



ACLU
Idaho

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PROUD TO BE BROWN

Punishing Latine Culture in Idaho Schools

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The Term Latine

Within the Hispanic and Latino/a/x/e communities there is an ongoing conversation about what term best describes and encompasses such ethnically, racially, culturally, and geographically diverse communities. The preferred term may vary across generations, regions, settings, and may change depending on norms, standards, and expectations about gender inclusivity.

The term Hispanic first appeared in the U.S. census in 1970, after Puerto Rican, Mexican-American, and Cuban-American activists and civic leaders pushed for more inclusive data collection.¹ Hispanic remains the most commonly used term in research and government publications. Although the term is gender-inclusive, it refers to people who “originated from or have ancestors... from a Spanish-speaking country,” and therefore excludes Indigenous people from Spanish-speaking Latin American countries and those countries where Spanish is not the primary language, like Belize, Brazil, Guyana, Suriname, and French Guiana.² The term Latino or Latina incorporates those from non-Spanish speaking countries in Latin America, and its masculine form (Latino) includes both men and women. Still, Latino/a is not inclusive of

those who do not identify with feminine or masculine forms of the term (e.g., gender queer, nonbinary, or agender people).³ The terms Latine or Latinx provide that gender inclusivity but may still leave out Black and Indigenous Latin Americans.⁴

This report includes stories from people who live, work, and study in Idaho. Throughout the report, we use the term Latine and recognize both the terms’ gender inclusivity and limitations for Black and Indigenous people across the Americas. Wherever people shared with us how they identify—preferred terms and terminology of indigeneity and/or ancestry—we honor those terms and identities.

Glossary

Exclusionary Discipline—disciplinary actions that result in removing students from the classroom, like suspension or expulsions.

Expulsion—an action taken by the school district of removing a child from their regular school for disciplinary purposes. Depending on the type of expulsion the school district may or may not provide continuing educational services.

Individuals with Disabilities Education Act (IDEA)—federal education law that makes available a free appropriate public education to eligible children with disabilities.

In-School Suspension—an instance in which a child is temporarily removed from their regular classroom(s) for at least half a day for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.

Out-of-School Suspension—an instance in which a child is temporarily removed from their regular school for at least half a day (but less than the remainder of the school year) to another setting (e.g., home, behavior center) for disciplinary purposes. Removals may or may not include educational services (e.g., school-provided at home instruction or tutoring). This definition varies for students served under IDEA.

Referral to Law Enforcement—an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events,

or while taking school transportation, regardless of whether official action is taken. Citations, tickets, court referrals, and school-related arrests are considered referrals to law enforcement.

School-Related Arrest—an arrest of a student for any activity conducted on school grounds, during off campus school activities, while taking school transportation, or due to a referral by any school official. All school-related arrests are considered referrals to law enforcement.

Section 504 of the Rehabilitation Act of 1973 (Section 504)—federal civil rights law that protects qualified individuals from discrimination based on their disability.

Security Guard—an individual who guards, patrols and/or monitors the school premises to prevent theft, violence, and/or infraction of rules. A security guard may provide protection to individuals and may operate x-ray and metal detector equipment but are not sworn law enforcement officers.

Sworn Law Enforcement Officer—a career law enforcement officer, with arrest authority. They may be a school resource officer (SRO) who may be employed by any entity (e.g., police department, school district or school).

Title VI of the Civil Rights Act of 1964 (Title VI)—federal civil rights law that prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance. Title VI protections extend to all students, regardless of their immigration or citizenship status.

PROUD TO BE BROWN

Punishing Latine Culture in Idaho Schools

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Executive Summary

Latine students are a vital and growing part of Idaho’s schools. But school districts in Idaho, including the Caldwell and Nampa School District, are jeopardizing Latine students’ federal civil rights and liberties by enforcing “gang” dress codes. These dress codes prohibit students from wearing clothing that is “evidence of membership in, affiliation with, and/or representative of any gang.” In practice, the dress codes are targeting mostly Latine students in a discriminatory way and having negative consequences on their cultural identity, discipline, and education.

The American Civil Liberties Union (ACLU) of Idaho found that:

Several schools at both school districts have prohibited students, who have no affiliation with gangs, from wearing Catholic rosaries to school, impacting mostly Latine students who practice this religion.

- 1. THE CALDWELL AND NAMPA SCHOOL DISTRICT’S GANG DRESS CODES ARE VAGUE AND GIVE SCHOOLS BROAD DISCRETION TO TARGET AND LABEL LATINE STUDENTS AS “GANG.”** The dress codes fail to give families clear instructions on what a student can and cannot wear on a daily basis and allow staff to prohibit any clothing they (or police) allege to be “gang.”
- 2. POLICE PLAY A ROLE IN ADVISING, AND AT TIMES, ENFORCING THESE DRESS CODES.** School police, hired by local police departments, host ongoing training for the districts and staff on what constitutes “gang” attire. At times, school police also enforce “gang” dress codes through interrogation and possible surveillance and tracking of students.
- 3. THE DRESS CODES RESULT IN DISPROPORTIONATE DISCIPLINE OF LATINE STUDENTS, SIMPLY FOR WEARING CLOTHING CLOSELY TIED TO THEIR RELIGION, CULTURE, AND ETHNICITY.** Several schools at both school districts have prohibited students, who have no affiliation with gangs, from wearing Catholic rosaries to school, impacting mostly Latine students who practice this religion. Some schools have also

LATINE STUDENTS
HAD **2X THE**
NUMBER OF
EXPULSIONS
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WHITE STUDENTS.

prohibited students from wearing clothing expressing “Brown Pride,” also alleging the phrase is “gang-related.” And the dress codes punish and target clothing attributable to *cholo* style, a style that has a strong sense of cultural identity for many Latines.

- 4. THE DRESS CODES & “GANG” LABELS HAVE NEGATIVE CONSEQUENCES FOR LATINE STUDENTS’ IDENTITY, DISCIPLINE, AND TIME IN CLASS.** Several Latine families shared with us they believed the schools were implementing their gang dress codes in a discriminatory way, further alienating Latine students from school. The dress codes have also resulted in growing disciplinary records, missed classroom time (as a result of suspensions, expulsions, and informal removals from the classroom), and increased policing and surveillance of Latine students. In some instances, schools have also forced students to enter “Color Contracts,” which can lead to further discipline if students wear or talk about the identified “gang” colors.
- 5. LATINE STUDENTS ALSO FACE INEQUITIES WHEN IT COMES TO OTHER FORMS OF DISCIPLINE, ACADEMIC ACHIEVEMENTS, AND SUPPORT IN SCHOOL.** In both school districts, Latine students (even more so male Latine students) are consistently receiving in- and out-of-school suspensions at higher rates than would be expected for their student population. Despite making up between 40 - 44 percent of student enrollment, Latine students had 2X the number of expulsions compared to white students. We also found concerning discipline rates for English-learning students and students with disabilities. Discipline trends for Latine students may also be impacting their access to education given Latine students’ ongoing achievement gaps when compared to white students.



The ACLU of Idaho urges school district administrators, statewide education agencies, and policymakers to implement reforms to address the inequities identified in this report. This includes taking steps to:

1. CREATE SCHOOL COMMUNITIES THAT FOSTER CULTURAL, ETHNIC, AND RELIGIOUS IDENTITIES. School districts should immediately stop implementing gang dress codes, which have resulted in the targeting and over policing of Latine students. Instead, administrators should foster an environment that celebrates and recognizes—rather than punishes—the culture, ethnicity, and religious identities of all students, including Latines. This should also include more diverse curriculum and accessible spaces for schools to address families’ concerns of discrimination, where families don’t have to fear dismissal or teachers don’t fear policymakers who wish to silence these conversations.

2. LIMIT THE IMPACT OF DRESS CODES AND DISCIPLINE ON STUDENTS’ EDUCATION. Dress code violations have serious consequences for students’ education and discipline, especially for students of color who are more likely to be disciplined. As such, schools districts should immediately stop using exclusionary forms of discipline to address dress code violations and remove any access school police have to view and track students’ disciplinary records. Instead, school districts should increase positive behavior supports that can have a positive impact on students’ mental health and behavior, including by hiring more counselors, social workers, and psychologists who are prepared to work with culturally diverse communities.

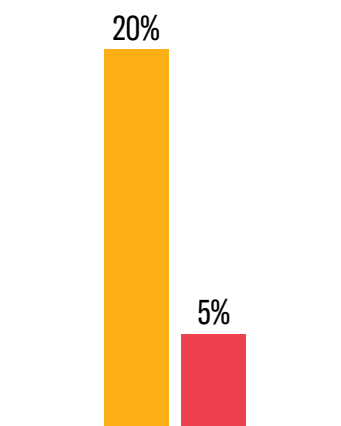
3. INCREASE COMMUNITY ACCOUNTABILITY THROUGH DISCIPLINE DATA AND REPORTING. School administrators and statewide education leaders, like the Idaho State Board of Education and the Idaho State Department of Education, should work together to develop uniform disciplinary reporting, including of dress code violations. These groups should also be analyzing the data for any trends of disparate discipline for particular groups of students, addressing these trends, and making the data available to the public on an ongoing basis.

4. DIVERSIFY SCHOOL ADMINISTRATORS AND STAFF. Although Latines represent almost 20 percent of the K-12 enrollment in Idaho, only about 5 percent of all school staff are Latine (with even lower representation among teachers and administrators). School districts and policy makers across Idaho should prioritize affirmative outreach to recruit and retain diverse school administrators, teachers, and staff. At the same time, more investment is needed for diverse youth who express an interest in education.

5. SUPPORT ALL STUDENTS, INCLUDING STUDENTS AT RISK OF BEING INVOLVED IN GANGS. Every student deserves a seat in the classroom, including students at risk of being involved or already involved in gangs. Over policing and pushing out students puts them at even greater risk. School districts should support and uplift these students so that they can succeed academically and create spaces where they can thrive away from gang environments.

By addressing issues of race, racism, and other forms of discrimination in disciplinary actions, schools in Idaho take an important step towards achieving education equity for all students, especially Latine and other students of color. These reforms are long overdue.

TEACHER DEMOGRAPHICS DON'T MIRROR STUDENT DEMOGRAPHICS



LATINE STUDENTS REPRESENT ALMOST
20% OF STUDENT ENROLLMENT,
[BUT] ONLY ABOUT **5% OF ALL STAFF**
IN IDAHO SCHOOLS ARE LATINE.

National Landscape

Under the United States Constitution and federal civil rights laws, all students have a right to be free from discrimination based on their race, national origin, and the color of their skin.⁵ All students also have the right to self-expression, which can include wearing clothing that expresses their racial and cultural heritage, practicing their religion, or carrying their religious symbols.⁶ Yet, schools across the United States discipline students of color for wearing clothing with significance to them.⁷ Schools also disproportionately discipline students of color for wearing clothing that all kids regularly wear.⁸

Given these rights, school dress codes that apply only to a particular group of students based on their race, national origin, or ethnicity are discriminatory—and illegal. Even school dress codes that do not explicitly apply only to a particular group can be enforced

in discriminatory ways that disproportionately affect only certain students. For example, if a school prohibits students from wearing hoodies, but only disciplines Indigenous students for wearing hoodies, the school is likely violating Indigenous students' rights. Schools could also be violating students' rights if they discriminate against students that wear clothing linked to their ethnicity or ancestry,⁹ or if they implement vague dress codes to discipline students.¹⁰ This is because vague policies do not give students the necessary guidance to comply with school rules and schools can enforce vague policies in an arbitrary and discriminatory way.¹¹

Dress codes that improperly target students of color are a nationwide problem. Research shows schools that predominantly enroll Black and Latine students are more likely to enforce stricter dress codes.¹²

At the same time, discriminatory dress codes also impact students of color even when they represent the minority student population. Majority Black and Latine schools also have fewer qualified teachers or curriculum offerings,¹³ and have higher rates of exclusionary discipline, or removal of students from the classroom.¹⁴ Removals related to dress code are often “informal”—students are sent to the office or home without suspension—and are thus harder to track.¹⁵ Research shows increased discipline and removals negatively impact students' academic success, attendance, and even future behavior.¹⁶ Students of color pay the biggest price.

These policies and practices are discriminatory and deprive students of federally recognized civil rights. They also deprive students of their education since dress code violations often result in removal and missed instruction time. Troublingly, these dress code policies and enforcement mechanisms threaten students' cultural identities, censor and restricts cultural expression, and therefore, perpetuate our nation's history of racial, ethnic, and religious discrimination.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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.

To better serve and support Latine students, we must address issues of racism and the ways race, racism, and other forms of discrimination shape school policy and school discipline.



Idaho Landscape

As elsewhere, Idaho has implemented dress codes that target students of color, especially Latine students. Schools in Idaho for many years have implemented dress codes to prohibit gang-related attire. These policies vaguely prohibit wearing anything that may be deemed “evidence of membership in, affiliation with, and/or representative of any gang,” and give administrators (and school police) broad discretion powers. School districts in Canyon County, home to the largest Latine population in Idaho, continue to implement gang dress codes in a way that racially profiles and primarily mislabels Latine students as “gang.” Such policies carry negative consequences for students’ academic success and identity, and contribute to ongoing racism, stereotyping, and other forms of marginalization against the Latine community in Idaho.

Recognizing the civil rights of students of color, including Latine students, is incredibly important, given Idaho’s long history of discrimination against Latines. These troubled histories have ongoing impacts, including chronic educational inequity for Latine students. Despite these issues, the Latine community is a vital, vibrant part of Idaho. Latine youth are a large share of the broader Latine community; Latine students make up almost 20 percent of Idaho K-12 school enrollment.

To better serve and support Latine students, we must address issues of racism and the ways race, racism, and other forms of discrimination shape school policy and school discipline. Positive change now would also benefit Black and Indigenous students who are facing similar issues of discipline and discrimination in Idaho schools.



PHOTO CREDIT | Braceros picking potatoes, 1943. Oregon Historical Society Research Library

History of Discrimination Against Latines

Latine communities have diverse and deep roots in the United States, and have, for centuries, faced discrimination in every aspect of their daily life including education. Like other students of color, Latine students were subject to school segregation in the first half of the 20th century. It wasn't until 1946 that a federal court struck down the practice of segregating Latine students in *Mendez v. Westminster*.¹⁷ Latines are under-represented in our classrooms and our textbooks. And educators have been censored and punished for teaching about the role, place, and significance of Latines in the U.S. In the late 1990s, Nadine and Patsy Córdova, two New Mexico teachers were suspended because they refused to stop teaching Chicano history; thirty years later, Tim Hernández, a Colorado teacher,

went through a similar experience.¹⁸

Latine communities also share an early history with Idaho, their existence on Idaho land predating the colonized territory's grant of statehood in 1890.¹⁹ As early as 1860, Latines began to live and work in Idaho as miners, mule packers, ranchers, and laborers.²⁰ By the 1920s, Latine laborers worked on Idaho railroads and sugar fields.²¹ Latines participated in the Bracero Program, also known as the Farm Labor Program, which permitted millions of Mexican men to work in the U.S. legally on a short-term labor contract.²² The program began in 1942, and ended in 1948 when the Mexican government called an end to it in Idaho due to hostility and discrimination against the migrant

workers.²³ Although Latines contributed greatly to the state’s growth, many migrants struggled to thrive, in part because of language and educational barriers.²⁴ Many migrant families wanting to settle permanently made their children’s education a priority.²⁵ But, still today, Latines in Idaho lack support, funding, and representation in education.

