CHALLENGING THE SCHOOL-TO-PRISON PIPELINE
HARMs AND REMEDIES

A JUSTICE ACTION CENTER SYMPOSIUM

Cosponsored by the

American Civil Liberties Union’s Racial Justice Program,
New York Law School Racial Justice Project,
and
New York Law School Law Review

Wednesday, April 1, 2009
New York Law School
1. Conference Schedule

2. About the Sponsors

3. Participant Profiles

4. Reference Materials for Plenary Panel I: Harms
   a. Catherine Albisa
   b. Courtney Bowie

5. Reference Materials for Plenary Panel II: Remedies
   a. Dennis Parker
   b. Jeffrey Sprague
   c. Judge Steven Teske
CONFERENCE SCHEDULE

7:30 a.m. - 8:00 a.m.
Check-in and Continental Breakfast
*Breakfast will be served in the Ernst Stiefel Reading Room.*

8:00 a.m. - 8:30 a.m.
Welcome and Opening Remarks
*Ernst Stiefel Reading Room*
Richard A. Matasar, Dean and President, New York Law School
Dennis Parker, Director, ACLU Racial Justice Program
Deborah Archer, Professor of Law, New York Law School; Director, Racial Justice Project

8:30 a.m. - 9:00 a.m.
Keynote Address
*Ernst Stiefel Reading Room*
Charles J. Ogletree, Jesse Climenko Professor of Law, Harvard Law School; Executive Director, Charles Hamilton Houston Institute for Race and Justice

9:00 a.m. - 10:15 a.m.
Plenary Panel I: Harms
*Ernst Stiefel Reading Room*
This panel has been approved for 1.5 credits in Professional Practice.
Panelists will discuss the harm to children at different “stops” in the school-to-prison pipeline, including under-resourced public schools, disciplinary alternative schools, and the juvenile justice system.

• Moderated by: Nadine Strossen, Professor of Law, New York Law School; Former President, American Civil Liberties Union (1991-2008)
• Cathy Albisa, Executive Director, National Economic and Social Rights Initiative
• Courtney Bowie, Attorney at Law, Law Office of Courtney Bowie
• Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center

10:30 a.m. - 12:00 p.m.
Break-Out Session I: Harms
Some break-out sessions offer CLE credit. Information will be available in the individual sessions.
Each session is led by a group of facilitators to discuss efforts to challenge the school-to-prison pipeline by issue area. Conference participants will choose from the following sessions:

• I-A. Educational Adequacy
  *Room B100*
  Session Leaders:
  Anurima Bhargava, NAACP Legal Defense and Educational Fund
  Art Eisenberg, NYCLU
  Catherine Lhamon, ACLU of Southern California
• **I-B. Policing in Schools**  
  *Wellington Conference Center, 5th floor*  
  Session Leaders:  
  - Catherine Y. Kim, ACLU Racial Justice Program  
  - Udi Ofer, NYCLU  
  - Lisa H. Thurau, Strategies for Youth

• **I-C. Special Education**  
  *Room B410*  
  Session Leaders:  
  - Ira Burnim, Judge David L. Bazelon Center for Mental Health Law  
  - Daniel J. Losen, Civil Rights Project at UCLA  
  - Dean Rivkin, University of Tennessee College of Law

• **I-D. Disciplinary Alternative Schools**  
  *Room B500*  
  Session Leaders:  
  - Chara Fisher Jackson, ACLU of Georgia  
  - Reginald Shuford, ACLU Racial Justice Program

• **I-E. Court-Involved Youth**  
  *Room B300*  
  Session Leaders:  
  - Marsha Levick, Juvenile Law Center  
  - Katayoon Majd, National Juvenile Defender Center  
  - Nick Sheehan, Advocates for Children

**12:15 p.m. - 1:15 p.m.**  
**Luncheon and Informal Networking**  
*Lunch will be served in B100 and in the Wellington Conference Center, 5th floor.*

**1:30 p.m. - 2:45 p.m.**  
**Plenary Panel II: Remedies**  
*Ernst Stiefel Reading Room*  
*This panel has been approved for 1.5 credits in Professional Practice.*  
Panelists will discuss models and solutions to dismantling the school-to-prison pipeline, such as elimination of zero-tolerance policies, limiting the authority of school resource officers, and positive behavioral interventions and supports.

  - Moderated by: Ted Shaw, Professor of Professional Practice, Columbia Law School  
  - Dennis Parker, Director, ACLU Racial Justice Program  
  - Jeffrey Sprague, Professor of Special Education and Director of the Institute on Violence and Destructive Behavior, University of Oregon  
  - Honorable Steven Teske, Judge, Clayton County Juvenile Court

**3:00 p.m. - 4:30 p.m.**  
**Break-Out Session II: Remedies**  
*Some break-out sessions offer CLE credit. Information will be available in the individual sessions.*  
Each session will be led by a group of facilitators to discuss efforts to challenge the school-to-prison pipeline by advocacy strategy. Conference participants will choose from the following sessions:
• II-A. Legislative Lobbying and Policy Reform
  Room B410
  Session Leaders:
  Judith Storandt, National Disability Rights Network
  Deborah J. Vagins, ACLU Washington Legislative Office

• II-B. Community Responses to the Pipeline
  Room B100
  Session Leaders:
  Shakyra Diaz, ACLU of Ohio
  Damon Hewitt, NAACP LDF
  Ellen Tuzzolo, Justice Policy Institute

• II-C. Impact Litigation
  Wellington Conference Center, 5th floor
  Session Leaders:
  Elisa Hyman, Southern Poverty Law Center
  Ron Lospennato, Southern Poverty Law Center
  Alan Schlosser, ACLU of Northern California

• II-D. Research and Public Education
  Room B400
  Session Leaders:
  Jim Freeman, The Advancement Project
  Russ Skiba, Equity Project at Indiana University
  Johanna Wald, Charles Hamilton Houston Institute

• II-E. Human Rights Framework
  Room B500
  Session Leaders:
  Chandra Bhatnagar, ACLU Human Rights Program
  Liz Sullivan, National Economic and Social Rights Initiative

4:30 - 5:30 p.m.
Reception
Ernst Stiefel Reading Room
Refreshments will be served.
ABOUT THE SPONSORS

The American Civil Liberties Union’s Racial Justice Program aims to preserve and extend constitutionally guaranteed rights to people who have historically been denied their rights on the basis of race through a combination of litigation, advocacy and organizing, legislative initiatives, and public education. In coalition with ACLU affiliates in each state, the Program’s advocacy focuses on the following issues: preserving affirmative action; combating mass incarceration and improving conditions of confinement; improving educational opportunities and ending the school-to-prison pipeline; promoting racial equality in the criminal and juvenile justice systems and in healthcare; ensuring the right to counsel and improving indigent defense systems; ending racial profiling; and expanding voting rights for people with criminal records. For more information on the Program, please visit http://www.aclu.org/racialjustice.

The Justice Action Center brings together New York Law School faculty and students in an ongoing critical evaluation of public interest lawyering. Through scholarship and fieldwork, the Center seeks to evaluate the efficacy of law as an agent of change and social betterment. The Center fosters collaborative efforts by faculty and students to engage the specific problems presented in the fields of anti-discrimination law, civil liberties, criminal law, economic justice: legal advocacy and economic development, education law, environmental law, family law, immigration law, international human rights law, labor and employment law, mental disability law, and social change advocacy. In addition to a focused curriculum, symposia, and research opportunities, students have the opportunity to gain direct exposure to the field of cause lawyering through externships, clinics, and workshops. For more information on the Center, please visit www.nyls.edu/jac.

The New York Law School Racial Justice Project is a legal advocacy organization dedicated to protecting the constitutional and civil rights of people who have been denied those rights on the basis of race and to increase public awareness of racism and racial injustice in the areas of education, employment, political participation, and criminal justice. The Racial Justice Project’s advocacy includes litigation, training, and public education. The Project is actively engaged in three initiatives, a collateral sanctions resource guide, education litigation, and the Street Law project. For more information on the Project, please visit www.nyls.edu/rjp.
PARTICIPANT PROFILES

Catherine Albisa is the Executive Director of National Economic and Social Rights Initiative (NESRI). Ms. Albisa is a constitutional and human rights lawyer with a background on the right to health. Ms. Albisa also has significant experience working in partnership with community organizers in the use of human rights standards to strengthen advocacy in the United States. She co-founded NESRI along with Sharda Sekaran and Liz Sullivan in order to build legitimacy for human rights in general, and economic and social rights in particular, in the United States. She is committed to a community-centered and participatory human rights approach that is locally anchored, but universal and global in its vision. Ms. Albisa clerked for the Honorable Mitchell Cohen in the District of New Jersey. She received a B.A. from the University of Miami and is a graduate of Columbia Law School.

Deborah N. Archer, an expert in the areas of civil rights and racial discrimination, directs the New York Law School’s Racial Justice Project and the Urban Law Clinic. Professor Archer was previously an assistant counsel at the NAACP Legal Defense and Educational Fund, Inc., where she was involved in a number of important civil rights cases in the areas of voting rights, employment discrimination, and educational equity. She was also a Marvin H. Karpatkin Fellow with the American Civil Liberties Union, where she was involved in federal and state litigation on issues of race and poverty. Prior to joining New York Law School, Professor Archer was an associate at Simpson, Thacher & Bartlett LLP. Professor Archer graduated cum laude from Smith College in 1993 and was awarded her J.D. from Yale Law School in 1996. She is a member of the National Board of Directors of the American Civil Liberties Union and the Board of Directors of the New York Civil Liberties Union. Professor Archer has also served on the Association of the Bar of the City of New York’s Civil Rights Committee and on the Committee on Civil Rights of the New York State Bar Association.

Anurima Bhargava is Director of the Education Practice at the NAACP Legal Defense and Educational Fund, Inc. (LDF) where she is actively engaged in litigation and advocacy to expand educational access and opportunity for students of color. Ms. Bhargava has been deeply involved in the litigation, advocacy, and public education efforts around the two voluntary integration cases - Parents Involved in Community Schools v. Seattle School District and Meredith v. Jefferson County Board of Education - recently decided by the Supreme Court and is co-lead counsel representing parent intervenors in three Proposition 209 challenges to voluntary integration efforts in California. She also advises institutions of higher education on providing equal access and opportunities to all students through their admissions, financial aid and scholarship, and outreach programs. Prior to joining LDF, Ms. Bhargava worked as a staff attorney at the New York City Department of Education and clerked in the U.S. District Court for the Southern District of New York. She earned her law degree from Columbia Law School and graduated magna cum laude from Harvard College.

Chandra Bhatnagar is a Staff Attorney with the Human Rights Program (HRP) of the American Civil Liberties Union, where he leads HRP's domestic and international advocacy around Hurricane Katrina, affirmative action, and juvenile justice issues, and is
engaged in federal court litigation and litigation in international tribunals involving the rights of low-wage immigrant workers, undocumented workers, and guest-workers. Prior to joining the ACLU, Mr. Bhatnagar was a Skadden Fellow and Staff Attorney with the Asian American Legal Defense and Education Fund, where he directed the South Asian Workers’ Project for Human Rights, a community-based project providing legal services to low-wage workers from South Asia. Previously, he was the Assistant Director of Columbia University's "Bringing Human Rights Home Project," where he worked to improve conditions affecting post 9-11 detainees and efforts to organize a coalition of human rights defenders in the United States. Mr. Bhatnagar has also worked internationally, partnering with a leading NGO in India in applying human rights standards to their anti-child labor/bonded labor campaigns, and domestically with the Center for Constitutional Rights, where he did immigrants' rights and anti-police brutality organizing, and served as the interim director of the Ella Baker Summer Intern Program. He received a J.D. from the University of Pennsylvania Law School, and an LL.M. in international human rights from Columbia Law School.

Ira A. Burnim is the Legal Director of the Judge David L. Bazelon Center for Mental Health Law in Washington, D.C. Formerly, Mr. Burnim served as legal director of the Children's Defense Fund, senior attorney at the Southern Poverty Law Center, and law clerk to the Honorable Frank M. Johnson, Jr. He has represented thousands of individuals in class action suits around the country seeking reform of mental health and children's service systems. He is active in Supreme Court cases; he spearheaded the disability community's efforts in Olmstead, represented the plaintiffs in Garrett, and has played a coordinating role in other cases. He is recognized nationally for his expertise in policy and legal issues related to the Americans with Disabilities Act, community mental health care, Medicaid, and children's issues. He sits on the board of the American Civil Liberties Union of Maryland and the Executive Committee of the Association of Disability Rights Counsel. He consults with federal agencies, state policy makers, and advocates. Working with Mental Disability Rights International, he has advised advocates and policy makers in Hungary, the Czech Republic, Albania, Romania, Ukraine, Japan, and Russia.

Shakyra Diaz oversees the American Civil Liberty Union of Ohio’s statewide educational programming, various coalition building efforts, and its award-winning summer internship program. Ms. Diaz attended Cleveland public schools and earned her B.A. in Communication Sciences and Sociology from Case Western Reserve University. She has focused her career in the non-profit arena, specifically working with young people. She has served as both project director and program coordinator for Youth Opportunities Unlimited, and as retention specialist and education specialist for Case Western Reserve University's Upward Bound Program. While at the ACLU, she has developed educational programs that give a voice to community concerns around the state. Some of those programs have examined hip-hop as a form of political activism, reproductive health care access for Latinas, ineffective gang initiatives, failed and biased drug law policies, selective law enforcement, youth and police relations, the school to prison pipeline, and anti-immigrant policies to name a few. Ms. Diaz is a member of the Ohio Hispanic Social Service Workers Association and the Hispanic Health Committee. She is on the board of Hispanas Organizadas en Lake y Ashtabula and Hispanic Umadaop. Ms. Diaz is the vice-chair of Citizens for a Safe and Fair Cleveland
and she is the chair of the Interpreters Advocate Advisory Committee via the Center for Reducing Health Disparities.

Art Eisenberg is the Legal Director of the New York Civil Liberties Union where he has worked for more than 35 years. During that time he has been involved in more than 20 cases that were presented to the United States Supreme Court. He has litigated extensively around issues of free speech and voting rights. He was also lead counsel in an NYCLU suit challenging New York State’s failure to fulfill its constitutional obligation to provide all children with the opportunity to receive a “sound basic education.” In recent years, Mr. Eisenberg has been increasingly involved in litigation concerning national security and civil liberties. Mr. Eisenberg is the co-author, with Burt Neuborne, of the Rights of Candidates and Voters (2nd ed. 1980). He has published law review articles on a range of topics including essays on Robert Bork, on campaign finance reform, and on government-funded speech. He contributed an essay on issues of faith and conscience, to the book Engaging Cultural Differences (2002) and an essay on military tribunals for the book, It’s a Free Country (2002). He has contributed a chapter on the NYCLU’s “educational inadequacy” lawsuit to a forthcoming book on school reform litigation. He has taught Constitutional Litigation, Civil Rights Law, and Constitutional Law at Cardozo Law School and the University of Minnesota Law School. He is a graduate of The Johns Hopkins University and Cornell Law School.

Jim Freeman is a Staff Attorney at Advancement Project, an innovative civil rights law, policy, and communications “action tank” in Washington, D.C. He began his tenure there as a 2004 recipient of the prestigious Skadden Fellowship, and is the Director of the Ending the Schoolhouse to Jailhouse Track project. Mr. Freeman works primarily with grassroots organizations on a variety of education reform efforts, but has also worked on voter protection, housing, and immigrant justice matters. He has researched and co-authored the following reports: Education on Lockdown: The Schoolhouse to Jailhouse Track (2005), Arresting Development: Addressing the School Discipline Crisis in Florida (2006), Obstacles to Opportunity: Alexandria, Virginia Students Speak Out (2007); and End of the Line? Preparing for a Surge in Voter Turnout in the November 2008 General Election. Mr. Freeman is a graduate of the University of Notre Dame and Harvard Law School, where he was an editor on the Harvard Law Review. Following law school, he served as judicial law clerk for the Honorable James R. Browning on the Ninth Circuit U.S. Court of Appeals in San Francisco, California. Mr. Freeman sits on the Board of Directors of the Resilience Advocacy Project in New York, and is Adjunct Professor of Law at Georgetown University Law Center.

Damon Hewitt is an attorney at the NAACP Legal Defense and Educational Fund, Inc. (LDF). His docket consists of class action cases and consultation on a number of racial and social justice issues, including school desegregation, school discipline, juvenile justice policy, voting rights, and indigent defense. He founded LDF’s “Dismantling the School-to-Prison Pipeline” initiative, which challenges racial disparities that lie at the intersection of the education system and the juvenile and criminal justice systems. In 2005, he represented LDF in a coalition that convened a series of investigations and public hearings regarding racial disparities in discipline practices throughout Florida’s public school districts. That work was followed by the release of a report entitled
Arresting Development: Addressing the School Discipline Crisis in Florida. He has also worked closely with community-based organizations in various southern states on education reform and school discipline issues. A New Orleans native, Mr. Hewitt has also coordinated LDF’s post-Hurricane Katrina litigation and advocacy, which has included a focus on access to schools, school discipline and educational opportunity. He is frequently quoted in the media on school discipline, and racial justice issues, with appearances on National Public Radio, Sirius Satellite Radio, and numerous print and internet-based publications.

Elisa Hyman is an attorney and public policy consultant in New York City. She has her own firm, the Law Office of Elisa Hyman, PC and serves as Of Counsel to Friedman & Moses, LLP where she heads a new education law and civil rights litigation practice that offers no-cost-up-front and sliding scale education and civil rights legal services. She represents parents and young people in administrative proceedings and court. Ms. Hyman also assists foundations, universities, and non-profit organizations through her public policy consulting practice. During the past eighteen years, Ms. Hyman has represented and supervised representation of hundreds of individual parents and students, as well as thousands of families through class action lawsuits for the purposes of obtaining appropriate educational services in public school. Previously, Ms. Hyman worked at Advocates for Children of New York (AFC), where she first served as the organization’s deputy/litigation director and then the transitional executive director in 2006-2007. During her time at AFC, she was lead counsel on more than nine class action and impact suits brought by students who were not receiving adequate educational services and/or their parents. She also created several programs and spearheaded public policy initiatives focusing on improving regular and special education in the city. Before joining AFC, Ms. Hyman was Assistant General Counsel at Safe Horizon, where she worked on domestic violence and crime victim policy and served as the Queens Child Advocacy Center planning director. Ms. Hyman earned her J.D. and M.A. in economics at Duke University. She is a recipient of several awards and has authored a number of reports, articles, and publications.

Chara Fisher Jackson is Legal Director of the ACLU of Georgia. Ms. Jackson attended Oglethorpe University and the College of William and Mary School of Law, graduating with a Juris Doctor in 1997. She served as the Executive Director of the Supreme Court of Georgia’s Commission on Equality. Her responsibilities included developing continuing legal education programs, facilitating public hearings, and promoting access to justice initiatives. She also served as the Executive Director of the Georgia Association of Black Women Attorneys Civil Pro Bono Project, recruiting volunteer attorneys to assist imprisoned mothers with civil legal matters. She has served as Executive Director of the Georgia Breast Cancer Coalition Fund. Ms. Jackson began her public interest career as a summer law clerk with the ACLU of Georgia and has served on the Board of Directors and the Executive Committee of the ACLU of Georgia.

Catherine Yonsoo Kim is a staff attorney with the American Civil Liberties Union, National Legal Department where she works with the Racial Justice Program. She has been involved in litigation and advocacy surrounding Native American education rights, school desegregation, juvenile justice, racial and religious profiling, government
watchlists, and indigent defense reform. More recently, she has focused her work on challenges to the “school to prison pipeline,” the practice of criminalizing students, predominantly students of color, for trivial schoolyard misconduct. Ms. Kim began working on racial justice issues for the ACLU in 2003 as the Marvin M. Karpatkin Fellow. Prior to that, she clerked for the Honorable Carlos F. Lucero on the Tenth Circuit Court of Appeals in Denver. Ms. Kim obtained her law degree from Columbia Law School, where she served as an editor on the *Columbia Law Review*, and her undergraduate degree from Cornell University.

**Marsha Levick** co-founded Juvenile Law Center (JLC) in 1975, and currently serves as its Deputy Director and Chief Counsel. JLC is the oldest public interest law firm for children in the United States. Between 1982 and 1995, Ms. Levick pursued other professional interests, including serving as the Legal Director and then Executive Director of NOW Legal Defense and Education Fund in New York (now Legal Momentum.) For more than 30 years, Ms. Levick has been an advocate for children’s and women’s rights and is a nationally recognized leader in juvenile law. Ms. Levick manages JLC’s litigation and appellate docket. She has litigated cases concerning children’s rights in both the juvenile justice and child welfare systems; authored or co-authored numerous appellate and amicus briefs in state and federal courts, including the U.S. Supreme Court; and has argued before many state and federal appellate courts. Ms. Levick has also co-authored several scholarly articles on children’s rights issues. Ms. Levick serves on the boards of the National Juvenile Defender Center; Juvenile Justice Project of Louisiana; Southern Poverty Law Center; and the advisory board of Rutgers-Camden Law School’s Juvenile Justice Clinic. Ms. Levick graduated from the University of Pennsylvania and Temple University Law School. She received the 2006 Temple Law School Women's Law Caucus annual Professional Achievement Award, and the 2008 Pennsylvania Child Advocate of the Year Award.

**Catherine Lhamon** is the Racial Justice Director at the ACLU of Southern California, where she specializes in race-based civil rights cases, education reform, and issues of police practices. Ms. Lhamon focused the first five years of her time at the ACLU on a statewide class action, *Williams v. State of California*, the 2004 settlement of which ensures that all California public school students have access at least to such educational essentials as textbooks, trained teachers, and safe and uncrowded school facilities. In addition to *Williams*, Ms. Lhamon has litigated cases involving school desegregation, police racial profiling, municipal mistreatment of the homeless, employment discrimination, and police misconduct. *California Lawyer* magazine honored Ms. Lhamon as an Attorney of the Year for Civil Rights in 2004. The *Daily Journal* newspaper honored Ms. Lhamon as one of the Top 20 Lawyers Under 40 and one of the Top 75 Women Litigators in the state in 2007. Before joining the ACLU of Southern California, Ms. Lhamon was a Supervising Attorney in the Appellate Litigation Program at the Georgetown University Law Center. After law school, Ms. Lhamon clerked for Judge William A. Norris on the U.S. Court of Appeals for the Ninth Circuit. Ms. Lhamon received her JD from Yale Law School and her BA from Amherst College.
Daniel J. Losen is a Senior Education Law and Policy Associate at the The Civil Rights Project (CRP) at UCLA (formerly at Harvard Law School) where he also has been a lecturer on law. His work concerns the impact of federal, state and local education law and policy on students of color. His efforts have focused on confronting the high school graduation rate crisis, on revising the Elementary and Secondary Education Act, on revealing and redressing the “School to Prison Pipeline,” on remedying racial inequity in special education, and on protecting the rights of linguistic minorities to equal educational opportunity. On these and related topics he: conducts law and policy research; publishes books, reports, and articles; works closely with federal and state legislators to inform legislative initiatives; and provides other guidance to civil rights advocates, policymakers, and educators at the state and district level. Most recently he testified before the U.N. High Commission on Human Rights about the right to education for minority students. Independent of his work for the CRP, Mr. Losen works as a consultant for civil rights groups, foundations, and state and district educational agencies. Currently he is a Senior Education Policy Consultant with the Schott Foundation for Public Education assisting them with their federal and state “Opportunity to Learn” campaign. He is also a consultant for the plaintiffs in Sheff v. O’Neill, serving as their representative on the Regional School Choice Office (RSCO). RSCO was created pursuant to the 2008 stipulation and order to help decrease the racial isolation of minority students living in Hartford, Connecticut. Before law school, Mr. Losen taught in public schools for 10 years and was a school founder of an alternative public school.

Ronald Lospennato is an attorney with and directs the Southern Poverty Law Center’s School to Prison Reform Project in New Orleans. The project’s goal is to develop and implement strategies as a nationwide model to address the educational needs of youth caught up in the school to prison pipeline and to permit them to be integrated in the mainstream of American life. Mr. Lospennato was the Legal Director of the Disabilities Rights Center, Inc., New Hampshire’s Protection and Advocacy program, from 1979 to 2007.

Katayoon Majd is a Senior Staff Attorney at the National Juvenile Defender Center (NJDC), where she works on juvenile indigent defense issues, provides technical assistance to sites reforming their juvenile justice systems, and co-coordinates the Equity Project, a national initiative to ensure fair treatment of lesbian, gay, bisexual and transgender youth in delinquency courts. Prior to joining NJDC, she represented youth in abuse and neglect cases at the Children’s Law Center in the District of Columbia. Ms. Majd began her career as a Racial Justice Project attorney at the American Civil Liberties Union of Northern California. At the ACLU, she focused on combining litigation and advocacy strategies to expand access to educational opportunities for low-income students of color statewide. To support her educational equity work, Ms. Majd received a New Voices Fellowship in 2000. She holds a J.D. from Stanford Law School and a B.A. in Psychology from Stanford University. She also serves as a member of the adjunct faculty of the American University Washington College of Law.

Udi Ofer is the Advocacy Director at the New York Civil Liberties Union. He is responsible for overseeing the NYCLU’s work to influence public policy through legislative advocacy, public education, organizing, and coalition building. He monitors and analyzes local, state, and federal legislation impacting civil rights and civil liberties,
and testifies frequently before legislative committees. Mr. Ofer is responsible for supervising the NYCLU’s work to end the overpolicing of New York City schools. He drafted the Student Safety Act, which would provide for oversight and accountability of police practices in New York City schools. The legislation has been introduced in the City Council and has the support of a majority of lawmakers. He also oversees campaigns to repeal the Real ID Act, ensure adequate oversight of military recruitment practices in public schools, and to enforce implementation of the Dignity in All Schools Act, which would challenge bias-based harassment in the schools. Mr. Ofer first joined the staff of the NYCLU in 2003 as the founding director of the Bill of Rights Defense Campaign. In 2004, the New York City Council honored the campaign for its outstanding service to the city, state, and nation. Mr. Ofer is a frequent commentator on civil liberties issues on local and national media. Prior to joining the NYCLU, Mr. Ofer was a Skadden Fellow at My Sisters’ Place, a domestic violence organization in Westchester County, where he initiated the organization’s immigration practice, and created a clinic to represent battered women on their immigration and public benefits matters. He has also worked at the Association for Civil Rights in Israel, a human rights organization in Jerusalem. Mr. Ofer is a graduate of Fordham University School of Law, where he was a Stein Scholar in Public Interest Law and Ethics, and a Crowley Advocate in International Human Rights. In 2007, he received the “Distinguished Graduate Award” from Fordham Law School.

Charles J. Ogletree, Jr., the Harvard Law School Jesse Climenko Professor of Law, and Founding and Executive Director of the Charles Hamilton Houston Institute for Race and Justice, is a prominent legal theorist who has made an international reputation by taking a hard look at complex issues of law and by working to secure the rights guaranteed by the Constitution for everyone equally under the law. In 2008, Professor Ogletree was awarded the prestigious ABA Spirit of Excellence Award in recognition of his many contributions to the legal profession. The National Law Journal named Professor Ogletree one of the 50 Most Influential Minority Lawyers in America. In 2006, Professor Ogletree was named by Ebony Magazine as one of the 100+ Most Influential Black Americans. He was presented with the Lifetime Achievement Award when he was inducted into the Hall of Fame for the National Black Law Students Association, where he served as National President from 1977-1978. Professor Ogletree also received the first ever Rosa Parks Civil Rights Award given by the City of Boston, the Hugo A. Bedau Award given by the Massachusetts Anti-Death Penalty Coalition, and Morehouse College’s Gandhi, King, Ikeda Community Builders Prize. Professor Ogletree is a native of Merced, California, where he attended public schools. Professor Ogletree earned an M.A. and B.A. (with distinction) in Political Science from Stanford University, where he was Phi Beta Kappa. He also holds a J.D. from Harvard Law School. Professor Ogletree’s most recent books include When Law Fails: Making Sense of Miscarriages of Justice and From Lynch Mobs to the Killing State: Race and the Death Penalty in America, both co-edited with Austin Sarat, All Deliberate Speed: Reflections on the First Half-Century of Brown v. Board of Education.

Dennis D. Parker is the Director of the ACLU National Office's Racial Justice Program (RJP). Concentrating on issues of the school-to-prison pipeline which funnels children of color from the educational system into the criminal justice system, racial profiling, affirmative action, indigent representation, and felon enfranchisement, the RJP seeks to remove barriers to equal opportunity for communities of color through litigation, public
education, community organizing and legislation. Prior to joining the ACLU, he was the Chief of the Civil Rights Bureau of the Office of the New York State Attorney. Mr. Parker also worked for fourteen years at the NAACP Legal Defense and Educational Fund, Inc., where he litigated and supervised the litigation of scores of cases involving elementary and secondary education, affirmative action in higher education, and equal educational opportunity. Other positions include working at the plaintiffs-side employment firm of Vladeck, Waldman, Elias and Englerhardt and the New York Legal Aid Society, Criminal Defense Division in Brooklyn, New York. He has published a book and numerous chapters and articles on a range of civil rights issues including housing discrimination, educational equity, affirmative action, and testing. Mr. Parker lectures extensively on civil rights issues and has served as an adjunct professor at New York Law School. He is a graduate of Middlebury College and Harvard Law School.

Dean Hill Rivkin is College of Law Distinguished Professor at the University of Tennessee College of Law. He has taught as a visiting professor at American University, Harvard, Maryland, and UCLA. He directs the Law School's CAN-LEARN Project, a support center for lawyers in Tennessee who represent families in education matters. He teaches courses in public interest lawyering and clinical education, including Education Advocacy. He has litigated many education cases, including C.S.C. v. Knox County Board of Education, No. 06-087, 2006 WL 3731304 (Tenn. Ct. App. Dec. 19, 2006) (class action on behalf of all students expelled or suspended from the Knox County Schools establishing their right to alternative education) and Morgan v. Chris L., 927 F. Supp. 267 (E.D. Tenn. 1994), aff'd, 106 F.3d 401 (6th Cir. 1997), cert. denied, 520 U.S. 1271 (1997) (school system prohibited from prosecuting a student with disabilities for alleged misconduct when IDEA procedures not followed). He recently published "Legal Advocacy and Education Reform: Litigating School Exclusion," 75 Tenn. L. Rev. 265 (2008).

Alan Scholosser, Legal Director of the ACLU of Northern California, has litigated numerous landmark cases during his tenure at the organization, including Rodriguez v. California Highway Patrol and California First Amendment Coalition v. Woodford. He joined the ACLU-NC as Staff Counsel in 1976 and served as Managing Attorney from 1994 to 2000. In 2001, Mr. Schlosser took on the role of Legal Director, overseeing the affiliate's litigation strategy. Mr. Schlosser came to the ACLU-NC from Boston, where he worked as the sole staff attorney outside California and Arizona for the United Farm Workers, AFL-CIO. He was an attorney at Paul, Weiss, Rifkind, Wharton & Garrison, LLP, in New York City and then a partner at Eiden, Imhoff, Schlosser & Solomon in Santa Barbara. He has taught law at University of San Francisco School of Law, Brooklyn Law School, and Columbia Law School. A graduate of Williams College, Mr. Schlosser received his law degree from Harvard Law School, where he served as Urban Affairs Editor for the Harvard Civil Rights-Civil Liberties Law Review.

Ted Shaw, director-counsel and president of the NAACP Legal Defense and Educational Fund (LDF) from 2004-08, is one of the nation’s leading voices in civil rights. Mr. Shaw joined LDF in 1982 and in 2004 became the fifth person to lead the organization. While at LDF, he was lead counsel in a coalition that represented African-American and Latino students in the University of Michigan undergraduate affirmative action admissions case. That case, Gratz v. Bollinger, went before the United States Supreme Court in 2003,
along with *Grutter v. Bollinger*, which challenged the use of affirmative action at The University of Michigan Law School. Mr. Shaw worked as a trial attorney in the Civil Rights Division of the U.S. Department of Justice from 1979-82, where he litigated civil rights cases at the trial and appellate levels and at the U.S. Supreme Court. He currently serves on the Legal Advisory Network of the European Roma Rights Council based in Budapest, Hungary. Mr. Shaw previously has taught at Columbia, University of Michigan, Temple and CUNY law schools. He is the recipient of the Wien Prize for Social Responsibility from Columbia Law School; the A. Leon Higginbotham, Jr., Memorial Award from the National Bar Association Young Lawyers Division; and the Baldwin Medal from the Wesleyan University alumni body.

