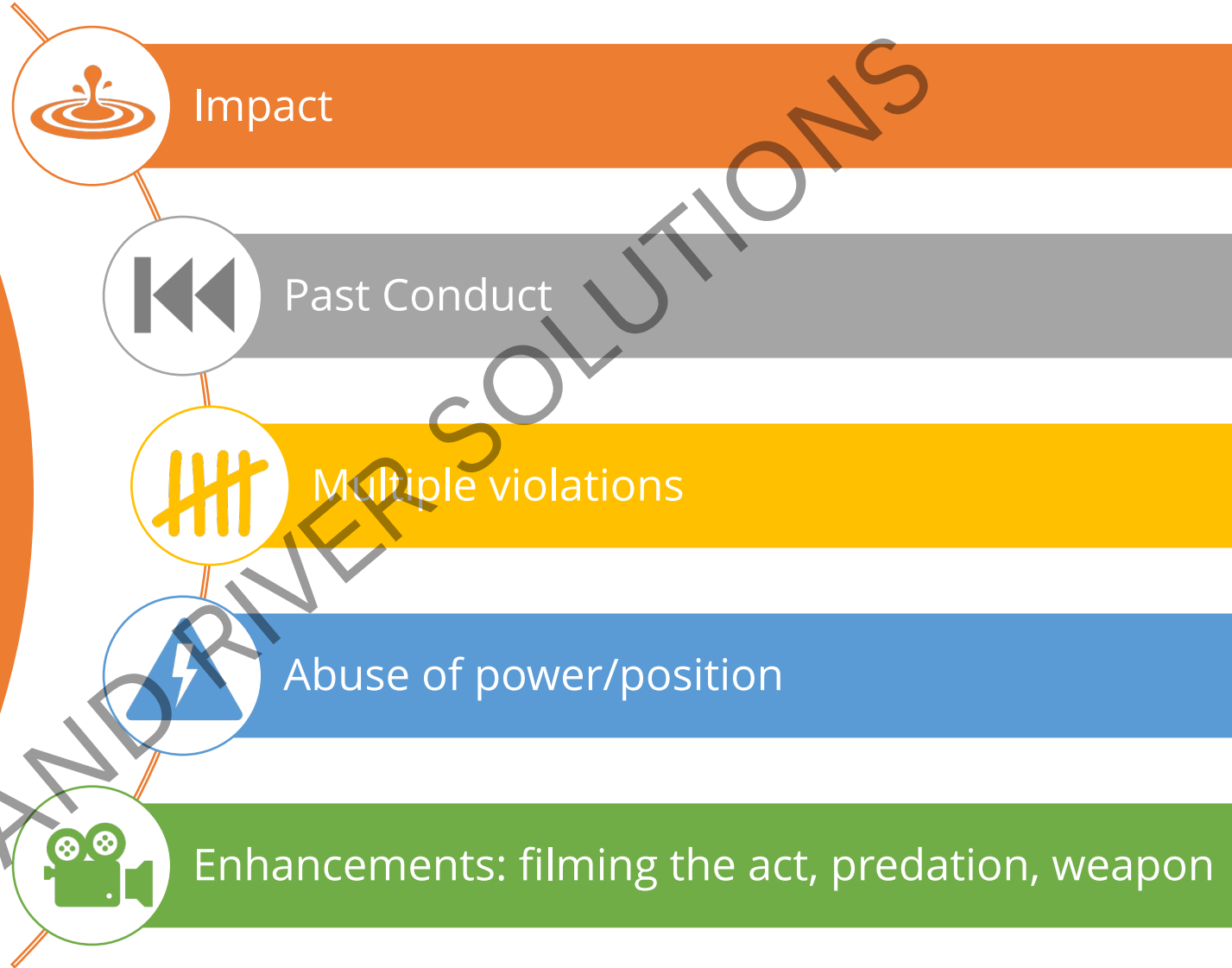
- Variation: Expel only for those that are in most egregious category.

Never expel; this is a learning environment.

Start at expulsion as default and work down.

Start at some floor (1 year? 2 years? 5 years?) and work up.

Factors to Consider Considering



Determining Proper Sanction

Factors to consider?

Consistency

Foreseeability of repeated conduct

Past conduct

Does bias creep in?

Remorse?

Victim impact?

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Aggravating Circumstances

Premeditation

Predation

Physical violence

Multiple policy violations in one incident

Harm to others, impact on complainant and/or community

Did the behavior continue after intervention?

Effort to conceal or hide the incident?

Refusal to attend past trainings

Past failures to comply with directives

Mitigating Circumstances

- Remorse
- Owns responsibility for the act and its impact
- NOT Mitigating: Respondent could not think rationally at the time due to drugs or alcohol
- NOT Mitigating: Respondent disagrees with conclusions
- NOT Mitigating: Complainant's behavior

Don't Get Personal

Personal feelings

Personal views

Personal bias

IT'S **NOT** ABOUT YOU

Decision Making Biases

Affinity Bias

Affect Bias

Confirmation
Bias

Overconfidence
Bias

Anchoring Bias



What Can We Do?

- Acknowledge bias within our systems.
- Collect the data.
- Check data for inconsistencies.
 - Can inconsistencies be explained?
- Check policies to ensure they lead to equitable outcomes.
- Create robust processes with bias checkpoints.



Appeals Panels that Exceed Their Authority

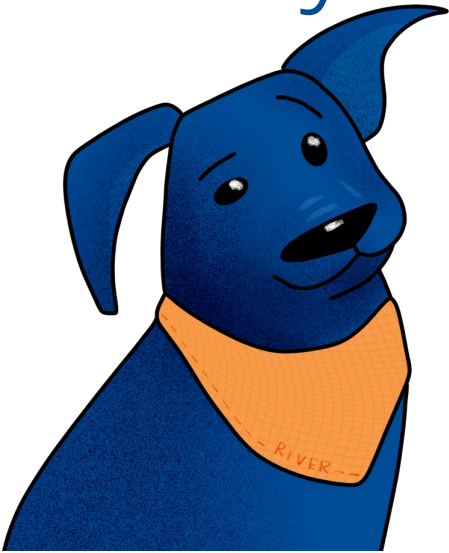
Stay in your lane.





Error correction, not starting from scratch

Thank you for
attending this series!
See you in 2022!



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