State and community leaders have continuously resisted supportive educational policy for Latines, including Latine immigrants. In the 1950s and 60s some white Idahoans described Latine “migrants [as] a drain on community resources” who would cause “taxes to increase if they sent their children to school.”²⁶ A 1966 report by the Employment Security Agency concluded that “short-sighted citizens and some educators purposely ‘overlook’ [these migrant] children.”²⁷ And discriminatory impediments to fund Latines’ education have continued into the 21st century. In 2007, Republican legislators and Governor Otter tried to remove in-state college tuition offered to children of undocumented immigrants who graduated from Idaho high schools.²⁸

Methodology

In 2022, the ACLU of Idaho sent open records requests to the Caldwell and Nampa School Districts, two of the top five Latine-serving school districts in the state, to learn more about the districts’ disciplinary policies, disciplinary outcomes, and law enforcement presence. The ACLU of Idaho requested:

- School enrollment and discipline data;
- Policies and documents related to school police and their role in gang identification; and,
- Policies and documents related to school staff and gang identification.

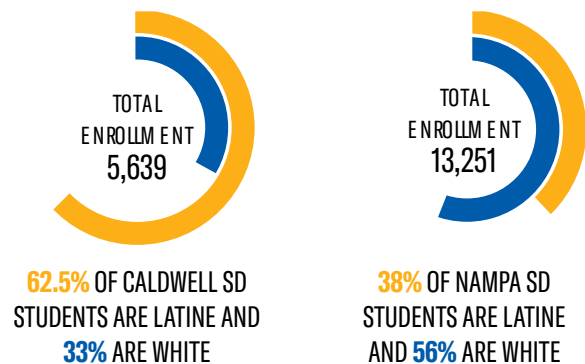
We also sent open records requests to the Caldwell and Nampa Police Departments, who provide sworn law enforcement officers to serve as school police for the Caldwell and Nampa School Districts. The ACLU of Idaho requested similar information from the police departments related to school police assignments and their role in gang identification.

To better understand the experiences of Latine students, the ACLU of Idaho hosted several community listening

Latine communities in Idaho have also lacked representation in their schools and school leadership. The lack of representation extends to higher education where Latine studies and similar programs are few and far between. Idaho teachers have also historically lacked training in working with minority students.²⁹ The lack of cultural training and understanding of Latines is highlighted by a 2018 example, when over a dozen elementary school teachers in Middleton, Canyon County (as part of a team building activity) made culturally insensitive costumes that mocked Mexican migrants.³⁰ Teachers wore maracas, ponchos, sombreros and fake mustaches, while others dressed as border wall segments, bearing the slogan “Make America Great Again.” The teachers and staff made the costumes during a team building activity.

In our conversations with Idaho’s Latine families about discrimination and academic inequities, parents would frequently say: “I went through this and now my child is going through this.” History is repeating itself across Latine generations in Idaho.

2020-21 SCHOOL YEAR ENROLLMENT & DEMOGRAPHICS



sessions and interviewed families, students, and educators as part of a statewide story collection project. Additionally, we conducted policy and legal research and reviewed data and reports from various sources, including the U.S. Department of Education, the U.S. Commission on Civil Rights, the Idaho Commission on Hispanic Affairs, and the Idaho State Board of Education. The following findings present an analysis of the records we received, community conversations, and independent policy and legal research.

Findings

Schools in Canyon County, Idaho are violating Latine students' fundamental civil rights. Dress code policies in the Caldwell and Nampa School Districts are being enforced in a way that disciplines and labels mostly Latine students for wearing what the districts label as "gang" attire. The districts vaguely define "gang" attire, which gives school staff, and the police who advise on these policies, broad discretion to discipline Latine students for wearing clothing or accessories closely tied to their racial and ethnic identity. This clothing includes Catholic rosaries, clothing celebrating "Brown Pride," and clothes some Latines tie to their identity (like flannel shirts, Khaki Dickie's, and Nike's Cortez shoes). Although the dress codes do not mention Latine students as their target, in practice, the districts are enforcing the dress codes in a way that targets mostly Latine students. These policies and practices diminish Latine students' identity and have serious impacts on their education.

1. CALDWELL AND NAMPA SCHOOL DISTRICT'S GANG DRESS CODES ARE VAGUE AND GIVE SCHOOLS BROAD DISCRETION TO TARGET AND LABEL LATINE STUDENTS AS "GANG."

Students have a constitutional right to have clear notice of when their clothing will be treated as a school violation, especially when such punishment could result in a loss of instructional time.³¹ They also have a right to be free from arbitrary and discriminatory enforcement of dress codes.³² Moreover, without evidence that wearing certain clothing substantially disrupts the educational environment, schools should not be prohibiting their self-expression.³³ The Nampa and Caldwell School Districts' gang dress codes violate these rights because they:

- a. Fail to give families clear instructions on what a student can and cannot wear on a daily basis; and,
- b. Give staff too much discretion to prohibit any clothing they (or police) allege to be "gang."

The Caldwell and Nampa School Districts have similar gang dress codes that prohibit students from:

- **Wearing**, using, **carrying, displaying**, possessing, distributing, or selling
- **Clothing**, attire, **style, jewelry**, emblem, badge, symbol, sign, codes, tattoos, or other things
- Which are **evidence of membership** in, **affiliation** with, and/or **representative of any gang**.³⁴

Neither school district has a policy describing what constitutes "gang" clothing or how administrators or staff should arrive at these decisions. According to Kathleen Tuck, Nampa School District's Communications Director, "Nampa School District does not have an official policy describing 'gang affiliated' clothing." Instead, Tuck noted, "[The

Neither school district has a policy describing what constitutes "gang" clothing or how administrators or staff should arrive at these decisions.

Nampa School District] prefer[s] to give general guidelines with only a few mandatory restrictions, as *most students use good judgment* in their apparel choices.”³⁵ Similarly, the Caldwell School District reviews its gang dress code on “a regular basis” as it “monitor[s] gang activity in the area and across the state.”³⁶ Although the Caldwell School District alleges its “administration doesn’t identify students in gangs,” the district-wide definition of a “gang member” includes someone “identified *by District administration*.”³⁷ In this way, the Caldwell School District’s self-imposed authority to identify a student as a gang member seems even more expansive than the statewide definition of a criminal gang member.³⁸ Moreover, the Caldwell School District “reserves the right to add to, change, or adjust [the gang dress code policy] at any time during the school year when necessary.” This means that families and students at both the Nampa and Caldwell School Districts cannot review a policy of what the districts identify as “gang” dress at the beginning of the school year, or keep apprised of changes as they are made throughout the school year.

Instead, families rely on the day-to-day interpretations of administrators or staff, which are broad and far-reaching. For example, according to Syringa Middle School (Caldwell School District), gang style “includes but is not limited to wearing the same solid colors for upper and lower body wear. It also includes the notching of eyebrows and or hair.”³⁹ Under Van Buren Elementary’s gang dress code (also Caldwell School District), students cannot wear shaved eyebrows, designs in their shaved hair, gloves, hanging belts, oversized T-shirts, Old English style writing, blue or khaki pants and shirts together, bandannas or scarfs, red, blue, black, or green wrist bands, or professional sportswear.⁴⁰ And the list goes on. Middle schoolers in the Nampa School District cannot wear any numbers that add up to the numbers 13, 14, or 18.⁴¹ The ACLU of Idaho learned that the Nampa and Caldwell School District prohibit some students from wearing the colors red or blue, even though Nampa High’s colors are red and blue, and Caldwell Senior High’s colors are gold, white, and blue.

2. POLICE PLAY A ROLE IN ADVISING, AND AT TIMES, ENFORCING THESE DRESS CODES.

School police are not supposed to be involved in school discipline.⁴² In fact, national guidelines from the U.S. Department of Justice note that “any matter that would not require a school to call 911 for service is outside the scope of [school police’s] law enforcement duties.”⁴³ Yet, the Caldwell and Nampa Police Departments play a role in students’ discipline when it comes to gang dress codes by:

- a. Advising the districts and staff on what constitutes “gang” attire on an ongoing basis; and,
- b. Enforcing the dress codes, at times through interrogation and possible surveillance and tracking of students.

In response to our open records request, the Nampa School District stated its “Staff do receive gang training from the Nampa Police Department.” In the 2022 and 2023 school years, Nampa Police Department officers (serving as school police) offered four “gang” trainings to school staff.⁴⁴ These trainings:

- Provide language of Idaho’s Criminal Gang Enforcement Act;
- Stress the importance of educators helping with “early intervention”;
- Detail specific instructions on how to write up students in the school’s disciplinary tracking system; and,
- Urge staff “If you see any of these items or activities going on, please feel free



to contact Administration or Security right away to address the issue with the students involved.”⁴⁵

There is no such information related to the Aryan Knights and the Arian Brotherhood gangs, even though the Aryan Knights were founded in and continue to operate in Idaho by white supremacists.

The Caldwell Police Department has a similar gang training for its officers. Their training also points out “signs of [p]ossible youth involvement,” which can include:

- Baseball caps/clothing: worn for team, color, left or right, with nicknames, symbols or unexplained initials.
- Youth fails to go to school regularly or stops attending.
- Youth shows significant change in attitude and strong disrespect for authority.⁴⁶

Caldwell Police Department’s training also includes the history, apparel, and other identifiers of several gangs Hispanic men founded in California, including the Norteños, the Sureños, and subsets of those gangs, like the Brown Pride Sureños. There is no such information related to the Aryan Knights and the Arian Brotherhood gangs, even though the Aryan Knights were founded in and continue to operate in Idaho by white supremacists.⁴⁷ According to the Caldwell Police Department, their training has not been offered to Caldwell School District staff in the past. Still, the Caldwell School District noted: “[T]he Caldwell Police Department will make us aware of students that are in a gang or who are participating in gang activity” and the District “refer[s] to our SROs when more information is needed” related to gangs.

And the police departments’ interpretations of “gang” attire are very broad. Together, the Nampa and Caldwell Police Departments’ gang trainings include more than 60 photos of mostly young men and boys wearing what the police deem is “gang” clothing, style, or tattoos.⁴⁹ This can include anything from sports jerseys to clothing displaying La Huelga Bird.⁵⁰





PHOTO CREDIT | United Farm Workers poster, "Viva La Huelga!". ca. 1960s. Photographer unknown. Poster. Collection of Oakland Museum of California.

LA HUELGA BIRD REPRESENTS AN IMPORTANT SYMBOL FOR CHICANOS AND EVEN OTHER PEOPLE WHO ARE PART OF THE LATINE COMMUNITY. IT IS THE SYMBOL OF THE UNITED FARM WORKERS, A UNION THAT HAS FOUGHT FOR BASIC RIGHTS FOR FARM WORKERS SINCE 1962.⁵¹ CESAR CHAVEZ'S BROTHER, MANUEL CHAVEZ, DESIGNED THE FLAG. THE AZTEC EAGLE REPRESENTS MEXICAN AMERICAN HERITAGE, ITS BLACK COLOR REPRESENTS THE DARK TIMES IN FARMWORKERS' LIVES, THE WHITE CIRCLE REPRESENTS HOPES AND ASPIRATIONS, AND THE RED REPRESENTS UNION MEMBERS' HARD WORK AND SACRIFICE.⁵²

[S]chool police in the Nampa School District have interrogated their children about alleged gang affiliations based on their attire and style (*including shaved lines in their haircut, Dickies and graphic shirts, and even having a bandana with the Mexican flag on it tucked into their binder*)

School police also play a role in enforcing gang dress code policies. The ACLU of Idaho spoke to families who explained that school police in the Nampa School District have interrogated their children about alleged gang affiliations based on their attire and style (including shaved lines in their haircut, Dickies and graphic shirts, and even having a bandana with the Mexican flag on it tucked into their binder). **School police also seem to have access to the Nampa School District's disciplinary tracking system.** In the fall 2022, school police led a training for Nampa School District where they directed staff on how to input gang related dress code violations or activity into the School-Wide Information System (SWIS).⁵³ It is unclear why school police would have access to this system, whether they review students' information for gang activity on an ongoing basis, and what they might do with that information.⁵⁴

“

Caldwell Police Captain Rob Rosin

The ACLU of Idaho spoke to Rob Rosin, Police Captain with the Caldwell Police Department. Rosin supervises police assigned to schools, and recently created a specialized unit “Operation Safe Streets”, which focuses on preventing and apprehending offenders involved in gang-related crimes in the City of Caldwell.

Rosin admitted, “it’s a big deal to call somebody a gang member.” In fact, Rosin stated, “Simply an item of clothing is not enough to necessarily classify an individual as gang.” Rosin also stated that **police officers do have opinions on gang-related clothing**, which can be objective or subjective, but it is up to the school district whether they “take that opinion and publish it into policy.”

We asked Rosin whether he thought police in schools play a role in giving advice to staff or teachers who believe they have observed students wearing gang related clothing. Rosin expressed that he didn’t think school district staff (including teachers, administrators, or principals) should be asking officers to inform them about these policies. According to Rosin, **for a police officer to be involved, a student would not just be wearing “gang-related” clothing, there would need to be a penal code violation and potentially a dangerous situation to address.** Still, Rosin admitted **police officers can have a relevant opinion when a district is trying to determine whether clothing is gang-related or not.**





The Role and Cost of Police In Schools

Police in Idaho schools are having a negative impact on students' discipline and school environment. The ACLU of Idaho spoke to several Latine families across the state who described such experiences with school police. Below are just some of the stories we heard:

- In Nampa, ***a parent described that her daughter had a history of being targeted and harassed by school police.*** In one instance, her daughter was running late to class, and the school police stopped her to ask where she was going. The student received detention because she responded in an “unkind way.” This, and other instances of harassment and surveillance, forced her to opt for online schooling.
- In Blackfoot, a community member shared how police falsely accused her brother of stealing from another student. The ***school police interrogated this student without a family adult present, despite the family’s complaints*** about this practice.
- In Twin Falls, a former high school student shared how ***school police searched her and her friend after a white student misplaced his phone and falsely accused them of taking it. The only students searched also happened to be the only two Latine students in the class.***
- Police have a large presence in many schools across Idaho. The ***Caldwell School District*** has an agreement with the City of Caldwell to ***employ five police officers*** (though the District reported it had zero sworn law enforcement officers in a 2017 report to the U.S. Department of Education).⁵⁵ The ***Nampa School District*** has a similar agreement with the City of Nampa and ***employs ten officers.*** Both districts assign at least one officer to each of the high school and middle school campuses.