**Nick Sheehan** is the Project Coordinator of the Juvenile Justice Project at Advocates for Children (AFC), a non-profit organization dedicated to ensuring equal access to quality public education for all New York City students. He assists students, parents, and professionals involved with the juvenile justice system who encounter education-related difficulties such as truancy, inappropriate special education placements or services, and out-of-school youth issues. Mr. Sheehan also regularly conducts trainings and workshops on education issues, education rights, and special education procedures for various juvenile justice stakeholders. Since assuming this role two years ago, Mr. Sheehan has provided direct assistance to over 150 parents and students involved with the juvenile justice system in New York City. Mr. Sheehan graduated from Trinity College in Hartford, CT with a B.A. in Political Science in 2006.

**Russell Skiba, Ph.D.** is a professor in the School Psychology program at Indiana University Center for Evaluation and Education Policy, and Director of the Equity Project, a consortium of research projects offering evidence-based information to educators and policymakers on equity in special education and school discipline. He was a member and the lead author of the American Psychological Association’s Task Force on Zero Tolerance, and was awarded the Push for Excellence Award by the Rainbow Coalition/Operation PUSH for his work on African American disproportionality in school suspension.

**Reginald T. Shuford** is a senior staff counsel in the American Civil Liberties Union Foundation's Racial Justice Program. An attorney with the ACLU since 1995, he helped pioneer legal challenges to racial profiling practices nationwide and is the ACLU’s chief litigator in challenges to racial profiling, leading national litigation efforts and consulting with ACLU state affiliates and others in cases of "driving while black or brown," airport profiling, and profiling related to the war on terror. Since September 11, 2001, working with colleagues around the country, he has filed a half dozen landmark lawsuits against major airlines alleging racial discrimination, as well as a nationwide challenge to the Transportation Security Administration's management of the No-Fly List. His docket also has included cases involving educational adequacy and equity, the school to prison pipeline, and the right to counsel for indigents. He also has been involved in advocacy against racism in the use of the federal death penalty and in favor of affirmative action. A frequent lecturer and writer, Mr. Shuford has published in the areas of racial profiling and affirmative action. In addition to his litigation responsibilities, Mr. Shuford is the ACLU’s Recruitment and Retention Officer for attorneys of color on the national legal staff.
**Dr. Jeffrey Sprague** is a professor of Special Education and Director of the University of Oregon Institute on Violence and Destructive Behavior. He directs federal, state and local research and demonstration projects related to positive behavior supports, response to intervention, youth violence prevention, alternative education, juvenile delinquency prevention and treatment, and school safety. His research activities encompass applied behavior analysis, positive behavior supports, functional behavioral assessment, school safety, youth violence prevention, and juvenile delinquency prevention. Dr. Sprague is a contributor to *Early Warning, Timely Response: A Guide to Safe Schools* and the 1998, 1999, and 2000 President’s Annual Reports on School Safety. In 1990 and 1997, Dr. Sprague coauthored the first guide to *Functional Behavioral Assessment* (O’Neill et al., 1997). He has written a book on Crime Prevention Through Environmental Design for school administrators. Dr. Sprague has authored a book on school safety with Hill Walker for Guilford Publications and a book on School Wide Positive Behavior Supports with Annemieke Golly. In 2008, he published a book on Response to Intervention and Behavior Supports. He has published over 100 journal articles and book chapters. Dr. Sprague directs an R01 research grant from National Institute in Drug Abuse to conduct the first evaluation of the effects of Positive Behavior Supports in middle schools.

**Judith (“Judie”) Storandt** is a Senior Staff Attorney with the National Disability rights Network (NDRN), where she serves as a training and technical assistance specialist for criminal justice and juvenile justice issues. Before joining NDRN, she was the Advocate General for the Oklahoma Department of Human Services, managing an office that conducted abuse and neglect investigations in all juvenile residential facilities, including detention centers and correctional facilities. In this position, she was heavily involved with drafting legislation and administrative regulations, and guiding them through processes until passage. For the past two years, Ms. Storandt has participated in legislative advocacy at the national level to advance the Reauthorization of the Juvenile Justice Delinquency Prevention Act (S.3155 in the 110th Congress). More generally, she educates policymakers on juvenile and criminal justice matters through fact sheets, meetings, testimony, and other activities. Ms. Storandt’s J.D. is from the University of Iowa College of Law, where she participated in its Prisoner Assistance Clinic. Her legal career includes: working for the Minnesota Attorney General’s Office, where she represented the Minnesota Department of Corrections; working for private law firms in Minnesota and Indiana; serving as Director of the non-profit Louisiana Capital Defense Project; representing people on death row in Louisiana, Indiana and Oklahoma; and running a solo practice in Indiana focusing on criminal defense, juvenile delinquency cases, and prisoner civil-rights litigation.

**Nadine Strossen** is a Professor of Law at New York Law School. She has written, lectured, and practiced extensively in the areas of constitutional law, civil liberties, and international human rights. From 1991 through 2008, she served as president of the American Civil Liberties Union, the first woman to head the organization. Professor Strossen retains leadership positions with the ACLU as a member of its National Advisory Council and Co-Chair of its Campaign for the Future. While ACLU President, Professor Strossen made more than 200 public presentations per year and commented frequently on legal issues in the national media. She has been a monthly columnist for
two Web-zines and a weekly commentator on the Talk America Radio Network. Professor Strossen has received numerous awards and honors, including being named one of “The 100 Most Influential Lawyers in America” by *The National Law Journal*, being listed as one of “350 Women Who Changed the World 1976–1996” by *Working Woman* Magazine, being named one of “America’s 200 Most Influential Women” by *Vanity Fair* Magazine, and being one of the first three women to receive the U.S. Jaycees’ “Ten Outstanding Young Americans” Award. Professor Strossen has received honorary Doctor of Law degrees from the University of Rhode Island, the University of Vermont, San Joaquin College of Law, Rocky Mountain College, the Massachusetts School of Law, and Mount Holyoke College. Other awards include: the “Women of Distinction” award from the Women’s League for Conservative Judaism, the Media Institute’s “Freedom of Speech Award,” the Free Speech Coalition’s “Freedom Isn’t Free Award,” and the National Council of Jewish Women’s “Women Who Dared Award.” Professor Strossen graduated Phi Beta Kappa from Harvard College and *magna cum laude* from Harvard Law School, where she was an editor of the *Harvard Law Review*.

**Liz Sullivan** is the Human Right to Education Program Director at the National Economic and Social Rights Initiative (NESRI). She works with parents and advocates to promote policy change in public education to guarantee students’ right to dignity and a quality education. She has carried out research projects to document human rights violations in U.S. public schools, and has provided trainings to parents, youth and organizers about how to incorporate human rights standards and strategies into their advocacy. She has worked as a consultant with Human Rights Education Associates and as Project Coordinator at the Center for Economic and Social Rights, where she authored the report *Civil Society and School Accountability: A Human Rights Approach to Parent and Community Participation in NYC Schools*. She holds a B.A. from Brown University and a Masters degree in Public Policy from the John F. Kennedy School of Government at Harvard University.

**Judge Steve Teske** was appointed to the juvenile bench of Clayton County in 1999 and re-appointed in 2003 and 2007. He has served as Chief of the Atlanta Parole District and Deputy Director of Field Services of the Georgia State Board of Pardons and Paroles, where he was awarded the President’s Award by the Parole Association of Georgia and the Parole Board’s Billy Murphey Award for the most outstanding parole officer. He was a trial attorney and partner in the law firm of Boswell & Teske, where he served as Special Assistant Attorney General representing various state agencies and the Clayton County Department of Family and Children Services prosecuting abuse and neglect cases in Juvenile court. While on the bench, he has received numerous awards recognizing his service to youth and the community. He authored the juvenile detention alternative initiative “F.A.S.T.-S.T.A.R.T.” which received the American Probation and Parole Association’s President’s Award for effectively reducing detention and recidivism among offenders. He was appointed to the Board of the Georgia Children, the Youth Coordinating Council representing the 13th Congressional District, the Judicial Advisory Council of the Department of Juvenile Justice, the Federal Advisory Committee on Juvenile Justice, and the Governor’s Office for Children and Families and serves as vice-chair. He is president of the Georgia Council of Juvenile Court Judges and is a member of numerous other judicial and correctional associations. His writing includes “Reducing
Lisa H. Thurau and her consulting group, Strategies for Youth, are working with the Nantucket Police Department and the special officers assigned to Boston properties managed by the Massachusetts Housing Authority. She is also working with the Charles Hamilton Houston Institute on Race & Justice on a study of school resource officers in Massachusetts. In 2004, Ms. Thurau initiated a training initiative with officers in the Massachusetts Bay Transit Authority Transit Police to improve police/youth interactions, to increase officers’ skills in working with youth, and to support officers’ development of innovative approaches to policing large groups of teens in public transit areas. Her assessment and training of Cambridge Police Department officers led to a reorganization of the way the Department provides services to youth. After law school, Ms. Thurau served as policy specialist and then as Managing Director of the Juvenile Justice Center of Suffolk Law School. There, she focused on public policy advocacy on behalf of court-involved teens. She monitored juveniles' civil rights issues regarding police treatment, tracked trends in the Center's cases, monitored and challenged legislation affecting youth in the juvenile justice system. Prior to law school, Ms. Thurau worked as a researcher and advocate for reform and improvement of the public education system in New York City. She is a graduate of Barnard College and holds a Masters degree in Anthropology from Columbia University and a Juris Doctor from Benjamin N. Cardozo School of Law of Yeshiva University.

Ellen Tuzzolo started her career as a Special Education teacher in the New Orleans Public Schools. After three years of teaching, Ms. Tuzzolo provided alternatives to incarceration for people in the San Francisco Jail through her work at the Center on Juvenile and Criminal Justice. She then served as an educator in an alternative to incarceration program for youth in the Massachusetts juvenile justice system. After Hurricane Katrina, Ms. Tuzzolo returned to Louisiana to devote her time to juvenile justice and education reform through her efforts at the Juvenile Justice Project of Louisiana (JJPL). At JJPL, she founded “Schools First”- a project that continues to reduce the number of suspensions, expulsions, school arrests, and push-outs in schools throughout New Orleans. Ms. Tuzzolo is an adult supporter of the FYRE Youth Squad and a founding board member of the New Orleans Parent Organizing Network. She is currently working to reduce the number of women incarcerated in the state of Alabama as a policy analyst for the Justice Policy Institute.

Deborah J. Vagins is the Legislative Counsel on civil rights issues for the American Civil Liberties Union Washington Legislative Office. She leads the office's civil rights
advocacy efforts and develops pro-active strategies on pending federal legislation and executive branch actions concerning racial justice, voting rights, disability rights, employment discrimination, and pay equity issues. Recently, she published Promises to Keep: The Impact of the Voting Rights Act in 2006; The VRA Today: Why Americans Still Need the Voting Rights Act; Working in the Shadows: Ending Employment Discrimination for LGBT Americans, and Cracks in the System: Twenty Years of an Unjust Federal Crack Cocaine Law. Her reports have inspired town hall meetings across the country, and Ms. Vagins’ words and work have been featured by Washington Post, AP, CQ, NPR, Huffington Post and others. Prior to the ACLU, she served as the acting deputy general counsel and senior attorney-advisor to the U.S. Commission on Civil Rights. The general counsel's office provided recommendations to the White House, Congress, and federal agencies to develop or improve national civil rights policies and preserve constitutional protections. Ms. Vagins and the staff conducted investigations and briefings to develop national policies regarding discrimination on the basis of race, gender, national origin, disability, and religion. She also researched and drafted comprehensive analyses on voting rights, Title VI enforcement, environmental justice, racial disparities in education, and affirmative action. Before working at the commission, Ms. Vagins was an associate in the employment discrimination and civil rights practice group at Cohen, Milstein, Hausfeld & Toll, where she litigated high-profile nationwide civil rights class actions. She graduated magna cum laude from the Washington College of Law at American University received her B.A. with distinction from Swarthmore College.

Johanna Wald is Director of Strategic Planning for the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School. She is currently working with Lisa Thurau to document and assess the range of approaches and models being used by school resource officers to police schools. Previously, she worked at The Civil Rights Project at Harvard University, where she served as a writer and editor, senior development officer, and policy analyst. She was responsible for raising funds from foundations and corporations, as well as for conducting research and policy analysis on educational issues related to school discipline, high school dropouts, and the intersection between educational and criminal justice policy. She organized a national research conference entitled “The School to Prison Pipeline,” and served as the lead editor and chapter contributor of a journal entitled Deconstructing the School to Prison Pipeline (Jossey-Bass, 2003). Her most recent chapters on school discipline and the school to prison pipeline were published in Discipline, Achievement, and Race: Is Zero Tolerance the Answer? (2006), edited by Augustina Reyes, and the third edition of Invisible Children in the Society and its Schools, (2006) edited by Sue Books. She is also a freelance writer, whose op eds and articles have appeared in salon.com, Education Week, the Boston Globe, the Boston Law Journal, the Center for American Progress, and The Nation.
Catherine Albisa

- Children’s Rights, Winter 2007, Volume 9, Issue 2
- Save the Date, Dignity in Schools Campaign National Conference, June 5-6, 2009
- Teachers Talk: School Culture, Safety and Human Rights
Stopping the Schoolhouse to Jailhouse Pipeline By Enforcing Federal Special Education Law  By Jim Comstock-Galagan and Rhonda Brownstein

David Smith (not his real name) was a 15 year-old, 7th grader at a Jefferson Parish, Louisiana, junior high school who was headed for juvenile detention and, most likely, a life of prisons and jails. The fact that David had been identified as a child with an educational disability (Emotional Disturbance) and had an Individualized Education Program (IEP) in place did not stop his school from suspending him for 79 days during the abbreviated, post-Katrina 2005-2006 school year. No educational or related services of any kind were provided to David during his removal days, with the exception of home-bound services for two days per week during one 45-day period. Oftentimes, the school would simply call David’s mother or grandmother and demand that he be picked up from school. David had also been arrested at school three times during the school year -- proof that the school-to-prison pipeline in Jefferson Parish was working very efficiently.

Despite David’s IEP and despite the frequent behavioral problems that were clearly related to his disability, the school had not conducted a Functional Behavior Assessment (FBA) nor developed a Behavior Intervention Plan (BIP), as required by federal law, until months after David had been removed from school. Like the vast majority of children with emotional disturbance in the Jefferson Parish School System, the only help David ever received for the behavioral manifestations of his disability was a completely inadequate fifteen minutes of “counseling” once a month with the school guidance counselor.

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Reframing School Discipline through Human Rights Standards by Liz Sullivan

“It’s like the teachers, the guards, they are all just mad at you for being in school. They don’t think we belong. They look for any excuse to kick you out the easiest way possible.” - High School Student, New York City

In many public schools in the U.S., particularly those that serve low-income communities of color, school discipline policies and practices utilize reactionary and punitive responses that push students out of the learning environment and criminalize their behavior. Students receive suspensions and other punishments that remove them from the classroom, many times for minor infractions such as insubordinate behavior or verbal arguments with other students. These practices reflect a broader culture in our schools that fails to value students and holds entrenched and biased assumptions about their ability to learn and

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FROM THE CHAIRS: Pitching Children’s Law Pro Bono Cases To Lawyer Volunteers

Children’s law pro bono programs are continuing to develop all over the country at law schools, free-standing law centers, in existing legal services agencies and in law firms. Even as the practice continues to grow, however, there are many lawyers who, despite their interest, do not take children’s cases. These trepidacious lawyers express the same series of concerns about taking on pro bono children’s law cases. Here we have isolated some of the most common concerns of volunteers and offer reasons why they should not be a barrier to taking a children’s case. When a prospective volunteer raises one of these concerns, here are some ideas about how to reply.

“It sounds too much like social work.”

Answer: Working with children can be a challenge. The matters that bring children into the legal system may be related to needs they have which fall into the area of mental health, social work, psychology, psychiatry, and other disciplines. Despite the need for multidisciplinary efforts to assist many of these children, their need for counsel remains clear. Whether it is juvenile justice, child protection, immigration, child custody, or any other area of law, does not matter. These children need lawyers. They may need a lot of other services which lawyers can secure for their clients, but the most important things an attorney can provide is zealous legal advocacy.

“I have never worked with kids before. I’m used to adult clients.”

Answer: Working with children is different from working with adults. Developing a successful child-client relationship demands that a lawyer is able to build rapport, generate a trusting relationship, and communicate difficult legal concepts to a child. A child’s advocate needs to have these tools in their client communication arsenal along with several others unique to children. Mental, physical and developmental age affects many things significant to a child involved in a legal proceeding: ability to communicate, comprehend their rights, understand the proceedings, be able to make significant decisions, weigh issues relevant to the court’s determinations, etc.

Much due to the initiation of so many new law clinics and lawyers specializing in children’s advocacy around the country, the highest quality training and mentorship of children’s cases is becoming available all around the nation. Training on-line, at national conferences and in local jurisdictions is available to arm volunteer advocates with the tools they need to be the best advocates for children.

“The cases never end. You end up as a kid’s pro bono lawyer for life.”

Answer: This is a fear that paralyzes volunteer attorneys in every area of pro bono practice. Volunteer attorneys are always concerned about limiting the scope of a pro bono assignment. Too many tales have been told by volunteer attorneys who took

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Stopping the Schoolhouse to Jailhouse Pipeline (continued from page 1)

David’s case vividly illustrates why the following statistics exist:

- Seventy percent of children in the juvenile justice system have an educational disability – the vast majority are children with Emotional Disturbance (ED) and children with Specific Learning Disabilities.

- Children with ED fail more courses, earn lower grade point averages, miss more days of school, and are retained more often than other students with disabilities.

- Children with ED have the worst graduation rate of all disabilities; nationally, only 35% graduate from high school (compared to 76% of all students).

- Children with ED are more than three times as likely to be arrested before leaving school as compared to all other students.

- Children with ED have alarmingly high drop-out rates and, for those who drop out of school, 73 percent are arrested within five years of leaving school.

- Children with ED are twice as likely to be living in a correctional facility, halfway house, drug treatment center, or “on the street” after leaving school compared to other students with disabilities.

- Children with ED are almost twice as likely to become teenage mothers as students with other disabilities.

Now, hundreds of special education students in Jefferson Parish, Louisiana, who, like David, were systematically denied the help they are due under federal law are getting desperately needed educational services under a new Corrective Action Plan (CAP). The CAP was developed as part of a Mediated Settlement Agreement with the Louisiana Department of Education.

The Settlement Agreement required the appointment of a Special Master (Dr. Joe Olmi, a professor in the school psychology program at the University of Southern Mississippi) to oversee the provision of special education services to emotionally disturbed students in Jefferson Parish School System. It also mandated several major systemic changes, which are now included in the Corrective Action Plan developed by Dr. Olmi with a district CAP Team including: significantly increasing the frequency and duration of social work, psychological and counseling services provided to emotionally disturbed students; implementing district-wide use of positive

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behavioral interventions and supports; improving their academic progress at all grade levels; eliminating many harsh and illegal disciplinary practices and policies; significantly increasing their access to less restrictive, general education environments; and significantly expanding their access to vocational training.

The Project’s special education legal team is now replicating its successful effort by bringing similar complaints in other large, underperforming school districts across Louisiana. If you are an advocate or attorney interested in finding out more about this exciting new strategy for systemic special education reform, visit our website at:

http://www.splcenter.org/jefferson or contact Courtney Bowie, Southern Poverty Law Center staff attorney, at (601) 948-8882.

Jim Comstock-Galagan is the Executive Director of the Southern Disability Law Center which was founded to protect and advance the legal rights of people with disabilities throughout the South.

Rhonda Brownstein is the Legal Director at the Southern Poverty Law Center which is a nonprofit civil rights organization, based in Montgomery, Alabama, that combats hate, intolerance and discrimination through education and litigation.

FROM THE CHAIRS (continued from page 2)

a case they thought would last a month and ended up representing the client for years. These tall pro bono tales harken from an era when the public interest law community was less sophisticated about how to screen, manage, and select pro bono cases. Public interest law organizations are experts at pro bono administration these days. Well-crafted engagement letters, carefully and skillfully limited scope assignments, and more organized and considered projects make the out-of-control, life-long pro bono cases a rarity. Volunteers can feel comfortable knowing they can limit a representation just as they would with any pro bono matter.

“I hear that courts (and hearings) where children’s cases are heard are unpredictable – almost as if they are not real courts of law.”

Answer: You bet. That’s why we need you. Though great advocates for children continue to strive to secure justice for children, there are still settings where children’s cases are heard that are nothing less than an affront to justice. Children plead to offenses without counsel. Children make significant decisions about where they will be safe without the benefit of advocates or complete information. Overburdened lawyers advocate for clients they have never met. Decisions are made about a child’s life without any advocate assigned to express their wishes. It is these extreme situations, where justice is far from a child’s grasp, which call for outstanding lawyers, both full-time advocates and volunteers.

“Cases don’t seem to have a high impact. You do a lot of work and the outcome seems to be same as it would have been if you weren’t there.”

Answer: Nothing could be further than the truth. Talented lawyers make the difference in children’s lives every day. Because the overburdened court systems appear to run on autopilot sometimes, it seems that individuals who work to present all the important facts in a case may not change the predetermined course of action. However, these overburdened systems sometimes need a new set of eyes through which to view the children who are the subjects of the proceedings. New voices – in the form of volunteer attorneys – can provide those new voices which are so desperately needed.

“No-one has ever asked.”

Answer: So let’s ask. As children’s advocates we know how much help our children need and that the systems in place may not be able to provide the proper outcomes without the efforts of new energy burst into it. Volunteer attorneys won’t carry the whole burden but they can be an important part of the team. Invite them to join the fight for kids.

Angela Vigil is the North American Director of Pro Bono and Public Service for Baker & McKenzie LLP. Her full-time pro bono practice includes representation of children in juvenile justice, appeals, family law, education law and various civil matters. Ann Barker is Project Director for Youth OPEN, a project that seeks to ensure permanency for east Tennessee teenagers who are leaving foster care.
Advocacy at School Expulsion Hearings by Susel Orellana

According to statistics gathered by the UCLA/IDEA Institute for Democracy, Education, and Access, 89,000 students were expelled in the 2002-2003 school year (Suspension and Expulsion At-A-Glance, available at http://www.idea.gseis.ucla.edu). Students of color have higher suspension and expulsion rates compared to their enrollment rates than white students. Also, they are more likely to be suspended for non-violent offenses such as being defiant or disrespectful. (Id.).

Because expelled students are usually barred from attending any school in a given school district and instead enrolled mid-semester in day school programs, expulsion becomes disruptive to a student’s learning. Being expelled can also lead the student to delinquent behavior, substance abuse, and/or to dropping out of school altogether (Id.).

Despite the severity of the consequences of being expelled and the importance of advocacy in expulsion hearings, very few attorneys practice in this area. However, this is changing and several pro bono programs across the country are focusing on expulsion work. Still, we as a profession need to be doing more. Too many children are being expelled, many not knowing their due process rights. In some districts the involvement of an attorney alone can prevent an expulsion from occurring. This article provides some basic information about how to handle an expulsion case in the hopes that more attorneys will focus in this area.

Right to Due Process

Because of the severity of the consequences of removing a student from school, a school district cannot expel a student without providing him or her with due process. Although there is no constitutional right to an education, most states guarantee students the right to a free public education and have compulsory education laws. By suspending or expelling students, school districts deprive students of this state right. For this reason, the U.S. Supreme Court has found that the 14th Amendment’s prohibition on a state’s depriving a person of life, liberty, or property without due process of law, applies to education as well. As the Supreme Court stated in Goss v. Lopez, 419 U.S. 565, 574 (1975),

Those young people do not "shed their constitutional rights" at the schoolhouse door. Tinker v. Des Moines School Dist., 393 U.S. 503, 506 (1969). "The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures -- Boards of Education not excepted," West Virginia Board of Education v. Barnette, 319 U.S. 624, 637 (1943). The authority possessed by the State to prescribe and enforce standards of conduct in its schools although concededly very broad, must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.

Goss went on to hold that the due process required included that the "student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have, and an opportunity to present his side of the story." Id. at 581. The Supreme Court further held that notice of the charges should precede removal unless the student posed “a continuing danger to persons or property or an ongoing threat of disrupting the academic process” in which case the student could be removed first and a hearing conducted soon thereafter. Id. at 582.

Attorneys seeking to represent students who are recommended for expulsion should first become familiar with their state’s education code and the procedures it outlines for handling suspensions, expulsions, and school removals. Although the Supreme Court set a floor of due process rights, individual states create their own rules and procedures on what will constitute expelable offenses as well as for filing for due process. Similarly, each individual school district and even school site will sometimes have their own policy describing the process of expulsions and suspensions. Advocates handling expulsions should be aware of all of these procedures.

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Advocacy at School Expulsion Hearings (continued from page 5)

Expellable Offenses

The types of offenses that lead to student expulsion vary greatly from state to state and can be very broad. In California, offenses include everything from possession of a firearm to disruption of school activities to defiance of school staff. See California Education Code Section 48900. Offenses are further subdivided into mandatory expulsion (i.e. zero tolerance), limited discretion, and full discretion. Id. at Section 48915. In Texas, expulsion is mandatory if the student commits an expellable offense such as possession of a firearm, murder, or aggravated sexual assault. See Texas Education Code Section 37.007. In Illinois, students can be expelled for “gross disobedience or misconduct.” See 105 ILCS 5/10-22.6. However, in most states expellable offenses must be related to school programs or services in some way; usually happening on school grounds, at school activities, or coming or going from either of these.

Levels of Discretion

The level of discretion afforded schools and school districts vary. School districts practicing zero tolerance mandate that a student found to have engaged in certain conduct be automatically expelled, leaving no discretion to consider the particular circumstances of the offense or of the student. Usually this includes bringing a firearm to school, brandishing a knife, or causing serious injury to another person. Other school districts will give school administrators varying degrees of discretion, usually depending on the particular circumstances of the offense or the student’s prior disciplinary record.

Advocacy in the Expulsion Process

1) Research and Records

Attorneys representing students recommended for expulsion should research what level of discretion their client’s offense falls under so that they can plan an adequate defense. Defending a “no discretion” offense will be based on whether the student actually committed a zero tolerance offense. Defending a discretionary offense can be based on the facts of the specific incident, as well as the student as a whole, including his character, his academic history, and his disciplinary track record.

It is also important to request all of the student’s educational records the moment the attorney is retained. This includes a request for all witness statements and reports related to the incident in question as well as the student’s prior disciplinary record and general academic records. Viewing the incident reports will aid in preparing a defense. If there is physical evidence involved, make it a point to view that evidence, even if the school is not intending to use it at the expulsion hearing, arguing that it is necessary to effectively defend your client. A case in point, I had a student accused of bringing a pellet gun to school. The school intended to use as evidence a black and white picture taken of the pellet gun that made it look much larger than it was and which also hid the fact that the pellet gun had a clear plastic body that easily identified it as a toy.

In some districts the involvement of an attorney alone can prevent an expulsion from occurring.

Reviewing the student’s general education record is important to get a full picture of the client and understand surrounding circumstances. Important questions to ask during this review are: Does the client have a prior disciplinary record? Has he been expelled before? What interventions did the school utilize before, if any? Did the client have problems with the same person before? What kind of academic record does the student have? Does the client have special needs and/or qualify for special education or accommodations under Section 504 of the Rehabilitation Act of 1973 (see section on special education below)? Is the client on medication? Answers to these questions are important in mounting an effective defense.

Attorneys should then interview their client and any potential factual and character witnesses for the student. Schools are resistant to allowing attorneys access to other students involved in an incident due to concerns for that minor student’s privacy and confidentiality. However, some expulsion procedures allow attorneys to request that the school subpoena witnesses for them.

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Advocacy at School Expulsion Hearings (continued from page 6)

2) Negotiation

Representing a student facing expulsion does not begin at the expulsion hearing. It begins the moment the attorney or advocate is contacted for help. Often, I have been able to negotiate a lesser disciplinary sanction for a client or get the school or school district to stop the expulsion process altogether by contacting the appropriate person in charge of discipline for the school district, such as the director of pupil services. Through discussion of the strength of your client’s case, the known facts of the incident (client only tangentially involved or can’t be placed at the scene), or other surrounding circumstances (client never disciplined before, has great scholastic record, or previously undiagnosed disability), expulsion may be avoided. The latter arguments are less useful if it’s a zero tolerance offense, but still should be attempted.

3) Expulsion Hearings – The Wild West

When it comes to the actual expulsion hearing, attorneys should be prepared for almost anything. These hearings operate informally, often without an attorney representing the school. Instead, a school administrator such as a principal or dean usually represents the school. The decision maker might be the principal, the local school board or a panel made up of school administrators. The decision maker will not always allow an attorney to give an opening statement or to conduct the direct/cross examination of witnesses. Instead, the panel hearing the case or the person putting on the case for the school may ask direct questions to the student or parents regardless of whether or not the attorney has called them as witnesses. Sometimes, schools do not call witnesses, but simply read witness statements into the record so that there is no one to cross examine. Objections are not ruled on but can be put on the record. In short, an attorney appearing at an expulsion hearing should be prepared to speak up and be flexible enough in his preparation of the case to handle the informal nature of the hearing. Researching how that particular school district runs expulsion hearings is vital to adequate preparation.

With that said, an attorney should prepare to put on an affirmative defense using all of the techniques listed earlier. Also, calling character witnesses such as the student’s teachers, church leaders, or community group leaders can prove beneficial.

4) Appeal

If you lose at the school district expulsion hearing, many states have procedures for appealing the case with the County School Board. Attorneys should research their state’s appellate procedures. For example, in California, the scope of review is limited to cases where 1) the governing board exceeded its jurisdiction 2) did not provide a fair hearing 3) there was a prejudicial abuse of discretion and 4) evidence was improperly excluded or new evidence has surfaced. See Cal. Ed. Code Section 48922.

5) Special Education, Section 504, and Students Not Yet Eligible for These Services

If your client already qualifies for special education or services under Section 504, be aware that a different set of rules applies to them. The Individuals with Disabilities Education Improvement Act (IDEA or IDEIA) states that special education students must first be afforded a manifestation determination Individualized Education Program (IEP) meeting, where team members must decide if 1) the conduct in question was caused by or had a direct and substantial relationship to the student’s disability or 2) the conduct was a direct result of the local educational agency’s failure to implement the student’s IEP. See 20 U.S.C. § 1415(k)(1)(E)(i)(I&II). If the answer to either of these questions is in the affirmative, the student cannot be expelled. If the answer to both questions is negative, the school can move forward with the expulsion process as it would with a regular student. If the parent disagrees with the findings of the manifestation determination IEP they have a right to litigate the issue at a due process hearing. See 20 U.S.C. § 1415(k)(3)(A). Be aware that if the student is accused of committing a zero tolerance offense as specified in 20 U.S.C. § 1415(k)(1)(G), he can be moved to an interim placement for 45 days regardless of whether the act is a manifestation of his disability.

The Office of Civil Rights has stated that students eligible for services under Section 504 of the Rehabilitation Act of 1973 generally have the same protections as students classified as disabled under the

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Advocacy at School Expulsion Hearings (continued from page 7)

IDEA. See 202 IDELR395 (OSEP 1987); 307 IDELR 05 (OCR1988); 22 IDELR531 (OSEP 1995).

According to the IDEA, special education protections apply to students who were in the process of being assessed for special education or of whom the school district should have known qualified for these services at the time of the incident. When reviewing school records keep an eye out for low grades or other indicators of eligibility for special education in order to identify clients who are in fact entitled to special education and, by extension, its different set of discipline procedures. With this knowledge, you should be able to halt the expulsion process until these students are assessed for special education and a manifestation determination IEP is held. See 20 U.S.C. § 1415(k)(5)(A) for more information.

6) Final Tips

Be aware that your client may have a criminal matter pending in the juvenile delinquency system as a result of the same incident for which he is being recommended for expulsion. If you are not representing him in the criminal matter, you should keep abreast of the criminal case and be in close communication with the criminal defense attorney. If criminal charges are dropped, you should bring this up at the hearing or in negotiation.

Be on the look out for procedural violations such as timeline violations according to your state’s laws. Not only are these negotiating chips, they can sometimes bar moving forward with an expulsion altogether.

In my experience, clients in the foster care or dependency system are much more likely to be targeted for expulsion as well as to have gone unnoticed as requiring special education services. Pay particular attention to their prior school records and request any relevant records such as medical reports, or neuropsychological evaluations from their social worker or dependency attorney.

If you are interested in doing expulsion work and would like more information, or if you are interested in starting a pro bono program focused on expulsions please contact the committee director of the Children’s Rights Litigation Committee at 202 547 3060.

Susel Orellana is a staff attorney in the Children’s Rights Project of Public Counsel Law Center in Los Angeles, CA advocating for the educational rights of low-income and foster youth. Her work is primarily in the areas of school discipline and special education. She can be reached at sorellana@publiccounsel.org

The ABA Directory of Children’s Law Programs

has recently been updated

Visit our website to view the Directory which contains

- children’s law programs
- legal clinics and
- resources centers from around the country.

http://www.abanet.org/litigation/committees/childrights/
Imagine you have just become homeless. You struggle to find shelter and ultimately find refuge in a homeless shelter far from your last place of permanent residence. You would like your children to continue to attend their public schools—the less disruption in their lives the better—but because you no longer reside in the school district, your children are not permitted by school district officials to attend school.

“We are sorry,” they say, “but this school is open only to residents of our school district. You don’t live here any more. Good bye.”

Your protestations fall on deaf ears. Reluctantly, you go to the new school district where the shelter is located and try to enroll your children in the schools there. Better that they attend some school, you reason, than no school at all. But the new school district won’t enroll your children without proof of residency—something you don’t have. You don’t have a lease, a utility bill or any other piece of paper showing your permanent address because, quite simply, you have no permanent address. The school district also demands that you provide proof of immunization. You explain that you are homeless and have lost your records. You ask whether the school district can obtain the records from the last school district your child attended. The school district smugly explains that they are not in the business of tracking down students’ documentation.

After much back and forth, you are told you can appeal the school district’s decision directly to the State’s Department of Education. You ask for the relevant form and are handed a lengthy, single-spaced document, requiring detailed, typewritten, notarized affidavits, along with a filing fee, all hand served on the relevant parties. The instructions as to how to fill out the form, you are told, are available on the Internet. You reflect that you have little more than the clothes on your back, much less a computer, access to notaries and process servers, or the other wherewithal necessary under the arcane appeals system to assert your rights.

Because your children’s education is important to you, you persist. You finally find a way around this Catch-22 and manage to persuade a sympathetic administrator to enroll your children. Unfortunately, your troubles have only begun. You ask the district to send a school bus to pick up your children. They tell you that it is the problem of the Department of Social Services. Social Services agrees to send a bus, but days pass into weeks before a bus arrives.

Finally, the bus comes, and your children are off to school. Your patience has paid off! That evening, however, you receive a notice that the Social Services Department is moving your family to a different shelter, in a different school district. A few days pass before the bus starts coming to the new shelter to take your children to school. Your children are becoming upset that they have spent so little time in recent weeks with their schoolfriends. Your oldest, a senior in high school, wonders if she will be able to graduate on time, and with her friends.

With transportation re-established, you feel relief. But then the school district informs you that your children can no longer enroll in that district because—you suspected this was coming—they no longer live within the school district. You have now spent weeks seeking to enroll your children and get them transportation to school, and you are back at square one. The chances are great that your child will suffer academically and perhaps be left back a grade.

If, at this point, you have the presence of mind and patience to pursue the matter further, the cycle will simply repeat itself. No sooner will you work out the bureaucratic obstacles with the school district, then the Department of Social Services will move you to a new shelter, requiring a new round of frustration and pleading simply to secure the basic right for your children to attend the public schools. All the while, your children are falling further behind, risking failure, grade retention and dropping out. What should be your children’s best

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source of stability and best avenue to break the cycle of poverty—the public schools—are simply unavailable.

Sadly, the scenario presented above is not a hypothetical—it was a reality faced by many homeless families throughout the country. It was the subject of a year of litigation against State, County and local authorities in the matter of National Law Center on Homelessness and Poverty, et al. v. State of New York, et al. brought in the United States District Court for the Eastern District of New York. That lawsuit exemplifies both the problems facing homeless families, as well as the ways in which private law firms and nonprofit organizations can play a role in assisting homeless families and in breaking the bureaucratic cycles that help to perpetuate homelessness.

The Origins of a Lawsuit

The history of this case is an odd mix of serendipity and fate. Our law firm’s growing New York office was looking for a significant pro bono matter that would enliven and engage our personnel, but also which could help to integrate the New York office with the firm’s other offices. In December 2003, that opportunity presented itself. Chance brought them in contact with the pro bono administrator of our firm, who directed their call to me, because she knew I had been a teacher before becoming a lawyer. As a result, I received a call from the National Law Center on Homelessness and Poverty. They had been tracking a large number of complaints in New York—particularly Suffolk County on Long Island—but they were having difficulty finding a firm with the resources and desire to take on this fight.

My first reaction was surprise that no other firm in New York—perhaps the most crowded legal market in the country—had expressed interest in taking on such a worthy and noble cause. Delving further into the matter, I began to sense why: fighting such a case could potentially involve a massive commitment by a firm at a time when many firms, ours included, were quite busy with existing client obligations. After discussions with our firm management, we decided to commit to this important cause, and we immediately began to investigate the claims, interview affected homeless families, and prepare our complaint.

The Nuts and Bolts of Taking on the Government

We concluded early on that the matter would be brought in federal court. First, a federal statute—the McKinney-Vento Act (See 42 U.S.C. § 11431 et al.) mandated (although the precedents were few) that States and school districts remove the bureaucratic obstacles of the sort that were preventing many children in Suffolk County from attending the public schools. We were also concerned that State court judges—subject to election pressures—might be less inclined to vindicate the rights of the disenfranchised.

We also concluded that a class action was the appropriate: because the population of homeless families is constantly changing and moving, seeking relief on behalf of a handful of specific homeless families might result in wasted efforts, if the plaintiffs found permanent housing or obtained access once again to the public schools. We realized that the issues in this case were widespread and repetitive, and thus the broader relief available through a class action seemed most desirable.

Finding class representatives was no easy task. Because our complaint alleged a wide array of unlawful activities that were preventing homeless children from attending public school, we needed a comparably diverse array of representative plaintiffs. We had an institutional plaintiff—the National Law Center on Homelessness and Poverty—but we needed individual families whose stories were compelling and cried out for relief. We relied heavily on our friends in the local legal aid agencies and advocacy groups to direct to us potential plaintiffs who had been denied access to the public schools. Having been frustrated by many years of bureaucratic indifference at all levels, the legal aid attorneys and local homeless advocates were more than happy to help and proved to be a vital resource at all stages of the litigation.

We ultimately settled on approximately ten homeless families as our class representatives. While this was perhaps more than we needed, we faced a potentially long-lasting litigation, and we had to be realistic about the prospects of our plaintiffs’ problems becoming resolved by the march of time, as well as the possibility that we might lose track of some of the homeless.
families over time. To ensure that we would have their stories preserved, even if they moved away, became permanently housed, or disappeared, we obtained detailed affidavits from each of the homeless families at the outset of the case. These proved indispensable later on, when we faced waves of motions from determined opponents.

Armed with our complaint and detailed affidavits from each plaintiff, we filed our lawsuit along with a motion for a preliminary injunction seeking immediate relief on behalf of S.P. (we fought hard throughout the case to protect the privacy of our plaintiffs), a fifteen year old with learning disabilities who had missed the better part of the school year due to bureaucratic inertia and resistance. When her family was evicted in December 2003, her mother pleaded with everyone who would listen to get her back into school. No one would help, and every government agency she spoke to insisted it was someone else’s problem, resulting in months of school absences. So compelling was S.P. and her story that the Defendants agreed, the very day we filed the lawsuit and motion, to arrange immediate transportation for her to avoid an injunction, and agreed to expedited procedures for enrolling and transporting homeless children during the pendency of the lawsuit.

We had half-hoped for a speedy resolution to the case, prompted in part by signals from the Judge that he was surprised that the State, County and local governments were not eager to ensure that homeless children were getting a public education. Nonetheless, initial efforts to settle the case were unsuccessful. Although we sought no monetary damages in the lawsuit—and, in fact, we informed the Defendants that if a settlement could be reached expeditiously, we would waive any claim to the attorneys’ fees to which the relevant statutes would entitle us—the Defendants were determined in their opposition. Not only did they insist that they were under no legal obligation to remove the obstacles that kept the public schools closed to homeless children, but they insisted that the homeless families themselves were solely to blame for their predicament.

### Waging War on All Fronts

We now hunkered down to contend with determined opposition by the State, County and local governments. Our Judge, sympathetic to the plight of homeless children, ordered that the case proceed at a blistering pace to avoid any more unnecessary absences. Within days of the Court’s establishment of a demanding schedule for the lawsuit, we served hundreds of discovery demands on our opponents. Over the course of a single summer, we took and defended some forty depositions in Albany, New York City and Suffolk County, and reviewed thousands of documents from some twenty different defendants. With help from our client, the National Law Center on Homelessness and Poverty, we retained some of the best experts in the country to testify on our behalf.

While discovery was raging throughout New York State, we faced extensive motion practice from the Defendants. They moved to dismiss the Complaint, denying their legal obligations to the homeless children. Given the lack of precedents on this issue, and the possibility that the matter would have nationwide ramifications for the rights of homeless children, we spared no effort in defeating this motion. The defendants also sought to oppose class certification, arguing that each homeless family’s situation is unique and not capable of aggregate adjudication, a position that we vigorously contested.

To fight this war, we put together a small army of dedicated attorneys from both our New York and Boston offices. Our “core” trial teams consisted of approximately a dozen attorneys. Over the course of the year or more than this litigation was prosecuted, some forty-two professionals from our firm worked on the case. This group worked furiously—often late into the night, and on virtually every weekend of an otherwise beautiful summer. Several of the attorneys opposing us literally quit their jobs. We soldiered on.

This dedication quickly yielded results. The depositions inexorably produced testimony much better than we had originally hoped. The problems ran deeper and
broader than we had imagined, and we were able to document years of neglect and malfeasance in various levels of the government that had directly resulted in the denial of public schooling for homeless children. The defendants’ own witnesses were forced to admit to serious, systemic problems in the education of homeless children in New York State and Suffolk County. Witness by witness, we were able to demonstrate a pattern of neglect that had resulted in widespread, and wholly unnecessary, school absences by homeless children.

Meanwhile, our plaintiffs did beautifully in their depositions. One plaintiff described in painful detail how hard her daughter cried out of frustration from missing school. Another described the cold indifference of governmental officials after she had fled domestic violence and sought to keep her child in the stable environment of a school. The defendants’ efforts to portray the plaintiffs as troublemakers responsible for their own problems completely backfired; the poignant stories of the homeless families were unassailable.

The Defendants Throw in the Towel

The Judge ruled against the defendants’ motions against our complaint and ordered a prompt trial. (See National Law Center on Homelessness and Poverty, et al., v. State of New York, et al., 224 F.R.D. 314 (E.D.N.Y. 2004)). This was a matter of major significance to our client, the National Law Center on Homelessness and Poverty, because it affirmed the right of homeless families to seek relief in federal court for the denial of access to a basic public school education.

We then prepared the case for trial. We prepped some thirty witnesses to testify and prepared cross examinations for the witnesses of our opponents. We drafted trial briefs, prepared exhibits, crafted demonstrative exhibits and slide shows and prepared motions in limine and other evidentiary briefs. The hardest challenge was finding the right balance between the compelling details faced by individual homeless families and the “big picture” issues concerning systemic neglect.

The day before trial, the Court scheduled a final pre-trial conference. We indicated our readiness for trial and presented to the Court a lengthy list of exhibits and witnesses. Outside the Judge’s chambers, in the courtroom, our litigation technology staff were busily setting up computers and audio-visual equipment for the finely-honed multimedia presentations we had planned.

Our opponents, at this point, faced a difficult decision. With little or no evidence on their side, and with a prepared and well-armed opposition, the defendants faced the prospect of a public airing of serious problems in the education of homeless children. They also faced the possibility that a federal court would order sweeping changes in how they do business, or even appoint a special master to supervise the day-to-day affairs of the bureaucrats. Late that evening, the defendants capitulated, and agreed to substantial changes in the education of homeless children. Although we were eager to try the case, with the defendants offering us virtually everything we had sought in the lawsuit, we concluded the interests of the class were best served by accepting the eleventh-hour settlement. We entered into a consent order memorializing the rights of homeless children to unfettered access to the public schools.

Lessons Learned

Our experience in this lawsuit provides important lessons about the role of private law firms in advocating for people experiencing homelessness. First, on its most basic level, the case evidences the serious need for private law firms to contribute their resources and expertise to such causes. Large firms are well suited to fight protracted, hard-fought litigations of the sort that legal aid attorneys or nonprofit organizations might not be. Faced with the tight schedule in our case, we were able to put literally dozens of lawyers on the matter—a luxury available to few entities other than large law firms.

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succeed. This culture translates into discipline policies that focus on control and the removal of “problem students,” rather than discipline that aims to teach positive behavioral skills and keep children in school.

International human rights standards provide a framework that can shift the way that discipline is viewed and practiced in schools. The Convention on the Rights of the Child and other international human rights instruments recognize that discipline is part of the educational process and should be aimed at developing the social and behavioral skills of students. In all disciplinary processes, the fundamental dignity of the child must be protected. By asking local school districts, and city and state governments to adopt human rights-based policies, we can reframe discipline around the needs of children.

International Human Rights Standards for Education and Discipline

The Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are the two primary human rights treaties that recognize the right to education. Both treaties state that education must be aimed at “the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms” (ICESCR, Article 13). To promote the full development of the child, education must teach not only literacy and numeracy, but also be aimed at:

“ensuring that essential life skills are learnt by every child…such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility.” - UN Committee on the Rights of the Child, General Comment 1

School discipline policies are an essential part of teaching students those life skills and promoting fundamental human rights principles of tolerance, dignity and non-violence in school. Therefore, any policies or practices that undermine the full development or threaten the dignity of the child, are at odds with human rights. Article 28 of the CRC states that:

“States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.”

This has been interpreted to prohibit corporal punishment in school, but also to prohibit “other aspects of school discipline [that] may also be inconsistent with human dignity, such as public humiliation.” All methods and processes of education, including discipline, must be free from discrimination, promote self expression and confidence among students, and create a safe and supportive school environment.

Human Rights as a Strategy for Change in U.S. Schools

International human rights provide both a legal and a policy framework for education in the U.S. Although the U.S. has not ratified the CRC or the ICESCR, courts in the U.S. have relied on un-ratified treaties as persuasive and a source of guidance in state and federal constitutional and legislative interpretation in areas outside of education. The CRC in particular is so widely ratified (only the U.S. and Somalia have failed to ratify this treaty) that U.S. courts have consistently acknowledged it as a source of customary international law and cited it as a basis for decisions on children’s rights.

But human rights may be of even greater use in the policy arena as it provides a powerful framework for making policy change at the local, state and national levels. Advocates and community organizations in the U.S. can use human rights as a framework for documenting and analyzing conditions in schools, shaping policy recommendations that are grounded in internationally recognized standards, and mobilizing communities to demand their rights. This process of building accountability to human rights from the ground up can contribute to building a culture of human rights in government policy and practice, as well as in the courts.

For example, in Los Angeles, Community Asset Development Redefining Education (CADRE), a grassroots parent organizing group, is using human rights in their campaign to end destructive discipline practices. CADRE is advocating for policies to ensure that students rights to education and dignity are protected, and

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that parents have the right to participate in creating and monitoring discipline policies. In particular, CADRE is advocating for the adoption of a proposed Los Angeles Unified School District (LAUSD) policy that takes a proactive approach to discipline emphasizing supportive and collaborative interventions to promote positive student behavior. CADRE has found that the human rights framework has empowered parents in South LA and brought public attention to the debate around school discipline.

A Look at School Discipline and Culture in New York and Los Angeles

The National Economic and Social Rights Initiative (NESRI) has been engaged in a project to document human rights violations in New York City and Los Angeles public schools. Interviews and focus groups were conducted with over eighty students, parents, educators and advocates in 2005. The goal of this documentation project is to expose the ways in which school discipline policies fail to protect the dignity and promote the full development of the child, and to advocate for school policies that view discipline as part of guaranteeing the right to education.

Discipline Policies that Push Students Out of Schools

In New York City and Los Angeles, interviews with students and parents revealed that discipline policies rely on suspensions and other removals that push students out of school rather than address their needs. For example, in New York City, students described that suspensions of two weeks or more are given for talking back to teachers, shouting, being involved in arguments or minor fights. As a result, students described missing homework and tests that they were not allowed to make up, falling behind in classes, and never receiving alternative educational services. This repeated and systemic denial of educational services reflects a failure to guarantee access to education under the human rights framework as recognized in Article 13 of the ICESCR and Article 28 of the CRC.

Students and parents also described that suspensions and other exclusionary punishments are handed out without any accompanying services or counseling to address the problems they are having, to teach conflict management or promote positive behavioral skills. In our interviews, students reported that in many schools guidance counselors are unavailable and overwhelmed and have no time to help students with disciplinary matters. Conflict resolution programs are non-existent or poorly managed. This reflects a clear failure by schools to implement discipline as part of an educational process that is aimed at the full development of the child as recognized in Article 29 of the CRC.

“The involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.” - UN Committee on the Rights of the Child, General Comment 1

Furthermore, these punishments are handed out unequally, disproportionately targeting students of color, and excessively punishing students simply because they have a bad reputation or have been labeled as “difficult,” often without regard to the fact that these students are the ones that need the most support, not exclusion. Students also described that repeated suspensions make students feel disengaged from their classes and from school in general, and that they perceive that schools would rather “get rid of them” then help them to learn. The discriminatory use of policies which send students the message that they are not valued by their school community reflect a failure to ensure non-discrimination and protect the dignity of the child.

Freedom from discrimination in education is protected in both the CRC and the ICESCR. It is also protected in the International Covenant on Civil and Political Rights and the International Covenant on the Elimination of All Forms of Racial Discrimination, which have both been ratified by the U.S. government.

“Discrimination on the basis of any of the grounds listed in article 2 of the Convention [on the Rights of the Child], whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities.” - UN Committee on the Rights of the Child, General Comment 1
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The Criminalization of School Discipline

Our interviews in New York City and Los Angeles also document the increasing criminalization of discipline policies. Schools use police officers, safety agents, metal detectors and other aggressive safety policies not only to address real criminal activity in school, but to manage day-to-day disciplinary problems. Students that we interviewed described that police and safety agents are regularly involved in school discipline code violations like being late to school, shouting in hallways, disrupting classrooms and fighting. Police tactics are used, including issuing tickets, handcuffing and interrogating students, and in some cases arresting them, for what should be school disciplinary matters. Students also encountered the excessive use of force from police officers when breaking up fights or attempting to disburse crowds of students in school hallways.

Human rights standards in the CRC and in UN Guidelines for the Prevention of Juvenile Delinquency require that schools avoid criminalizing the behavior of children and adolescents. Human rights standards prohibit schools and other institutions from punishing youth as criminals for offenses that in any other context would be considered non-criminal, even typical adolescent behavior. Article 37 of the CRC states that the arrest or detention of a child should be used only as a last resort and for the shortest possible period of time.

“Sometimes they arrest students in the classroom. I got in trouble one time for trying to talk to a police officer. I wanted him to tell me why he was handcuffing the student and didn’t want to wait until they had taken the student away.” - High School Teacher, Los Angeles

Degrading School Culture and Lack of Resources

These destructive and abusive practices are not isolated to discipline or safety policies in schools, but reflect conditions that students face throughout the school environment, including in the classroom. In Los Angeles and New York City, over half of the students we interviewed said that their teachers sometimes or often say things that Humiliate or insult them, and almost everyone had at least one teacher who told them they were “stupid” or “ignorant.”

Our interviews with students and teachers revealed that this degrading treatment is fueled by overcrowding and lack of resources in schools. Many teachers in these schools do not receive adequate training in classroom management or support from administrators when they face problems in their classrooms.

“| I am struggling for respect in the classroom, from the administration. The problem goes beyond the way particular teachers behave, there isn’t a support mechanism for students and their teachers. There is no collaboration among teachers and administrators and counselors about how to reach out to students and help.” |
| - High School Teacher, New York City |

The lack of resources in schools can also contribute to discipline problems. Over three quarters of the students we interviewed in Los Angeles said that students sometimes or often misbehave because there are too many students in the classroom. A study of New York City schools by the National Center for Schools and Communities found that schools with more qualified teachers, better libraries and other resources have lower suspension rates, higher student attendance rates and lower dropout rates.6

The UN Committee on the Rights of the Child has recognized that the dignity of the child must be protected in “the educational processes, the pedagogical methods and the environment within which education takes place.” The lack of resources for teachers and overcrowded classrooms contribute to a destructive climate in schools that violates students’ right to dignity and to education.

Promoting a Human Rights Approach

The findings from the interviews in New York City and Los Angeles demonstrate that abusive and ineffective (continued on page 16)
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discipline policies contribute to a loss of learning and a negative school environment that degrades and criminalizes youth. In order to effectively create a positive and safe environment, schools must begin by improving education and treatment in the classroom and promoting preventive approaches to addressing student misbehavior that involve the whole school community.

Recommendations generated by this documentation project include calling on schools to implement whole school approaches to creating a welcoming school environment. District-wide discipline plans should include plans for reducing overcrowding, providing better counseling and mentoring for students, and targeting staff development for teachers and principals to address the underlying causes of safety and discipline problems.

Clear guidelines for the behavior of staff should be developed based on human rights standards for non-discrimination and dignity, with consequences for inappropriate actions. Students should have access to advocates within schools as a resource to go to when they feel mistreated. Furthermore, armed police officers should be removed from any involvement with day to day discipline and special guidelines and training should be provided for school safety agents in how to interact with students.

Schools should focus on preventive strategies, positive behavior support methods, counseling and mediation as necessary first steps in the discipline process, avoiding suspension and other forms of removal whenever possible. Finally, students and parents have a fundamental right to participate in decision-making that impacts school discipline. Young people in particular should be involved in shaping disciplinary policies and proceedings.

Conclusion

Human rights provide a framework for focusing school discipline, as well as the broader culture of our schools, on the rights and needs of children. We hope that human rights can be used to expose the destructive impact of current practices on students and change the dialogue about discipline at the local and national level. While there remain barriers to enforcing legal accountability to human rights law in U.S. courts, we believe that human rights standards can be adopted and implemented by school districts to ensure that every child receives a quality education in a supportive school environment.

Liz Sullivan is the Right to Education Program Director at the National Economic and Social Rights Initiative (NESRI). The Education Program works with community organizers and advocates to promote accountability to international human rights standards for education at the local level in the U.S. Visit www.nesri.org.

Endnotes

1 General Comment 1, UN Committee on the Rights of the Child, CRC/GC/2001/1. The UN Committee on the Rights of the Child, a treaty-body created to monitor government compliance with the CRC, issues general comments to provide guidance on treaty implementation. General Comment 1 addresses implementation of Article 29 of the CRC.
2 General Comment 13, UN Committee on Economic, Social and Cultural Rights, E/C.12/1999/10. General Comment 13 addresses implementation of Article 13 of the ICESCR.
3 Although the U.S. has not ratified the CRC and ICESCR, the U.S. President has signed these treaties obligating the U.S. to refrain from violating the “object and purpose” of the treaties (see Vienna Convention on the Law of Treaties, Article 18, entered into force January 27, 1980).
5 For more information see the amicus brief submitted by the Center for Economic and Social Rights in Sojourner A vs. the New Jersey Department of Human Services available at www.cesr.org.
How Law Firms Can Help Fight Homelessness (continued from page 12)

firms. We routinely work on large cases, under difficult conditions and thus the challenges presented by this case were merely our “bread and butter.” Our scale, access to resources and experience with complex litigation helped enormously. If large law firms are not willing to devote their efforts to such causes, it is entirely possible that serious injustices will go unremedied.

Second, the case shows the value of partnerships between the private sector and nonprofit organizations. Without the National Law Center on Homeless and Poverty, we would not have known of this case, and would not have had the access to the expertise and national networks that were essential in litigating it. Conversely, the National Law Center did not have the staffing to litigate this matter and needed our help to act as lead litigation counsel. It was the mutual cooperation of for profit and nonprofit entities that brought about the result in this case. And it is our hope that the mutually beneficial relationship we have developed with the National Law Center on this matter will continue and extend to future matters of import to people experiencing homelessness.

Third, our firm received tremendous benefits from prosecuting this matter. Many of our younger attorneys received invaluable training experiences, including deposition work, expert discovery, motion practice and court time. In addition, our senior attorneys felt great pride in fighting for such a just cause. The case also allowed our firm to integrate members of different offices in a single project, promoting unity and cooperation within the firm. The public recognition involved in this case was also a significant boon, particularly at a time when the “A lists” run by the major law journals are putting increasing attention on pro bono work. Despite the substantial devotion of firm resources that this case entailed, we learned that there are significant benefits that more than outweigh the costs of such important work.

Finally, the case affirms the enormous need for legal services for the homeless. That hundreds, even thousands, of homeless children could be repeatedly missing school due to bureaucratic ineptitude is a matter so serious that no responsible person should permit it to continue. That the very same government officials responsible for educating homeless children would defend this situation is appalling, and speaks volumes to the disconnect between the needs and rights of the homeless and the legal obligations of certain government agencies. Nonprofit groups and private law firms must continue to bridge this gap and correct such injustices.

This article is a chapter in the book Lawyers Working to End Homelessness. For more information about the book or to order a copy visit the ABA web store at http://www.abanet.org/abastore/index.cfmsection=main&fm=Product.AddToCart&pid=4180012

For more information about the ABA Commission on Homelessness and Poverty visit their website at www.abanet.org/homeless/

Jeffrey Simes is a partner at Goodwin Proctor where is has significant experience with complex business litigation.
Announcements

♦ The Children’s Rights Litigation Committee is planning another complimentary national teleconference, this one focused on the representation of unaccompanied immigrant minor children. The call has not yet been scheduled as of the printing of this newsletter but the date and time will likely be on our website by the time our readers receive this newsletter. Please visit our website at http://www.abanet.org/litigation/committees/childrights/ for more information.


♦ According to national data, of the approximately 500,000 children in foster care, close to 50 percent are age 11 or older. This vulnerable population is a heightened risk for unemployment, homelessness and reliance on public assistance -- challenges that might be mitigated by access to higher education and training. With the goal of helping foster youth secure more promising futures, Casey Family Programs has published "It's My Life: Postsecondary Education and Training." The comprehensive guide serves as a framework of strategies and resources both for youth and for child welfare professionals. Please visit www.casey.org to download the guide.


♦ A video entitled “What Happens When I Go to Immigration Court,” has been produced by the Women’s Commission for Refugee Women and Children to explain the legal system to the approximately 8,000 children who each year arrive in the United States alone. For more information see: www.womenscommission.org.

♦ The ABA Child Custody and Adoption Project has updated its on-line resource library so that the training manuals, substantive articles, informational brochures, and other education materials in the library can be accessed directly from the website which can be found at: http://www.abanet.org/legalservices/probono/childcustody.html

♦ A national survey of lawyers representing children in abuse and neglect cases has found that unmanageable and at times overwhelming caseloads are preventing attorneys from doing the work necessary to protect their clients from harm. Released by the Fordham University's Interdisciplinary Center for Family and Child Advocacy, in collaboration with the American Bar Association Center on Children and the Law and the National Association of Counsel for Children, the study surveyed more than 200 lawyers from across the U.S. and found that more than 40 percent of all respondents have more than 100 cases at a time, only 30 percent of respondents are supported by trained social workers to help them advocate for their clients, and less than one-half of the lawyers have use of investigators to assist them in their cases. To view the full report visit: http://www.firststar.org/documents/CaseloadCrisisStudy.pdf

♦ To learn more about trainings and resources, please visit our website which is updated regularly. http://www.abanet.org/litigation/committees/childrights/
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The ABA Section of Litigation’s
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Will be held
April 11—14, 2007
San Antonio, TX

The Children’s Rights Litigation Committee will hold a
breakfast meeting during the conference. For more information about the
conference visit: http://www.abanet.org/litigation/
The Dignity in Schools Campaign is convening an historic national conference to develop a National Resolution on Ending School Pushout. Children across the country are being pushed out of school by harsh disciplinary tactics, lack of supportive services, and destructive school climates.

At the conference, advocates, students, educators, parents, school staff, administrators, and policy-makers will come together to reframe the national dialogue on school climate and discipline within a human rights framework and to affirm that the human right to an education includes:

- the full development of the child
- freedom from discrimination
- the protection of human dignity
- the right to participation of students, parents and educators

Participants will discuss policies and practices that promote dignity in schools, share successful advocacy, organizing, legal and media strategies being used on the ground, and strategize for national mobilization.

For more information about the conference

Visit [www.dignityinschools.org/national-conference](http://www.dignityinschools.org/national-conference) or contact [conference@dignityinschools.org](mailto:conference@dignityinschools.org)

Dignity in Schools Campaign
11040 Santa Monica Blvd. Ste 450
Los Angeles, CA 90025

The Dignity in Schools Campaign is a national coalition of advocates, community-based organizations, educators, lawyers and policymakers working together to seek human rights-based solutions to the systemic problem of pushout in U.S. schools.
Teachers Talk

School Culture, Safety and Human Rights
TEACHERS TALK

SCHOOL CULTURE, SAFETY AND HUMAN RIGHTS

By: Elizabeth Sullivan and Elizabeth Keeney

Editors: Catherine Albisa and Sally Lee

© Fall 2008 National Economic and Social Rights Initiative (NESRI) and Teachers Unite

ABOUT NESRI

The National Economic and Social Rights Initiative (NESRI) works with community organizations and social movements to advance the principle that fundamental human needs, such as education, housing and health care, are basic human rights. Towards this end, NESRI works with organizers, policy advocates and legal organizations to incorporate a human rights perspective into their work and build human rights advocacy models tailored for the United States.

The Human Right to Education Program at NESRI works with advocates and organizers to promote policy change in public education using human rights standards and strategies. Human rights offer a framework for transforming our public schools based on internationally recognized standards of equality, accountability, dignity, and community participation. The Education Program generates human rights documentation, analysis, advocacy, public education materials, and training workshops.

For copies of this report contact:
National Economic and Social Rights Initiative (NESRI)
90 John Street, Suite 308 • New York, NY 10038
Tel: 212-253-1710 • info@nesri.org • www.nesri.org

ABOUT TEACHERS UNITE

Teachers Unite is building a movement of public school teachers who play a critical role in working for social justice. Our members develop their leadership as teacher activists and contribute their insight and expertise as educators to grassroots organizing campaigns that demand justice in New York City communities, particularly in schools. Teachers Unite defends public education by rebuilding the relationship between teachers, students, families and communities as partners building power to win the fight for racial and economic justice.

Teachers Unite c/o Brecht Forum
451 West Street • New York, NY 10014
Tel: 212-675-4790 • info@teachersunite.net • www.teachersunite.net
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Acknowledgements

We are indebted to the teachers, deans, school staff, and administrators who gave their time and shared their stories through surveys and focus groups for this report, as well as the individual teachers, organizations, and volunteers that helped to distribute surveys and recruit focus group participants.

In particular we thank Craig Hughes and Max Familian for their invaluable assistance with outreach and data collection.