The only students searched also happened to be the only two Latine students in the class.

Research shows that:

- Police in schools do respond to disciplinary incidents;
- Schools that increase police see an immediate increase in exclusionary discipline; and,
- Police do not reduce school crimes or prevent/reduce the severity of school shootings.⁵⁶

IN THE 2022-23 SCHOOL YEAR THE CALDWELL & NAMPA SCHOOL DISTRICTS SPENT \$295K AND \$400K RESPECTIVELY ON POLICE STAFFING

Additionally, there is no data indicating that police in schools improve students’ mental health or educational outcomes.⁵⁷ Still, this is where some school districts in Idaho, including in Caldwell and Nampa, are investing their limited funds.⁵⁸ In the 2022-23 school year, the Caldwell and Nampa School Districts spent \$295,000 and \$400,000, respectively, on police staffing. Although the Caldwell School District covers only half of police officers’ costs, an officer’s total annual wages and benefits range from \$92,000 to more than \$126,000 per school year.

This is taking place in the same state that flunks out at #45 for average teacher salary.⁵⁹ This is also happening in schools that are already under-resourced and don’t have enough translators on staff, or academic and mental health counselors.⁶⁰ In the 2017-18 school year, the Nampa and Caldwell School District failed to meet several student-to-counselor, -nurse, -psychologist, and -social worker ratios recommended by national professional associations. By 2021, the Nampa School District saw six suicide losses (including of Latine students) in the first two and a half months of the school year.⁶¹

2017-2018 STUDENT TO STAFF RATIOS

	RECOMMENDED ⁶²	CALDWELL	NAMPA
STUDENT TO COUNSELOR	250:1	458:1	461:1
STUDENT TO NURSE	750:1	Not Available	1248:1
STUDENT TO PSYCHOLOGIST	500:1	3211:1	1612:1
STUDENT TO SOCIAL WORKER	250:1	Not Available	2705:1

3. THE DRESS CODES RESULT IN DISPROPORTIONATE DISCIPLINE OF LATINE STUDENTS, SIMPLY FOR WEARING CLOTHING CLOSELY TIED TO THEIR RELIGION, CULTURE, AND ETHNICITY.

Latine students are the most targeted by the Caldwell and Nampa School Districts’ “gang” dress codes. In practice, the decisions of what constitutes “gang” attire, and who is disciplined, can be subject to biases and stereotypes against the Latine community. Police in schools, school administrators, and staff have identified attire with specific ties to the Latine community as “gang” attire, including Catholic rosaries and clothing related to “Brown Pride.”

In both the Nampa and Caldwell School Districts, several schools have prohibited students from wearing Catholic rosaries to school or asked them to tuck them into their shirts so that the rosaries are not visible to others. Both Nampa and Caldwell are home to large Catholic Latine communities and wearing rosaries is a common practice within these communities. Thus, the removal of rosaries impacts mostly Latine students who practice this religion.



THE USE OF BEADS FOR PRAYER HAS BEEN COMMON ACROSS MANY FAITHS AND CULTURES FOR THOUSANDS OF YEARS.⁶³ ROMAN CATHOLICS USE ROSARIES TO RECITE SEVERAL PRAYERS.⁶⁴ THEIR ROSARY IS MADE UP OF 6 LARGE BEADS USED FOR PRAYING THE OUR FATHER PRAYER, AND 53 SMALLER BEADS USED FOR PRAYING THE HAIL MARY PRAYER.⁶⁵ ROSARY PRAYER CAN ALSO INCLUDE A REFLECTION ON SEVERAL MYSTERIES OF THE CATHOLIC FAITH THAT RELATE TO THE LIFE OF MARY AND JESUS.⁶⁶

WEARING A ROSARY IN A MOCKING OR SACRILEGIOUS WAY COULD BE CONSIDERED A SIN IN THE CATHOLIC CHURCH.⁶⁷ BUT WEARING ROSARY RINGS, BRACELETS, OR NECKLACES IS POPULAR AMONG MANY CATHOLICS AS A SYMBOL OF DEVOTION AND A REMINDER OR AID TO PRAY.⁶⁸ THIS PRACTICE IS ALSO COMMON IN MANY COUNTRIES ACROSS LATIN AMERICA AND FOR LATINES WHO OBSERVE CATHOLICISM IN THE UNITED STATES.⁶⁹





The ACLU of Idaho spoke to several Latine families and internal sources who reported their experiences with the Caldwell and Nampa School Districts' practice of removing rosaries.

“

South Middle School's "No rosaries" Policy

Through our open records requests, the ACLU of Idaho obtained a January 2023 email by Marcos Sanchez, Dean of Students at South Middle School (Nampa School District). Sanchez describes the school's "no rosaries" policy and notes the policy is in place **“[b]ased off the Nampa Police Department's recommendation.”** As the Dean describes it, the school also enforces the policy despite the fact that there was “strong parent resistance” and “[t]here is no specific policy in the handbook banning crosses or rosaries.”

The Caldwell School District also prohibits Latine students from wearing clothing that celebrates and embraces their cultural and ethnic identity, like hoodies or shirts with the message “Brown Pride” and “Brown and Proud.” Students in Caldwell High School told the ACLU of Idaho that school administrators stated that “Brown Pride” messages can be offensive or racist. The Caldwell High School Principal, Anita Wilson, also alleged “Brown Pride” is associated with gangs. In fact, I was just looking up some and it says it's one of seven street gangs operating in the Northwest.”⁷⁰ Wilson may have been referring to the gang Brown Pride Sureños. But neither police departments' trainings describe clothing with the words “Brown Pride” as an identifier for the Brown Pride Sureños gang.⁷¹ These dangerous assumptions overlook the real reason students wear this type of clothing—to celebrate their cultural and ethnic identities—and punish and label students for doing just that.

Schools are also punishing students for clothing that is *cholo* style, which some Latines closely tie to their ethnic identity. In other instances, schools are targeting Latine students for clothing that many kids wear on a daily basis (like red or blue colors and sports jerseys and caps). And white students are not receiving the same treatment. When Latine families and community members flag for administrators just how harmful these policies are, especially for Latine students, they are met with resistance or dismissal.

BROWN PRIDE

ALTHOUGH SOME ARGUE BROWN PRIDE IS SIMILAR TO THE TERM “WHITE PRIDE,” THIS IGNORES THE HISTORY OF OPPRESSION THAT LED MANY LATINES AND COMMUNITIES OF COLOR TO USE THE TERM BROWN PRIDE. IT ALSO IGNORES THE WAYS IN WHICH WHITE PRIDE HAS BEEN USED AS A WAY TO EXPRESS WHITE SUPREMACY.

FOR MANY LATINES, BROWN PRIDE IS ABOUT RECLAIMING THEIR ETHNIC IDENTITY, OFTEN ERASED IN IDAHO SCHOOLS, POLITICS, AND HISTORY.⁷² FOR OTHERS, BROWN PRIDE IS ABOUT REMEMBERING THEIR FAMILY'S STRUGGLES WITH RACISM AND DISCRIMINATION, BUT ALSO CELEBRATING THEIR SUCCESSES AS LATINES AND THE SUCCESSES OF LATINE LEADERS AND ACTIVISTS BEFORE THEM.

AS DINA FLORES-BREWER, ACLU OF IDAHO COMMUNITY INTAKE COORDINATOR DESCRIBES IT, “BROWN PRIDE GOES BACK FARTHER THAN GANGS. BROWN PRIDE DATES BACK DECADES TO THE CHICANO MOVEMENT. LONG BEFORE ANY GANGS MAY OR MAY NOT HAVE APPROPRIATED THIS CLOTHING OR THESE STATEMENTS, THESE WERE VERY IMPORTANT CULTURAL IDEALS TO THE LATINO COMMUNITY AND A FORM OF POLITICAL PROTEST.”⁷³



PHOTO CREDIT | The Great Wall of Los Angeles, Photographer Dell Upton

FROM PACHUCOS TO CHOLOS

IN THE 1940S, PACHUCOS WERE A "VISIBLE SYMBOL OF CULTURAL AUTONOMY" FOR MANY CHICANOS ON THE WEST COAST AND ALONG THE BORDER.⁷⁴ PACHUCOS WORE ZOOT SUITS, LONG, PRESSED SHOULDER-PADDED BLAZERS AND LONG TAPERED PANTS SYNCHED AT THE WAIST, AND A WIDE BRIM HAT MADE OF WOOL.⁷⁵ SOME COMMUNITIES OUTLAWED THE STYLE, AND IN 1943, MEXICAN AMERICANS, FILIPINO AMERICANS, AND AFRICAN AMERICANS WHO WORE ZOOT SUITS FACED SEVERAL ATTACKS DURING ZOOT-SUIT RIOTS.⁷⁶

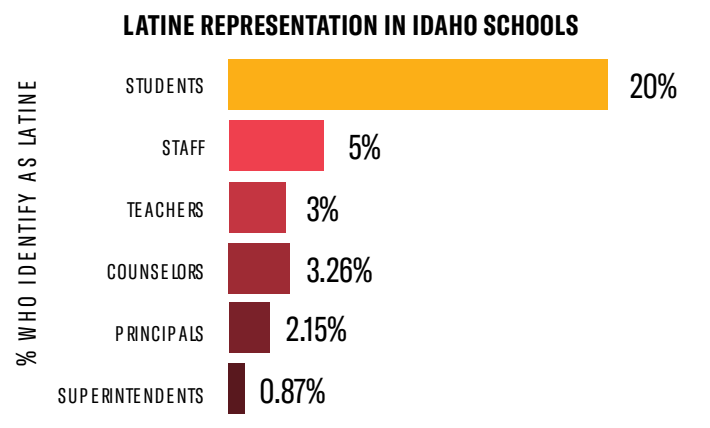
IN THE 1970S, THE PACHUCO STYLE TRANSFORMED TO A "MORE CASUAL, CHOLO" STYLE. THE CHOLO STYLE FOR MANY LATINES HAS CONTINUED TO TRANSFORM AND CAN INCLUDE "LONG-SLEEVED FLANNEL SHIRTS BUTTONED TO THE TOP, OVERSIZED [KHAKI] DICKIE'S CREASED TO PERFECTION CROPPED BELOW THE KNEE EXPOSING LONG WHITE SOCKS AND CRISP NIKE'S CLASSIC CORTEZ SHOES."⁷⁷ ALTHOUGH THE CHOLO STYLE (JUST LIKE THE PACHUCO STYLE BEFORE IT) IS OFTEN DISMISSED AS SYNONYMOUS WITH GANG, FOR MANY LATINES THE STYLE IS A WAY TO LEGITIMIZE AND CELEBRATE THEIR CULTURAL AND ETHNIC IDENTITY.⁷⁸



4. THE DRESS CODES & “GANG” LABELS HAVE NEGATIVE CONSEQUENCES FOR LATINE STUDENTS’ IDENTITY, DISCIPLINE, AND TIME IN CLASS.

The practice of punishing students for celebrating or showcasing their ethnic and cultural heritage has serious consequences for students’ identity. It also makes students feel unwelcome and pushes them out of school. The ACLU of Idaho spoke to several Latine families and students who believed the Caldwell and Nampa School Districts were implementing their gang dress codes in a discriminatory way. Some families also shared that they felt unrepresented and isolated because there is little staff who look like them, who understand their culture, and who ultimately advocate on their behalf when issues of surveillance and disproportionate targeting and discipline arise.

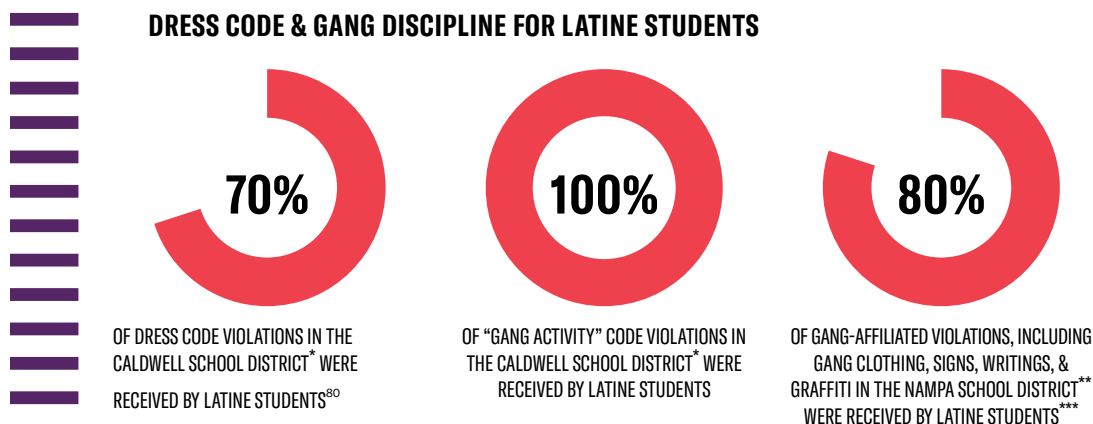
Although Latine students represent almost 20 percent of Idaho’s student enrollment, only about 5 percent of school staff identify as Latine. Latine staff representation is even lower for teachers (less than 3 percent), counselors (3.26 percent), and school administrators (2.15 percent for principals, .87 for superintendents).⁷⁹



“what we see [in Idaho] is not a dropout rate, but a pushout rate.”

As a result of this environment, many students have been forced to transfer schools or drop out altogether. As one community advocate shared, “what we see [in Idaho] is not a dropout rate, but a pushout rate.”

Gang dress code infractions can also result in further policing and surveillance by administrators or school police. As Caldwell Police Captain Rosin admitted, “it’s a big deal to call somebody a gang member.” And these allegations remain on students’ disciplinary records, may be available to school police, and can be hard to escape even when students enroll (or attempt to enroll) at other schools.