A special thank you to Elizabeth Keeney for her research and writing and her thoughtful insights which helped make this report possible.

Additionally, we would like to thank the Ford Foundation, the Mertz Gilmore Foundation, the U.S. Human Rights Fund, the Libra Foundation, the North Star Fund, Ben & Jerry’s Foundation, and the Rose and Sherle Wagner Foundation. We also want to thank our individual donors for their support of our work.
Teachers Talk brings the voice of teachers to the debate around safety and discipline in schools. What happens when you ask teachers in New York City public schools how to make schools safe? They tell you that punitive approaches toward children, such as aggressive policing, suspensions and other reactive strategies, actually undermine the human right to education by failing to address the causes of conflict and criminalizing students. And while teachers recognize that suspensions and other removals can be necessary in serious and limited circumstances, they feel strongly that these strategies fail to provide learning opportunities and are used excessively and unfairly to the detriment of students.

What teachers do call for are preventive and constructive approaches to discipline that create positive school cultures, teach behavior skills and use conflict resolution. This holistic approach is supported by research which shows that positive environments and constructive interventions with participation from all stakeholders are the most effective means for improving safety and reducing disciplinary incidents.

This also reflects a human rights-based approach to discipline which requires that school environments protect the inherent dignity of the child and that education be aimed at the full academic, social and emotional development of children. This report presents human rights as a positive framework for reforming discipline and safety policies. The Convention on the Rights of the Child, an important human rights treaty that is widely adopted throughout the world, recognizes discipline as part of an educational process to develop the social skills of students, encourage learning, increase school attendance, and protect the dignity and safety of the child.

The findings in this report are based on surveys of more than 300 middle and high school teachers in over 130 public schools across the city, as well as focus groups and interviews with over a dozen teachers.

**Degraded School Cultures and Punitive Discipline**

- The most common threat to school safety named by 17% of teachers is a lack of cohesive culture and positive relationships between staff and students.
- Teachers noted that even other major threats to safety, including gangs (16%), fights and conflict among students (15%), can only be addressed by building positive relationships within the school.
- Teachers also listed the lack of a clear system for discipline (14%), the lack of leadership and support from administrators (11%), and overcrowding and large class sizes (7%) as threats to safety.
- Almost 43% of teachers said they have only some or no influence over discipline and safety policies, but 86% said they should have a lot or the most influence.
- Almost 70% of teachers said that students have only some or no influence over discipline and safety policies, but 51% said that students should have a lot or the most influence.
- Less than 45% of teachers said that suspensions are effective. By contrast, over 80% of teachers said that classroom management training, conflict resolution, guidance counseling and mediation are effective or very effective for improving discipline.

**Police and Security Measures**

- Teachers reported that School Safety Agents (SSAs) can play a positive or negative role depending on their training, experience and relationship to the school community.
- Over 59% of teachers said that SSAs only sometimes treat students with respect, and 13% said they never or rarely treat students with respect.
• Over 18% of teachers said they have intervened on behalf of students in incidents involving the police or SSAs. Over 42% of those teachers intervened because police or SSAs were harassing or disrespecting students or were instigating or escalating a conflict.

• An overwhelming 64% of teachers said that armed NYPD officers in the school building never or rarely make students feel safe, and almost 30% said they only sometimes make students feel safe.

• In schools with permanent metal detectors, over 91% of teachers said that students are never, rarely or only sometimes treated with respect when they go through metal detectors, and 67% said that metal detectors sometimes or always make students late to first period class.

**Teachers Have Answers**

Teachers strongly believe that discipline must be an opportunity for learning and growth, and call for:

• **Building positive school cultures** by creating shared values or norms, holding regular staff meetings and utilizing programs such as student orientation.

• **Strengthening teaching and learning** by making the curriculum engaging, reducing class size, and offering extra-curricular and after school programs.

• **Providing counseling and support services** by increasing the number of well-trained guidance counselors, social workers, psychologists, school aides and community outreach workers in school.

• **Implementing proactive strategies to prevent and resolve conflict** by providing classroom management training, making conflict resolution and mediation available, and using restorative practices.

• **Supporting student leadership in discipline practices** through student participation in decision-making and in peer mediation and mentoring.

The report also highlights positive models being used in three New York City public schools – East Side Community High School in Manhattan, Banana Kelly High School in the Bronx and the James Baldwin School in Manhattan. At Eastside Community High School, for example, the 100% RESPECT Campaign involves students and staff in a process to discuss and define what respect means in their community. Six months after the campaign was implemented in the middle school grades, suspensions dropped by 45%.

To protect the human right to education and safety with dignity for all students, the report calls on the Mayor and Department of Education to follow the advice of teachers by implementing these positive approaches, as well as removing armed police officers from a regular presence in schools and providing better training for SSAs. We also need more accountability and transparency around what is happening to students in the name of discipline and safety. The report offers a range of steps that the Mayor and Department of Education can take to meet these vital goals.

“I was trying to get a student back in the building and didn’t know he couldn’t return once he’d left. He was getting screamed at by security for nothing (from what I could see) and then I started getting screamed at and threatened with arrest. I was baffled - why can’t students come to school? And why does school safety have more authority over these decisions than administrators or teachers?”

- Teacher of 3 years, medium-size school in the Bronx (Survey Respondent 131)

“Why are we putting money into the SSAs and roving metal detectors and all these punitive programs rather than putting the resources in the school and creating the programs in the school that make those kids that are disenfranchised feel like they are a part of something?...What are we doing building more punitive structures, rather than creating smaller class sizes when students are really struggling?”

- Teacher of 10 years, Large high school in Manhattan (FG Participant 4)
Political leaders, advocates, police, journalists, and pundits all have given voice to opinions about how you ensure safety and discipline in schools. It is far less common to hear the voices of ordinary teachers in this public debate, although it is teachers – along with their students – who have the most relevant experience with this question. What happens when you ask teachers in New York City public schools how to make schools safe? Not surprisingly, they talk about creating positive school cultures built on caring relationships, a commitment to learning, and the teaching of skills to prevent and resolve conflict.1

Teachers also reflect a keen understanding that all members of the school community need to come together to develop a comprehensive plan for discipline with clear rules and consequences that are implemented consistently and fairly.

This holistic approach to school discipline and safety is supported by research which shows that positive environments and constructive interventions with participation from all stakeholders are the most effective means for improving safety and reducing disciplinary incidents.3 This also reflects a human rights-based approach to discipline which requires that school environments protect the inherent dignity of the child, and that education be aimed at the full academic, social, and emotional development of children.

A. A Human Rights Approach to Education and Discipline

Every child has the right to receive an education of good quality which in turn requires a focus on the quality of the learning environment, of teaching and learning processes.

- UN Committee on the Rights of the Child, General Comment 14

The right to education is deeply rooted in the fabric of this country’s democracy and is guaranteed by New York State and City law.5 Human rights declarations and treaties such as the Universal Declaration of Human Rights6 and the Convention on the Rights of the Child7 also provide a framework for the right to education. Article 26 of the Universal Declaration of Human Rights, a document developed with U.S. leadership, recognizes the right to an education that is aimed at the full development of each child’s potential and that adapts to the different needs of each child. At the
heart of the right to education is the protection of each child’s inherent dignity and the creation of caring and respectful learning environments. Thus, these human rights standards require developing effective discipline policies aimed at preventing and resolving conflict and protecting children from humiliation or harm. They also provide a powerful framework for assessing both the intent and impact of our educational policies.

The New York City Council in 1989 embraced these principles when it passed a resolution supporting the Convention on the Rights of the Child and acknowledging that children have the right to “education and the right to develop in a safe environment free from discrimination.” Yet, children in New York City still suffer under school policies that degrade and criminalize young people, deny them access to education, and are fundamentally at odds with these basic human rights principles.

B. BACKGROUND ON DISCIPLINE AND SAFETY POLICIES

New York City public schools face many barriers to creating positive school climates and effective approaches to discipline that ensure the human right to education. Both New York City and State policy-makers allow overcrowding and deny schools the resources to provide supportive services for students and quality training for teachers. At the same time, the Department of Education mandates top-down policies which rely on aggressive policing, suspensions, and other reactive strategies that fail to address the causes of conflict, sacrifice the education of students, and criminalize the school environment.

This trend toward punitive, “zero-tolerance” discipline has its roots in federal policy, beginning with the Gun Free Schools Act of 1994, which required suspension or expulsion for grave offenses such as having a weapon or committing serious acts of violence in schools. Over time, as local school districts implemented their own policies, they expanded the scope of zero-tolerance to include harsh punishments for far less serious misbehavior such as school fights and altercations, nonviolent offenses, and even talking back to teachers. Proponents of zero-tolerance cite the imperative to make schools safe and reduce violence and misbehavior in schools. But the American Psychological Association has compiled and analyzed research which shows that rather than deterring misbehavior, zero-tolerance suspensions and expulsions are linked to an increased likelihood of future behavior problems, as well as detachment from school, academic difficulties, and an increased likelihood of dropping out of school altogether.

At the same time that school districts imposed increasingly draconian zero-tolerance policies, they also increased the number of school safety officers, police officers, metal detectors, and security cameras in schools. In New York City, there are over 5,000 School Safety Agents (hired and supervised by the police department) and at least 200 additional police officers assigned to schools, making the NYPD School Safety Division larger than the entire police force of several U.S. cities, including Washington D.C. and Detroit. Police personnel are patrolling school hallways, handcuffing, arresting, and referring students to the juvenile justice system for relatively minor infractions, such as petty school fights or disobeying staff, which used to be dealt

<table>
<thead>
<tr>
<th>Table 1 - Students in U.S. Schools Reporting Selected Security Measures</th>
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<tr>
<td>Presence of security guards and/or assigned police officers</td>
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<tr>
<td>- 54%</td>
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<tr>
<td>One or more security cameras in school</td>
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<tr>
<td>Metal detectors</td>
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with by a visit to the principal’s office. The imposition of criminal penalties for these non-criminal behaviors violates basic human rights principles and is counter to proven strategies for reducing at-risk behavior. As shown by the American Psychological Association study, classroom management techniques, gang prevention programs, mediation, and conflict resolution are more effective for reducing violence and disciplinary incidents.¹⁶ In contrast, in a 2006 study exploring perceptions of violence among teachers and students, researchers found that “security guards, metal detectors, and surveillance equipment in hallways” can contribute to a climate of anxiety and stress for both teachers and students while doing little to prevent violence.¹⁷

While the entire education community is negatively impacted by these practices, students of color from low-income communities are disproportionately affected. In New York City, students of color make up more than 85% of the student population, and 73% of students are eligible for free or reduced price lunch. In the 2006-2007 school year, while African American students made up 32% of the student population, they represented 55% of out-of-school suspensions.¹⁸ It is important to highlight that African American students are suspended more often and receive more severe punishments than White students for the same infractions.¹⁹

Research studies suggest that the disproportionate discipline of students of color is likely due to stereotypes or biases about students’ race, neighborhood, or affiliations.²⁰ Educators may project negative attitudes perpetuated by society about African American youth and label them as troublemakers. Schools with the highest percentage of African American and Latino students are also more likely to be overcrowded, to have metal detectors and police personnel, and to have higher suspension rates than less segregated schools.²¹ Because students of color are concentrated in schools with fewer resources, they receive fewer supportive interventions, such as mediation or counseling, leaving teachers with fewer options for alternatives to suspension, which are already - as detailed below - in short supply.²² In short, resource starved schools are imposing ineffective, irrational, and extreme punitive measures on the most vulnerable students leading to serious deprivations of the human right to education and human dignity.

C. DOCUMENTING TEACHER VOICE

In this report we document the views of teachers on how best to address discipline and safety. Educators bring a depth of knowledge and experience to the table and have the right to participate, along with students and parents, in decisions affecting what policies are implemented. For the most part, teachers that participated in focus groups and surveys felt safe in their schools. Nonetheless, some described isolated incidents when teachers had been shoved or pushed by students, and one teacher described an incident at his school last year when a teacher was hurt in a staircase while intervening in an incident.²³

But like a growing number of educators, along with youth, parents, and advocates, the teachers surveyed spoke out about the importance of using preventive and supportive approaches to discipline and safety that teach positive behavior and conflict resolution. They also cited the lack of positive alternatives or clear
guidelines from administrators as the primary cause for the excessive, inconsistent, and haphazard use of suspensions, removals and policing. While teachers saw suspensions and security measures as potentially constructive in narrow and specific circumstances, the abusive and unjustifiably broad use of these measures severely undermined their professional identities and aspirations and discouraged them from turning disciplinary intervention into an opportunity for education.

“In the definite thing that I think is missing from any discipline policy right now, is that there is no moral consequence, there is no apology, there is no conference with parents… It’s just punishment like a criminal but never the teaching part.”

- Teacher of 21 years, large high school in the Bronx (FG Participant 7)

In a critique of the aggressive and reactive policies employed by the New York City Department of Education, Peter Coleman, Director of the International Center for Cooperation and Conflict Resolution at Teachers College, called the reliance on police officers and “get tough” security measures “terribly misguided.” Rather than rely on strategies that only aim to target, intimidate, and punish students, he emphasizes the work of schools that “go beyond student-focused activities and work systemically - targeting school pedagogies, curriculum, disciplinary, and grievance systems, and providing training and coaching for the adults in the schools, as well.” He writes that “such initiatives are aimed at establishing a school climate that is not only secure, but that engages and supports children.”

Coleman’s assessment represents an integrated whole school analysis that closely mirrors the opinions of New York City public school teachers and reflects a human rights approach to education. As this report highlights, there are already inspiring examples of schools in New York City that successfully create positive climates, and use constructive interventions. The New York City Department of Education should create an environment where all our schools are given the resources, tools and guidance to utilize participatory and holistic processes that involve all stakeholders in the school community to ensure the right to education.
The analysis in this report is based primarily on the findings of surveys and focus groups of New York City middle and high school teachers conducted during the 2007-2008 school year by the National Economic and Social Rights Initiative (NESRI) and Teachers Unite. We collected a total of 310 surveys from teachers working in 136 public schools across the city. 238 high school teachers filled out the survey, as well as 70 middle school teachers. The survey respondents teach in small, medium, and large schools from across the four boroughs of Brooklyn, Bronx, Manhattan, and Queens.

Over 56% of teachers surveyed had 5 or more years of experience (29% had 5 to 10 years, 27% had more than 10 years). By comparison, citywide in the 2007-2008 school year, 62% of teachers had five or more years of experience. Almost 32% of teachers surveyed work at schools with permanent metal detectors and 9% work at current or former Impact Schools. NESRI and Teachers Unite collected surveys on-line, through visits to schools, and at gatherings attended by teachers.

In addition, we conducted three focus groups with 12 high school teachers and 2 interviews with middle school teachers from schools in the Bronx, Brooklyn, and Manhattan. The report also analyzes data from New York City and State school report cards for the 2005-2006 and 2006-2007 school years, and references data from a variety of research and policy reports.
Schools simply cannot ensure the human right to education or create effective discipline and safety policies, without a healthy and respectful school culture. School culture is defined as the beliefs, attitudes, norms, behaviors, and relationships of the people that make up a school community. A positive culture supports “people feeling socially, emotionally, and physically safe” and requires that “students, families, and educators work together to develop, live, and contribute to a shared school vision.” The UN Committee on the Rights of the Child has recognized that schools should promote a culture which is infused with the human rights values of understanding, peace, tolerance, and equality.

When schools create this positive culture, it contributes to improved student learning and a sense of connectedness to school which in turn reduces disciplinary problems. But when teachers have no time to build relationships with students or a shared vision among the various stakeholders in the school community, schools become chaotic and punitive, contributing to disciplinary and safety problems, as well as poor learning outcomes.

Teachers are more aware of this dynamic than perhaps any other group of people. In New York City public schools when teachers were asked the open-ended question, “What do you believe is the largest threat to safety in your school?” the most common response (from roughly 17% of teachers) was a lack of cohesive culture and positive relationships between staff and students. One teacher described the “lack of a sense of community” in her school. She said, “The less we do together, bring students together to celebrate each other, discuss issues, the more fights and tension there is.”

Moreover, even the other major threats to safety cited by teachers, including gangs (16%), fights, and conflict among students (15%), can only be addressed if a school has a positive and respectful culture. As one teacher explained, “relationships are the key. You can have as many structures [for discipline] as you want, but you have to create a positive environment interpersonally.”

Another noted, “I work in an area with a lot of gang violence so that is the most immediate threat. However, I think the school culture in which security guards and teachers and administrators are constantly reprimanding and disrespecting students instigates violent behavior.” Teachers are hungry for alternatives to these environments where they and their students are deprived of a real opportunity to teach and learn.

A. OVERCROWDED AND CHAOTIC SCHOOLS

Teachers identified overcrowding as one of the key barriers to creating positive school cultures. To build trust, teachers need to get to know the personalities, strengths, challenges, and needs of individual students, as well as the dynamics between different students. The UN Recommendations on the Status of Teachers...
recognizes that “class size should be such as to permit
the teacher to give the pupils individual attention” and
that “working conditions for teachers should be such as
will best promote effective learning and enable teachers
to concentrate on their professional tasks.”

When teachers have time and space to give individual
attention to students, teachers can more effectively
prevent conflict and promote learning. And when
conflict does develop, they can more easily intervene
and de-escalate the situation.

In contrast, in overcrowded schools with large class
sizes and limited resources, teachers are not afforded
the time and space to build the necessary relationships
with students. Students themselves have a more difficult
time managing multiple peer-to-peer relationships and
tensions are more likely to develop. In New York City,
middle and high schools are significantly overcrowded.
Both New York state and city recognize in their policies
that the largest a class should be for middle and high
school is no more than 23 students. Yet data from the
2006-2007 school year shows that the average class size
in New York City high schools is around 28 students,
depending on grade level and subject area. Over 100
high schools have at least one general education class
with 31 students or more, and in some schools there
are up to 42 students in a class. Over 7% of teachers
surveyed for this report said that overcrowding and
large class size was the largest threat to safety.

Table 3 – Teachers were asked the open-ended question:

<table>
<thead>
<tr>
<th>What do you believe is the largest threat to safety in your school?</th>
</tr>
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<tbody>
<tr>
<td>(Top ten most common phrases listed by at least 5% of respondents; n=261)</td>
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</table>

<table>
<thead>
<tr>
<th>Threat</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of cohesive culture and relationships between staff and students</td>
<td>17%</td>
</tr>
<tr>
<td>Gangs</td>
<td>16%</td>
</tr>
<tr>
<td>Fights and conflict among students</td>
<td>15%</td>
</tr>
<tr>
<td>Lack of a system for discipline, no clear rules, and inconsistent consequences</td>
<td>14%</td>
</tr>
<tr>
<td>Lack of leadership and support from administrators</td>
<td>11%</td>
</tr>
<tr>
<td>Disrespectful treatment and criminalization of students</td>
<td>8%</td>
</tr>
<tr>
<td>Overcrowding and large class size</td>
<td>7%</td>
</tr>
<tr>
<td>Sharing a building with other schools</td>
<td>7%</td>
</tr>
<tr>
<td>Violence outside of school</td>
<td>5%</td>
</tr>
<tr>
<td>Students lacking skills to resolve conflict</td>
<td>5%</td>
</tr>
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</table>

“I have 25 students maximum in my class, I am so
lucky. With those 25 I feel I know their learning styles
really well…When they’re having issues I can sort of
ask, ‘What’s going on? You’re not behaving the way
that you normally behave. Is something going on in
your life? Are you having an issue with John in the
other class?’ You can’t have those relationships when
there are 35 to 40 kids in a classroom.”

- Teacher of 4 years, small high school in Manhattan
  (FG Participant 2)

“Having 34 students per class makes it more difficult
for teachers to get to know and understand our
students and the dynamics between our students.
Fewer students in each class would help to address
safety.”

- Teacher of 2 years, medium-size high school in
  Brooklyn (Survey Respondent 202)
Overcrowded classrooms make it particularly difficult for teachers to tailor teaching and disciplinary strategies to high need students. All teachers have to support students with complex needs, including academic difficulties, learning disabilities, language needs, and behavioral and emotional challenges. Teachers reported that high need students are more likely to act out if they are denied the individual attention provided by smaller classes. But in New York City schools, Special Education students and English Language Learners are frequently placed in overcrowded classrooms where they do not receive the extra staff support or small classroom environments to which they are entitled by law.37

For example, one teacher in a middle school in the Bronx explained that in her school there is supposed to be a team-teaching program in which special education students are placed in small, general education classes with two teachers - one special education and one general education. But instead, special education students are put in large classrooms in which “a special ed teacher comes in a couple times but will be pulled when we need her for other coverages. And then it’s one teacher who gets stuck in this big class with kids with special needs and it’s horrible.”38

In addition, New York City schools with the largest number of students living in poverty are also the most likely to be overcrowded and under-resourced.39 Students in these schools often face personal stresses associated with poverty – such as hunger, homelessness, and instability – and would also benefit from more individual attention and support, which their schools are not able to provide.

Another host of challenges have been created by the recent reforms in New York City to split large schools up into many smaller schools, which are meant to create more focused and intensive learning environments. Since 2002, 231 new small secondary schools (including high schools and middle schools) have opened in New York City. But contrary to what many people first assume, small schools have not always meant buildings with intimate environments where people know each other and have enough space to meet student’s needs. Nearly half of the new schools are located on the campuses of phasing-out or phased-out schools and therefore share the same building with one or sometimes several other schools.40 Just under 55% of teachers answering the survey work in small schools, and 82% of those teachers are in schools located on larger campuses. Overall, 55% of teachers responding work in schools located on larger campuses.

Successful models of space sharing, where schools work together to initiate plans for developing programs at a specific site, are unfortunately rare in New York City.41 The process of closing and opening schools is managed from above by the Department of Education - not at the community level - and as a result small schools are often competing for resources and struggling to thrive in the limited space they are assigned or required to share. As schools close, open, grow, re-organize, and compete for space, teachers described that class sizes remain large in many schools and the need for more resources is not being met. A teacher who previously taught in a Brooklyn school building that contained four separate schools described “a very chaotic environment… there were a lot of large fights in the building itself, narrow hallways, lots of kids, not safe.”42 Another 7% of teachers said that the largest threat to safety was the tension and chaos created by sharing a crowded building with other schools.

There are new issues as well created by the shared space. Teachers commonly referred to the challenges...
of managing competing school cultures within one building and the difficulty in maintaining cohesion and continuity when physical space is shared. One teacher explained that the largest threat to safety in her school is “being in a building where there are diametrically and philosophically opposed discipline policies among schools.”43 Another teacher explained, “There are issues in the other schools in a large building and I have felt unsafe when they have had a police presence from those schools enter ours…the police come in and out and students get agitated…There are a lot of issues that come up when you’re sharing space with so many other different schools in a building.”44

Teachers working in the remaining large schools that are not split up under the new small school reforms also described the challenging conditions left behind in their environments.45 Recent reports by advocates have shown that as many of the new small schools have been created, special education students and other high needs students are excluded and pushed into the already over-stretched large schools without additional resources.46 A teacher at one such large school commented, “I feel less safe than I used to at school, considerably less…because we’ve had in the last few years an influx of very high need students in large numbers. I feel safe in the classroom with the kids I know and have a rapport with. It’s the stranger in the hallway that when you try to enforce the school rules the tension builds. It’s a more vulnerable situation.”47

The overwhelming response from teachers in both large and small schools with overcrowded classrooms was one of exasperation and frustration - that teachers were asked to do too much with too little and have no time to develop positive and personal relationships with students.

B. A Vacuum of Leadership and Support from Principals

Positive and safe school cultures are difficult, if not impossible, to cultivate without the leadership and guidance of the school’s principal. Asked why she described one school she taught at as “very functional, very disciplined” and another as “very chaotic” and “not safe,” a teacher said “a lot of it was administrative—a real crisis of leadership.”48 When asked about the biggest threat to school safety, 11% of teachers cited a lack of leadership and support from principals.

“Weak administration is the biggest cause of chaos at my school. No clear vision for student behavior creates a void for discipline standards. Teachers’ attempts to create school-wide discipline policy failed due to the administration’s lack of support and structure to create effective deterrents and consequences.”

- Teacher of 5 years, medium-size high school in Brooklyn (Survey Respondent 284)

These teachers reported that their principals fail to set a positive tone for their school, that they rarely see administrators interacting with students or walking in hallways, and that there are no regular staff meetings or methods of communication between teachers and the administration. By contrast in schools with strong leadership, teachers described principals who greet students in the hallways in the morning as they arrive in school and who work collaboratively with teachers, students and all members of the school community to establish school norms, rules, and values.

Related to discipline and safety practices specifically, teachers expressed a lack of guidance and support from principals for developing a cohesive plan. When asked...
about the biggest threat to school safety, 14% said it was the lack of a system for discipline and clear rules that are communicated to students and enforced consistently. One teacher commented, “most faculty don’t believe there is a discipline plan for our school...if I wrote a referral to the deans or principal sometimes they will get handled, sometimes they won’t...no one has faith that the disciplinary system works at this school.”

Research has demonstrated the importance that teachers place on strong leadership from principals. In a national survey, 79% of new teachers said they would choose supportive administrators over salary increases. Specifically, they cited support for creativity in the classroom, support for their handling of discipline, and access to adequate materials. And according to the National Education Association, new teachers nationally cite a general “lack of support” from administrators as their primary concern with the profession.

But New York City teachers surveyed also recognized that the crisis of leadership in their schools was in large part due to the Department of Education’s failure to provide guidance and support on these issues to principals. One teacher explained that her principal had only taught for two years and then went through a training program before assuming leadership of a new school, and given her relative inexperience did not receive adequate support and guidance. In general, teachers reported that principals do not feel comfortable acknowledging problems in their schools or asking for help for fear of losing autonomy or even their jobs.

This culture of blame and lack of trust among teachers, principals, and the Department of Education is counterproductive to building positive school cultures and preventing discipline problems. Principals must play a proactive role in building a collaborative teacher community, creating space, spending time, and devoting resources to their professional team and they need support to do accomplish this. In a study of Indiana public schools, principals were interviewed about what is needed to create positive climates. They emphasized connectedness, understanding, and involvement of all stakeholders: teachers, staff, students, and parents. They also stressed working closely with teachers to develop clear and consistent guidelines for behavior.

### C. Lack of Teacher Voice in Decision-Making

Teachers are essential players in promoting quality education...they are advocates for, and catalysts of, change. No education reform is likely to succeed without the active participation and ownership of teachers...Teachers must also accept their professional responsibilities and be accountable to both learners and communities.

- The Dakar Framework for Action, World Education Forum

Our surveys and focus groups reflect that New York City public school teachers, far too often, have little voice in how safety and discipline policies are designed and implemented. Almost 43% of teachers surveyed said they have no influence or only some influence over safety and discipline policies in their school. By comparison, 86% said that teachers should have either a lot of influence (49%) or the most influence (37%).

As key stakeholders in the education community, teachers should be included in developing and implementing school and district level policies and practices. Human rights standards recognize that
in order for schools to ensure the right to a quality education for students, teachers must be well-motivated, receive adequate compensation and “be able to participate, locally and nationally, in decisions affecting their professional lives and teaching environments.”

The American Federation of Teachers, through its new Innovation Fund initiative, is supporting reform efforts led by educators in collaboration with parents and communities that are grounded in the experiences and strategies that work in the classroom.

In many schools, teachers reported that there is no formal mechanism for teachers to give input into disciplinary policies or to develop strategies for managing discipline in the classroom. Thus, discipline as a part of teaching and learning seems absent as a concept in too many schools. The only vehicle that exists in some schools and includes teacher representatives (at least in theory) is a “Safety Committee” which is supposed to meet monthly in every school. The idea of a “Safety Committee,” which has a mandate that includes issues such as emergency plans and crisis response, as the only formal vehicle for discipline issues is flawed so long as such a committee is not shaped to deal with discipline as a pedagogical matter. Moreover, these Safety Committees, which are supposed to meet monthly, simply do not meet regularly, according to many teachers surveyed, and do not include the required representatives.

Many teachers also reported that they do not receive even basic information about discipline and safety policies they are supposed to be using. One teacher stated, “I have no idea if there is a committee or where the discipline decisions come from in my school…I read the blue book [the DOE’s Citywide Standards of Discipline and Intervention Measures], but no one told me I had to read it, nobody talked about it.”

Many teachers facing these frustrations also reported a general lack of communication – no staff meetings or regular check-ins – and thus no opportunity to work these issues through.

For a substantial number of teachers, there is little if any solicitation from administrators about teachers’ perspective on discipline and safety, and teachers often feel that they are tied to discipline codes and guidelines that undermine their professional judgment and front-
line knowledge of their students. This “stifling of teacher voice” can contribute to teacher dissatisfaction. According to sociologist and former teacher Laura Finley, it can result in increased apathy as well as fearfulness, potentially leading to perceptions of student behavior as more threatening than it otherwise might be and acceptance of more repressive discipline. Caught in this vicious cycle and without outlets to engage and make the changes they see as necessary to improve the school culture, teachers may grow apathetic and stop seeing the potential for improvement, transfer schools or leave the profession altogether. In a survey by the National Center for Education Statistics over half of the teachers responding gave lack of influence over school policy generally as one of their main reasons for transferring schools.

D. NO OPPORTUNITIES FOR STUDENT AND PARENT PARTICIPATION

At the same time that teachers lack input into decision-making, students and parents are also shut out. Students and parents have a fundamental human right to participate in decisions that affect their schools and the right to education. The right to participation is a cornerstone human rights principle enshrined in multiple documents, including Article 25 of the International Covenant on Civil and Political Rights. Student voice and participation in the school community is a fundamental part of holistic education and is essential both for improving school climate and the quality of education, and for contributing to the development of young people as active participants in society. The UN Guidelines for the Prevention of Juvenile Delinquency recognize that “students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.”

Most teachers also believe that greater student participation in decision-making can improve discipline and safety problems. In the teacher survey, 51% of teachers said that students should have a lot of influence (37%) or the most influence (15%) over safety and discipline policies, and very few teachers (5%) felt that students should be excluded.

One teacher explained that “not including a student body in the planning and executing of policies affecting their school” was a major threat to safety because “students were not able to develop connections to and ownership over the school community.” Yet when teachers were asked how much influence students actually have, 70% of teachers said that students have no influence (31%) or only some influence (39%) over discipline and safety policies. According to these teachers, the lack of community and hierarchical cultures in their schools would not allow for student participation.
Teachers also felt strongly about the inclusion of parent voice. National studies have shown that teachers recognize the importance of parent participation generally for ensuring the right to education. For example, in a national study, 65% of teachers felt their students’ academic performance would benefit from more parent involvement, and 72% of teachers said children whose parents aren’t involved may be more likely to “fall through the cracks.”

This notion applies with equal force to discipline and safety issues. Among teachers surveyed for this report, 61% said that parents should have a lot of influence (45%) or the most influence (16%) over safety and discipline policies in their children’s schools.

Yet when teachers were asked how much influence parents actually have, 79% of teachers surveyed said that parents have no influence (32%) or only some influence (47%) over these policies. In schools where parents have no influence over discipline and safety policies, they are often only involved after a problem arises. One teacher described her school as having no structure or support for parent participation and said, “Parents are involved once a kid gets in trouble. Then they’re called. But then it becomes an adversarial situation.”

In her particular school, language was one of the key barriers to involving parents and there was no effort to address it. She estimated that over two thirds of the students in her classroom do not speak English at home and as a result it was difficult to find help in her efforts to communicate with parents. In one case, she had to pull a paraprofessional out of a different classroom to translate for her over a cell phone.

It is not surprising that the exclusion of parents until after a disciplinary incident occurs can fuel a culture of mistrust between parents and staff. This affects the overall environment at any school. A recent national survey found that 20% of new teachers and one quarter of principals attribute a significant amount of on-the-job stress to their relationships with parents. One teacher described the antagonistic relationship between parents and staff in her school in the following way: “I wouldn’t say the school welcomes parents, but they come. A lot of them come anyway. All the parents are really angry about what’s happening at the school.”

A teacher and former high school dean noted that the

“At my school student participation wouldn’t work because it’s fundamentally a top down school…In an actually democratic community, students should play a huge role. If the students’ voices are actually valued by the people at the top, that could really work.”