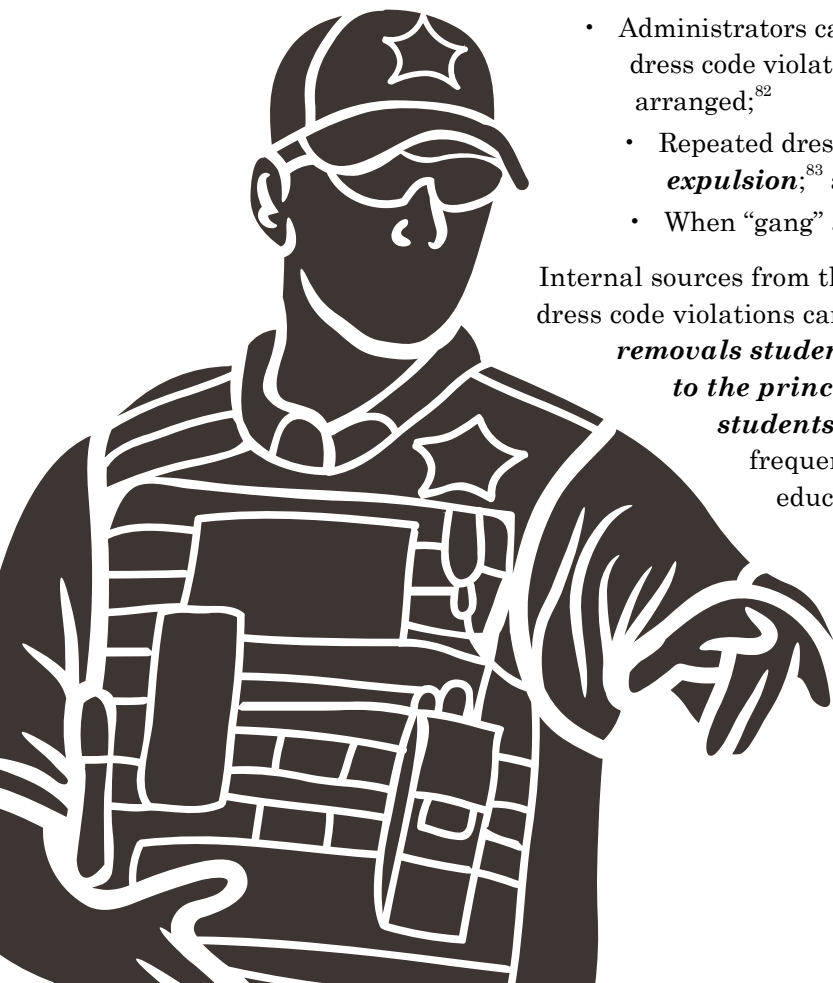


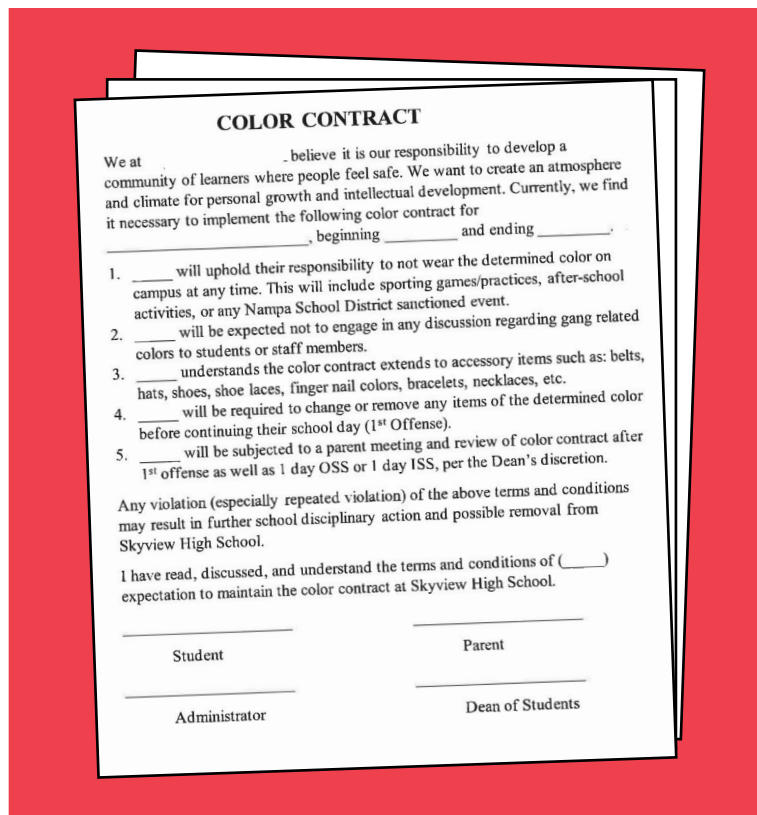
*October '21, April '22, and October '22 **2021-22 and 2022-23 school years
 ***Every student, with the exception of one, received a suspension.⁸¹

Students can also lose valuable class time for “gang” dress infractions because:

- Administrators can **deny students entrance to their classroom** for any dress code violation, including “gang” attire, until a change of clothes is arranged;⁸²
- Repeated dress code violations can result in students’ **suspension or expulsion**,⁸³ and,
- When “gang” attire is involved, **schools may notify police**.⁸⁴

Internal sources from the Nampa School District also explained that “gang” dress code violations can and have resulted in informal removals. **In informal removals students are removed from the classroom (e.g., sent to the principal’s office), but there is no documentation of students missing class.** This makes it harder to track the frequency of informal removals and the impact on students’ education.





A SCHOOL CAN ALSO FORCE INDIVIDUAL STUDENTS TO ENTER COLOR CONTRACTS PROHIBITING THEM FROM WEARING “GANG” COLORS (GENERALLY RED OR BLUE). EVEN IF A STUDENT OR PARENT REFUSES TO SIGN THE CONTRACT, SCHOOLS EXPECT STUDENTS TO ABIDE BY THEM AND PLACE SERIOUS CONSEQUENCES ON THEIR EDUCATION IF THEY FAIL TO ABIDE BY THE REQUIREMENTS.

IN THE NAMPA SCHOOL DISTRICT, HIGH SCHOOL STUDENTS WHO ARE PLACED IN COLOR CONTRACTS CANNOT:

- **WEAR THE “DETERMINED” GANG COLOR, INCLUDING AT SPORTING EVENTS;**
- **TALK TO STUDENTS OR STAFF ABOUT THE COLORS; OR,**
- **WEAR ANY CLOTHING ACCESSORY WITH THIS COLOR, INCLUDING SHOES OR NAIL POLISH.**

NOTE, NAMPA HIGH’S SCHOOL COLORS ARE RED AND BLUE. ONE OF CALDWELL HIGH’S COLORS IS ALSO BLUE. IF STUDENTS FAIL TO ABIDE BY THEIR CONTRACTS, THEY MUST CHANGE “BEFORE CONTINUING THEIR SCHOOL DAY” (FIRST OFFENSE) OR FACE IN- OR OUT-OF-SCHOOL SUSPENSION (SUBSEQUENT OFFENSES).

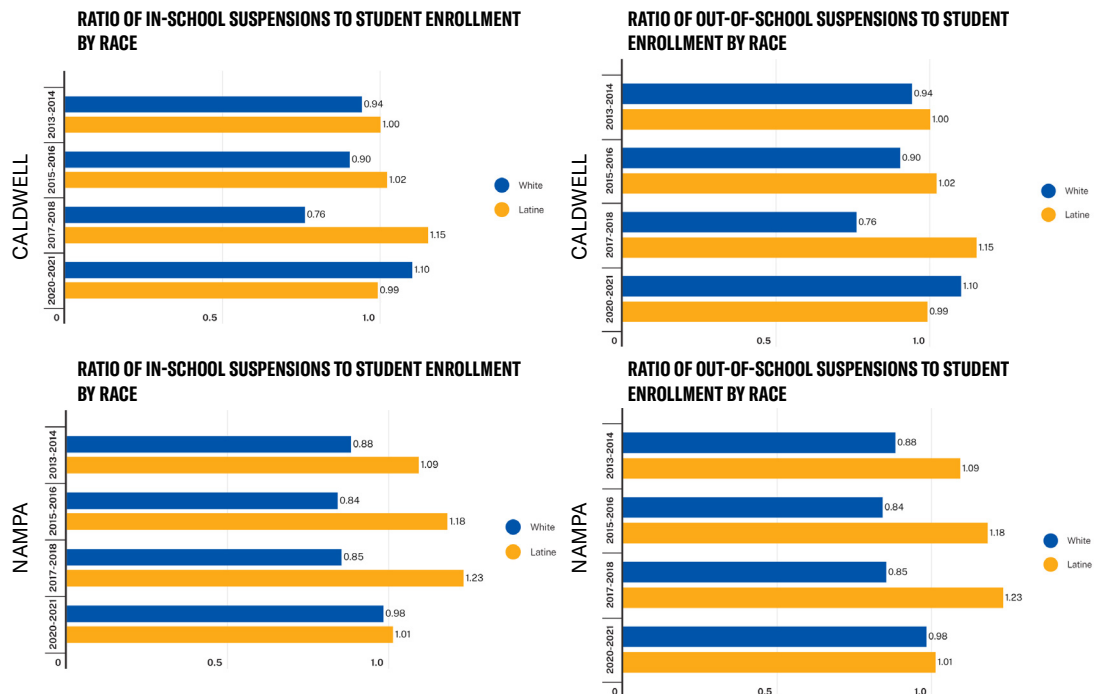
AGAIN, THE NAMPA SCHOOL DISTRICT DOES NOT HAVE A POLICY EXPLAINING COLOR CONTRACTS. INSTEAD, ACCORDING TO THE DISTRICT, STUDENTS ARE IDENTIFIED ON A CASE-BY-CASE BASIS BASED ON COMMUNICATIONS BETWEEN SCHOOL POLICE AND ADMINISTRATORS. AND THE VAST MAJORITY OF THE CONTRACTS ARE ORAL. THIS MAKES IT HARDER TO TRACK EXACTLY HOW MANY CONTRACTS ARE IN PLACE. FOR THE 2022-23 SCHOOL YEAR, BOTH STUDENTS UNDER WRITTEN COLOR CONTRACTS WERE MALE, LATINE, AND IDENTIFIED AS STUDENTS WITH LIMITED ENGLISH PROFICIENCY.⁸⁵ THESE STUDENTS ARE ENROLLED AT LONE STAR MIDDLE AND SKYVIEW HIGH SCHOOL.

FOR THE 2022-23 SCHOOL YEAR, BOTH STUDENTS UNDER WRITTEN COLOR CONTRACTS WERE MALE, LATINE, AND IDENTIFIED AS STUDENTS WITH LIMITED ENGLISH PROFICIENCY.

5. LATINE STUDENTS ALSO FACE INEQUITIES WHEN IT COMES TO OTHER FORMS OF DISCIPLINE, ACADEMIC ACHIEVEMENT, AND SUPPORT.

The ACLU analyzed data from the Caldwell and Nampa School Districts from 2013-2014, 2015-2016, 2017-2018, and 2020-2021 school years (“observed school years” throughout this section) and found that Latine students consistently receive a disproportionate amount of discipline given their respective shares of the student population.⁸⁶ This analysis revealed that:

Latine students are consistently suspended (both in-school and out-of-school) at rates higher than would be expected for their student population. Conversely, White students are consistently suspended at rates lower than would be expected.



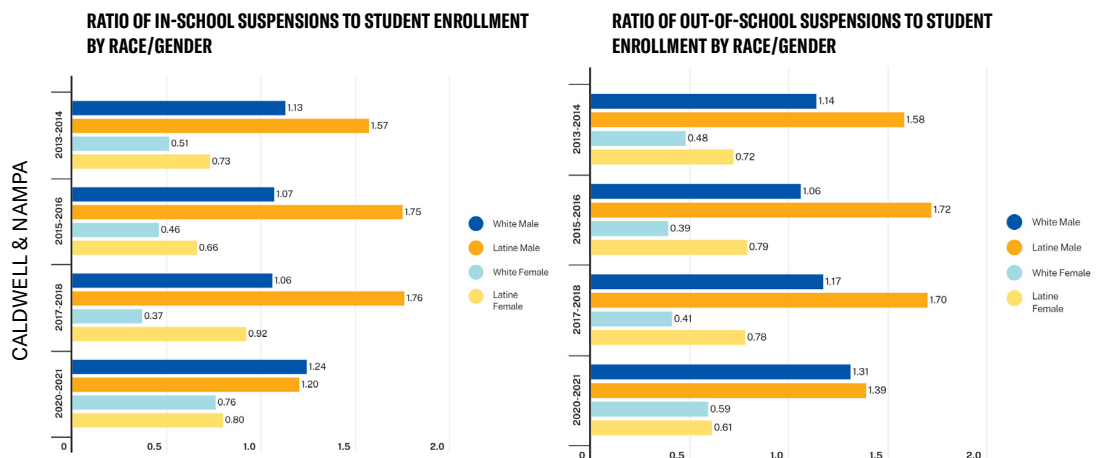
Methodology

In order to determine whether a certain demographic of students is experiencing suspensions at a disproportionate rate, a comparison is made between the percentage of the school population comprised by that group and the percentage of suspensions they are given. If a demographic were to be suspended on par with what we would expect for their population, the ratio would be 1—that is, a demographic that comprises 25 percent of the student population should be expected to make up 25 percent of suspensions. Conversely, a demographic that comprises 25 percent of the population in a school but serves 50 percent of all out-of-school suspensions would be serving suspensions at a rate twice that which would be expected for their population, a disproportionate rate that raises serious equity questions.

This data analysis included the following types of schools in Nampa and Caldwell school districts: Elementary, Middle, High, Charter, Juvenile Detention, Magnet, Virtual, Alternative. Only data from Pre-K schools were excluded from the analysis.

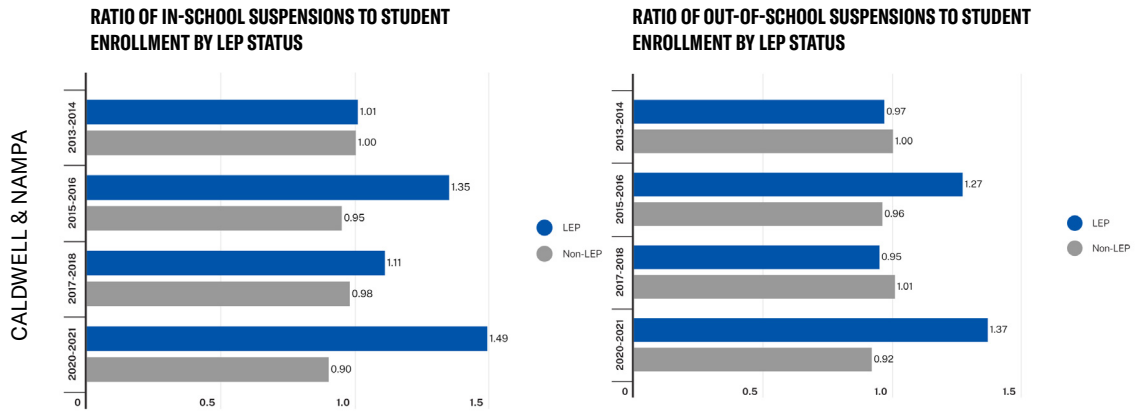
The same disparity in suspension rates is observed when accounting for both race and gender.

- 2017-18: Latine male students were suspended (in-school) at a rate of 1.8 times higher than would be expected for their share of the student population, compared to 1.1 for White male students.⁸⁷



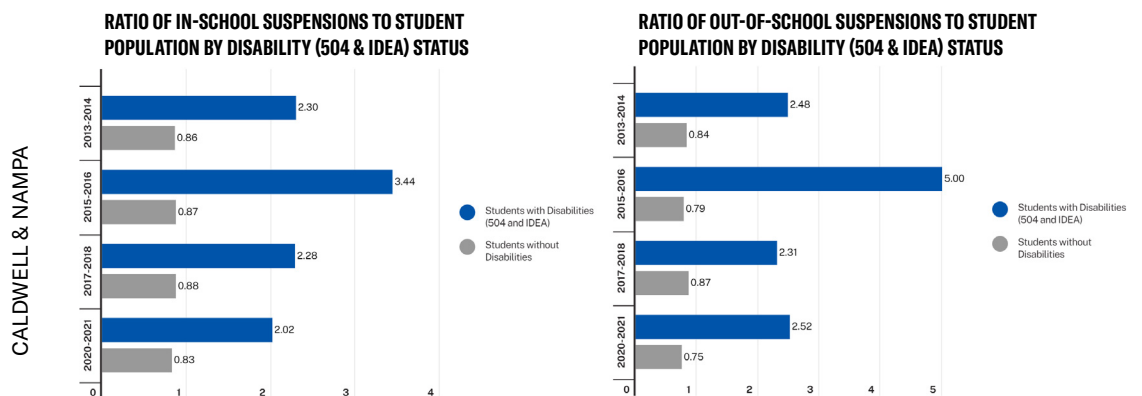
There is a consistent disparity in in-school suspension rates between English-learning students (LEP status) and non-English learning students.

- 2020-21: English-learning students were suspended (in-school) at a rate of 1.5 times higher than would be expected for their share of the student population, compared to 0.9 for non-English learning students.
- 2020-21: English-learning students were suspended (out-of-school) at a rate of 1.4 times higher than would be expected for their share of the student population, compared to 0.9 for non-English learning students.



There is an even larger disparity in in-school suspension rates between students with disabilities (both 504 & IDEA) and students without disabilities.

- 2015-16: students with disabilities received in-school suspensions at a rate 3.4 times higher than would be expected for their share of the student population, compared to just 0.88 for students without disabilities.
- 2015-16: students with disabilities were suspended (out-of-school) at a rate 5.0 times higher than would be expected for their share of the student population, compared to just 0.8 for students without disabilities.

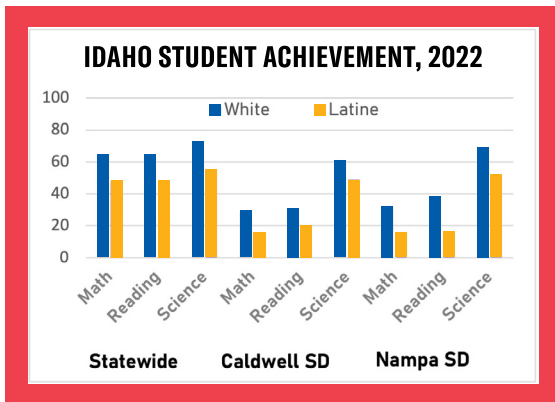


Despite making up between 40 - 44 percent of student enrollment, Latine students had 2X the number of expulsions compared to White students in the observed years (12 total expulsions for Latine students compared to 6 total expulsions for White students).⁸⁸

Increased discipline for Latine students is impacting their access to education and their academic success. Studies have shown that:

- Disciplinary involvement is strongly associated with poor academic outcomes for students (the greater the discipline, the greater the impact on academic outcomes);⁸⁹ and
- Students who face suspensions or other forms of discipline, including due to dress code violations, are also more likely to report unfavorable school climates.⁹⁰

In Idaho, achievement gaps continue between Latine and white students.⁹¹ In 2022, Latine students in the state (as well as in the Caldwell and Nampa School Districts) had lower rates of proficiency in math, science, and reading than their white peers, sometimes less than half of white students' rates.⁹²

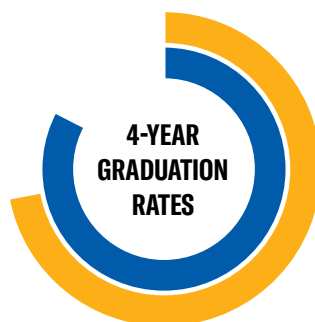


At the same time, we also see a higher number of Latine students being chronically absent (or absent 10 percent or more school days during the school year) compared to their white peers. This is true statewide, where Latine students represent 28.4 percent of chronic absenteeism, compared to 18.4 percent for white students.⁹³ And it is especially true in the Caldwell and Nampa School Districts, where Latine students represent an even higher percentage of chronic absences, 38.6 and 30.7 percent, respectively.⁹⁴ Recall, one of the Caldwell Police Department's identifiers for gang activity is "fail[ing] to go to school regularly or stops attending." But the over policing and targeting of Latine students may be causing the absences.

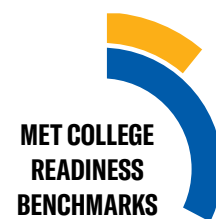
Although Latine graduation rates have improved over the last couple of decades, compared to white students, Latine students have lower rates of graduating high school within four years and meeting college readiness benchmarks.⁹⁵



IDAHO GRADUATION AND COLLEGE READINESS



71.9% OF LATINE STUDENTS VS. **82.5%** OF WHITE STUDENTS GRADUATED IN 4 YEARS WITH THEIR 2021 COHORT CLASS



10.8% OF LATINE STUDENTS VS. **32.7%** OF WHITE STUDENTS MET COLLEGE READINESS BENCHMARKS IN 2022



Recommendations

Families should feel empowered to advocate for their students if they face disciplinary and discrimination issues. You can find resources on ways to advocate for your students at acluidaho.org/education. If you have faced or are facing discrimination under your school's disciplinary actions because of race, national origin, the color of your skin, or your religious affiliation, the ACLU of Idaho wants to hear about your experiences.

There are also opportunities for school district administrators, statewide education agencies, and policymakers, to implement reforms to address the inequities identified in this report.

1. CREATE SCHOOL COMMUNITIES THAT FOSTER CULTURAL, ETHNIC, AND RELIGIOUS IDENTITIES.

The ACLU of Idaho urges the Caldwell and Nampa School Districts, and other districts across the state, to immediately review their dress code and disciplinary policies to ensure that all students, regardless of their race, national origin, color, or religious affiliation, can succeed in school and not be unjustly targeted and labeled as gang. Although school dress codes may be aimed at promoting student safety, a report by the Government Accountability Office found that some dress codes “may inadvertently contribute to a less safe and secure environment for students.”⁹⁶ In Idaho, schools should stop implementing gang dress codes, which have led to over-policing and targeting, and have jeopardized the rights of Latine students to learn in an environment free of discrimination.

ADVOCATE

YOU CAN FIND RESOURCES
ON WAYS TO ADVOCATE
FOR YOUR STUDENTS AT
acluidaho.org/education.

It also means school/district administrators and staff should prioritize fostering an environment that celebrates and recognizes—rather than punishes—the culture, ethnicity, and religious identities of Latinas and other students of color. This should also include a more diverse curriculum, so that students can learn about and appreciate their culture and the culture of their diverse peers. School/district administrators should create accessible and safe spaces for students and families to be able to come together and talk about supports they need, including with any issues of discrimination, without having to fear dismissal by administrators. And policy makers should stop trying to further chill and censor conversations about implicit bias and racism in schools.⁹⁷

2. LIMIT THE IMPACT OF DRESS CODES AND DISCIPLINE ON STUDENTS' EDUCATION.

The ACLU of Idaho urges the Caldwell and Nampa School Districts, and other districts across the state, to remove exclusionary forms of discipline for students' dress code violations. As the policies and practices stand now, minor dress code violations can build up to expulsions and further push out Latine and other students of color who are more likely to be disciplined. Dress code violations can also add up in ways that administrators and teachers may view students as “troublemakers,” further adding to the surveillance of students and alienating them from their education. The consequences of exclusionary discipline on students' education are real, and disciplinary records limit students' ability to reach academic success.

The districts should also remove any access school police or other law enforcement have to any student records, including any disciplinary or related tracking systems (like SWIS being used in the Nampa School District). SWIS has been used by other school districts for positive behavior interventions and identifying equity issues for particular groups of students. But allowing school police to have access to this system only exacerbates any existing equity issues, particularly for students of color. There are also opportunities to move towards restorative justice disciplinary models that decentralize the use of school police and center the voices of staff who can make a positive impact on students' mental health and education, including counselors, social workers, and psychologists who are prepared to work with culturally diverse communities.

3. INCREASE COMMUNITY ACCOUNTABILITY THROUGH DISCIPLINE DATA AND REPORTING.

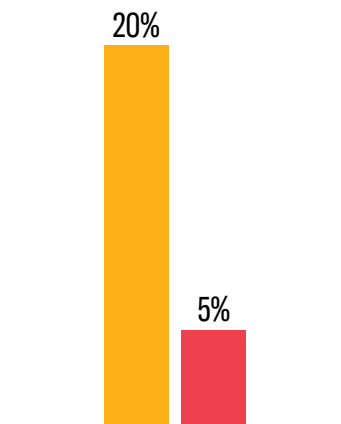
Schools currently log dress code violations and, at times, the disciplinary consequences of these violations, but there is no uniform requirement to collect, report, and analyze data on dress code or other disciplinary enforcement. The Nampa and Caldwell School District, as well as other districts across the state, should begin collecting, monitoring, and making publicly available this type of data and include information related to students' race, ethnicity, gender, disability status, and language proficiency. This is vital to understanding the impact of dress codes and other forms of discipline and law enforcement interactions, especially for Latine, Black, and Indigenous students.⁹⁸

Just in the Caldwell and Nampa School Districts, the ACLU of Idaho noted possible under-reporting of expulsions (e.g., Nampa School District only reported 2 expulsions in the observed school years from 2013 - 2021), law enforcement presence (e.g., none reported in 2017 by the Caldwell School District) and school-related arrests (e.g., none reported by either district in the observed school years in 2013 - 2021). We also had difficulty accessing complete and uniform disciplinary information that included race, sex, disability status, and English Learner status, as well as disciplinary violations and consequences.

Statewide education leaders, like the Idaho State Board of Education and the Idaho State Department of Education should play a role in:

- Developing and implementing uniform standards for discipline files content, including dress code violations, law enforcement involvement, and any referrals for arrest;
- Training staff on uniform data entry, maintenance, and data retrieval to accurately document schools' discipline process and implementation, including racial impact;
- Keeping data on teacher referrals and discipline to assess whether teachers may be referring large number of students of a particular race, ethnicity, or religion for discipline (and following up with schools to determine underlying causes);
- Making the data publicly available on an ongoing basis statewide and for individual school districts;
- Making sure school districts use funds already available to them to support this type of data and analysis; and,
- Making recommendations for how to correct disparate discipline.⁹⁹

TEACHER DEMOGRAPHICS DON'T MIRROR STUDENT DEMOGRAPHICS



LATINE STUDENTS REPRESENT ALMOST
20% OF STUDENT ENROLLMENT,
[BUT] ONLY ABOUT **5% OF ALL STAFF**
IN IDAHO SCHOOLS ARE LATINE.

4. DIVERSIFY SCHOOL ADMINISTRATORS AND STAFF.

Idaho's teacher demographics do not mirror the communities of students they serve. In fact, although Latine students represent almost 20 percent of student enrollment, only about 5 percent of all staff in Idaho schools are Latine. The Latine representation is even lower for teachers and counselors and almost nonexistent with higher up school administrators. School districts across Idaho should diversify school administrators, teachers, and staff. This is an important part of creating a community that fosters students' diversity. Schools should increase staff who can support the needs and advocate on behalf of all families, including families of color, like community liaisons and social workers. This will require affirmative outreach and recruitment of diverse candidates and creating a pipeline of educators by investing in diverse youth who demonstrate an interest in education.

The ACLU of Idaho recognizes that many school districts across Idaho are underfunded and under resourced, so policy makers should increase funding for schools to hire (and retain) staff who are representative of and can advocate of behalf of their community, including Latine staff.

5. SUPPORT ALL STUDENTS, INCLUDING STUDENTS INVOLVED, OR AT RISK OF BEING INVOLVED, IN GANGS.

Some students are at risk of joining gangs. This can be due to a variety of reasons, including the need for protection, community, or other factors that may be outside of their control, like proximity to family members participating in a gang. Rather than taking a punitive approach, a school's response should be to support and uplift those students so that they can succeed academically and create spaces where they can thrive away from gang environments. Every student deserves a seat in the classroom, including students at risk of being involved or already involved in gangs. Over policing and pushing out students perpetuates the issues and is not the answer.

Latine Students' Experiences of Profiling & Discrimination

BRENDA

Items Her Schools Deem “Gang”: Clothing Expressing Cultural Pride, Hairstyles, Dickies.



Brenda lives in Caldwell, Idaho with her mom and she graduated from Caldwell High School in May 2023. Brenda’s Mexican and Native roots are very important to her. Her mom’s family has Aztec ancestry, and her dad is Apache. Brenda had never been disciplined in school until one day staff pulled her out of class and told her she had to remove her hoodie because it contained offensive and racist words: “Brown Pride”. Caldwell High staff later told her the words were “gang” related.

Brenda organized a protest that received national media attention. Despite the community’s stance against the school’s dress code policies, the school did not change anything. Brenda described feeling like she was not welcome in her own school and facing further surveillance by staff since the incident with her hoodie and the protest. As she shared, the labeling of Mexican American students under gang dress codes is not unique to her district.

“The staff who pulled me out of class asked me ‘I assume you know why you’re being called into the office?’ And he told me it was because of my ‘Brown Pride’ hoodie: **‘It says Brown Pride on it, you cannot wear that. It’s like wearing a white pride shirt. Others can find a racist.’** At that moment, I was dumbfounded. At the office, the principal said the same thing, ‘it’s like wearing a white pride shirt,’ and told me to take it off or turn it inside out. I decided to take it off because turning it inside out felt like I was offending my culture. It just didn’t seem right. I told my friends what happened, and we started to organize a protest. I also started a petition and collected 405 signatures. The next day, I was pulled out of class again and the staff started to ask me about my hoodie. What words were on the back? What did the Aztec symbol mean? What about the low riders?”

When the protest was over, the staff told us we had to change out of our clothes otherwise we could not go back in the building. But we did not want to take them off because this is what we were fighting for, this is something that represents our culture. So, we were locked outside. It had been about two hours and we were cold, we had not had water or food, and we had to use the restroom. They also refused to call our parents.

But we did not want to take them off because this is what we were fighting for, this is something that represents our culture.

I honestly hate going to school now. Every time I get called down to the office, I get anxiety and I think what are they going to do to me? Are they going to suspend or expel me? What if they start interrogating me? I still feel that constant fear and I do not feel safe in school.

I honestly hate going to school now. Every time I get called down to the office, I get anxiety and I think what are they going to do to me? Are they going to suspend or expel me? What if they start interrogating me? I still feel that constant fear and I do not feel safe in school.