- Teacher of 6 years, small middle school in the Bronx [Interview 1]
adversarial relationship between parents and staff that is created in disciplinary proceedings and suspension hearings disallows opportunities for conversations about student needs or constructive solutions.

This lack of parent participation and mistrust at the individual level contributes to a deeply problematic conceptualization of the roles students and parents are expected to play in educational policy. Rather than critical voices with legitimate demands, students and parents are often treated as peripheral ‘thorns in the side’ of school staff and district officials. But without shared understanding and commitment from teachers, students and parents, school discipline and safety policy is empty and meaningless. Only a vision of safety and discipline, grown out of collective dialogue and democratic representation, will adequately serve the needs of its constituents and protect their human rights to dignity and education.

“My experience at the superintendent suspension hearings when I was a dean was that the kid’s parents were on the defensive, as they should be. An attorney would tell them don’t say or do anything that would point to problems or could be used against your child. As a result, there was no safe space for a discussion of needs, what services the kids should be receiving.”

- Teacher of 20 years, large high school in Manhattan (FG Participant 5)
A Punitive, Reactive Approach to Discipline is Ineffective

Learning environments should also be healthy, safe and protective. This should include…policies and codes of conduct that enhance physical, psycho-social and emotional health of teachers and learners…and practices leading to knowledge, attitudes, values, and life skills needed for self-esteem, good health, and personal safety.

- Dakar Framework for Action, World Education Forum

Teachers cannot teach and students cannot learn in chaotic or disruptive school environments. Effective systems of discipline are necessary for creating healthy, safe, and productive schools and ensuring the human right to education. The traditional goals of any disciplinary system are to ensure the safety of students and teachers, to create a climate conducive to learning, to teach students needed skills for successful interaction in school and society, and to reduce rates of misbehavior. Human rights standards specifically encourage the use of preventive and proactive approaches that protect access to education and build social and behavioral skills needed for positive learning environments.

New York City has made a sharp departure from these human rights approaches over the past decade by increasingly imposing punitive suspension and removal policies with the supposed goal of improving discipline. As teachers keenly reflect, in reality, these punitive approaches are an attempt to take a short cut around the root causes of violence, which include resource disparities. Instead, these policies inevitably degrade the school environment and threaten students’ access to education.

A. EXCESSIVE AND UNFAIR SUSPENSIONS AND REMOVALS

Teachers surveyed in New York City reported that administrators and teachers often assign suspensions excessively and unfairly while ignoring students’ underlying problems. This can lead to conflict and alienate students from school, increasing the likelihood that they will act out again in the future. Policies or practices that unfairly punish students, undermine their sense of dignity and self-esteem, or deny them access to education are fundamentally at odds with basic human rights principles. The UN Guidelines on the Prevention of Juvenile Delinquency discourage the use of “harsh disciplinary measures” and encourage schools to “promote policies and rules that are fair and just.”

The New York City discipline code provides a range of disciplinary responses for different behavioral infractions, including removal from the classroom and suspension for relatively minor infractions. Teachers can remove students from their classroom for up to

“Kids get suspended for fighting, that’s one of the most prominent ones, graffiti, threatening a teacher. Suspensions can go from 3 days to 60 days, even more depending on the infraction. I don’t really believe in suspensions, they’re a really poor, uncreative consequence. I don’t remember a case when a kid was suspended and after they came back their academic performance didn’t plummet, that’s always the case. I don’t remember a kid coming back and picking up where they left off.”

- Teacher of 20 years, large high school in Manhattan (FG Participant 3)
4 days for “disrespectful behavior” or for “wearing clothing, headgear (e.g., caps or hats), or other items that are unsafe or disruptive to the educational process.” Schools can give longer Principal Suspensions of up to 5 days or Superintendent Suspensions of up to 10 days for “being insubordinate” or for “pushing, shoving” or engaging in “horseplay.” For school fights as well as for “engaging in intimidating” or “threatening” behavior, students can receive Superintendent Suspensions that range from 6 days up to 90 days.

On paper the discipline code encourages schools to use the least severe disciplinary responses when possible. But in practice the Department of Education promotes approaches to discipline that “get tough” on children. In 2004, Mayor Bloomberg and Chancellor Klein launched the Impact School Safety Initiative, which places increased numbers of School Safety Agents and police officers in selected schools and encourages staff to apply stiff penalties for minor offenses, including suspension, arrest, placement in offsite detention centers and transfers to Second Opportunity Schools. Over two dozen schools have been designated as Impact Schools since the program began. This program essentially codifies the removal of students, instead of teaching them positive behavior skills, as the goal of discipline policies. During the first two years of the initiative, suspensions in Impact Schools increased by 45% compared to 24% in high schools citywide.70 In all schools across the city between 2000 and 2005, Superintendent Suspensions of 10 or more days increased by over 85%.71

Teachers described incidents when they felt punishments were too severe for the infractions committed. One teacher described an incident when a group of students were suspended for three months to an alternative suspension site for smoking marijuana at school. She felt the punishment was “overkill” and described the devastating result of the suspension for the students: “When they finally came back they were failing everything, they never returned full time, they finally transferred to another school. They were really smart kids and they could have done really well. It kind of ruined their lives.”72

When teachers were asked about the effectiveness of different disciplinary methods, less than 45% of those surveyed said that exclusionary punishments like suspensions are effective. By contrast, twice as many teachers (over 80% of those surveyed) said that supportive interventions such as conflict resolution, guidance counseling, and mediation are effective. As one teacher put it, “Suspensions are just paying a fee
for doing wrong, but its not changing the behavior…. There is no teaching involved, that’s what’s missing.”

Several teachers described incidents when they fought to avoid suspending a student despite zero-tolerance policies to both protect the student from the harm that suspensions can cause and to use the conflict as an opportunity for learning. One teacher in a large high school in Manhattan recounted an incident when he was shoved by a student and reported it to his principal. He wanted there to be a consequence for the behavior but had to convince the principal that suspension was not the right one. He was aware of the detrimental impact that a suspension could have on the student and instead wanted to create an opportunity for learning. So the student became the teacher’s “intern” for the semester, helping out in the classroom. Other teachers sometimes chose not to report fights to their principal at all because it would have resulted in automatic suspensions.

“I have students who got into a fight in my classroom the other day and I know the students, and I actually did not write them up because they went to mediation afterwards. I’ve never seen the two of them have a problem with each other. There is automatic suspension for fighting in school, but I feel these girls should not get suspended for it…I wish we had other people, I wish we had more counseling available.”

- Teacher of 3 years, large high school in Manhattan (FG Participant 10)

Teachers also reported that suspensions are applied inconsistently, with different teachers and administrators in the same school applying different punishments, creating confusion and a sense of unfairness among students. One teacher described a complete breakdown in the disciplinary ladder at her school saying that the system is in place “in writing, but in actuality because the consequences at the very top are not enforced consistently or fairly, none of the rest matters…A lot of times things are let go that shouldn’t be let go, and other times kids will get suspended for a uniform infraction, so the consequences are wildly disproportionate and inconsistent.” Other teachers explained that some kids are labeled as “the preferred suspects” or troublemakers in a school and as a result receive harsher punishments than other students for the same infractions.

B. LACK OF ALTERNATIVES

When asked why schools rely on classroom removals, suspension, and other punitive responses, teachers expressed frustration with the lack of adequate supportive services for students, including too few guidance counselors, social workers and psychologists, and the lack of quality mediation, mentoring, and conflict resolution programs. Research by the American Psychological Association and others has demonstrated that these services reduce violence and disciplinary problems in schools. The UN Guidelines on the Prevention of Juvenile Delinquency also recognize the importance of counseling and supportive services for students, stating that “education systems should…
devote particular attention to...provision of positive emotional support to young persons.\textsuperscript{78}

The New York City Discipline Code also appears to recognize that difficult student behaviors are likely symptomatic of deeper issues and on paper encourages school staff to use counseling services, conflict resolution, peer mediation, and community service.\textsuperscript{79} But in reality, these services are not available for most students. The National School Counseling Association has established the ratio of one guidance counselor for every 250 students as a minimum to meet students’ needs. In New York City, on average schools have one guidance counselor for every 450 students.\textsuperscript{80} Without these alternative supports, many teachers feel they are forced to rely on removal from the classroom and suspensions in response to conflict and disruptive behavior.

"The student was suspended for 5 days. What he really needed was counseling, but that's not provided consistently or fairly at my school. The guidance counselor and the social worker are both pulled into doing college day and advisory and these other things. So sometimes even kids who have mandated counseling don't get counseling, let alone someone who just needs counseling on a need by need basis."

- Teacher of 6 years, small middle school in the Bronx (Interview 1)

Many teachers reported that their schools have only one guidance counselor and a part-time social worker or school psychologist who can see only a fraction of the students needing services. One teacher said that her school was so under-resourced that even if the counselor is able to see students she is often forced to meet with them in the hallway because her office space is used as a classroom.\textsuperscript{81} Another teacher commented, “There is supposed to be a school psychologist but I have never seen him or her.”\textsuperscript{82} As a result, teachers find themselves over-extended, attempting to provide services to students that they were never trained, or hired to do.

“I’m thinking that as a teacher, I’m not qualified to be a social worker and I’m so often being put in a position where I have to assume that role because there is only one social worker in our school who tends to so many kids.”

- Teacher of 4 years, small high school in Manhattan (FG Participant 2)

“There should be workshops available to attend on conflict resolution. I am teaching in the system 12 years and have never heard of one being offered (or perhaps they exist and we don’t hear about them).”

- Teacher of 12 years, large high school in Brooklyn (Survey Respondent 127)

Teachers also talked about the lack of quality programs and teacher training in mediation, classroom management, and conflict resolution. Teachers’ opinions are reinforced by a recent survey of conflict resolution providers in New York City schools conducted by the Office of the Public Advocate in which 60\% of respondents felt that the Department of Education conflict resolution trainings are inadequate.\textsuperscript{83}

Overall, teachers pointed to a lack of commitment to genuinely address discipline and safety problems from the Department of Education. With its narrow focus on school accountability measures and the resulting emphasis on test scores, principals and other school

“It’s very clear in our school what’s important – it’s the test, the test, the test, the test. I was instructed for 2 months to do test prep everyday....Then the city is testing them and doing interim assessments every two weeks it seems like, and they’re getting tested more than they’re learning. It’s very clear to everyone that the test is important, and discipline is not. And that’s coming directly from the DOE [Department of Education].”

- Teacher of 6 years, small middle school in the Bronx (Interview 1)
staff have less time, energy or resources for conflict resolution, mediation, or counseling. Instead they must rely on quick-fix, low-cost disciplinary actions which push kids out of the classroom and do little to improve behavior or create an environment conducive to learning, ultimately harming students’ academic potential.

C. MANIPULATED AND UNDER-REPORTED SUSPENSION RATES

The Department of Education takes a contradictory approach to discipline policy, on the one hand mandating that schools get tough on discipline by punishing and removing students, while on the other penalizing schools for high suspension rates. This contradiction can only be explained by the flawed and irrational assumption - despite all evidence to the contrary - that punitive discipline policies like suspension will actually improve school climate and behavior. As a result of the Department of Education pressuring schools to both get tough on children and reduce suspension rates while simultaneously starving them of resources to improve behavior, administrators often manipulate data and under-report what actually goes on in New York City schools.

New York City and State regulations require that schools keep records of and report on disciplinary incidents. The New York City Department of Education has an on-line system called On-line Occurrence Reporting System (OORS) for schools to report any suspensions, police incidents, or “formal removals” of students from the classroom. These reporting procedures are essential for monitoring the use and impact of disciplinary responses in school and for ensuring transparency in school practices. Transparency in government is a fundamental principle of human rights law, and under human rights treaties school systems “must closely monitor education including all relevant policies, institutions, programs, spending patterns and other practices.” But a recent audit by the Office of the Comptroller for the City of New York found wide variations across different high schools in how and whether incidents were reported in OORS. Among 10 high schools that were sampled by the Comptroller, 21% of the sampled incidents were not entered in OORS. As a result, the suspension rates reported by the Department of Education likely do not represent the actual number of students being removed or suspended from schools.

Teachers also reaffirmed that many disciplinary incidents go unreported and that schools use a variety of methods to remove students without formally suspending them. One teacher described an internal policy at her school, not authorized by the citywide discipline code, whereby students are unofficially suspended or “swapped” to a “buddy school,” often for fights or violations of the school’s dress code. These students are sent to another school where they sit in an unknown teacher’s classroom for a few days and no part of the suspension is recorded, except perhaps informally between the two schools. The teacher explained, “Almost everything goes unreported officially in OORS [On-line Occurrence Reporting System], almost nothing gets reported, and I know that because I check the database.” When this same teacher has students turn up in her classroom who have been unofficially suspended from their “buddy school,” the practice creates “a disruption to their learning.”

Several teachers shared other strategies that schools use to keep suspension rates low and data reporting minimal, such as the increased use of detentions and other informal punishments. As a result, a school’s suspension rate may go down, but the number of disciplinary problems that teachers face remains the same because nothing has been done to address the
Altogether, teachers report that schools are pushed towards using punitive discipline against students that have been entrusted to their care, while at the same time keeping those practices hidden from public light. Schools must keep more accurate records of disciplinary incidents and make the data available to teachers and to the public to allow for evaluation, accountability, and improvement.

“Our school has detention instead of suspension, the big reason being no one keeps statistics about detention…I think they’ve reduced their suspensions a lot by having detention. I wonder if more schools will do that because you get in trouble for high suspensions.”

- Teacher of 12 years, large high school in Brooklyn (FG Participant 5)
Teachers, students, and parents agree that schools must be safe in order to guarantee all young people their human right to education. The UN Committee on the Rights of the Child recognizes that all school policies and practices must promote non-violence and protect children from humiliation or harm. Under the banner of improving safety, New York City, like school districts across the country, is using police, School Safety Agents (school safety personnel hired and supervised by the police department), metal detectors, and security cameras in schools. While there is no doubt that schools should take active steps to improve safety, these aggressive security measures do little to prevent violence and instead undermine fundamental human rights principles by creating hostile school environments, treating children like criminals, and contributing to tension and conflict.

A. PRESENCE OF POLICE AND SCHOOL SAFETY AGENTS

While the general public may look to the police to keep our streets safe, teachers know that police cannot play the same role in our schools. Only 3% of teachers called for more police or School Safety Agents when asked the question, “What is needed to make your school safer?” In focus groups, teachers agreed that police personnel may be needed to respond to serious incidents, and some schools rely on them to monitor exits and hallways. But teachers realize that their presence in schools is not preventing conflict or improving the school environment, and instead creates new tensions and conflicts.

In 1998, under former Mayor Rudolph Giuliani, the Board of Education transferred control over school safety to the New York Police Department (NYPD), giving the police department responsibility for training, recruiting, and managing school safety personnel. Today, there are over 5,000 School Safety Agents and at least 200 additional New York City police officers assigned to schools. School Safety Agents (SSAs) report to the NYPD and have the same power as police officers to arrest students, but do not carry guns.

Among those teachers surveyed, 99% said they have SSAs in their schools. When asked about the impact of SSAs on the school environment, only 14% of teachers said that SSAs always make them feel safe, while 47% said they sometimes make them feel safe. Similarly, when asked whether they believe SSAs make students feel safe, only 12% of teachers said that SSAs always make students feel safe, while 50% said they sometimes make students feel safe.
and 32% said they never or rarely make students feel safe.

Teachers explained that SSAs can play a positive or negative role depending on a range of factors including how many years they have been in a particular school, how much experience and knowledge they have in dealing with adolescent behavior, and whether they are integrated into the school community. About one third of teachers in focus groups described positive relationships with SSAs who help create safe environments in school. In these schools, the SSAs tend to have many years of experience, sometimes in the same school, and they know the staff and students well, participating in staff meetings and school-wide events.

“We have one safety agent, everyone knows her and loves her. She knows everyone and welcomes kids in the morning, knows every kid by name. She sets the tone for the school, she's usually the first person they see, she says good morning, she's part of the community.”

- Teacher of 21 years, small high school in Brooklyn (FG Participant 12)

But for our survey and focus group participants, far more often, SSAs as they are currently trained and supervised have a negative impact on the environment. About half of the teachers in our focus groups described school environments where SSAs are aggressive, even combative with students leading to tension and conflict in schools. A teacher on a large high school campus in the Bronx explained that SSAs in her school view students as “potential criminals” rather than young people who are in school to learn. This mentality on the part of SSAs and their “police-like uniforms” create a “prison atmosphere” and a “tense environment that easily sets up conditions for flare ups.”

When asked whether SSAs treat students with respect, 13% of teachers said SSAs never or rarely treat students with respect. Over 59% said SSAs only sometimes treat students with respect, and 21% said they always treat students with respect. One teacher said “the SSAs don’t interact well with the kids…they yell at the students.”

Some SSAs aggressively patrol hallways stopping students to ask for ID, ordering them to take off their hats, and yelling at students while passing between classes.

“Do School Safety Agents treat students with respect?”

“Other teachers described a lack of maturity and poor judgment among SSAs. Many of the SSAs are only a few years older than the high school students they interact with “so that creates problems, whether it’s flirting or inappropriate fraternization.” In some cases, SSAs will form relationships with certain students and display favoritism, such as letting some students bring...”

“Two are lots of School Safety Agents in my school, in the double digits….I’ll be in my classroom with the door closed teaching, and I hear somebody screaming in the hall, and I pop my head out to look to ask them to be quiet, and I’ll see the SSAs screaming at a kid to get to class. And I’m thinking, ‘How is this helping me to teach?’ Their language is also not appropriate, using curse words.”

- Teacher of 3 years, large school in Manhattan (FG Participant 10)
cell phones into schools while confiscating them from others. This creates a host of problems, giving some students power because of their relationship with an SSA and leading to inconsistent implementation of school rules.\textsuperscript{93} In other cases, SSAs break the same rules that students are expected to follow. One teacher said of the 10 to 12 SSAs that work in her school, “they walk around on their cell phones which the kids are not supposed to do. Somewhere there’s some lack of judgment.”\textsuperscript{94} Teachers explained that this inconsistent behavior can undermine the system of trust that they are trying to build between adults and students in the building.

Still, teachers acknowledge that SSAs have a very difficult job in schools. Teachers felt that SSAs do not receive adequate compensation for the job they do, and are not given appropriate training in how to interact with students or to de-escalate conflict. When teachers were asked, “What is needed to make your school safer?” 8% said better training for SSAs. Part of the problem is also a misunderstanding or lack of clarity about the role of SSAs in schools. SSAs are sometimes put in awkward situations where they receive conflicting mandates from their supervisors at the NYPD and the principal and staff in the school where they work. In one school, for example, a teacher explained that “our students are allowed to wear hats and the security forget and are confrontational with them.”\textsuperscript{95} As a result the teacher has to intervene, contradicting the safety agents, creating tension and conflict between staff in the school.

While teachers believe that SSAs, with the proper training and guidelines, could play a positive role in schools, fewer teachers felt that police officers could contribute positively to the school environment. An overwhelming 64% of teachers said that police officers never or rarely make students feel safe. Almost 30% said that the police sometimes make students feel safe, and only 6% said they always make students feel safe. About 25% of the teachers surveyed have police officers assigned to their schools, while others report that police officers enter their schools in response to particular incidents. In both instances, when police officers bring the attitudes they use in the streets into a school building, teachers report that their presence creates a tense atmosphere in which “students are made to feel like criminals.”\textsuperscript{96} The sight of loaded guns and the aggressive attitudes of police can make both students and teachers feel anxious.

![Do police officers make students feel safe?](image)

“The cops create a lot of anxiety among everyone, because there are guns so visible....There is this very macho presence that is unsettling because you’re in an environment where you are supposed to learn and grow. But I don’t know if it makes one feel unsafe, it certainly makes one feel anxious.”

- Teacher of 9 years, small high school in Manhattan (FG Participant 9)

Teachers also report that police officers are often disrespectful towards students, shouting orders and asserting their authority. A teacher in a medium-size school in the Bronx said “the officers are too rough with students and they are disrespectful - which causes the students to get worked up. So, I think they make matters worse and instigate sometimes.”\textsuperscript{97} When asked if police officers treat students with respect 34% of teachers said police officers never or rarely treat students with respect. 45% said police officers sometimes treat...
students with respect, and only 20% said they always treat students with respect.

“‘I’ve had officers, big guys, come into my room if they hear noise, and I’m a music teacher so there is music and noise sometimes going on. They’ll come in and yell and bark at the students. They bring an atmosphere that I can’t stand and I have to say, ‘no you get out, I’ll handle it.’”

- Teacher of 20 years, large high school in the Bronx (FG Participant 7)

Students of color and students from poor communities are impacted the most by the presence of SSAs and police officers. For example, in Impact Schools which have higher numbers of SSAs and police officers, African American and Latino students make up 90% of the student population, compared to an average of 71% in high schools citywide. Teachers commented that for students of color the presence of police officers in their schools reinforces the broader criminalization that they see in their communities through racial profiling and the disproportionate arrest and incarceration of African American and Latino youth. One teacher commented that police officers “represent jail and the racism of society - that jail, not school, should be normal for poor kids of color.” In their communities, students experience and witness abusive treatment by police officers, and this contributes to their negative reaction to police in schools.

“We don’t have cops in the building. Whenever cops do have to come in, there is a very visceral response from the students because a lot of our students are pretty regularly harassed by the police in their communities, so they have a very negative relationship towards police. I was on the subway a couple days ago and there were kids just sitting there and undercover cops just started patting them down, I saw the whole thing and it was disturbing. So when that happens in the community, kids will react when cops are in the school building.”

- Teacher of 21 years, small high school in Brooklyn (FG Participant 12)

B. IMPACT OF METAL DETECTORS ON THE SCHOOL ENVIRONMENT

In addition to police personnel, hundreds of schools across New York City use metal detectors, hand-held security wands, video cameras, and other security technology. Teachers shared mixed reactions to these various security devices, acknowledging that metal detectors may serve a purpose in keeping weapons out of school. But most teachers agreed that these expensive surveillance tools do nothing to proactively prevent violence or protect students’ rights.

At least 88 public schools in New York City have permanent metal detectors. In 2006, Mayor Bloomberg and the NYPD also began a “roving” metal detector program which periodically places temporary walk-through metal detectors unannounced at schools around the city. Among teachers surveyed for this report, 32% have permanent metal detectors in their schools, and an additional 15% said they have had temporary “roving” metal detectors placed at their schools. Among those teachers who have permanent metal detectors, 54%
responded that metal detectors never or rarely make them feel safe in school. When teachers were asked whether they believe metal detectors make students feel safe, the breakdown was similar, with 55% responding that metal detectors never or rarely make students feel safe and 43% responding that they sometimes make students feel safe. In schools that had temporary roving metal detectors, the results were similar (44% felt that metal detectors never or rarely make students feel safe, 47% said they sometimes do, and 10% said they always do).

Analysis of data from the National Household Education Survey found that the use of aggressive security measures including metal detectors can actually increase anxiety among students and reduce the likelihood that students feel safe in schools. Teachers in focus groups reported that metal detectors make schools feel like prisons and lead to alienation towards school among students. One teacher explained her emotional reaction to metal detectors, “I am really horrified every time I see the kids go through the scanners….I have a visceral reaction of anger that every time kids walk in the building they are made to associate school with this kind of abuse, and it has to stop.”

Teachers shared similar reactions to other security devices in schools, including surveillance cameras. One teacher commented, “This reflects my general impression that the school is evolving into a prison. They instituted school uniforms this year, we have hall cameras now.” He explained that if teachers see a student breaking a rule, like wearing a hat, if the student refuses to take off the hat or won’t show ID, the teacher is supposed “to point at the kid on the camera” and then “the SSAs watching the screens are supposed to call the deans and ID the kid and then come pick them up.” The teacher described the policy as “silly” and “unenforceable.”

Teachers also reported that these security measures can be sources of conflict and tension in the school. In particular, when students go through metal detectors, SSAs or police yell at students, pat them down, make them take off their belts and backpacks. As a result, students become aggravated and upset as soon as they enter the school building in the morning. One teacher commented, “When they come in the door and have an angry look on their face, I ask them, ‘Did you get stopped at scanning and was it difficult?’ And the student says, ‘Yeah man, this guy was messing around with me,’ and I say, ‘Sorry, that’s got to be terrible.’”

In schools with permanent metal detectors, almost all teachers (over 90%) felt that students are treated with disrespect when they are made to walk through the scanners. Specifically, 56% of teachers said that students are never or rarely treated with respect when they go through metal detectors, while 36% said students are sometimes treated with respect, and only
9% said students are *always* treated with respect. In schools with temporary roving metal detectors, results were similar, but slightly more teachers felt that students are treated with respect (45% said students are *never* or *rarely* treated with respect, 44% they are *sometimes* treated with respect, and 11% said they are *always* treated with respect).

Metal detectors can also have a direct impact on classroom learning, including making students late for class. In schools with permanent metal detectors, 23% of teachers said that students are *always* late to first period class because of metal detectors and another 44% said students are *sometimes* late to class. Teachers reported “they get to first period 5, 10, 20, 35 minutes late.”104 When temporary roving metal detectors are placed in schools, teachers report they lead to even more disruption. In these schools, 90% of teachers said students are *always* (42%) or *sometimes* (48%) late for class. In some cases students arrived up to 2 hours late.

“Our kids were getting stopped and searched the day we had random scanning. They’re getting to class an hour or two late because they’re stopping to get checked by the police. Then the next day some students didn’t come to school because they didn’t want to go through them again. It took us a while to recover from this disruption.”

- Teacher of 4 years, small high school in Manhattan

(3G Participant 2)

Despite the obvious detrimental impact of metal detectors on students and the school environment, teachers wrestled with whether metal detectors are a necessary evil in their schools. One teacher explained, “If you ask students if they like having metal detectors, some students say yes because it will keep weapons out, and other students will say no…because the metal detectors criminalize the students.”105 Other teachers
questioned whether metal detectors were even effective, "I had metal detectors at my school and not only was it closer and closer to prison, but also ineffective. You can’t really watch the screen that much. If a student wanted to really get something in they can.”  

In fact, according to data analyzed by the NYCLU and ACLU, under the “roving” metal detector program between April and December of 2006, 99% of the items confiscated as a result of the metal detectors were cell phones and iPods. Ultimately, teachers agreed that while metal detectors may keep some weapons out, they are not preventing or solving the problem of violence in schools and are instead diverting resources away from positive interventions.

![Image: "Why are we putting money into the SSAs and roving metal detectors and all these punitive programs rather than putting the resources in the school and creating the programs in the school that make those kids that are disenfranchised feel like they are a part of something? Why can’t the schools meet their needs? What are we doing building more punitive structures, rather than creating smaller class sizes where students are really struggling?"
- Teacher of 10 years, large high school in Manhattan (FG Participant 4)]

C. EXTREME POLICE TACTICS FOR DISCIPLINE MATTERS

It is a basic tenet of human rights that government bodies “should avoid criminalizing and penalizing a child for behavior that does not cause serious damage to the development of the child or harm to others.” Yet, with increasing numbers of metal detectors, police officers and SSAs, schools are transforming disciplinary matters into criminal matters. Teachers reported that SSAs and police officers are confronting, handcuffing, and removing students for school fights, disruptive behavior in the hallways and for arguing with SSAs or police. Analysis of data from the police department shows that overwhelmingly, police incidents in schools are for non-criminal behavior. For example, in schools with permanent metal detectors 77% of police incidents are for non-criminal behavior.

One high school teacher reported that “a student was cuffed after a verbal incident with an SSA in which the teacher felt the SSA had instigated the argument. A middle school teacher reported that a student was handcuffed for calling a police officer “corny.” Other teachers described incidents when students were handcuffed and removed for school fights and altercations, despite the absence of weapons involved or serious harm.

![Image: "We have uniformed school safety and NYPD. On occasion you will see police take kids away. There are several schools in the building generally separated by floor. On the first floor a fight started. Six safety agents broke up the fight and took one student away in cuffs…Teachers do not break up fights, that’s the policy. Safety agents intervene in anything physical."
- Teacher, medium-size high school in the Bronx (FG Participant 1)]

Even with virtually no other sources of support or alternatives for dealing with discipline problems, when teachers were asked whether the intervention of SSAs in school discipline was justified, the majority of teachers (over 50%) said their intervention is never or rarely warranted for behavior such as being late to school or class, for disruptive behavior in classrooms, or for clothing or items prohibited by school rules. Between 22% and 39% of teachers felt SSAs’ intervention was sometimes warranted for these types of misbehavior, and less than 16% said it was always warranted. In focus groups, teachers were particularly concerned by the intervention of SSAs in classroom discipline. One teacher described that when SSAs “come into my classroom they come in with anger and aggressiveness, but that’s not what I want. I know I need to send this kid out of the room for a minute or it will escalate, but
I don’t want them to be handled aggressively, I want them under concerned care.”¹¹²

A larger percentage of teachers felt the SSAs’ intervention was warranted for fights and verbally disruptive behavior in hallways. Over 63% of teachers said the SSAs’ intervention was warranted sometimes (43%) or all the time (20%) for verbally disruptive behavior, while 25% of teachers said it was never or rarely warranted. For school fights, 82% believed the intervention of SSAs was warranted sometimes (41%) or all the time (41%), and 14% believed their intervention was never or rarely warranted.

However, in focus groups, several teachers explained that they rely on SSAs to intervene in fights and disruptive behavior because of the lack of alternatives.¹¹³ In overcrowded classrooms and hallways, without enough school aides, counselors or other staff to help, teachers feel they have no choice but to turn to police or SSAs.

But teachers acknowledged that calling in police personnel can have a detrimental impact on students, while failing to address the underlying causes of their misbehavior. One teacher related the story of a student who she believed “really needed counseling” for a history of disruptive behavior in her classroom, but when she asked the principal about what services were available, she found that there were none. After an incident of harassment in her classroom when the student grabbed her, she felt something had to be done. She was told by her Assistant Principal that her only option was to report the incident to the police. She remembers, “I had very mixed feelings about that, but I did it….and the student was to my horror taken out in handcuffs the following day.” The student received “his third Youth Detention that year, and he ended up being suspended for 5 days.”¹¹⁴

Over 18% of teachers said they have intervened in incidents between students and police officers or SSAs. Over 26% of those teachers intervened because of disrespectful behavior, harassment, or inappropriate behavior on the part of SSAs or police, and 16% intervened because they felt an SSA or police officer was either instigating or escalating a situation. Almost 12% intervened over minor violations of school rules, including students wearing hats, having cell phones, or attempting to re-enter the school. Two teachers intervened because of physical violence toward a student – in one case an SSA was “roughing up” a student and in another an SSA “grabbed the student by the neck.”¹¹⁵

In a few cases, after teachers intervened, they were also disrespected or threatened with arrest. One teacher described an incident when a “safety agent was verbally ‘backing’ a student ‘into a corner’ with his questioning.” She said, “I told him I would take care of the situation (she was cutting class or late). He then became abusive
While the intervention of SSAs or police does not always result in arrest, when arrests take place it has devastating consequences for students emotionally and academically. Article 37 of the Convention on the Rights of the Child states that the “arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”

Recent data obtained from the NYPD by the American Civil Liberties Union and the New York Civil Liberties Union revealed that between 2005 and 2007 SSAs and police illegally arrested approximately 300 New York City public school students under the age of 16, some as young as 11 years old, for non-criminal violations in or on school grounds. New York State law prohibits children younger than 16 from being arrested for minor, non-criminal violations like loitering because of the resulting stigma and trauma when youth are arrested. Teachers reported that students are almost always traumatized when they are arrested and described that police officers will often engage in abusive language and treatment during an arrest - cursing, screaming, and humiliating students.