I'm not the only one in my family who has been targeted. Two of my little cousins are in middle school and have also been targeted. My cousin is in **seventh grade**, and he got called into the office because he had **two lines in his haircut** on the side. Apparently, that's gang-related and **they were asking him: is your family in a gang? What colors do they represent? They interrogated him and the staff grabbed a marker and filled in the line in his hair.**

My other little cousin is also in middle school in Nampa. She is in **seventh grade** and **wears Dickies and graphic t-shirts**, and the **police officer called her out of class one time and asked: are you a Hispanic gang member? And they also started interrogating her about being in a gang and what colors she represented.** When they called her mom, she went off on the police officer and told him: do not call my daughter a Hispanic gang member. She is Mexican American. And they have backed off a little bit because her mom threatened to sue, but they are still targeting her. She is just a kid, and they are racially profiling her.”

CHANDRA



Chandra is a Latina mom in the Caldwell School District. Her youngest daughter is in fourth grade, and her oldest daughters are in tenth and eleventh grade. Chandra herself attended Nampa High School, but she did not

receive the support and mentorship she needed to stay in school, so she dropped out. Based on her experiences, she has always been a very aware and involved parent. This includes constantly advocating for her daughters, who have been surveilled and treated differently when it comes to discipline. As Chandra reflects on her own and her daughters' experiences today, it's like "having déjà vu."

"I had a conversation with the Vice Principal at Nampa High, where he told me, **"If I see kids wearing rosaries and either red or blue, I assume that they're gang affiliated, and I interact with them as such."** As I'm explaining to him "what you just said was racist, you're telling me how you racially profile your students. If Nampa's colors are red, white, and blue, and a white student is wearing red or blue, and a cross necklace, you wouldn't think they were a gang member."

The few white moms that I know who have kids in the school district, and even in other Idaho school districts, when I tell them the things that are happening, they are appalled. Our kids go to the same school, and they say, "What on earth are you talking about? I'm angry for you." So, I know that [Latine and white students] are not experiencing the same things."

KRISTIN



Kristin identifies as Latina and Native American. She is the oldest of five daughters who grew up in and attended schools in Nampa and Caldwell. Kristin now serves students and families as a Community School

Liaison in the Caldwell School District. As Kristin shared, Brown Pride is an important term for many in the Latine community, it is not about gangs.

"Unfortunately, throughout the years and in different roles, including as a community member, **I have witnessed, in my opinion, unnecessary dress code violations. They often surrounded Chicano culture that is perceived as gang culture, which is where those harmful labels come in.**

I did hear about the [Brown Pride] protest. I wish we could just put up a presentation to give a myth versus fact presentation about the Chicano Movement and what Brown Pride really means. It's hard to break a stereotype when it's guided by society as a whole. I think that it would be so powerful to have a space for storytelling. Look at my family. My dad's side of the family is from Texas and Mexico, but they came this way to work in the fields when the government made a call for workers. This is not every Brown kid's story, but it is a part of Idaho's history and it's important.

Brown Pride isn't about gangs, for me it's about the position I'm in and who I represent. I'm proud of everything I've accomplished because while the systems worked to keep me down, I still overcame it. People say, 'what if I wore a white pride shirt?' and it's not the same thing."

[W]hite students are not feeling the same effect, and may not even notice these policies are in place.

COMMUNITY MEMBER

Items Their School Deem “Gang”: Red & Blue Catholic Rosaries (restrictions on white rosaries, too).



“In 2022, Lone Star Middle School and South Middle School, both in the Nampa School District, instituted a dress code policy that banned students from wearing red or blue rosaries. Students also had to tuck their rosaries into their shirts, even if the rosaries were white or a different color. The policy was likely in response to the SROs’ beliefs that these religious items were ‘gang related.’

Although the policy did not explicitly mention Latino students, Latino students are the ones traditionally wearing rosaries because they are more likely to practice Catholicism. To many Latino students, this was part of their identity. Students carry their religious saints with them wherever they go. On the other hand, white students are never told to remove their Christian accessories.

When I explained why this was an issue I received varied responses—white staff and administrators generally did not see this policy as racist. It wasn’t until a Christian group threatened to sue, that the schools stopped removing the rosaries. In past trainings on gangs, SROs have also told staff to watch out for certain types of clothing they deem to be ‘gang related.’

If students refused to take off the rosaries or tuck them in, they could be sent home or receive disciplinary actions. In one instance, a student refused to tuck in their rosary and had to spend the day in the office. Although this student was not allowed to be in class, they did not receive an official in-school suspension, making it harder to track the effect of the “gang” dress code policy. Still, white students are not feeling the same effect, and may not even notice these policies are in place.”

COMMUNITY MEMBER

Items Their Daughter's School Deem "Gang": Clothing Expressing Cultural Pride.

We spoke to a Latine parent at the Caldwell School District. Two of their daughters have attended Caldwell High School and they have two younger children in the same district. As they shared, their daughters have faced a lot of obstacles at Caldwell High School, including being targeted by gang dress codes. They also fear that Caldwell High staff will target their younger son even more because he dresses like what the police label as "gang".

"In January 2023, after Martin Luther King Day, my daughter participated in the Brown Pride rally at Caldwell High School. After the rally she was not allowed to go back into the school, even though she was not wearing 'Brown Pride' clothing. She was wearing a shirt that said, 'Brown and Proud.' So that was a difficult experience for us.

The school's dress policy is whatever the police department decides is gang related. The police have the ability to tweak it as they go. So, if today they decide that Nike is gang-related, then Caldwell School District can enforce that the next day. That is my understanding of the policy. So, I could not say anything to the district when they did not allow my daughter to go back into the school. I was expecting a phone call from the school telling me what had happened, but they never called.

My daughter has also told me about other Latine students receiving dress code violations. But I don't think they have accused my daughters more because they know I won't allow it. I am scared for my son because he dresses like his dad, and his dad dresses like what the police label as gang member. So, I can see my son in a few years getting into a lot of trouble, not because he's a bad kid, but because of the way he looks and dresses. The only thing that might stop him from being disciplined is that he has lighter skin, and it shouldn't be that way, but the deeper the color of your skin, the worse students are targeted and reprimanded. It's a sad situation, but I have seen Mexican students are more likely to get in trouble if they are brown."

I am scared for my son because he dresses like his dad, and his dad dresses like what the police label as gang member. So, I can see my son in a few years getting into a lot of trouble, not because he's a bad kid, but because of the way he looks and dresses.

When I tried to transfer him to another school in the Nampa School District, the other school would not accept him because of the “gang” incident on his record.

ENEDINA

Items Her Son’s School Deem “Gang”: Red Catholic Rosaries, Checkered Shirt with the Color Red On It, “Westside Connection” Hoodie, Mexican Flag Bandana (Not Worn).



Enedina is a Latina mom at the Nampa School District. Her son attended Roosevelt Elementary and Lone Star Middle (Nampa School District). As early as elementary school, school staff accused her son of being a gang member because of the clothing he wore. After that, school administrators flagged

disciplinary incidents unrelated to his clothing as “gang-related.” Enedina tried enrolling her son at another school within the Nampa School District to stop having this issue, but that school rejected him because of the “gang” incidents on his disciplinary record.

“[Lone Star Middle] kept telling me he was a gang member and made him sound like he was a baby mafia boss, but he was in the sixth grade and only 11 years old.

The allegations that he was in a gang started at the beginning of the school year. **The security told him and two of his friends that they could not be wearing red, and they were not allowed to “fly their colors.”** And my son was so confused, but he got in trouble because he had a bandana with the Mexican flag folded in his three-ring binder. It was the same issue as Roosevelt Elementary. He had been dress coded several times and when a white kid told him he had to go back to Mexico, he got in a fight with this kid and the school documented it as a ‘gang-related’ fight. **When I tried to transfer him to another school in the Nampa School District, the other school would not accept him because of the “gang” incident on his record.**

“One day I dropped my kids off at [Elevate Academy] and the school administrator called me back because my son was wearing a red shirt. It wasn’t solid red, but it was a button up dressy kind of shirt. It was kind of like a flannel with red and white checkers, but it was short sleeve with a collar and buttons. The shirt had gray and black colors, too. I wasn’t even to the stop sign of the school and my son tells me he is being sent home. I went into the administrator’s office, and he told me that my son cannot wear that color to school and ‘we don’t allow certain kids to wear blue or red.’ And I asked him, what do you mean by certain kids? And he said, there was a certain type of kid that wasn’t allowed to wear those colors. And I told him he was profiling my son, whether he called it that or not.

I pointed out two kids we could see from his office window that oversees the school's common area. **I saw one kid wearing a red trap suit and another one wearing a blue t-shirt. Neither one of them was Hispanic.** So, I asked, are you sending those two kids home because they are wearing blue and red? And the administrator said, no, it's certain students that cannot wear red or blue.

So, **the administrator said my son was being defiant** and that my son kept questioning him. I told him he is on a 504 and that is part of the reason he is on the 504. But the principal said he had to consider expelling him, even though he is a child with a disability and did not physically hurt anyone—**he was just wearing a certain color.** Ultimately, he did send him home that day....

My son and my granddaughter have also been told they cannot wear a red rosary. I told the school wearing religious items was federally protected. So, the next day, the school told them they could wear it, but it had to be tucked into their shirts, so it was not showing. Again, it was implied that this was gang-related clothing.

It makes me angry and frustrated. It also makes me sad in a way, because I don't want my kids to feel less than or that they don't deserve the same kind of education as the kid sitting next to them. And it's hurtful and heartbreaking because it's 2023, my kid should not have to go to school and feel like they are always looking over their shoulder because they feel like they are going to be accused of being a gang member or anything else that comes with being a gang member.... And this treatment is affecting Hispanic students who feel like it doesn't matter whether they graduate or not because no one is expecting them to.”

And it's hurtful and heartbreaking because it's 2023, my kid should not have to go to school and feel like they are always looking over their shoulder because they feel like they are going to be accused of being a gang member or anything else that comes with being a gang member...

ELIZABETH

Items Her Son's School Deem "Gang": Catholic Rosaries, Clothing Expressing Cultural Pride.



Elizabeth's two youngest children currently attend elementary and high school in the Caldwell School District. A few years ago, Elizabeth and her family moved from California to Caldwell, Idaho, in part, because they wanted their children to grow up in a place safe from gang and criminal activity. Elizabeth and her husband are from Mexico and their family continues to value their Mexican culture, traditions, and identity. But as Elizabeth shared, her children have faced discrimination because of stereotypes associating their race, ethnicity, and religion with gangs.

"I have always given my children rosaries to wear, based on my beliefs and my culture, and because I am Catholic. I have always liked them wearing their bracelets for protection and their rosary for protection.

[My son] did not tell me right away, but [sometime in 2019] he told me that his teacher [in Syringa Middle School] had taken away his rosary. **He came to me and said, I don't know if this is right or wrong, but my teacher took away my rosary.** When I asked him why he hadn't told me before, he said he thought this had been a normal rule, so the teacher took away his rosary, he gave it to him, and the teacher did not return the rosary until after school. By the end of the year, my son no longer used his rosary around his neck, he just carried it in his pocket. But the school never provided me with an explanation why they removed his rosary.

I felt powerless. At that very moment, we were using our rosaries with even more faith because I was undergoing a difficult medical process. As a Catholic, I take my rosary with a lot of faith, I pray in my home, I ask God that my Cancer does not come back as aggressive. And the rosary united us as a family, we carried it because of our faith.

Even my younger son who is in Lewis and Clark Elementary started carrying his rosary in his pocket, too. He was afraid that his teacher would tell him to remove it, and that he would be embarrassed to have it removed.

I am Mexican, we are Mexican, mom and dad. I was born in Tijuana, Baja California, and my husband in Irapuato, Guanajuato. We come from Mexican culture. But **just because we are Mexican does not mean that our children are going to be gang members.** I don't want others to have that mentality in identifying someone, just because they wear loose clothes, as a gang member. **Don't judge others by their race, or by what they wear. It is what I would like to show others, not just because we are Latino or indigenous, or any other race, or come from another country, should you be judging us as bad people.** We came here to work, not to take away."

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Endnotes

- ¹ Samantha Chery, *A Guide to How Works Like Hispanic and Latinx Came About*, The Wash. Post (Oct. 1, 2022), <https://www.washingtonpost.com/lifestyle/2022/10/01/hispanic-latino-latinx-latine-words-history/>; Livia Gershon, Where Did the Term “Hispanic” Come From?, JSTOR Daily (Sept. 15, 2020), <https://daily.jstor.org/where-did-the-term-hispanic-come-from/>.
- ² Chery, *supra* note 1.
- ³ Ana María del Río-González, To Latinx or Not to Latin250:1x: A Question of Gender Inclusivity Versus Gender Neutrality, 111 Am. J. Pub. Health 6, 1018-21 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8101597/>.
- ⁴ Janel Martinez, *For Some Black People, The Term ‘Latinx’ Is Another Form of Erasure*, VICE (Sept. 14, 2020), <https://www.vice.com/en/article/dyz9ak/black-diasporans-latinx-term-another-form-of-erasure>. Some Latin American countries prefer the term Latine, in part, because it is easier to use the ‘e’ vowel because it is already part of the Spanish language. Ecleen Luzmila Caraballo, *This Comic Breaks Down Latinx vs. Latine for Those Who Want to Be Gender-Inclusive*, Remezcla (Oct. 24, 2019), <https://remezcla.com/culture/latinx-latine-comic/>.
- ⁵ Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.
- ⁶ For example, some Indigenous people wear tribal regalia, items or adornments with cultural and religious significance, during important life events, including school graduations. Tribal regalia can include ACLU, *Know Your Rights*, Tribal Regalia, <https://www.aclu.org/know-your-rights/tribal-regalia#what-is-tribal-regalia>.
- ⁷ See e.g., Rosie Godinez, et al., *Hair, Headdress, and Now: Creating a Culture of Belonging in Nebraska Schools*, https://www.aclunebraska.org/sites/default/files/field_documents/aclu_nebraska_hair_head-dress_and_now.pdf (describing dress codes that impact Black and Native American students in Nebraska).
- ⁸ Courtney Bowie, *Wearing a Hoodie While Brown Does Not Mean You Are In a Gang*, ACLU (Dec. 13, 2012), <https://www.aclu.org/news/human-rights/wearing-hoodie-while-brown-does-not-mean-you-are-gang>.
- ⁹ U.S. Dep’t of Educ. Office of Civil Rights, *Know Your Rights: Title VI and Religion*, <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>. Although “[n]one of the laws that OCR enforces expressly address religious discrimination”, Title VI protects “students of any religion from discrimination, including harassment, based on a student’s actual or perceived shared ancestry or ethnic characteristics, or citizenship or residency in a country with a dominant religion or district religious identity.” U.S. Dep’t of Educ. Office of Civil Rights, *Shared Ancestry or Ethnic Characteristics*, <https://www2.ed.gov/about/offices/list/ocr/sharedancestry.html>.
- ¹⁰ See *Chalifoux v. New Caney Ind. Sch. Dist.*, 976 F. Supp. 659, 664, 671 (S.D. Tex. 1997) (finding that a dress code policy that prohibited “[a]ny attire which identifies students as a group (gang-related)” was void for vagueness and enjoining the school district from prohibiting students from wearing Catholic rosaries).
- ¹¹ See *Goss v. Lopez*, 419 U.S. 565, 581-82 (1975) (listing the basic Due Process requirements “against unfair or mistaken findings of misconduct and arbitrary exclusion from school”).
- ¹² U.S. Gov’t Accountability Off., GAO-23-105348, *Department of Education Should Provide Information on Equity and Safety in School Dress Codes*, 20 (2022), <https://www.gao.gov/assets/gao-23-105348.pdf> (herein 2022 GAO Report).
- ¹³ Linda Darling-Hammond, *Unequal Opportunity: Race and Education*, BROOKINGS (Mar. 1, 1998), <https://www.brookings.edu/articles/unequal-opportunity-race-and-education/> (describing findings from an analysis of schools in Alabama, New Jersey, New York, Louisiana, and Texas).
- ¹⁴ *Id.*; Russell J. Skiba, et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCHOL. REV 85 (2011) (“African American students were significantly more likely than White students to be suspended or expelled for disruption, moderate infractions, and tardy/truancy, while Latino students were more likely to be suspended or expelled in Grade 6–9 schools for all infractions except use/possession.”).
- ¹⁵ See *supra* note 12 2022 GAO Report at 28 (noting the U.S. Department of Education does not collect data for informal forms of discipline).
- ¹⁶ See Dana Tofig, *AIR Study Finds More Severe Suspensions Have Greater Negative Effects on Academic Outcomes, Attendance and Future Behavior*, AIR (Aug. 24, 2021), <https://www.air.org/news/press-release/air-study-finds-more-severe-suspensions-have-greater-negative-effects-academic>; Emily Boudreau, *School Discipline Linked to Later Consequences*, Harvard Graduate School of Educ. (Sept. 16, 2019), <https://www.gse.harvard.edu/news/uk/19/09/school-discipline-linked-later-consequences> (“Students assigned to high-suspension schools are more likely to be arrested and incarcerated later, and less likely to attend a four-year college. Male minority students are most likely to be affected.”).
- ¹⁷ Julissa Arce, *Racial Segregation of Latino Students Continues with English-Only Laws*, UNIDOS US (Sept. 29, 2021), <https://unidosus.org/blog/2021/09/29/racial-segregation-of-latino-students-continues-with-english-only-laws/>. Despite the *Mendez v. Westminster*, and later *Brown v. Board of Education* decisions, the segregation of Latine students and its impact continues today. See *id.*; Francisca M. Antman & Kalena E. Cortes, *The Long-Run Impacts of Mexican-American School Desegregation*, BROOKINGS (April 28, 2022), <https://www.brookings.edu/blog/brown-center-chalkboard/2022/04/28/the-long-run-impacts-of-mexican-american-school-desegregation/>; <https://files.eric.ed.gov/fulltext/ED387281.pdf>; Rubén Donato, Martha Menchaca and Richard R. Valencia, *Segregation, Desegregation, and Integration of Chicano Students: Problems and Prospects*, in CHICANO SCHOOL FAILURE AND SUCCESS: RESEARCH AND POLICY AGENDAS FOR THE 1990s (1991), <https://files.eric.ed.gov/fulltext/ED387281.pdf>.
- ¹⁸ Victoria Estrada & Elizabeth Loewenthal Torres, *‘La Lucha Sigue’: Chicano Teachers Now and Then*, LATINO USA (Feb. 10, 2023), <https://www.latinousa.org/2023/02/10/chicanoteachers/>.
- ¹⁹ “The first human residents in present-day Idaho are thought to have come to the region approximately 11,000 years ago. By the time of white settlement, eight groups of indigenous peoples inhabited present-day Idaho including the Kootenai, Katsipel, Skitswish (Coeur d’Alene), Palouse, Nimiipuu (Nez Perce), Shoshone, Bannock, and Northern Paiute.” Kristin Haltinner, Leanna Keleher, and Annysia Hoffman, *Idaho, in A STATE-BY-STATE HISTORY OF RACE AND RACISM IN THE UNITED STATES* 247, 253 (2019).
- ²⁰ Mary Malone, *Maria Gonzalez Mabbutt Addresses Hispanic Heritage in Idaho*, THE ARGONAUT (October 16, 2014), <https://www.uiargonaut.com/2014/10/16/hispanic-history-of-idaho/>.
- ²¹ *Id.*
- ²² Library of Congress, *A Latinx Resource Guide: Civil Rights Cases and Events in the United States: 1942: Bracero Program*, <https://guides.loc.gov/latinx-civil-rights-bracero-program#:~:text=An%20executive%20order%20called%20the,on%20short%20term%20labor%20contracts>.
- ²³ *Id.* Prior to Idaho, the Mexican government had never cancelled the Bracero Program. Errol D. Jones, *Latinos in Idaho: Making Their Way in the Gem State, in IDAHO’S PLACE: A NEW HISTORY OF THE GEM STATE*, 222 (2014) (herein Jones, *Gem State*). Many white Idahoans thought migrants inferior and blamed their poor living conditions on their own behavior and overstaying their work contracts, even though farm employers were responsible for immigrants’ housing and transportation. Nicole Foy, *‘We do not like the Mexican.’ Racist Chapter of Idaho History Revealed by Research*, IDAHO STATESMAN (Dec. 2, 2021), <https://www.idahostatesman.com/news/northwest/idaho/history/article238330788.html#storylink=cpy>. This anti-Latine and anti-immigrant sentiment continues in the state’s more recent history. In the 2008 legislative session, Republican Senator Shirley McKague introduced a resolution calling on the president and Congress to end birthright citizenship for children of illegal immigrants. Jones, *Gem State* at 226.
- ²⁴ Jones, *Gem State* at 214

²⁵ *Id.* at 215.

²⁶ Errol D. Jones, *Latinos and the Churches in Idaho, 1950–2000*, in *LATIN AMERICAN MIGRATIONS TO THE US HEARTLAND 70* (2013) (herein Jones, *Churches*).

²⁷ Jones, *Gem State* at 216.

²⁸ *Id.* at 226.

²⁹ In the 1960s, the Migrant Ministry developed programs to bring volunteer teachers for Latine migrant students in Caldwell and other labor camps, but many of the white volunteers displayed “a sense of paternalism and noblesse.” Jones, *Churches* at 74; Jones, *Gem State* at 220.

³⁰ Eli Rosenberg, *The Schoolteachers Who Dressed Up As ‘Mexicans’ and a MAGA Wall for Halloween Have Been Suspended*, *THE WASH. POST* (Nov. 3, 2018), <https://www.washingtonpost.com/nation/2018/11/03/these-school-teachers-dressed-up-mexicans-wall-halloween-it-didnt-go-well/>; 14 *Middleton Staff Members in Border Wall Halloween Costumes Put on Paid Administrative Leave*, *KTVB* (updated Nov. 13, 2018), <https://www.ktvb.com/article/news/education/we-are-better-than-this-middleton-teachers-dress-up-as-border-wall-mexicans-for-halloween/277-610642983>.

³¹ See *Goss v. Lopez*, 419 U.S. 565, 581-82 (1975) (holding that public school students are entitled to due process rights before being subjected to suspension).

³² See *id.* (holding that students’ Due Process rights require that schools not arbitrarily exclude them from school).

³³ See *Tinker v. Des Moines Sch. Dist.*, 393 U.S. 503, 506 (1969) (holding that students do not shed their First Amendment speech rights at the “schoolhouse gate”).

³⁴ Caldwell School District Policy 3255 (“The wearing, using, carrying, or displaying any other gang clothing or attire, or style, jewelry, emblem, badge, symbol, sign, codes, tattoos, or other things or items which evidence membership or affiliation in any gang is prohibited on any school premises or at any school sponsored activity at any time.”); Nampa School District Policy 3310, (“Students on school property or at any school-sponsored activity shall not: 1. Wear, possess, use, distribute, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other items which are evidence of membership in, affiliation with any gang and/or representative of any gang.”). The Caldwell School District’s complete policies can be found at <https://go.boarddocs.com/id/csd132/Board.nsf/Public#>, Nampa School District’s can be found at <https://go.boarddocs.com/id/nsd131/Board.nsf/Public?open&id=policies#>.

³⁵ Emphasis added. These responses are from written communications between the Caldwell School District and the ACLU of Idaho as part of open records request clarifications.

³⁶ Caldwell High School Student Handbook 2022-23, 5-6, at <https://4.files.edl.io/7310/01/26/23/154550-ef54d046-618f-481b-908c-16382e12bd47.pdf>.

³⁷ Caldwell School District Policy 3310.1.2 (emphasis added).

³⁸ Caldwell School District’s “gang member” definition closely mirrors the definition found in the Idaho Criminal Gang Enforcement Act, but the District seems to assume the role of identifying gang membership and affiliation by adding the language “is identified by District Administration.” See Idaho Code § 18-8502 (defining “criminal gang member”).

³⁹ Syringa Middle School Student Handbook 2022-23, at 8.

⁴⁰ Van Buren Bobcats 2022-2023 Student and Parent Handbook, 16.

⁴¹ Nampa School District Middle School Student Handbook, 15.

⁴² A school’s responsibility to not discriminate students on the basis of race, color, or national origin extends to school police. U.S. DEPT OF EDUC. OFFICE OF CIVIL RIGHTS & U.S. DEPT OF JUSTICE CIVIL RIGHTS DIVISION, *RESOURCE ON CONFRONTING RACIAL DISCRIMINATION IN STUDENT DISCIPLINE* (May 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>.

⁴³ *GUIDING PRINCIPLES FOR SCHOOL RESOURCE OFFICER PROGRAMS*, U.S. DEPT OF JUST. OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (2022), <https://portal.cops.usdoj.gov/resourcecenter/Home.aspx?page=de->

[tail&id=COPS-P460](#).

⁴⁴ Through our open records requests, the Nampa Police Department also shared two gang trainings the Department offers to its officers.

⁴⁵ Emphasis added.

⁴⁶ Investigations by the U.S. Department of Education have revealed instances where students of color are treated more harshly than white students with similar behavior for violations of school rules on dress codes, “inappropriate behavior,” “defiance,” and “disruption”, among other rules. See *RESOURCE ON CONFRONTING RACIAL DISCRIMINATION IN STUDENT DISCIPLINE* supra note 42 (explaining the investigation involving Black students at Victor Valley Union High School District in California).

⁴⁷ See *Ten Members of the Aryan Knights Prison Gang Indicted on RICO Charges in Federal Court*, *United States Attorney’s Office* (May 16, 2019), <https://www.justice.gov/usao-id/pr/ten-members-aryan-knights-prison-gang-indicted-rico-charges-federal-court> (describing the founding and ongoing activity of the Aryan Knights).

⁴⁸ This list is compiled from the Nampa and Caldwell Police Department’s trainings, which included photos, as well as descriptions of certain apparel. It also includes some items identified from our conversations with internal sources at the school districts.

⁴⁹ The ACLU of Idaho asked the Nampa and Caldwell Police Departments where they had retrieved the photos included in the gang trainings. The Nampa Police Department shared: “[S]ome photos are from cases and some from the internet. Some of the slides that the schools show were made by school security and those were taken from the internet.” (emphasis added). The Caldwell Police Department noted the photos in its departmental gang training were from a variety of sources, including “closed investigations, closed criminal cases, or obtained through open-source investigations.”

⁵⁰ Prisons in California similarly use symbols, like La Huelga Bird, to identify gang members. Such identification has led to “many false positives and results in long-term solitary confinement of individuals who, in fact, are not affiliated with any gang at all.” Katie Lynn Joyce, *Stars, Dragons, and the Letter “M”: Consequential Symbols in California Prison Gang Policy*, 104 CAL. L. REV. 733, 733 (2016).

⁵¹ UNITED FARM WORKERS OF AMERICA TRADEMARK LICENSING FREQUENTLY ASKED QUESTIONS (FAQ) VERSION 5-18-2016, <https://ufw.org/wp-content/uploads/2017/01/UFWTrademarkfaq-5-18-16.pdf>.

⁵² *Chicanismo Today, The Meaning Behind the United Farm Workers Flag*, YouTube (Oct. 2, 2022), <https://youtu.be/8V8vrTBx1IQ>.

⁵³ In a U.S. Commission on Civil Rights briefing, SWIS is described as a tool “used to collect, track, manage and analyze discipline data, specifically to support the implementation of the Positive Behavior Intervention Systems (PBIS). SWIS is a web-based information system for data entry and report generation. School personnel have the capability to analyze data on an individual student, groups of students, according to specific settings, as well as specific times of day.” A BRIEFING BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS HELD IN WASHINGTON, DC, *SCHOOL DISCIPLINE AND DISPARATE IMPACT* (2011), https://www.usccr.gov/files/pubs/docs/School_Disciplineand_Disparate_Impact.pdf. This system can also be used to identify “specific behavioral expectations that need re-teaching” or “students most at risk and who need additional supports or a behavioral intervention plan.” *Id.* But a 2008 evaluation brief found that schools underutilize the ethnicity feature of the system, and thus could be “put[ting] little emphasis on recording the data necessary to examine their referral patterns for equity across ethnic categories.” Claudia G. Vincent, *Evaluation Brief: Do Schools Using SWIS Take Advantage of The “School Ethnicity Report”?* OSEP TECHNICAL ASSISTANCE CENTER ON POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS (2008), <https://global-uploads.webflow.com/5d3725188825e071f1670246/5d82ad3b8fcf39355c62695f-Do%20Schools%20Using%20SWIS%20Take%20Advantage%20of%20the%20%22School%20Ethnicity%20Report%22%3F%20%20.pdf>.

⁵⁴ The Nampa Police Department noted having “[n]o document to produce” in response to our open records request for: “Any list, tracking, database, or surveillance of students presumed, suspected, or actively participating in gang activity, membership, or affiliation, including any

disciplinary action or referral to law enforcement.”

⁵⁵ That same year, the Caldwell School District also reported zero referrals to law enforcement and school-related arrests. U.S. Department of Education Civil Rights Data Collection, Caldwell District (2017) <https://ocrdata.ed.gov/profile/9/district/29018/summary>. Thus, the ACLU of Idaho was unable to analyze data related to referrals and arrests.