It would be unfair to blame SSAs or police for all of the problems with safety and discipline. Many of the SSAs are committed to student safety and contribute to a school culture based on mutual respect. However, without proper training in conflict resolution and de-escalation, and without clear and enforceable guidelines for when and how they should intervene, their impact on the school climate will often violate students’ basic human rights to education and to be treated with dignity.
When teachers talk about discipline and safety, they generally reject disciplinary systems that simply react to misbehavior and conflict by punishing and criminalizing students. Rather, teachers strongly believe that discipline must be an opportunity for learning and growth. To meet this goal, they call for:

- Building School Culture through Collaboration and Communication
- Strengthening Teaching and Learning
- Counseling and Support Services for Students
- Proactive Strategies to Prevent and Resolve Conflict
- Student Leadership in Discipline Practices

Together, these strategies represent a preventative and developmentally appropriate approach to improving school safety and discipline. Human rights law recognizes that this “holistic approach to education” is essential for ensuring the academic, social, and emotional development of students.

A. BUILDING SCHOOL CULTURE THROUGH COLLABORATION AND COMMUNICATION

In order to improve discipline and safety, the entire school community must be part of developing and implementing a constructive approach to discipline. This begins with developing a shared vision and creating structures for staff and students to communicate with one another. Teachers feel that without this strong culture of collaboration and communication, no individual policy or program can succeed.

Core values – Teachers in schools with positive cultures stressed that it is essential for school staff, with participation from students, to develop a set of school norms, principles, or core values that everyone in the school agrees to uphold, such as respect for diversity and respect for honesty. Principals must ensure that these core values are communicated and discussed with all members of the school community, and integrated into classroom learning and extra-curricular activities so that everyone knows what is expected of them and why each core value is important.

Staff meetings – It may seem surprising, but teachers reported that in many schools there are no regular meetings where teachers come together to discuss discipline and safety, as well as other issues. When asked what would make their schools safer, 8% of teachers...
said better communication among staff. In schools that do have regular methods of communication, teachers reported that it can make a huge difference. At staff meetings teachers discuss whether and how to introduce new programs to the school, such as mentoring or mediation programs, or what new strategies can be used to address particular sources of disruption, such as how to better manage the flow of students into the cafeteria during lunch to reduce conflict. Several teachers said that staff meetings can also be an opportunity to discuss any confrontations or tensions that a teacher has with a particular student to gain insight from other teachers about that students’ interests and what strategies can be used to better engage him or her.

**Student Orientation** – Some schools run an orientation period at the beginning of the school year to introduce students to school norms and values and to build relationships between students and staff. One teacher explained “there are two or three days of orientation, and then a thematic workshop to orient kids to the school. They get to know all the teachers in the school that way and other students, and then they start their classes.” A teacher in a different school described how an intensive three day orientation “sets a tone that we try to maintain throughout the year…we get kids to buy-in to the community, to the rules, the levels of discipline, the expectations.” During orientation, students discuss a wide range of issues that impact their school and their community, such as gang violence,

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**The 100% RESPECT! Campaign at East Side Community High School**

East Side Community High School in Manhattan uses innovative strategies to involve students in developing school norms for behavior. The 100% RESPECT! Campaign involves students and staff in a process to discuss and define what respect means in their community. The program started 3 years ago when teachers expressed concern about cursing, sexism, and bullying of all varieties and decided: “We’ve got to do something about this.”

The process begins with a lesson that is carried out in each Advisory Class (a small group that meets regularly) during which students define what respect means. Students discuss different understandings of the term, given that there is diversity in age, gender, class, race, and ethnicity among students and staff. The Campaign aims to develop a common language for adults and teens to communicate with one another across these differences. During the lesson, each advisory group comes up with a list of guidelines defining student-to-student respect, student-to-teacher respect and teacher-to-student respect. After the lesson, student representatives from each advisory group come together to read through all the ideas and come up with a combined list. The guidelines for behavior are then presented to each grade in a town hall style meeting.

Initially, the school implemented the 100% RESPECT! Campaign in the middle school grades and in 6 months suspensions dropped 45%. The school is now implementing 100% RESPECT! in the high school as well.

The Dean of Students, Matthew Guldin, explained that the “100% RESPECT! Campaign has become part of the culture. We talk about it all the time, we have assemblies on it….the rules are made by the kids and we’re working towards having students enforce the rules themselves.” Still, the staff and students have to continually work to build buy-in and participation in the process. He explained, “there are always new challenges, sometimes not everyone buys in or does the lessons.” So everyone has “to be committed to a cultural change, it can’t be a top-down approach. The whole point of this is to foster communication between adults and teens. Once people are communicating with each other using a common language, the need for suspensions drops significantly.”

If you want to learn more about the 100% RESPECT! Campaign you can reach Matthew at matthewg@eschs.org.
and why it is important for the school to be a safe space. The teacher explained how at the beginning you “see kids coming in real tough, scoping out the scene, and over the next three days you can see them open up and become more bright, and become involved, reaching out to this community, relaxing and realizing that this can work.”

**B. STRENGTHENING TEACHING AND LEARNING**

_Curriculum must be of direct relevance to the child’s social, cultural, environmental and economic context and to his or her present and future needs and take full account of the child’s evolving capacities; teaching methods should be tailored to the different needs of different children._

*UN Committee on the Rights of the Child, General Comment 1*

Teachers make a direct link between engaging classes and extra-curricular activities, and fewer disciplinary problems. When students are interested in their classes and when they feel a sense of pride and belonging in their school, they are less likely to be distracted. One teacher explained, “When students are succeeding in school they are rarely disruptive, so we need to help them succeed more.” The UN Committee on the Rights of the Child recognizes that education must be “inspiring and motivating” enabling students to tap into their individual interests, talents, abilities, and personalities. This is essential for fostering an atmosphere where all members of the school community feel respected and appreciated and work together to promote a safe environment for learning.

_Curriculum and Class Size_ - Teachers reported that interesting and engaging classes are needed to keep students focused on learning and reduce the likelihood that they will engage in disruptive behavior. To better engage students, teachers described how they link their lesson plans to issues and topics that are relevant to students’ everyday lives and to the school community. One teacher described how in her school teachers link the curriculum to the school-wide norms or core values that are taught and reinforced in all school activities. She explained, “I am an English teacher, so when I am teaching Frankenstein, I link it to one of our core values – respect for humanity.”

Unfortunately, as schools become increasingly focused on test scores and budgets are cut, fewer and fewer course choices exist and teachers explain that “standardized tests make for boring curriculum and kids being frustrated…they are not interested in their education, and therefore feel no ownership over it.” In a 2006 nation-wide survey of 16–24 year-olds who dropped out of high school, students said that “uninteresting classes,” more than any other reason, contributed to them leaving school before graduation. Among the improvements students suggested would have kept them in school, 81% proposed making classroom connections to real-world learning and finding ways to keep school more engaging and relevant.

In survey responses, teachers called on policy-makers to increase diversity in the curriculum to include more arts, science, and service-learning to “capture students’ interests” and to engage students in hands-on, “productive activities that prepare them for life, challenge them and promote self esteem.” Teachers also suggested giving students “more agency and choices in what they do and the classes they take from day to day” so they are “more interested and invested in their classes.” In order for teachers to engage in these creative and productive activities, they also need “small classes and less of a class load so there is time to meet with students” and tailor teaching to their individual interests and personalities.

_Extra-curricular activities_ - Teachers also emphasized the importance of after school programs and extra-curricular activities for students to develop a sense of belonging towards school and to put their physical energy and social interactions towards productive outcomes. A teacher in a large high school in Brooklyn described a multicultural club at his school which offers “drumming and dancing in the afternoon” so that students have things to belong to in school. He said, “It’s good to see some kids doing something non-
academic and see how much discipline and care they can show in those settings.”

Unfortunately, budget cuts are stripping schools of “clubs, school newspaper, band, arts, things to get involved in…There is nothing to look forward to and nothing to belong to…It’s only after school tutoring and remediation.” As a result, students are less likely to feel connected to school and more likely to act out. Teachers called on schools to protect and create more after school programs so that students “come to see the value of socialization and the need for manners and good conduct in order to achieve one’s goals.” “Sanctioned ways to interact positively” outside of the classroom are important for students to be able to navigate relationships with others and develop constructive ways of resolving conflict.

Research has shown that students in schools with comprehensive counseling programs report feeling safer and more connected to school and feel they are better prepared by school for future work. Teachers’ day to day experience confirms these findings, and our focus group and survey participants overwhelmingly called for more of these supportive services for students.

Guidance Counselors and Social Workers – More than 85% of teachers surveyed said that guidance counseling was either effective or very effective for addressing safety and discipline. When students are being disruptive in the classroom or exhibiting patterns of misbehavior, teachers explained that they would prefer to send them to a counselor or social worker who could “listen to the problems that our students are going through to help them work through it.” One teacher explained, “I would more often than not call a guidance counselor to deal with an issue in class if I could, rather than a safety officer or a Dean or even a parent, because they could sit down with the student and give them the care and the talking they need without the aggressiveness.”

Unfortunately, as documented earlier in this report, there are not enough counselors or social workers to help with discipline. Many teachers explained that the guidance offices in their schools were not only understaffed and overwhelmed by the sheer number of students that they were required to see, but also that their primary function was scheduling classes for students and helping seniors prepare for graduation. Several teachers expressed that schools should better
define the role of counselors and social workers and ensure that they have proper training.

There is also a vital leadership role for school counselors and social workers to play in creating and sustaining a safe school culture. They can engage teachers, administrators and district officials to assess whole-school climate needs and provide universal prevention programming. Counselors can help teachers and staff by aiding in identifying behavioral problems, modeling trust and respect and teaching both students and teachers empathy skills.138 They can utilize community resources for mentoring, after-school programs, and referral services to strengthen the ties between schools, communities and families, and work proactively with parents to provide resources, training, and referrals as necessary.

School aides - Several teachers in focus groups also pointed to the important role that school aides and community workers can play in helping to maintain discipline and promote a positive school culture. School aides are often young adults who come from the same community as students and are available to monitor hallways and cafeterias and to respond to and de-escalate conflicts when they arise. A teacher at a large high school in the Bronx described school aides at her school as "gentle and sweet people... [who] talk to the students and so the place is calm."139 She explained that school aides are an effective alternative to a uniformed security presence because the school aides can handle many of the same functions of security without creating an aggressive presence. Another teacher explained that students have a familiarity and relationship with the school aides who are “much more part of the school community” than the SSAs.140

While only one teacher in focus groups explicitly raised the issue of the diversity of the teaching body in her school, teachers’ perspectives on how school aides play a particularly constructive role because they are often from the same community as students, does raise the question of whether teacher diversity may also be important. In New York City schools, only 14% of students are white, but 60% of teachers are white.141

Research has shown that students of color tend to have higher academic outcomes and fewer disciplinary referrals when taught by teachers from their own racial or ethnic groups.142 This research also shows that teachers of color have higher performance expectations and may be more likely to use challenging curriculum with students of color, which increases academic performance.

D. PROACTIVE STRATEGIES TO PREVENT AND RESOLVE CONFLICT

Education must also be aimed at ensuring that essential life skills are learnt by every child...such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility.

- UN Committee on the Rights of the Child, General Comment 1

One of the primary functions of education is providing students with the skills to resolve conflicts and build good social relationships.143 The UN Committee on the Rights of Child recognizes that schools must teach students how “to resolve conflict in a non-violent manner” and promote supportive approaches to discipline that reinforce positive social interaction.144 Good classroom management, conflict resolution, mediation and restorative practices in schools encourage students to take responsibility for their actions, consider the impact their behavior has on others, and work collaboratively with members of the school community to repair any harm done and prevent conflict from reoccurring.

Authorities should promote the establishment of a wide system of in-service education, available free to all teachers...Courses and other appropriate facilities should be so designed as to enable teachers to improve their qualifications, to alter or enlarge the scope of their work...and to keep up to date with their subject and field of education as regards both content and method.

- UNESCO/ILO Recommendations on the Status of Teachers
At Banana Kelly High School in the Bronx, an Intervention Team (I-Team) of five adults works to address the impact of poverty on the behavior, attendance and academic performance of students. The I-Team is made up of four Community Outreach Workers and the Dean, who goes by the title Director of Student Life. Throughout the day, I-Team members interact with students, building relationships and providing support. They are at the school entrance in the morning welcoming students and checking to see if any students seem “stressed” or upset and could use some support.

The I-Team seeks to intervene with troubled or disruptive students in a timely and pro-active manner. It encourages students to reveal and discuss the hidden issues that frequently compete with a teacher’s time and interfere with the best laid lesson plans.

The I-Team responds to a wide variety of conflicts that arise in school. In some cases the I-Team is called in to de-escalate a conflict and in other cases they follow-up after a teacher has reported difficulty with a student. For example, a teacher might write a log-entry, “Wally came into class 30 minutes late, refused to do the work, and talked during the whole class.” Someone from the I-Team will then follow up with that student, find out what led to that behavior, and develop an appropriate response. If a student displays problematic behavior a lot, they come up with a program to support that student over time.

The I-Team uses a range of methods to respond to conflict including mediation, crisis intervention, and a small-group peer support program. If, for example, a student has difficulty managing their anger and consistently has outbursts or confrontations with other students or teachers, the I-Team might utilize the Life Skills Crisis Intervention (LSCI). The team will work to find out what sets the student off, acknowledge the student’s feelings, help the student to recognize their behavior, and transfer skills that enable the student to manage behavior on their own. The I-Team aims to build trusting relationships with students and then to leverage those relationships to guide the students to do what is in their best interest.

The I-Team plays an invaluable role in the school for teachers, administrators, students, and parents. A member of the I-Team explained, “It gives teachers and principals the support they need and the space to work on the most important stuff in a school: teaching and learning. Parents also have someone to go to when they’re concerned about their child. The rumors about kids ‘who are going to get jumped’ fly all over the place. We have a team who can investigate that stuff. And students who need support have 5 extra adults in the school who they can turn to when they need it.”

**Classroom management training** - Almost 82% of teachers surveyed felt that classroom management training was either an effective or very effective method for addressing discipline. Teachers reported that they need “better classroom management skills…a way to communicate clear consequences to students… and to know when it is ok to remove students from the classroom.”

Overall, teachers emphasized that a one-size-fits-all model for either classroom management or academic success is out of touch with the realities of today’s classrooms and disadvantages all learners. Thus, teachers talked about the need for creativity and flexibility in the type of training they receive so that they can become proficient in a wide range of both instructional and behavioral techniques. They called not only for traditional professional development...
workshops, but for programs where teachers can share their strategies with one another and give encouragement, constructive feedback, and guided reflection to support them in developing their teaching practice and pedagogy. Indeed, participants in the survey and focus groups shared different techniques for classroom management, and several teachers talked about “positive systems and incentives that reward good behavior and promote caring and community among students.” One teacher explained, “I have a reward system and I really try to emphasize the positive as much as possible. So I reward them when they’re doing the right thing, when they’re on task, when they’re working well.” Finally, teachers called for university level teacher programs that provide hands-on strategies to address discipline and conflicts, complaining that an overemphasis on theory fails to prepare them to meet the full range of their students’ educational needs.

Conflict resolution and mediation – Over 84% of teachers surveyed said that conflict resolution and mediation are effective or very effective methods for improving safety and discipline. Teachers reported that they need more training so that they can be “the first layer for conflict resolution in any issues that come up with students.” But teachers also said that schools need more intensive programs run by counselors, school aides, or other staff to use conflict resolution and mediation as an alternative to removal when conflicts arise. Research demonstrates that school-based conflict resolution programs significantly reduce antisocial behavior in participants and improve school climate.

In New York City schools, conflict resolution training and programs are available, but as documented in earlier sections of this report, not enough teachers and schools are receiving the resources and guidance to use them.

Restorative Practices - While restorative practices are still a relatively new concept for some educators, 66% of teachers surveyed said that restorative practices are effective or very effective disciplinary methods (over 20% of teachers responded that they did not know). Restorative practices involve students and staff in a process to repair the harm resulting from conflicts or misbehavior through fairness committees, community circles, and peer juries.

Fairness committees, for example, can be used as an alternative to suspension and other punitive responses. The committees are usually made up of several students and teachers or other staff members who are trained in restorative practices. Two teachers in our focus groups had fairness committees in their schools. One teacher described the fairness committee as a forum “where students can take other students, teachers can take students, students can even take teachers if they are violating the core values, to have humane conversations about how to interact in the schools. In the 9 years that I worked there, there were very few fights in the school.” When students or teachers go to the committee, they discuss the reason for their behavior, the impact it had on the broader school community, and creative solutions for how to repair the harm done, which can include community service to the school, writing letters of apology, or participating in additional counseling or mediation.

In addition to these formal structures, the restorative philosophy should also be integrated into the daily practices and language of a school community. Training teachers, staff, and the administration in using language and questioning that provoke student reflection and responsibility are key components of a school-wide restorative culture. These practices can be incorporated into the curriculum, town hall meetings, school clubs, and extra-curricular activities. Research by the International Institute for Restorative Practices has found that restorative practices create a “more positive relationship between staff and students” and contribute to decreases in disciplinary referrals, detentions, disruptive behavior, and out-of-school suspensions.

In 2006, the Chicago Public Schools adopted a new student code of conduct incorporating restorative justice practices. Currently over 50 high schools in Chicago have peer juries. In an evaluation conducted by DePaul University in 2007, researchers found that “the peer jury program helped students who violated
A Preventive and Restorative Approach to Discipline at James Baldwin School

At the James Baldwin School in Manhattan, the school culture is infused with restorative principles and practices aimed at building a sense of community and preventing conflict. There are approximately 200 students in the school, many of whom are transfer students who have come from other schools where they faced disciplinary or academic difficulties. A central part of the school's mission is “to provide a haven for students who have previously experienced school as unresponsive to their needs… by personalizing our learning situations, by democratizing and humanizing the school environment, and by creating a 'talking culture.'”

The school’s approach to discipline begins with the modeling and teaching of seven core values which include respect for intellect, humanity, diversity and truth, and commitment to justice, peace and democracy. These core values are integrated into the school curriculum and students constantly discuss ways to better respect these values in their daily interactions. A key method for teaching and discussing these core values is through “Crew” or the Advisory Program at James Baldwin. A group of 10 to 15 students and a Crew Advisor (a teacher at the school) meet every morning to provide academic support and to discuss and resolve conflicts or tensions that arise. The teacher or Crew Advisor is the primary contact for their students regarding any academic, social or behavioral issues that come up and for regularly communicating with their students’ families.

When students violate one of the core values or conflicts arise, there is a scale of constructive behavioral interventions focused on addressing the needs of students and the school community. Interventions start at informal conversation with the student and lead up to formal mediation, referral to the school’s fairness committee, a meeting with parents, or a behavioral contract, which can include explicit consequences for future misbehavior, including any of the above mentioned responses, as well as suspension.

The school adopted the Fairness Committee model based on the restorative practices used at Humanities Preparatory Academy, the school which leaders at James Baldwin set out to replicate. The Committee usually convenes six people - a teacher facilitator, one teacher, and two student members, and the two people involved in a violation of a core value. Any teacher or student can take another to the fairness committee. The Fairness Committee utilizes restorative principles by 1) promoting self-reflection and empathy by confronting a member of the community with his or her actions and how they have effected others, 2) collectively deciding how best to restore and mend the community as a result of the actions, and 3) determining how to reintegrate the member who has violated the values back into the school community. The Committee can be the first, second or final step in any intervention.

A teacher at James Baldwin explained how the fairness committee, the Crew advisory, and other preventive strategies help staff “figure out what is going on with students” and take steps to resolve conflicts “before things get too far or too physical…Giving students a space in which they can talk and in which they can deal with emotional situations is important.” As a result, suspension is used “very selectively.” When used, suspension is part of a thoughtful process “to set clear limits on behavior that could be dangerous to self or others; to allow people time away from the community to reflect on the damage done to self or others…to give the community time to prepare for the re-acceptance of the persons suspended; [and] to broaden the student’s (and school’s) circle of accountability to include family.” Together, the different layers of support and constructive intervention at James Baldwin create a caring and supportive school environment where teachers and students are able to thrive.
various types of school rules avoid over 1,000 days of suspension, thereby keeping them in the learning environment, a major goal of the peer jury.”

E. STUDENT LEADERSHIP IN DISCIPLINE PRACTICES

The participation of children in school life, the creation of school communities and student councils, peer education and peer counseling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.

- UN Committee on the Rights of the Child, General Comment 1

Enlisting students in the development of safety and discipline guidelines and procedures encourages broad student buy-in, mutual trust, and commitment to those policies. The UN Committee on the Rights of the Child recognizes the fundamental right of students to participate in school policies that impact their education, including in disciplinary proceedings. As noted earlier in the report, 51% of teachers felt that students should have a lot or the most influence over discipline and safety policies. Another 37% said that students should have some influence over these policies. Teachers report that it is important for students to be included in decisions about discipline because “if they are invested and included in developing rules, they are more likely to follow them.”

Direct input into school policy - Teachers felt that schools should create vehicles to ensure that students provide input into the creation of discipline policies. They had several suggestions for how to involve students, including asking students to give input into school handbooks, forming a student committee for discipline to discuss issues as they arise and give recommendations to the administration, as well as using traditional governance structures in schools such as school councils.

Peer mediation and mentoring – Teachers support involving students directly in shaping and facilitating disciplinary responses. In addition to training adults in conflict resolution and mediation, 83% of teachers felt that peer mediation is effective or very effective for improving discipline and safety. Peer mediation, intervention, and mentoring programs give students who are experiencing difficulties an opportunity to talk with other youth who are part of the same school community and experiencing many of the same struggles. Peer mediation and mentorship programs “utilize the leadership strengths of students to help one another resolve problems” and hold each other accountable for creating a safe learning environment. One teacher explained that at her school they “created an advisory system where 9th graders actually have older students as advisors, have student-led meetings, and try to get students to support them in working out problems. Many students at our school help to defuse volatile situations… The experienced student members of our community are our best support in creating an environment that is safe for all.” But teachers caution that for these programs to work, schools need time and resources to adequately train students and support them in carrying out these programs.

School-wide meetings – Teachers reported that town hall style meetings or other forums are important to get input from students about discipline and safety policies. Students can share their own ideas for how to improve the school environment and can ask questions of teachers, administrators, and school safety personnel. These meetings can be school-wide or can be broken down into smaller groups depending on the size of the school. Several teachers felt that town hall meetings can also be helpful after an incident occurs inside or outside of school, such as a serious fight or police incident, to give students a chance to talk about why it happened, how it affected them, and what can be done to prevent it from happening again. Teachers report that these meetings are most effective when students help to identify the topics for discussion and participate in facilitating the meeting themselves.
Positive Behavior Interventions and Supports (PBIS) is a system that schools can use to build positive school cultures and approaches to discipline. Under PBIS, all stakeholders in the school community come together to establish norms and behavioral expectations for the school, create incentives for appropriate behavior, and determine constructive consequences and interventions for inappropriate behavior. PBIS includes three levels of support and problem solving:

- **Primary**: rules, routines, and physical arrangements for all students to prevent initial problem behavior
- **Secondary**: small group or individual responses for students at risk of problem behaviors, such as mentoring programs, staff support teams for students, etc.
- **Tertiary**: more intensive interventions tailored to meet the specific needs of individual students with patterns of problem behaviors

At each level, schools can tailor the different strategies and programs they use to best meet the needs of their students and staff. PBIS also uses data gathering and evaluation for schools to review the effectiveness of disciplinary approaches and adjust their strategies as needed.

A growing number of schools and districts around the country have adopted PBIS in their discipline code, including the Los Angeles Unified School District. Research has shown that PBIS can reduce disciplinary incidents, improve the school environment and increase academic outcomes for students. In the state of Illinois, there are over 600 schools implementing PBIS. In 12 Chicago public schools, for example, the number of students who received six or more disciplinary referrals fell by more than 50% over three years after implementing PBIS. At the federal level, the Positive Behavior for Effective Schools Act, currently before the Senate and House of Representatives, would allow school districts to use federal funds for PBIS and other preventive approaches to discipline.

In New York City, the Office of Positive Behavior Support provides technical assistance for schools in implementing PBIS, in particular for schools in District 75 that serve Special Education students. The office provides professional development workshops for teachers in classroom management techniques, conflict resolution, and functional behavior assessments.
ACTION STEPS FOR THE MAYOR AND DEPARTMENT OF EDUCATION

To protect the human right to education and safety with dignity for all students, we call on the Mayor of the City of New York and the Department of Education to:

1. Support schools in creating their own positive cultures based on a collaborative process involving teachers, students and parents, administrators, staff, and School Safety Agents. The Department of Education should provide technical assistance and support for schools to access systems such as Positive Behavior Interventions and Supports (PBIS) and restorative practices which can be used to develop positive cultures for safety and discipline policies, and the flexibility to share with and learn from colleagues around the city to develop best practices.

2. Reduce class size and overcrowding in schools and provide appropriate facilities for a positive educational experience for students and teachers.

3. Increase funding to hire well-trained guidance counselors, social workers, school aides, community outreach workers, and other support staff.

4. Provide more professional development in conflict resolution and classroom management for teachers, deans, counselors, and administrators, and in leadership development for principals.

5. Provide staff and technical assistance for schools to implement conflict resolution, mediation, mentoring, and restorative justice programs as alternatives to suspension.

6. Support student voice and innovative approaches to discipline and college readiness/access by supporting the maintenance and expansion of Urban Youth Collaborative Student Success Centers, which both look to students to design school-tailored programs that enhance and support progressive, non-punitive solutions to conflict, and support college access for all.

7. Revise the discipline code to reserve suspensions for only the most serious infractions.

8. Support passage of the Student Safety Act as a first step towards providing greater transparency and accountability over citywide discipline and safety practices. The Act includes data reporting requirements on suspensions, expulsions, and police incidents in schools and gives students the right to file complaints against School Safety Agents before the Civilian Complaint Review Board (CCRB).

9. Remove armed police officers as a regular presence in schools.

10. Provide better training for School Safety Agents and establish clear guidelines for when they should be involved in discipline, including reserving arrest for major crimes.°

11. Pass “Immigrant Safe Zones” which will ensure enforcement of city and Department of Education laws that protect immigration status information of students and their families. Fear of school authorities asking for or compiling immigration status is a major obstacle to undocumented immigrant students accessing education services.

12. Reduce the use of metal detectors in schools and hold annual assessments, informed by students, parents, teachers, and administrators, of how they are being used and whether they should be removed.

13. Establish clear rules about governance over school safety giving principals and educational staff authority over School Safety Agents. The Department of Education should provide guidance, but ultimately each school community must develop and approve its own procedures.

14. Increase student, parent and teacher participation in developing and implementing discipline and safety policies at the school and district level.


40. New York City Department of Education, “Creating a Portfolio of New School Options for 2009?”


43. Survey 93. Teacher of 9 years, small high school in Manhattan.

44. FG Participant 2. Teacher of 4 years, small high school in Manhattan. November 15, 2007.


47. FG Participant 5. Teacher of 12 years, large high school in Brooklyn.

48. FG Participant 6. Teacher of 5 years, small high school in Brooklyn.


54. Dakar Framework.


59. UN Human Rights Committee, General Comment 25, UN Doc. CCPR/C/21/Rev.1/Add.7. General Comment 25 addresses implementation of Article 25 of the International Covenant on Civil and Political Rights, ratified by United States June 8, 1992. Because the U.S. has ratified the Covenant, it is part of U.S. federal law. The Covenant has been ratified by 156 countries. Also see Elizabeth Sullivan, “Civil Society and School Accountability,” Center for Economic and Social Rights and Institute for Education and Social Policy, 2003.


61. Survey 276. Teacher of 13 years, large high school in the Bronx.


65. Interview 1. Teacher of 6 years, small middle school in the Bronx.

UN CRC, General Comment 1.

The Riyadh Guidelines.

New York City Department of Education (NYC DOE), Citywide Standards of Discipline and Intervention Methods (The Discipline Code), 2008.

Brady et al., Education and Urban Society, August 2007.


Interview 1. Teacher of 6 years, small middle school in the Bronx.

FG Participant 7. Teacher of 20 years, large high school in the Bronx.

UN Committee on the Elimination of Racial Discrimination. Concluding observations on the United States of America, UN Doc. CERD/C/USA/CO/6, February 2008. The Committee is a treaty-body created to monitor government compliance with the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), ratified by the U.S. in 1994. Because the U.S. has ratified ICERD, it is part of U.S. federal law and the U.S. is subject to periodic review by the Committee.

Interview 1. Teacher of 6 years, small middle school in the Bronx.

FG Participant 5. Teacher of 12 years, large high school in Brooklyn.


The Riyadh Guidelines.


FG Participant 2. Teacher of 4 years, small high school in Manhattan.

FG Participant 1. Teacher, medium-size high school in the Bronx.


UN Committee on Economic, Social and Cultural Rights, General Comment 13, UN Doc E/C.12/1999/10. The Committee is a treaty-body created to monitor government compliance with the International Covenant on Economic, Social and Cultural Rights. General Comment 13 addresses implementation of Article 13 on the right to education.


Interview 1. Teacher of 6 years, small middle school in the Bronx.

UN CRC, General Comment 1.


Survey 105. Teacher of 12 years, large high school in the Bronx.

FG Participant 7. Teacher of 20 years, large high school in the Bronx.

FG Participant 5. Teacher of 12 years, large high school in Brooklyn.

FG Participant 1. Teacher, medium-size high school in the Bronx.

FG Participant 4. Teacher of 10 years, large high school in Manhattan.

Survey 90. Teacher of 12 years, small high school on a big campus.

Survey 213. Teacher of 23 years, large high school in Queens.

Survey 131. Teacher of 3 years, medium-size high school in the Bronx.


Survey 70. Teacher of 6 years, small high school in Manhattan.


FG Participant 7. Teacher of 20 years, large high school in the Bronx.

FG Participant 3. Teacher of 20 years, large high school in Manhattan, January 30, 2008.

FG Participant 1. Teacher, medium-size high school in the Bronx.

FG Participant 1. Teacher, medium-size high school in the Bronx.

FG Participant 10. Teacher of 3 years, large high school in Manhattan.

FG Participant 6. Teacher of 5 years, small high school in Brooklyn.


The Riyadh Guidelines.


Survey 177. Teacher of 4 years, small high school in Brooklyn.

Survey 232. Teacher or 2 years, small middle school in Brooklyn.

FG Participant 10. Teacher of 3 years, large high school in Manhattan.

FG Participant 1. Teacher, medium-size high school in the Bronx. Also see Chapter 3 B., Lack of alternatives.

Interview 1. Teacher of 6 years, small middle school in the Bronx.

Survey 281. Teacher of 1 year, small high school in Brooklyn. Survey 276. Teacher of 13 years, large middle high school in the Bronx.

Survey 123. Teacher of 7 years, medium-size school in Brooklyn.

ACLU & NYCLU, “Unlawful Arrests of School Children at NYC Public Schools,” Survey 123. Teacher of 7 years, small high school in Brooklyn.

ACLU & NYCLU, “Unlawful Arrests of School Children at NYC Public Schools,” Survey 281. Teacher of 1 year, small high school in Brooklyn.


ACLU & NYCLU, “Unlawful Arrests of School Children at NYC Public Schools,” Survey 177. Teacher of 4 years, small high school in Manhattan.

ACLU & NYCLU, “Unlawful Arrests of School Children at NYC Public Schools,” Survey 106. Teacher of 1 year, small middle school in Brooklyn.


ACLU & NYCLU, “Unlawful Arrests of School Children at NYC Public Schools,” Survey 106. Teacher of 1 year, small middle school in Brooklyn.
### APPENDIX A: TEACHER SURVEY

1. Name of school where you teach: ____________________________  Grade(s) you teach: ______
   Subject(s) you teach: ____________________________  Years teaching: ______  Years at this school: ______

2. Which of the following best describe your race/ethnicity? (please circle all that apply)
   - Black
   - Latino
   - Asian American
   - Native American
   - White
   - Other: ____________________________

3. Size of school where you teach (please circle one):
   - Small (Up to 500 students)
   - Medium (501 to 1,500)
   - Large (More than 1,500)

4. Is your school (please circle one):
   - Free-standing
   - On a larger campus

5. **What type of safety personnel and equipment do you have at your school?** (please circle Yes or No)
   a. School safety agents (uniformed, but unarmed police personnel assigned solely to work in schools) Yes  No
   b. Armed police officers (some armed NYPD officers are also assigned to schools) Yes  No
   c. Permanent metal detectors Yes  No
   d. Temporary walk-through metal detectors from the NYPD (under the DOE’s Mobile Unannounced Scanning Program) Yes  No

6a. **Do school safety agents make you feel safe in school?**
   - Never
   - Rarely
   - Sometimes
   - Always
   - N/A

   b. Do you believe school safety agents make students feel safe? - - - - -
   c. Do school safety agents treat students with respect? - - - - -

7a. **Do armed police officers make you feel safe in school?**
   - Never
   - Rarely
   - Sometimes
   - Always
   - N/A

   b. Do you believe armed police make students feel safe? - - - - -
   c. Do armed police officers treat students with respect? - - - - -

8a. **Do metal detectors make you feel safe in school?**
   - Never
   - Rarely
   - Sometimes
   - Always
   - N/A

   b. Do you believe metal detectors make students feel safe? - - - - -
   c. Are students treated with respect when they go through detectors? - - - - -
   d. Are students late to first period class because of detectors? - - - - -

9. **How often do you believe the intervention of school safety agents is warranted in these situations at your school?**
   a. Student fights
   b. Verbally disruptive behavior in hallways
   c. Verbally disruptive behavior in class
   d. Clothing/items prohibited by rules
   e. Lateness to class or school
   f. Students gathering out of class (ie. near the cafeteria, after school, etc.)
   g. Other: ____________________________

   Never  Rarely  Sometimes  All the time  N/A

10. **Have you ever intervened in an incident between students and school safety agents or armed police?** (please circle)
    Yes  No
    If so, please describe what happened:
11. Of the following people, who has the most influence over safety and discipline policies in your school?

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<th></th>
<th>No influence</th>
<th>Some influence</th>
<th>A lot of influence</th>
<th>The most influence</th>
<th>N/A</th>
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<td>a. Teachers</td>
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<td>b. School administrators</td>
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<td>c. Students</td>
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<td>d. Parents</td>
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<td>e. School safety agents</td>
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<td>f. Armed police officers</td>
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<td>g. Dept. of Education administrators</td>
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12. Of the following people, who **should** have the most influence over safety and discipline policies in your school?

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<th>No influence</th>
<th>Some influence</th>
<th>A lot of influence</th>
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<td>a. Teachers</td>
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<td>b. School administrators</td>
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<td>g. Dept. of Education administrators</td>
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13. How effective do you believe the following methods are for improving safety and discipline?

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<th>Method</th>
<th>Very ineffective</th>
<th>Ineffective</th>
<th>Effective</th>
<th>Very effective</th>
<th>Don’t know</th>
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<tbody>
<tr>
<td>a. Adult mediation</td>
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<td>b. Peer mediation</td>
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<td>c. Guidance counseling</td>
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<td>d. Conflict resolution for students</td>
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<td>e. Conflict resolution training for teachers</td>
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<td>f. Classroom management training for teachers</td>
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<td>g. Restorative justice practices (ie. fairness committees, community circles, peer juries)</td>
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<td>h. In-school suspension</td>
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<td>i. Out-of-school suspension</td>
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<td>j. Arrest</td>
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<td>k. Other</td>
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14. What do you believe is the largest threat to safety in your school? (please write)

15. What do you believe is needed to make your school safer? (please write)
APPENDIX B: TEACHER FOCUS GROUP GUIDE

1. Do you feel safe at your school and why or why not?
   • What do you believe is the largest threat to safety in your school?

2. Do you have school safety agents and police officers in your school? How many? How does their presence effect the environment in school?

3. What role do safety agents and police officers play in disciplinary issues in your school?
   • When do they intervene with students, for what types of incidents?
   • What happens when they intervene? What are the consequences? Can you give us an example? Is that typical?
   • Do you believe it is warranted when they intervene?
   • Do you ever call on police or safety agents? Why or why not? Can you give an example and describe what happened?
   • Have you asked them to enter your classroom? What happened?
   • Have they ever entered your without you asking? Why? Can you give an example of what happened?

4. Does their intervention positively or negatively impact student behavior? How?
   • Can you give us an example of each?

5. In addition to the role of police and safety agents, what are the discipline policies and strategies that are used in your school?
   • How often is suspension or expulsion used and for what types of incidents?
   • Does your school offer adult mediation, peer mediation or conflict resolution for students?
   • Are guidance counselors available to meet with students on disciplinary issues?
   • Are there any restorative justice practices used in your school?

6. What strategies do you use in your classroom?

7. What policies or strategies do you believe are most effective?
   • What would you like to see more of?
   • What would you like to see less of?
   • What do teachers need to help promote discipline and safety in the classroom?

8. Who in your school participates in planning and decision-making about discipline and safety policies?
   • How are safety and discipline policies communicated to teachers?

9. What role do you think teachers should play in determining discipline and safety policies?

10. What role should students play in determining discipline and safety policies?
Courtney Bowie

- Jefferson Parish Administrative Complaint
- Jefferson Parish Public School System Corrective Action Plan
  *Louisiana Department of Education, Board of Elementary and Secondary Education*
February 1, 2005

VIA FACSIMILE

Virginia C. Beridon, Director
Division of Special Populations
Louisiana Department of Education
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Michelle Staggs
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ATTN: Legal Division
Fax No. 255-342-1197

Re: Request for an Administrative Due Process Hearing Involving James T., Glenn D., Keneisha S. and a Class of All Similarly Situated and Treated Students with Emotional Disturbance in the Jefferson Parish Public School System.

I. Glenn D.

II. Keneisha S

III. James T.

Dear Ms. Beridon,

On behalf of Glenn D., Keneisha S. and James T.(hereinafter, Petitioners), and a class of similarly situated and treated students with emotional disturbance in Jefferson
Parish School System (hereinafter JPSS), the undersigned counsel are filing this Class Due Process Complaint versus the Louisiana Department of Education and the Louisiana Board of Elementary and Secondary Education. Petitioner Glenn D. is a student who attends ------- --. At all times relevant to this complaint he has been determined eligible for special education services under the Individuals with Disabilities Education Act (hereinafter IDEA), 20 U.S.C. § 1401 et seq. Petitioner Keneisha S. is a student who attends----------. At all times relevant to this complaint she has been determined eligible for special education services under IDEA. Petitioner James T. is a student who attends---------. At all times relevant to this complaint he has been determined eligible for special education services under IDEA.

Petitioners contend that the Louisiana Department of Education (hereinafter LDE) has failed to comply with its general supervisory responsibilities under IDEA by failing to identify and to ensure Jefferson Parish School System (hereinafter JPSS) eliminates numerous systemic and pervasive violations of IDEA involving students with emotional disturbance. As detailed below, Petitioners contend that JPSS has engaged in an ongoing and systemic pattern of violating theirs as well as similarly situated Emotionally Disturbed (hereinafter ED) students substantive rights under IDEA resulting in a denial of a Free Appropriate Public Education (hereinafter FAPE), and the denial of placement in the Least Restrictive Environment and that LDE has violated Petitioners and all other similarly situated ED students rights under IDEA by failing to ensure that JPSS eliminates these violations and complies with IDEA. LDE’s failure to comply with its general supervisory responsibilities under IDEA has denied petitioners and all similarly situated Emotionally Disturbed students in JPSS FAPE and also their right to placement in the Least Restrictive Environment.

Petitioners specifically contend that LDE has failed to fulfill its general supervisory responsibilities under IDEA by failing to appropriately monitor, identify and/or compel JPSS to eliminate numerous systemic violations of IDEA involving Emotionally Disturbed students. More than thirty years after the enactment of IDEA, LDE bears joint and ultimate responsibility for JPSS’ pervasive noncompliance with IDEA. See 42 U.S.C. § 1412(a) (11); 34 C.F.R. §300.600. JPSS’s systemic violations of IDEA include, but are not limited to the following:

1. JPSS has denied Petitioners and all other similarly situated and classified Emotionally Disturbed students FAPE by its failure to provide specially designed instruction and related services that address the inherent behavioral characteristics and issues associated with the classification of Emotionally Disturbed and which adversely affect such students’ educational performance.

JPSS has consistently failed to provide Petitioners and all other similarly situated ED students with appropriate behavior management plans which include both specialized instruction and sufficient and necessary related services such as social work, counseling, and school psychology services tailored to address identified behavioral issues that adversely affect their education. Indeed JPSS has furnished Petitioners and all other similarly situated Emotionally Disturbed students with woefully inadequate levels of
social work\counseling\psychology services….levels that are unrelated to their individual needs but instead are cookie-cutter in nature and based upon the limited availability of such personnel at any given school.

JPSS has also denied Petitioners and other similarly situated ED students FAPE by its consistent failure to provide specially designed instruction and related services that are related to and address present levels of performance. JPSS has regularly drafted IEPs that are unrelated to and often ignore present levels of performance for Petitioners and other similarly situated ED students. This has often resulted in Petitioners and other similarly situated ED students being taught at inappropriate frustration levels, which in turn has engendered behavioral manifestations that lead to disciplinary action.

See 42 U.S.C. § 1401 (8), §1412 (a) (1), § 1414(d); 34 C.F.R. §300.13, §300.121, §300.340-350; Bulletin 1706, Subpart A § 101, §440-446.¹

2. JPSS has further denied Petitioners and all other similarly situated ED students FAPE by providing Petitioners and these students with an education that has failed to confer meaningful educational benefit as required by IDEA. Petitioners have not been able to make any meaningful academic and in many cases non-academic (behavioral) progress for the past several years due the denial of FAPE outlined in Paragraph #1 above. The pervasive reality for ED students across JPSS is that even though they are of average intelligence, by the time they reach Junior High or High School age, they are typically performing years behind their chronological grade level and their peers. One result is that ED students are typically placed in restrictive self-contained settings (See Paragraph #4) and this leads to an almost non-existent High School Diploma rate for such students, which is the ultimate evidence of lack of meaningful educational benefit. This reality reflects an obvious and systemic practice of providing inappropriate special education and related services to ED students. See Board of Education of Hendrick Central School Dist. v. Rowley, 458 U.S. 176, 200-201 (1982) ; Cypress-Fairbanks ISD v. Michael F. 118 F.3d 245, 253-254 ( 5th Cir. 1997)

3. JPSS has further denied Petitioners, Glenn D, James T. and all other similarly situated ED students FAPE by its violations of IDEA’s discipline provisions involving students with disabilities who have been removed from their educational placement for more than 10 school days in a school year. These provisions require JPSS to conduct Manifest Determination Reviews; to furnish on-going educational services that enable students with disabilities to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the students IEPs; to have IEP

¹LDE’s IDEA violations as discussed infra involve 42 U.S.C. §1412 (a)(11); 34 C.F.R. § 300.128, §300.600; Bulletin 1706, Subpart A, § 301,302,340.
committees conduct appropriate functional behavioral assessments; and to draft, review, modify as necessary and implement behavior intervention plans that also include positive behavioral interventions, strategies and supports. See 20 U.S.C. § 1415 (k); 34 C.F.R. § 300.121(d) ; 34 C.F.R.$ 519-526; See also 34 C.F.R. § 300.346 (a)(2), (d); Bulletin 1706 Subpart A § 519. At all times relevant, JPSS has failed to comply with these IDEA requirements.

Moreover, it bears emphasis that JPSS has consistently had the highest LEA out-of-school suspension rate for students with disabilities in Louisiana. In 2001-2002, 29.30% of students receiving special education services were subject to at least one out-of-school suspension versus a statewide LEA average for special education students of 16.29%. JPSS rate was 180% of the state average and was also 2.96 times greater than the suspension rate for students without disabilities in the district. During the 2002-2003 school year JPSS out-of-school suspension rate was 31.04% versus a state average of 16.44%. JPSS rate was 188% of the state average and was also 3.04 times greater than the suspension rate for students without disabilities in the district. During 2003-2004, JPSS out of school suspension rate was 29.26% versus a state average of 16.92%. JPSS rate was 173% of the state average and was 2.76 times greater than the rate for students without disabilities in the district. JPSS remarkably high and significantly disproportionate out-of-school suspension rates the past several years reflect pervasive noncompliance with IDEA’s disciplinary provisions and also raise the specter of pervasive discriminatory practices towards students with disabilities versus students without disabilities.2

4. JPSS has also violated IDEA by consistently failing to provide special education and related services to Petitioners and all other similarly situated ED students in the Least Restrictive Environment. Petitioners Glenn D. and Keneisha S. (and numerous other ED students) have spent several years in the most restrictive placement possible, John Martyn self-contained classes at ----. In these John Martyn classes, Petitioners have been deprived of any contact with their non-disabled peers. All of their courses are in these isolated, highly restrictive placements and they are also required to take lunch and recess in the same self-contained setting3. The multi-step or tri-level behavior management program implemented in JPSS’ John Martyn classes violates IDEA’s fundamental requirement of individualized educational programming for students with disabilities and further requires students to “earn the right” to

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2 Despite JPSS’ stunning out-of-school suspension rates for students with disabilities, LDE has neither monitored JPSS on this systemic issue nor has it compelled JPSS to revise its policies and procedures relating to the development and implementation of IEPs, the use of behavioral interventions and procedural safeguards to ensure the district complies with IDEA and the Children with Exceptionalities Act. LDE’s violations as discussed infra involve 42 U.S.C. § 1412(a)(11), § 1412 (a)(22) ; 34 C.F.R. § 300.146 (a), (b), § 300.600; Bulletin 1706, Subpart A §519, 302, 340, 375.

3 The John Martyn class at ----is in a portable trailer that is separated from and sits behind the interconnected high school buildings. This class houses only ED students. The John Martyn class at ------ is a segregated locked classroom.
be in less restrictive settings. It goes without saying that students are entitled to placement in the least restrictive environment regardless of their performance in such multi/tri-level programs. Petitioners placement in these highly restrictive John Martyn settings (known as the Most Restrictive Environment [MRE classrooms]) is a direct result of JPSS systemic failure to provide them and all other similarly situated ED students with FAPE as outlined in Paragraphs #1-3 above and it’s failure to comply with IDEA requirements governing placement in the LRE.

Petitioner James T. has spent several years in JPSS in self-contained classroom settings. Petitioners T.’s repeated placement in highly restrictive self-contained settings is a direct result of JPSS’s failure to provide him and other similarly situated ED students with FAPE as outlined in Paragraphs #1-3 above and its failure to comply with IDEA’s requirements governing placement in the least restrictive environment. See 42 U.S.C.§1412 (a)(5); 34 C.F.R.§ 300.550-556; Bulletin 1706, Subpart A §446,448.4

JPSS placed Petitioner KS in a more restrictive setting during the 2003-2004 school-year without first conducting a re-evaluation, or holding an IEP meeting with the required participants. Recently after returning from one semester in the St Tammany School District, JPPS also unilaterally placed Petitioner Thomas in a more restrictive setting without first conducting a re-evaluation, much less notifying Petitioner’s T’s mother and conducting a new IEP meeting. Petitioners assert that JPPS systemically violates the right of ED students by moving them to more restrictive environments without conducting re-evaluations or holding appropriately constituted IEP meetings.5 See 42 U.S.C. § 1414(f), §1415(b),(c); 34 C.F.R. §300.503 ; Bulletin 1706, Subpart A §417A, § 431B3, § 504.

The above circumstances clearly reflect the following:

(a) There is little evidence much less any meaningful documentation that appropriate supplemental aids and services or accommodations are being furnished to ED students including Petitioners to enable them to participate in general education.

(b) Regular/General Education in JPSS simply does not welcome much less include ED students generally and there has been inadequate staff training regarding the types of supplemental aids, services, accommodations, supports, modifications and other teaching practices that would provide ED students with opportunities to participate and progress in the general curriculum. There

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4 LDE’s IDEA violations as discussed infra involve 42 U.S.C. § 1412 (a) (5), § 1412 (a) (11); 34 C.F.R. § 300.555, § 300.556, § 300.600; Bulletin 1706, Subpart A, § 301, §302E.

5 Petitioners assert on information and belief that JPPS routinely moves students returning form the Department of Corrections juvenile justice training institutes to more restrictive settings without conducting re-evaluations or holding properly constituted IEP Team meetings.
has also been a woefully inadequate provision and use of Paraprofessional Aides, much less Special Education teachers with ED students in general education settings. Team or Co-teaching arrangements and coordination amongst General Education and Special Education teachers is essentially nonexistent in JPPS and this reality effectively denies students with disabilities and in particular, ED students, with opportunities to participate and progress in the general curriculum. General Education is not a place Special Education teachers work.

(c) Students with disabilities including ED students are moved to more restrictive environments in violation of the IDEA’s requirements that supplemental aids, services, accommodations, and modifications are considered prior to any removal; that re-evaluations are conducted and IEP meetings are held prior to any removal.

(d) Petitioners and other similarly situated ED students often do not address general curriculum requirements in JPSS’ self-contained classroom settings and thus they are provided with no meaningful opportunity to return to general education in the future. Consequently, their opportunity for obtaining a high school diploma has also been obviated.

(e) Special Education is still seen as a place rather than an array of services and supports for students with disabilities. This district philosophy has produced a self-contained class/placement rate for students with disabilities that currently is the highest in the state for any LEA. The self-contained rate in Jefferson Parish has been more than twice the state average for several years and is currently at 43% versus a state average of 22.3%. JPPS continues to place nearly one out of every two students with disabilities in self-contained settings and this number is much higher for ED students. This reality exists for students with disabilities in JPPS despite the fact that there are over 30 LEAs in Louisiana that have self-contained class placement rates of 15% or less and 24 of these districts have rates of 10% or less. This is not a question of coincidence or wherewithal, but rather JPSS’ systemic, longstanding, and illegal segregationist practices involving students with disabilities. JPSS general education administration, including principals with site based administrative authority, does not believe students with disabilities belong in general education and this is proven by the district’s self-contained placement rates and its systemic failure to provide appropriate supplemental aids and services, accommodations, supports and modifications necessary to enable students with disabilities including ED students to participate in general education.  

6 See 42 U.S.C.§ 1412 (a)(5); 34 C.F.R. §300.550-556; Bulletin 1706, Subpart A § 446,448.

6 LDE has long known of the JPSS’ pervasive LRE violations and indeed has repeatedly cited the district in its compliance monitoring reports for systemic LRE violations. In fact LDE has itself identified all of the above factors as undermining students with disabilities fundamental rights to the provision of FAPE in the Least Restrictive Environment. Four years after LDE’s last compliance monitoring of JPPS and well over a
5. JPSS has further denied Petitioners and other similarly situated ED students 14 years of age and older in Junior High School and High School FAPE by failing to provide necessary and appropriate transition services that will prepare them for employment and independent living as required by IDEA. Petitioners’ and other similarly situated ED students’ IEP objectives are not derived from, directly related to, nor indicative of the outcome/action steps listed on the Transition Services Form of the IEP. Indeed, little or no nexus exists between students’ transition plan and their IEP goals and objectives. Moreover, there is an utter absence of coordination between special education teachers, school administrators and personnel at JPSS’ vocational training schools (eg. Cuiller Vocational School). Often the vocational schools do not have copies of students IEPs nor do they consider themselves bound to provide IEP services within the vocational programs offered. See 34 C.F.R.§300.29 ; 34 C.F.R. § 300.340-348 ; 34 C.F.R. § 300.347(b); Bulletin 1706, Subpart A § 444(m).7

6. JPSS has denied Petitioners and other similarly situated ED students FAPE by systemically failing to comply with the procedural and substantive requirements governing the development and implementation of IEPs, specifically 34 CFR § 300.343, 344, 345 and 347 (a) (1), (2), (3), (7) (i) (ii). 8

7. Louisiana Department of Education’s General Supervisory Responsibilities Under IDEA

LDE is jointly responsible for JPSS systemic violations of IDEA listed above. LDE bears ultimate responsibility for ensuring JPSS fully complies with IDEA, and in doing so, provides FAPE to all students with disabilities. LDE’s responsibilities are clearly defined in IDEAs statutory and regulatory provisions as well as under Louisiana state law. These provisions are detailed below.

Congress enacted the IDEA to assure that all children with disabilities have available to them a Free Appropriate Public Education (FAPE). See 20 U.S.C. §1412. Congress also placed the ultimate responsibility for compliance with IDEA on the State Educational Agency (SEA), in this case the Louisiana Department of Education (LDE) declaring that for a state to receive federal IDEA funding, the SEA shall be responsible for ensuring (a) the requirements of the Act are met (b) that all educational programs for
decade since first identifying systemic LRE violations in JPSS, the systemic LRE violations outlined in Section #4 above have avoided correction and still persist. This reality reflects that LDE is in violation of 42 U.S.C. §1412 (a)(5), § 1412 (a)(11); 34 C.F.R.§ 300.555-556, §300.600; Bulletin 1706, Subpart A, § 301, 302E. See also, Corey H. v. Illinois Board of Education, 995 F.Supp. 900, 904 (N.D.Ill. 1998).

7. LDE’s IDEA violations as discussed infra involve 42 U.S.C. §1412(A)(11); 34 C.F.R.§300.128, §300.600; Bulletin 1706, Subpart A §301, §302.

8. LDE’s IDEA violations as discussed infra involve 42 U.S.C. §1412 (a)(11); 34 C.F.R. § 300.128, §300.600; Bulletin 1706 Subpart A § 301,302.

LDE is required to implement policies and procedures to ensure that FAPE is available to students with disabilities between the ages of three and twenty-one, including students who have been suspended or expelled form school. 20 U.S.C.§ 1412 (a)(1)(A). FAPE is defined as special education and related services that;
- are provided at public expense, under public supervision, and without charge
- meet the standards of the SEA
- include an appropriate preschool, elementary or secondary school education
- are provided in conformity with the Individualized Education Program (IEP)

20 U. S.C. § 1401(8)

The IEP is a written document that is developed to meet the unique need of students with disabilities. The IEP is the primary means by which FAPE is provided to students with disabilities. 20 U.S.C. § 1401(8)(D), 20 U.S.C. § 1412 (a)(4). Due to the critical importance of the delivery of FAPE to students with disabilities, LDE is required to create standards and policies that regulate the development, implementation, review and revision of IEPs. LDE is also required to establish and notify the U. S. Department of Education of its procedures for monitoring and evaluating the IEPs of students with disabilities.34 C. F.R. §300.128 (b).

LDE must also ensure that “to the maximum extent appropriate, children with disabilities ….are educated with children who are not disabled, and special classes, separate schooling, or other removal of children from the regular educational environment occurs only when the nature and severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” 20 U.S.C. § 1412 (a)(5)(A). This IDEA mandate is known as the Least Restrictive Environment (LRE). In order to ensure that students with disabilities receive special education and related services in the Least Restrictive Environment, regulations promulgated pursuant to IDEA specifically require LDE to carry out activities including monitoring activities that ensure the LRE mandate is implemented by all LEAs.34 C.F.R. § 300.556. LDE is also responsible for carrying out additional activities to ensure that teachers and administrators in all LEAs are fully informed about their responsibilities for implementing the LRE mandate and are provided with technical

9 In Cordero v. Pennsylvania Department of Education, 795 F.Supp.1352,1359-1360 (M.D.Penn. 1992), the Court held “the IDEA imposes an overarching responsibility to ensure the rights created by statute are protected, regardless of the actions of local school districts.……a state must moreover ensure through oversight that state and local agencies, including school districts fulfill the dictates of the Act.”
assistance and training necessary to assist them in this effort. See 34 C.F.R. § 300.555. In the event that LEAs violate the LRE mandate and rights of students with disabilities, LDE must assist them in planning and implementing necessary corrective action.34 C.F.R. § 300.556 (b).

Pursuant to LDE’s general supervisory responsibilities outlined above, LDE must implement an effective monitoring and enforcement system to ensure that all of the requirements of IDEA are implemented by LEAs across Louisiana. 34 C.F.R.§ 300.600. As stated by Office of Special Education Programs (OSEP) in the U.S. Department of Education when releasing the IDEA regulations in 1999, “a strong SEA monitoring process to ensure effective implementation of the Act is crucial to improving educational results for children with disabilities. A basic component of [state’s] eligibility has long been that the SEA exercises general supervisory responsibility over all educational programs for children with disabilities in the State. This responsibility includes not just monitoring and enforcement when noncompliance is not corrected, but also effective technical assistance…We know from long experience …that if SEA monitoring is lax, noncompliant practices emerge at the local level and indicators of performance for children with disabilities decline.” Federal Register, Vol. 64, March 12, 1999.

IDEA also requires LDE to examine data to determine if significant discrepancies are occurring in the rate of long term suspensions and expulsions of children with disabilities (1) among LEAs in the State; or (2) compared to the rates for non-disabled children within the LEAs. If discrepancies are occurring, LDE must review and if appropriate, revise (or require the affected LEA to revise) its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act. 20 U.S.C. § 1412 (a)(22) ; 34 C.F.R. § 300.146.

LDE’s General Supervisory responsibilities detailed above are also imposed under state law. See Regulations for Implementation of the Children with Exceptionalities Act, R.S. 17:1941, Bulletin 1706 Subpart A, §301,302, 375.

**Systemic Remedies Necessary to Settle This Class Due Process Complaint**

LDE will need to take the following action to address the systemic IDEA violations delineated in Section:

1. Compel JPPS to significantly increase the frequency and duration of social work/counseling/psychological services provided to ED students and ensure decisions involving such related services are based upon individual need and not staff availability;

2. Compel JPSS to develop a systemic training protocol that includes the provision of training by a national recognized expert in development of Functional Behavioral Assessments (FBAs), Behavior Intervention Plans (BIPs) emphasizing the use of
Positive Behavioral Interventions and Supports (PBIS) and positive behavioral supports for all pupil appraisal staff in the school system and all teachers, paraprofessionals, disciplinarians, and administrators working at schools which have ED students. The training protocol shall also include the active use of pupil appraisal staff for ongoing follow-up with staff in the designated schools above;

(3) Compel JPSS to develop specific school system policies that are disseminated by the Superintendent to all school building administrators including principals\vice-principals\disciplinarians outlining and mandating strict compliance with IDEA’s discipline requirements including Manifestation Determination Reviews; providing IEP services upon reaching the 11th cumulative day of out-of school suspensions; development of appropriate FBAs; development of BIPS involving positive behavioral interventions and supports; review and modification of BIPS after every 10 days of suspensions;

(4) Compel JPSS to develop with LDE, SPLC and SDLC, as well as the nationally recognized expert specified in paragraph #2 above specific annual strategies and objectives for significantly reducing the number of suspensions of ED students;

(5) Compel JPSS to develop with LDE, SPLC and SDLC as well as a nationally recognized expert in LRE and specifically, inclusive educational settings for SED students specific annual strategies and objectives for significantly reducing the number of ED students in self-contained classroom settings and concomitantly significantly increasing ED students access to the general education curriculum\classrooms over the next three to four years. This must necessarily involve the closing of all John Martyn MRE classrooms across the district;

(6) Compel JPSS to develop with LDE, SPLC and SDLC specific strategies and objectives for implementing intensive reading remediation programs at all elementary schools serving ED students to ensure that they are reading at or within one year of chronological grade level by the time they move onto junior high school;

(7) Compel JPSS to develop with LDE, SPLC and SDLC specific strategies and objectives for significantly increasing the graduation rate of ED students as well as ED students’ participation in and successful completion of Vocational Training courses over the next 3-5 years. Additionally, compel JPSS to develop and implement specific policies mandating the district’s Vocational Training Schools to fully implement IEP services of enrolled students with disabilities. Finally, compel JPSS to train all junior high and high school counselors, special education coordinators and a “lead” special education and regular education teacher at each of these school re the vocational courses\programs available at the district’s vocational
training schools, the admission criteria for these programs and their availability to students with disabilities.

(8) Payment of attorneys’ fees and costs.

Sincerely,

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Jefferson Parish Public School System
Corrective Action Plan

Submitted to the Louisiana Department of Education on March 14, 2006

Special Master: D. Joe Olmi, Ph.D.
126 Bent Creek
Hattiesburg, MS 39402
Phone: 601-270-8639 (cell)
601-261-0949 (home office)
Email: jcolmi@comcast.net
In accordance with the conditions set forth in the Mediated Settlement Agreement, the Special Master (D. Joe Olmi, Ph.D.) was appointed in early December 2005. An initial meeting was held on December 15, 2005 with Dr. Diane Roussel (Superintendent of JPPSS), Ms. Barbara Adams (Assistant Superintendent of Special Programs), and various other upper level JPPSS central office personnel to overview the corrective action planning process. Soon thereafter, various parties (plaintiffs’ attorneys, JPPSS administrative personnel, and personnel from the LA Department of Education) were consulted, and the Corrective Action Planning Team (hereto referred to as the CAP Team) was formed. The JPPSS CAP Team was composed of a variety of education professionals (DOE personnel, a representative of the local teachers’ union, JPPSS personnel including central office administrative personnel, pupil appraisal, building level administrators, general education teachers, and special education teachers), parents of children with emotional disturbance from within the Parish, and parents representing Families Helping Families. The CAP Team met three successive weeks (January 10, 17, and 24, 2006) to offer input to the Special Master regarding the development of elements of the CAP. Additionally, the Special Master met with JPPSS Pupil Appraisal on January 31, 2006 to review the Mediated Settlement Agreement and to suggest system changes that would result in successfully meeting specific terms of the Agreement. Special thanks are offered to all members of the CAP Team for their diligent work and efforts. Their input was invaluable to the planning process. The CAP Team included the following members:

<table>
<thead>
<tr>
<th>Member</th>
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<tbody>
<tr>
<td>Barbara Adams</td>
<td>JPPSS Assistant Superintendent of Special Programs</td>
<td>Jennifer Weidig</td>
<td>JPPSS Transition Specialist</td>
</tr>
<tr>
<td>Sheila Richardson</td>
<td>Assistant Director of Special Education</td>
<td>Lloyd Clark</td>
<td>JPPSS Hearing Officer</td>
</tr>
<tr>
<td>Carol Mancuso</td>
<td>Director of School Safety and Discipline</td>
<td>Cynthia Camese-Jackson</td>
<td>Jefferson Parish Federation of Teachers</td>
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<tr>
<td>Mary Jimerson</td>
<td>JPPSS Special Education Teacher</td>
<td>Katina Rhodes</td>
<td>JPPSS Administrator (West Jefferson High)</td>
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<tr>
<td>Andre Vignes</td>
<td>JPPSS General Education Teacher</td>
<td>Drew Dumas</td>
<td>JPPSS Administrator (Bunche Middle)</td>
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<tr>
<td>Stephanie Scott</td>
<td>JPPSS General Education Teacher</td>
<td>Denise Carpenter</td>
<td>JPPSS Administrator (Riverdale Middle)</td>
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<tr>
<td>Jim Cowie</td>
<td>JPPSS Pupil Appraisal Director</td>
<td>Carolyn VanNorman</td>
<td>JPPSS Administrator (Higgins High)</td>
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<tr>
<td>Deidre Louis</td>
<td>JPPSS School Psychologist</td>
<td>Scott Steckler</td>
<td>JPPSS Administrator (Cox Elementary)</td>
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Broadly speaking the proposed CAP is intended to address several critical issues relevant to services for JPPSS students identified with emotional disturbance as a result of the spring 2005 monitoring and as dictated in the Mediated Settlement Agreement. Those issues include, but are not limited to, the following:

- **Denial of FAPE**
  - Flawed IEPs
  - Flawed FBA/BIP process
  - Failure to comply with IDEA (now IDEIA) discipline procedures
  - Educational benefit to students with emotional disturbance
  - Poorly developed or nonexistent transition plans
  - Absence of progress monitoring
  - Transitional services/vocational planning

- **Lack of adequate/appropriate related services**
- Parent involvement
- A School Building Level Committee process that fails to function as a problem solving model
- Lack of access to Least Restrictive Environment (general education setting/curriculum)
- Lack of transition planning
- Professional development as related to service delivery to students with emotional disturbance
- JPPSS policy/procedure changes in several indicated areas

In advance of offering the CAP, it is imperative that JPPSS entertain a moratorium on any personnel reductions in special education teaching units or in pupil appraisal personnel. One would anticipate student numbers to approximate or increase to levels beyond pre-Katrina levels within the year; therefore adequate teaching and support staff would be critical.
To meet the CAP, pupil appraisal is perceived to be a critical element in the service delivery system. Yet, based on information gathered during the planning process, there appears to be a lack of standard operating procedures within that body relative to intervention planning/development/implementation, the delivery of related services, and general implementation of state mandates for the provision of services to students with emotional disturbance, and possibly to students within other disability categories as well.