⁵⁶ See e.g., F. Chris Curran, et al., *Why and When So School Resource Officers Engage in School Discipline? The Role of Context in Shaping Disciplinary Involvement*, 126 *Am. J. of Educ.* 33, 55-59 (2019) (discussing ways in which school police became involved in school discipline); Benjamin W. Fisher & Emily A. Hennessy, *School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systemic Review and Meta-Analysis*, 1 *ADOLESCENT RES. REV.* 217, 231 (2016) (finding that schools with SROs suspend and expel adolescents at higher rates); Scott Crosse, et al., *Investigator-Initiated Research: The Comprehensive School Safety Initiative Study of Police in Schools*, 9 (2020), <https://www.ojp.gov/pdffiles1/nij/grants/305094.pdf> (finding no evidence that school police reduced school crime, but finding “clear evidence that increasing SRO staffing levels results in increased exclusion from school in response to disciplinary infractions,” especially for “black and Hispanic as opposed to white students”); Melvin D. Livingston, et al., *A Descriptive Analysis of School and School Shooter Characteristics and the Severity of School Shootings in the United States, 1999–2018*, 64 *J. OF ADOLESCENT HEALTH* 797, 797 (2019) (finding that the presence of school police was “unassociated with any reduction in school shooting severity”); Margaret Sumney & Harold Jordan, *Fast Facts on School Safety: The Research, END ZERO TOLERANCE*, <https://www.endzerotolerance.org/single-post/fast-facts-on-school-safety-the-research> (noting that school police presence does not reduce the likelihood or severity of school shootings).

⁵⁷ See AMIR WHITAKER, ET AL., *COPS AND NO COUNSELORS HOW THE LACK OF SCHOOL MENTAL HEALTH STAFF IS HARMING STUDENTS*, 4 (2019) <https://www.aclu.org/report/cops-and-no-counselors> (herein COPS AND NO COUNSELORS).

⁵⁸ The ACLU of Idaho also recently learned that the Nampa School District also invests in “vape alarms” for student bathrooms. According to a family we spoke to, when the alarm goes off, the Nampa High Dean of Students will search students for evidence of vapes. But, even slight scents of perfume or deodorant, students shared, may be causing the alarm to go off.

⁵⁹ Nat’l Educ. Ass’n, *The Decline in Average Teacher Pay*, <https://www.nea.org/research-publications>. In the Nampa School District, the weighted average (salary and benefits) of current teachers in the district is \$51,549. In the Caldwell School District, a teacher’s salary can be as low as \$40,742 (average is \$50,697.32).

⁶⁰ See Rachel Cohen, *Some Blaine County Residents Ask School District to Bring Back Latino Liaisons*, Boise State Public Radio (April 11, 2023), <https://www.boisestatepublicradio.org/news/2023-04-11/some-blaine-county-residents-ask-school-district-to-bring-back-latino-liaisons> (“About half of students at Wood River High identify as Hispanic or Latino, but only 10% of staff do, and Lopez said the limited number of bilingual teachers and staff are already busy. “It’s not fair to be pulling other staff members to interpret or to have to translate when they already have all these other things to do,” she said.”).

⁶¹ See *Carly Flandro*, *Increases in Youth Suicide and Depression Spark Communities to Brighten Schools*, Idaho EdNews (April 16, 2023), <https://www.idahoednews.org/news/increases-in-youth-suicide-and-depression-spark-communities-to-brighten-schools/#:~:text=Janelle%20Stauffer%20remembers%20the%20fall,two%20losses%20%E2%80%94%20still%20too%20many.>

⁶² See *supra* note 57 COPS AND NO COUNSELORS, at 11 (noting the recommended staff to student ratios).

⁶³ John Desmond Miller, *Chronology of the Development of the Rosary*, in *BEADS AND PRAYERS: THE ROSARY IN HISTORY AND DEVOTION* (Bloomsbury Publishing 2002).

⁶⁴ Dynamic Catholic, *A Brief History of the Rosary: Ever Ancient, Ever New*, <https://www.dynamiccatholic.com/rosary/history-of-the-rosary.html>.

⁶⁵ *Id.*

⁶⁶ United States Conference of Catholic Bishops, *How to Pray the Catholic Rosary*, <https://www.usccb.org/how-to-pray-the-rosary>.

⁶⁷ See Fred de Noyelle, *Can you Wear a Rosary Around Your Neck*, ALETEIA (Aug. 18, 2022) <https://aleteia.org/2022/08/18/can-you-wear-the-rosary-around-your-neck/> (“They are intended to be used as aids to prayer, making it easier to pray the Rosary, and not primarily as jewelry. There is nothing wrong with wearing a rosary as a necklace, as you would a religious medal or scapular; indeed, this is a common custom in many cultures. In this way it serves as a reminder to pray the Rosary.”); Father Edward McNamara, *Wearing the Rosary as a Necklace*, EWTN (June 14, 2011) <https://www.ewtn.com/catholicism/library/wearing-the-rosary-as-a-necklace-4581> (noting a reader’s comments that “in El Salvador and Honduras it is not uncommon to see men and sometimes women wearing a rosary around their necks” and although some gang members wear them “as a sort of talisman, to protect them” it is an expression of faith for many others).

⁶⁸ *Id.*

⁶⁹ See e.g., *The Rosary in Every Day Mexican Life*, San Miguel Times (May 16, 2020), <https://sanmigueltimes.com/2020/05/the-rosary-in-every-day-mexican-life/> (“Countless times in the company of others, a situation has occurred making the public saying of a rosary necessary. Suffice to say you’ll never catch a Mexican without easy access to a rosary!”); Noyelle, *supra* note 67, (“Dominicans, for example, wear a rosary attached to their belts.”); Latino History Harvest, *Rosary Beads*, <https://library.ccsu.edu/latinohistoryharvest/items/show/67> (describing the usage of rosary beads in Connecticut).

⁷⁰ Brenda Rodriguez, ‘Brown Pride’ Rally Held at Caldwell High School, KTVB (Jan. 19, 2023), <https://www.ktvb.com/article/news/local/brown-pride-rally-caldwell-high-school-idaho-latino-cultural-clothing/277-a93ed961-5ca6-47f9-affb-74cdfefe329c>.

⁷¹ The Nampa Police Department’s training does offer some clothing and other identifiers for the Brown Pride Sureños gang. But the handful of pictures only show a young man wearing a brown plaid shirt, khaki pants, and a hanging black belt, or a brown Boston baseball cap.

⁷² See *supra* Section History of Discrimination Against Latines.

⁷³ Abby Davis, *Caldwell Students Hope for Change, Following Graffiti Incident*, KTVB (Jan. 24, 2023), <https://www.ktvb.com/article/news/local/caldwell-community-members-hoping-to-change-school-district-dress-code/277-98c87372-99a2-4964-8a0e-e92d3117b7f5>.

⁷⁴ Jacqueline Aguirre, *From Pachucos to Cholos: Chicano Pride as Identity*, MINERO MAGAZINE (Jan. 21, 2020), <https://minero-magazine.com/2134/artsandculture/from-pachucos-to-cholos-chicano-pride-as-identity/>.

⁷⁵ *Id.* Black American artists and activists popularized zoot suits which gave way to the style of many Mexican Americans on the West Coast. Matthew Wills, *The Zoot Suit Riots Were Race Riots*, JSTOR DAILY (Oct. 13, 2021), <https://daily.jstor.org/the-zoot-suit-riots-were-race-riots/>.

⁷⁶ Wills, *supra* note 75.

⁷⁷ Aguirre, *supra* note 74.

⁷⁸ See Mekita Rivas, *How Embracing Chola Culture in High School Helped Me Understand My Latina Identity*, HELLOGIGGLES (Aug. 24, 2017), <https://hellogiggles.com/embracing-chola-culture-high-school-understand-my-latina-identity/> (describing the experiences of a Latina teenager in Nebraska).

⁷⁹ The ACLU of Idaho received this data from the Idaho State Board of Education.

⁸⁰ The ACLU was unable to fully review data correlating to these same months for the Nampa School District because the data the district provided lacked students’ ethnicity. Despite several requests to the Nampa

School District to incorporate race, sex, disability status, and English Learner status (all identifiers the school district collects), the ACLU of Idaho was unable to fully review data related to dress codes for October 2021, April 2022, and October 2022 because the provided records lacked the requested information. The District did later provide these identifiers for other data requested.

⁸¹ This data was requested in February 2023, so it does not reflect any disciplinary incidents that took place for the remainder of the Spring 2023 semester.

⁸² Nampa School District Policy 3325 (“Administrators may deny class entrance to students dressed or otherwise adorned inappropriately until arrangements may be made for their proper attire. All time missed from classes for failure to adhere to this policy will be deemed unexcused absences. Parents or guardians will be notified each time a student is asked to leave school because of inappropriate attire. Students who are insubordinate or refuse to change the improper attire, or who repeat dress code violations shall be subject to disciplinary action up to and including suspension or expulsion, depending on all the facts and circumstances, for violating the standards of student conduct.”) (emphasis added).

⁸³ See *Id.*; Caldwell School District Policy 3255, 1.5 (“Administrators may provide consequences at their discretion for dress code violations and parents will be notified. Students who are insubordinate or refuse to change the improper attire, or who repeat dress code violations shall be subject to disciplinary action up to and including suspension or expulsion, depending on all the facts and circumstances, for violating the standards of student conduct.”)

⁸⁴ Caldwell School District Policy 3310, 1.5 (referring to the prohibition of “gang activity”, including wearing gang attire) (“Violations of this policy shall result in disciplinary action, up to and including suspension, expulsion, and/or notification of police.”); Nampa School District Policy 3310 (same).

⁸⁵ The ACLU of Idaho requested records related to Color Contracts in January and February of 2023, so there may be additional written Color Contracts for the remainder of the Spring 2023 semester we did not review.

⁸⁶ Between both Caldwell and Nampa districts, White students made up between 50 and 55 percent of the student population and Latine students made up between 41 and 45 percent of the student population over the observed years (2013-2014, 2015-2016, 2017-2018, 2020-2021). English Learners (LEP) steadily increased from 11 percent of the student population in 2013-14 to 17 percent in 2020-21.

⁸⁷ While Female students are generally suspended at much lower rates compared to Male students, we still observe that Latine Female students are suspended at higher rates than White Female students, given their respective shares of the student population.

⁸⁸ The Nampa School District only reported two expulsions in the observed years from 2013 to 2021. In the same time frame, the Caldwell School District reported 16 expulsions.

⁸⁹ See e.g., ANDY WHISMAN & PATRICIA CAHAPE HAMMER, THE ASSOCIATION BETWEEN SCHOOL DISCIPLINE AND ACADEMIC PERFORMANCE: A CASE FOR POSITIVE DISCIPLINE APPROACHES (2014), <https://files.eric.ed.gov/fulltext/ED569903.pdf> (finding in a study of West Virginia students that those with “one or more discipline referrals were 2.4 times more likely to score below proficiency in math than those with no discipline referrals” and “[w]hen the disciplinary consequences take the form of in-school or out-of-school suspension, the risk of scoring below proficiency increases and proficiency gaps widen”).

⁹⁰ See *For Black students, Unfairly Harsh Discipline Can Lead to Lower Grades*, AM. PSYCHOLOGICAL ASSOC. (Oct. 7, 2021), <https://www.apa.org/news/press/releases/2021/10/black-students-harsh-discipline>. In this study, unfavorable school climates “in turn predicted lower grades” for students.

⁹¹ Sami Edge & Nicole Foy, *Little Accountability for Schools Asked to Improve Latino Achievement Gaps*, Idaho EdNews (Feb 9, 2020), <https://www.idahoednews.org/news/in-high-achievement-gap-schools-plans-for-improvement-are-all-over-the-board/>; Elizabeth Finley, *Latino Learn-*

ing in Idaho: Far From Equal, IDAHO STATE BAR (updated July 1, 2022), https://isb.idaho.gov/blog/latino-learning-in-idaho-far-from-equal/?utm_source=rss&utm_medium=rss&utm_campaign=latino-learning-in-idaho-far-from-equal.

⁹² Idaho State Department of Education, *State of Idaho Student Achievement*, <https://idahoschools.org/state/ID/achievement?lang=en>; Idaho State Department of Education, *Caldwell District Student Achievement*, <https://idahoschools.org/districts/132/achievement?lang=en>; Idaho State Department of Education, *Nampa School District Student Achievement*, <https://idahoschools.org/districts/131/achievement>.

⁹³ Idaho State Department of Education, *State of Idaho Chronic Absenteeism*, <https://idahoschools.org/state/ID/chronic-absenteeism?lang=en>.

⁹⁴ Idaho State Department of Education, *Caldwell District Chronic Absenteeism*, <https://idahoschools.org/districts/132/chronic-absenteeism?lang=en>; Idaho State Department of Education, *Nampa School District Chronic Absenteeism*, <https://idahoschools.org/districts/131/chronic-absenteeism>.

⁹⁵ Idaho State Department of Education, *State of Idaho Graduation Rate*, <https://idahoschools.org/state/ID/graduation>; Idaho State Department of Education, *State of Idaho Career Readiness*, <https://idahoschools.org/state/ID/readiness>.

⁹⁶ See *supra* note 12 2022 GAO Report at 16.

⁹⁷ In 2021, Governor Little signed HB377 into law, which bans Critical Race Theory at all public schools, including universities.

⁹⁸ Some school districts, including districts in Buffalo, New York, already share this data with community members on an ongoing basis. Jessica Bauer Walker, Carly Hite, & Rae Shih, *Suspension in Buffalo Schools: History, Analysis, and a Holistic, Positive Path Forward*, <https://www.nyclu.org/sites/default/files/221220-buffaloschoolswhitepaper.pdf> (noting ways the district’s current data dashboard could provide greater transparency).

⁹⁹ Most of these recommendations are from the U.S. Department of Education’s guidance on appropriate record-keeping to ensure Title VI compliance. See U.S. Dep’t of Education Office of Civil Rights, Joint “Dear Colleague” Letter, <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>. In a recent resource, the U.S. Department of Justice and U.S. Department of Education encouraged the use of American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) funds to support data analysis related to “attendance, academic success, and discipline to identify students in need of additional supports and guide improvements.” The guidance also noted the opportunity to use these funds to “[f]ully staff schools, including with school counselors and other certified mental health professionals.” U.S. DEP’T OF EDUC. OFFICE OF CIVIL RIGHTS & U.S. DEP’T OF JUSTICE CIVIL RIGHTS DIVISION, RESOURCE ON CONFRONTING RACIAL DISCRIMINATION IN STUDENT DISCIPLINE (May 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>. In 2021, the federal government allocated more than \$440 million ARP ESSER funds to Idaho. *American Rescue Plan Elementary and Secondary School Emergency Relief Fund, Methodology for Calculating Allocations* (Revised June 25, 2021), https://oese.ed.gov/files/2021/06/Revised-ARP-ESSER-Methodology-and-Allocation-Table_6.25.21_FINAL.pdf.

¹⁰⁰ A 504 is a plan that ensures that elementary and secondary students with an identified disability under Section 504, a federal law, receive the necessary academic accommodations.