Additionally, there are two other critical elements in the CAP process that hold significance for all students in JPPSS, not only those students with emotional disturbance. It is imperative that each building in the Parish begin to develop and implement a positive behavior support model, and JPPSS must reformulate the current SBLC process from a low hurdle to special education eligibility to a general education problem solving model that results in effective intervention for any student experiencing academic or behavior problems. The first step in this systems change process would be to rename the School Building Level Committee (SBLC) to the Academic/Behavioral Intervention Team (ABIT) or some variation in name thereof.

Data from the 2004-2005 State Special Education Data Profile indicated that the percentage of the student population composed of students with disabilities (excluding Gifted/Talented) in Jefferson Parish (13.22%) which does not exceed the state average (13.6%). More noteworthy is the fact that the JPPSS percentage of students with disabilities who are classified with ED is more than 2.5 times the state average (12.8% versus 5.1%). The only surrounding parish with a higher percentage of students with disabilities who are classified with ED is Orleans Parish.

These data and disproportionality data within the ED population suggest a pre-referral system that is not functioning efficiently or as it was initially designed for any child in JPPSS much less children with ED. While disproportionality issues were not specific to the Mediated Settlement Agreement, it is important to note that approximately 51.9% of the JPPSS population is black as compared to 52.4% of the students with disabilities. Within the ED population, approximately 63.9% of the students are black; approximately a 12% differential.

Since Luke S., it seems that the SBLC process has moved from an intervention design/problem solving model to primarily a special education eligibility function. While statewide and parish data regarding the suspected increase in initial assessments are not presented here, I would suspect that the number of assessments per one thousand students has increased over the years since Luke S. A review of the incidence of initial assessments per one thousand students for Jefferson Parish and surrounding or nearby parishes reveals a higher incidence for JPPSS (4.5/1000) as compared to other surrounding districts (Orleans, 3.4/1000; EBR, 3.6/1000; Lafayette, 2.8/1000; and St. Mary, 3.5/1000).
There are several components in the presented CAP. While some of the elements of the CAP are able to be implemented on a more immediate timetable, other elements suggest more long-term efforts.
**Goal 1:** To articulate to parish teaching and administrative personnel the urgency and intent to comply with the articulated elements of the Mediated Settlement Agreement and the LA DOE approved Corrective Action Plan (CAP)

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<tr>
<th>Objective or Task/Activity</th>
<th>Target Population</th>
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<th>Data Support of Change</th>
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<tbody>
<tr>
<td>1. The composition and distribution of a written directive, with notice to the School Board, from the JPPSS Superintendent articulating the intent of the Parish to comply with all elements of the Mediated Settlement Agreement and the approved DOE CAP</td>
<td>Central office and building level administrative personnel; school-based disciplinarians and teaching personnel; East and West Bank Advisory Panels</td>
<td>JPPSS Superintendent (Dr. Diane Roussel)</td>
<td>1 week after official approval of CAP by LA DOE</td>
<td>Copy of letter/memo with date of dissemination to the DOE and Special Master</td>
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<tr>
<td>2. JPPSS Superintendent presents the DOE-approved CAP to the JPPSS School Board at the special board meeting immediately following DOE notification of CAP</td>
<td>JPPSS School Board</td>
<td>JPPSS Superintendent</td>
<td>JPPSS board meeting immediately following DOE approval of CAP</td>
<td>Board meeting agenda and meeting minutes</td>
</tr>
<tr>
<td>Objective or Task/Activity</td>
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<td>approval</td>
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<tr>
<td>3. Meeting directed and conducted by Dr. Roussel with others in attendance including but not limited to, JPPSS general and special education administrative staff, representative of LA DOE, and the Special Master (and others deemed appropriate) with JPPSS building level administrators and disciplinarians (and others deemed appropriate) to review the components of the DOE approved CAP</td>
<td>JPPSS building level administrators and disciplinarians and others deemed appropriate</td>
<td>JPPSS Superintendent in consultation with other administrative staff and the Special Master</td>
<td>2 weeks after official approval of CAP by LA DOE</td>
<td>Meeting announcement from JPPSS Superintendent with attached agenda</td>
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<tr>
<td>4. Meeting at each JPPSS building site conducted by the building level principal regarding the elements of the approved CAP</td>
<td>All JPPSS site-based personnel</td>
<td>Individual building level principals or lead administrator</td>
<td>3 weeks after official approval of CAP by LA DOE</td>
<td>Report by individual building site of meeting with teaching and disciplinary staff</td>
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<td>Objective or Task/Activity</td>
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<tr>
<td>5. Meeting directed and conducted by Dr. Roussel with others in attendance including but not limited to, JPPSS general and special education administrative staff, and the Special Master (and others deemed appropriate) with JPPSS Pupil Appraisal to review the components of the DOE approved CAP and to state her support for their role in compliance with the CAP</td>
<td>JPPSS Pupil Appraisal and other support personnel deemed appropriate</td>
<td>JPPSS Superintendent in consultation with other administrative staff and the Special Master</td>
<td>3 weeks after official approval of CAP by LA DOE</td>
<td>Meeting announcement from JPPSS Superintendent with attached agenda</td>
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</table>
**Goal 2:** To develop, devise, implement an effective, positive behavioral intervention and support program for all students in the Jefferson Parish Public School System to increase access of JPPSS students with ED to the general education program.

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<tr>
<th>Objective or Task/Activity</th>
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<tbody>
<tr>
<td>1. Appointment of a parish level “Coordinator” of PBS (to be included in the JPPSS organizational chart and separate from existing positions; funded as deemed appropriate by the Superintendent of JPPSS)</td>
<td>JPPSS Superintendent and Special Master</td>
<td>May 1, 2006</td>
<td>Name of appointed person to the position presented to the Special Master and DOE</td>
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<tr>
<td>2. Identify within-parish trainers (East Bank and West Bank) to assist with the development of training protocol and materials</td>
<td>Current JPPSS PBS site personnel</td>
<td>May 15, 2006</td>
<td>List of within-parish PBS trainers presented to the Special Master and DOE</td>
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<tr>
<td>Objective or Task/Activity</td>
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<tr>
<td>3. Establish PBS Teams at each JPPSS building site</td>
<td>JPPSS building sites</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPSS East Bank and West Bank Assistant Superintendents</td>
<td>End of May 2006</td>
<td>Master list of PBS teams by building site distributed to JPPSS Superintendent, Special Master, and DOE</td>
</tr>
<tr>
<td>4. Analysis of building level discipline data to determine priority sites for training</td>
<td>JPPSS PBS teams and other appropriate building and parish level personnel</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPSS Coordinator of PBS JPSS individual site PBS teams, JPSS East Bank and West Bank Assistant</td>
<td>June 2006</td>
<td>Individual building site’s discipline data filed with JPPSS Superintendent, Special Master, and DOE</td>
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<tr>
<td>5. Develop JPPSS training materials on Positive Behavior Support programs for distribution to all JPPSS building sites during training.</td>
<td>School-based teaching, administrative, and support staff and Central Office Administration</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPPSS Coordinator of PBS JPPSS individual site PBS teams, JPPSS East Bank and West Bank Assistant Superintendents, Special Master and external consultants</td>
<td>July 1, 2006</td>
<td>Copy of PBS training manual  Distribution plan of manual to sites and Special Master</td>
</tr>
<tr>
<td>6. PBS training across JPPSS sites</td>
<td>JPPSS building site personnel</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPPSS Coordinator of PBS JPPSS individual site PBS teams, JPPSS East Bank and West Bank Assistant Superintendents, Special Master and external consultants</td>
<td>1/3 by January 2007; 1/3 by August 2007; 1/3 by January 2008</td>
<td>Date/agenda of trainings by building sites with highest priority</td>
</tr>
<tr>
<td>Objective or Task/Activity</td>
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| 7. Implementation of PBS models across selected sites in JPPSS | Individual JPPSS building sites | JPPSS Superintendent, individual sites administrative team; PBS Teams; building level faculty/staff in consultation with JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPPSS Coordinator of PBS, JPSS East Bank and West | 1/3 by January 2007; 1/3 by August 2007; 1/3 by January 2008 | Individual building site PBS plan(s) as individual buildings come on-line
November, February, May implementation integrity reports from the individual building level administrator for each site provided to JPPSS Central Office personnel, Special Master, and DOE
November, February, May Reliability implementation integrity checks |
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<tr>
<td>Bank Assistant Superintendents, LA DOE personnel, and/or external consultants</td>
<td>JPPSS Coordinator of PBS and/or parish level PBS trainers and provided to JPPSS Central Office personnel, Special Master, and DOE</td>
<td>November, February, May</td>
<td>Implementation integrity checks conducted by JPPSS Coordinator of PBS and/or parish level PBS trainers and provided to JPPSS Central Office personnel, Special Master, and DOE</td>
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<tr>
<td>Periodic monitoring of building level progress related to PBS implementation</td>
<td>Individual JPPSS building sites</td>
<td>JPPSS Superintendent, individual sites administrative team; PBS Teams; building level faculty/staff in consultation with JPPSS Deputy Superintendent,</td>
<td>Beginning in January 2007</td>
<td>November, February, May “PBS Report Card” which included data pertinent to discipline, etc.</td>
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<tr>
<td>9. The PBS process will become a component of each building site’s School Improvement Plan.</td>
<td>Individual JPPSS building sites</td>
<td>JPPSS Superintendent, individual sites administrative team; PBS Teams; JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPPSS Coordinator of PBS, JPPSS East Bank and West Bank Assistant Superintendents, LA DOE personnel, and/or external consultants</td>
<td>Beginning in January 2007 and continuing as each group of sites comes on-line</td>
<td>Copies of Individual building site’s PBS component of their respective School Improvement Plans forwarded to DOE, Special Master, and JPPSS Superintendent</td>
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<tr>
<td>Objective or Task/Activity</td>
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<td>LA DOE personnel</td>
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**Goal 3:** To redesign the current School Building Level Committee process from a low hurdle to special education eligibility to a general education problem-solving model that is designed to address the needs of students through effective intervention, thereby reducing the number of initial evaluations conducted by pupil appraisal staff and impacting other relevant issues such as disproportionality.

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<tbody>
<tr>
<td>1. Rename the SBLC to Academic/Behavior Intervention Team or some variation thereof with a tiered model of intervention service delivery that is a function of general education.</td>
<td>SBLC Teams across JPPSS building sites</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS East Bank and West Bank Assistant Superintendents, and others as deemed necessary (this change process must be coordinated by general education personnel within JPPSS)</td>
<td>Immediately upon receipt of DOE approved CAP</td>
<td>Dates of changes to JPPSS parish policies and procedures Copies of revised and/or newly formulated policies/procedures distributed to DOE and Special Master</td>
</tr>
<tr>
<td>2. Design parish procedures to reflect ABIT composition to include chaired by building level principal or general education</td>
<td>All JPPSS site-based instructional and support personnel</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS East Bank and West Bank</td>
<td>June 2006</td>
<td>Copies of policies/procedures distributed to DOE and Special Master</td>
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<tr>
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<td>administrative designee; at least 6 total members with no less than 3 general education teachers and 2 members who have expertise in academic and/or behavioral intervention design (could be pupil appraisal, special education personnel or any individual critical to the referral) and function as related to a three-tiered (Tier I: General Education curriculum; Tier II: teacher designed directed classroom intervention; Tier III: ABIT intensive intervention) approach to intervention design; individual sites may have multiple teams</td>
<td>Assistant Superintendents, JPPSS Assistant Superintendent of Special Education, and others as deemed necessary, and/or Special Master/external consultants</td>
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<tr>
<td>3. Inservice training on the revised intervention model</td>
<td>All JPPSS general and special education teaching and support personnel</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS East Bank and West Bank Assistant Superintendents, others as deemed necessary, and/or Special Master/external consultants</td>
<td>May, August, and October 2006</td>
<td>Inservice agenda; handouts/slide presentations of trainings provided to DOE and Special Master</td>
</tr>
<tr>
<td>4. Implementation of new A/BIT process (JPPSS intervention design/problem solving model)</td>
<td>All JPPSS administrative, general education, special education, and support personnel</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS East Bank and West Bank Assistant Superintendents, JPPSS Assistant Superintendent of Special Education site-based administrative,</td>
<td>August 2006</td>
<td>Site-based tracking data on number of students referred for Tier II and Tier III intervention (along with outcomes of intervention process) and number of students referred for special education comprehensive assessment, along with outcomes of assessment process</td>
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<td>5. The revised problem solving model will become a component in each building site's School Improvement Plan and any JPPSS improvement plan as well.</td>
<td>Individual JPPSS building sites across JPPSS</td>
<td>JPPSS Superintendent, building site administrative team; JPPSS Deputy Superintendent, JPSS East Bank and West Bank Assistant Superintendents</td>
<td>June 2006</td>
<td>Copies of Individual building site's revised problem solving model component of their respective School Improvement Plans forwarded to DOE, Special Master, and JPPSS Superintendent</td>
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<td>1. Elimination of policies/practices associated with:</td>
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<tr>
<td>a. “aide escort” policy for students with ED who attend in-school-suspension</td>
<td>Students with emotional disturbance</td>
<td>JPPSS Superintendent and/or appropriate parish personnel with the approval of the Superintendent</td>
<td>April 2006</td>
<td>Copies of revised JPPSS parish policies and procedures</td>
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<tr>
<td>2. Development of policies and procedures related to allow for:</td>
<td>Students with emotional disturbance</td>
<td>JPPSS Superintendent</td>
<td>April 2006</td>
<td>Copies of approved JPPSS parish policies and procedures</td>
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<tr>
<td>a. students with ED access to parish violence prevention program free of charge and with transportation arrangements</td>
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<tr>
<td>b. appropriately conduct of the Manifest Determination Review (MDR) process in accordance with state and federal law in advance of removal from school-based educational programming</td>
<td></td>
<td>JPPSS Special Education administrative staff; pupil appraisal personnel; in consultation with Special Master and/or external consultants</td>
<td>April 2006</td>
<td>MDR data relative to each building site</td>
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<tr>
<td>Objective or Task/Activity</td>
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<td>c. IEP team determination of the nature and type of educational supports provided to students with ED if removed from standard IEP educational programming for more than 10 cumulative days</td>
<td></td>
<td>Pupil appraisal personnel and building level teaching personnel in consultation with JPPSS special education administrative personnel</td>
<td>April 2006</td>
<td>Percentage of students with ED who are self contained as defined by DOE data</td>
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<tr>
<td>d. the discontinuance of all MRE placements through transitioning program planning established within the IEP process</td>
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<td>August 2006</td>
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<td>e. Elementary students with ED will be systematically screened using DIBELS or standard CBM procedures to identify strengths and weaknesses of students who will be systematically enrolled in evidenced-based academic intervention strategies to increase student performance and increase access to the general education setting. Once involved in the</td>
<td>Elementary students with ED who are two or more years behind grade level in reading/math as determined by CBM procedures</td>
<td>JPPSS Special Education administrative staff; pupil appraisal personnel; in consultation with Special Master and/or external consultants</td>
<td>September 2006</td>
<td>Screening and response to intervention data</td>
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<tr>
<td>Objective or Task/Activity</td>
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<td>intervention, progress monitoring will take place on a bi-weekly basis.</td>
<td>JPPSS Special Education administrative staff; pupil appraisal personnel; in consultation with Special Master and/or external consultants</td>
<td>September 2006</td>
<td>Same as above</td>
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<tr>
<td>f. All secondary students with ED will be screened using CBM procedures to determine academic functioning levels as related to current grade placement (three or more years behind grade placement would target individual for intensive intervention). Based on screening results identified</td>
<td>Secondary students with ED who are three or more years behind grade level in reading, math, social, or prevocational skills</td>
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<td>students will be provided reading/math interventions designed to improve academic functioning in concert with appropriate compensatory services which may include summer school, after school programs, etc.</td>
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### Goal 5: Increase access of students with ED and their families to an adequate level of appropriate related services by qualified personnel

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<tr>
<td>1. Review IEPs of all current students with ED and consult with their teachers to determine which students are not presenting with behavioral/emotional concerns. If some students are determined to not have emotional/behavioral concerns, then review the IEP to determine if referral for re-evaluation for classification purposes is appropriate.</td>
<td>All students with ED in JPPSS</td>
<td>Current related services providers (school social workers, school psychologists, etc.)</td>
<td>May 2006</td>
<td>Data report to special education administrative staff and Special Master referencing how many students with ED were reviewed, how many were determined to be in need of “counseling” related services, and how many were referred for re-evaluation with the outcome for each case.</td>
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<tr>
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<tr>
<td>2. Increase the number of related service providers beyond the social work staff by designing a “contact liaison” system whereby current pupil appraisal personnel are staffed at buildings/sites across the Parish</td>
<td>Current pupil appraisal staff (school social workers, school psychologists, and educational diagnosticians)</td>
<td>Special education central office administrative personnel</td>
<td>May 2006</td>
<td>“Point of Entry” or “contact” assignment list</td>
</tr>
<tr>
<td>3. Provide quarterly reports pertaining to the number of students with ED who are receiving “counseling” or other similar related services through Parish support personnel</td>
<td>All students with ED in JPPSS who receive related services</td>
<td>JPPSS special education central office administrative personnel</td>
<td>Approximately quarterly beginning in May 2006 (October 2006, January 2007, May 2007, October 2007, January 2007)</td>
<td>Data from quarterly reports provided to DOE and Special Master</td>
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**Goal 6: Increase accountability to insure appropriate services are available to JPPSS students with ED**

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<td>1. Create a centralized</td>
<td>JPPSS students with ED</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and</td>
<td>June 2006</td>
<td>Data management system; compilation of data (summary data report)</td>
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<td>Discipline, JPSS East Bank and West Bank Assistant Superintendents, JPPSS data</td>
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<td></td>
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<td>management personnel (MIS specialist and Infinite Campus), Special Education central</td>
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<td></td>
<td></td>
<td>office administration, and Special Master</td>
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<tr>
<td>2. Coordinate with the</td>
<td>JPPSS students with ED</td>
<td>JPPSS central office special education administration; stakeholders, in</td>
<td>May 2006-December</td>
<td>The review plan submitted to the DOE and Special Master</td>
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<tr>
<td>state mandated case</td>
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<td>2007</td>
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<td>review process (it is</td>
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<td>mandatory that 5% of</td>
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<td>Objective or Task/Activity</td>
<td>Target Population</td>
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<td>special education cases at each building site at 1/3 of the building sites per year are reviewed annually by the Parish; JPPSS will, in addition to these cases, review 15% of ED cases at each site during their annual review process) to insure appropriate data are maintained and proper process and procedures are followed according to DOE guidelines (protocol review documents will be developed in advance of monitoring visits)</td>
<td>consult with the Special Master</td>
<td></td>
<td>Data from reviews of case files</td>
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</tr>
<tr>
<td>3. Calls to randomly selected parents of JPPSS students with ED will be conducted to pose questions associated with service</td>
<td>Parents of JPPSS students with ED</td>
<td>Special Master, selected JPPSS central office personnel, and representative(s) from Families</td>
<td>March 2006-December 2007</td>
<td>Data from calls to parents</td>
</tr>
<tr>
<td>Objective or Task/Activity</td>
<td>Target Population</td>
<td>Person/Office Responsible</td>
<td>Timeline</td>
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<td>delivery, etc. (phone protocol will be developed in advance)</td>
<td></td>
<td>Helping Families</td>
<td></td>
<td>Protocol review documents referenced in #2</td>
</tr>
<tr>
<td>4. “Contact” pupil appraisal personnel and on-site personnel will be instructed to review each case file of each JPPSS student with ED to insure that all documentation is up to date and cases are complete (case review protocol will be developed in advance)</td>
<td>JPPSS students with ED</td>
<td>Pupil appraisal “contact” personnel; on-site teaching staff</td>
<td>May-June 2006</td>
<td>Protocol review documents referenced in #2</td>
</tr>
</tbody>
</table>
| 5. East Bank and West Bank parent advisory panels composed of 5 JPPSS parents of students with ED from both the East and West Banks for a total of 10 parents and a representative of Families Helping Families will be | JPPSS parents of students with ED      | Assistant Superintendent of Special Programs and Special Master | Panels convened in April 2006 with meetings slated for May, October 2006 and February, April, October 2007 | Panel membership list for East Bank and West Bank advisory panels
Agenda for meetings and meeting presentation slides
Meeting minutes |


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<th>Objective or Task/Activity</th>
<th>Target Population</th>
<th>Person/Office Responsible</th>
<th>Timeline</th>
<th>Data Support of Change</th>
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<td>convened to meet with the Special Master and representatives of the special education administrative offices to assess concerns. Meeting schedules/locales will be determined.</td>
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### Goal 7: Increase access to the general education setting (LRE) and improve transition programming for LRE for JPPSS students with ED

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<tr>
<th>Objective or Task/Activity</th>
<th>Target Population</th>
<th>Person/Office Responsible</th>
<th>Timeline</th>
<th>Data Support of Change</th>
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</table>
| 1. Current behavioral and academic curriculum of students with ED across all JPPSS buildings, including Deckbar and Waggaman, must be reviewed to determine if said curriculum/program facilitates access to general education setting. | JPPSS students with ED | JPPSS Deputy Superintendent, JPSS East Bank and West Bank Assistant Superintendents, Special Education central office administration, pupil appraisal personnel, Special Master, and/or external consultants | October 2006 | Written evaluation of academic/behavioral curricula and program reviews  
Data on number of students with ED moving from segregated settings to inclusion and general education settings provided at end of each semester to JPPSS Superintendent, DOE, and Special Master |
| 2. Increase frequency of related services as appropriate that results in students with ED having access to general education curriculum | JPPSS students with ED | Special Education central office administration, pupil appraisal personnel | November 2006; April 2007; December 2007 | Written reports to JPPSS special education administration and Special Master regarding frequency of related services on the timeline dates  
Data regarding number of students with ED proficient in |
<table>
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<tr>
<th>Objective or Task/Activity</th>
<th>Target Population</th>
<th>Person/Office Responsible</th>
<th>Timeline</th>
<th>Data Support of Change</th>
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<td>general education</td>
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<td>curriculum/setting as</td>
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<td>indicated by:</td>
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<td>- LEAP scores</td>
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<td>- Success in Carnegie</td>
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<td>unit courses</td>
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<td>- % of time spent in</td>
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<td>general education/in</td>
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<td>inclusion settings</td>
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<td>- Other indicators to be</td>
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<td>determined</td>
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<tr>
<td>3. IEPs must be reviewed</td>
<td>JPPSS students</td>
<td>JPPSS special education</td>
<td>Beginning May 2006 and continuing through December 2007</td>
<td>Data gathered from the IEP review protocol</td>
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<tr>
<td>and appropriate</td>
<td>with ED</td>
<td>administrative personnel,</td>
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<td>individualized</td>
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<td>pupil appraisal contact</td>
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<td>instructional and</td>
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<td>person, external</td>
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<td>behavioral objectives</td>
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<td>consultants, and</td>
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<td>developed that will lead</td>
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<td>Special Master</td>
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<td>to greater access to</td>
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<td>general education</td>
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<td>settings (BIP goals, IEP</td>
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<td>goals, etc.)</td>
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</table>
**Goal 8: Increase knowledge of JPPSS instructional and administrative staff with regard to students with emotional disturbance**

<table>
<thead>
<tr>
<th>Objective or Task/Activity</th>
<th>Target Population</th>
<th>Person/Office Responsible</th>
<th>Timeline</th>
<th>Data Support of Change</th>
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</thead>
<tbody>
<tr>
<td>1. Develop a parish-wide inservice plan for addressing the behavioral and academic needs of JPPSS students with ED and to address the topics indicated in the Mediated Settlement Agreement</td>
<td>JPPSS instructional and administrative staff</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPSS East Bank and West Bank Assistant Superintendents, Assistant Superintendent of Special Programs, and external consultants (Jeffrey Sprague, Geoff Colvin, etc.) in consultation with the Special Master</td>
<td>June 2006</td>
<td>Documented professional development plan submitted to Special Master</td>
</tr>
<tr>
<td>Objective or Task/Activity</td>
<td>Target Population</td>
<td>Person/Office Responsible</td>
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<td>Data Support of Change</td>
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<tr>
<td>2. When appropriate, those elements of the parish-wide inservice plan that pertain to individual building sites must become part of the site School Improvement Plan</td>
<td>JPPSS individual building sites</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPPSS East Bank and West Bank Assistant Superintendents, Assistant Superintendent of Special Programs in consultation with Special Master and/or external consultants</td>
<td>July-August 2006</td>
<td>Documented School Improvement Plan submitted to JPPSS Superintendent, DOE, and Special Master</td>
</tr>
</tbody>
</table>
### Goal 9: Increase transition services available to students with emotional disturbance

<table>
<thead>
<tr>
<th>Objective or Task/Activity</th>
<th>Target Population</th>
<th>Person/Office Responsible</th>
<th>Timeline</th>
<th>Data Support of Change</th>
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</thead>
<tbody>
<tr>
<td>1. Develop a parish-wide inservice plan for educating JPPSS personnel with regard to district operated career, technical education, vocational, pre-GED, GED, and skills options programs available to students with ED who meet entry criteria for these programs</td>
<td>JPPSS instructional and administrative staff</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPSS East Bank and West Bank Assistant Superintendents, Assistant Superintendent of Special Programs</td>
<td>June 2006</td>
<td>Documented professional development plan submitted to Special Master</td>
</tr>
<tr>
<td>2. Development of parish policy mandating IEP services for students attending Parish operated career, technical education,</td>
<td>JPPSS students with ED</td>
<td>JPPSS Superintendent, JPPSS Deputy Superintendent, JPPSS Director of School Safety and Discipline, JPSS</td>
<td>August 2006</td>
<td>Copies of approved JPPSS parish policies and procedures</td>
</tr>
<tr>
<td>Objective or Task/Activity</td>
<td>Target Population</td>
<td>Person/Office Responsible</td>
<td>Timeline</td>
<td>Data Support of Change</td>
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<tr>
<td>vocational, pre-GED, GED, and skills options programs/settings</td>
<td></td>
<td>East Bank and West Bank Assistant Superintendents, Assistant Superintendent of Special Programs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Insure that every student with ED who is at least 16 years of age must have a transition page as part of his/her IEP (DOE mandate)</td>
<td>JPPSS students with ED</td>
<td>JPPSS special education administrative personnel, pupil appraisal contact person, building level administrative and teaching personnel</td>
<td>Mandated annual review timeline</td>
<td>Frequency of students with ED who have transition services indicated on IEP based on the annual case review process</td>
</tr>
</tbody>
</table>
Last edits completed on March 17, 2006

D. Joe Olmi, Ph.D.
Special Master
STATE OF LOUISIANA
ADMINISTRATIVE DUE PROCESS
IN RE:
G.D.; K.S.; and J.T., et. al.
v.
Louisiana Department of Education, Board of Elementary and Secondary Education
Log 45-H-41

MEDIATED SETTLEMENT AGREEMENT

INTRODUCTION

1. This Settlement Agreement is made and entered into by and between Petitioners G. D., J.T., K.S., (hereinafter collectively “Petitioners”), and the Louisiana Department of Education and the Board of Elementary and Secondary Education (hereinafter collectively “DOE”).

2. On February 2, 2005, Petitioners filed a class action administrative due process complaint against defendant DOE (“Complaint”). The complaint was filed on Petitioners own behalf and on behalf of all similarly situated and treated students with emotional disturbance in the Jefferson Parish Public School System (“JPSS”). The allegations in the complaint arose from DOE’s alleged failure to fulfill its general supervisory responsibilities under the Individuals with Disabilities Education Act (“IDEA”) by failing to appropriately monitor, identify and/or compel JPSS to eliminate numerous systemic violations of IDEA involving students classified as Emotionally Disturbed. Specifically, the complaint alleges – among other things -- JPSS denied students classified as

Page 1 of 14
Emotionally Disturbed a free and appropriate public education ("FAPE") by failing to provide specially designed instruction and related services. The complaint alleges that JPSS failed to provide services that are related to and address present levels of performance as well as the inherent characteristics and issues (both academic and nonacademic) associated with students classified as Emotionally Disturbed; failed to confer meaningful educational benefit; failed to educate Emotionally Disturbed students in the least restrictive environment; failed to comply with IDEA’s discipline provisions; failed to provide appropriate transition services; and failed to comply with the procedural and substantive requirements governing the development and implementation of IEPs for Emotionally Disturbed students.

3. In response to the Complaint, DOE met with counsel for the Petitioners and the hearing officer (Steven W. Cook) on February 22, 2005. During this meeting the parties agreed to conduct mediation in an effort to resolve the issues raised in the Complaint. The parties also agreed that should mediation fail, IDEA’s administrative hearing process could not address the Complaint’s class claims and thus further exhaustion of administrative remedies would be futile and that the proper forum for addressing and resolving the allegations raised in the Complaint is State or Federal Court. The parties entered a Joint Stipulation and submitted a Joint Stipulated Order to this effect, which was signed by the Hearing Officer on March 14, 2005.

4. The parties’ first mediation session occurred on March 8, 2005. Following the mediation, DOE decided to appoint a special monitoring team to investigate the Complaint’s allegations. A second mediation session occurred via a conference call on March 14, 2005. During the conference call, DOE outlined details of the planned on-site
monitoring visit to JPSS including the individuals selected to participate on the
monitoring team and the dates of the visit.

5. The DOE monitoring team was assembled and conducted an on-site monitoring
visit in JPSS during the week of April 18, 2005. The monitoring team’s findings, which
are detailed in a fifteen (15) page Monitoring Report (“Monitoring Report”), confirmed
many of the Complaint’s allegations of systemic violations of IDEA by JPSS previously
detailed in Paragraph 2 above.

6. DOE does not admit liability, however in order to avoid the cost and uncertainty of
litigation, the parties now enter into this Settlement Agreement to resolve the claims
arising out of the Petitioners’ Complaint.

7. This Settlement Agreement shall be effective on the date that it is signed by all
parties.

8. This Settlement Agreement settles all claims asserted in the Complaint by
Petitioners. Moreover, Petitioners’ counsel also agrees to waive any claims against DOE
that they could raise on behalf of fifteen additional clients they currently represent in
JPSS and who could raise claims similar to those of Petitioners. These fifteen (15)
students are identified below by their initials and their birthdays:

   a. T.A. (8/24/91)
   b. L.B. (5/27/87)
   c. D.B. (5/08/92)
   d. K.B. (5/08/92)
   e. A.E. (11/24/87)
   f. T.F. (7/17/95)
9. Notwithstanding Paragraph 8, the above-referenced individuals and the three (3) Petitioners specifically reserve the right to pursue judicial action in either state or federal district court against DOE should this Settlement Agreement be breached.

10. This Settlement Agreement shall not diminish or affect the individual rights of any students receiving special education services and identified as emotionally disturbed in JPSS that are not specifically referenced in the Agreement.

RESOLUTION

APPOINTMENT OF A SPECIAL MASTER

11. A Special Master shall be appointed to redress the allegations in the Complaint and the findings in DOE’s Monitoring Report referenced above. The Special Master shall be separate from any other Special Master that may be appointed by DOE to address IDEA violations found through previous federal and DOE monitoring activities in JPSS unrelated to monitoring emanating from Petitioners’ Complaint.

12. DOE shall allow stakeholders (including, but not limited to undersigned counsel from the Southern Disability Law Center, Southern Poverty Law Center, and Juvenile
Justice Project of Louisiana) to provide input into the responsibilities and authority of the Special Master which shall be designated in a DOE developed Request for Proposal (RFP). DOE shall provide stakeholders with a template of the Special Master RFP prior to its release for their review and DOE shall afford serious consideration to their recommendations regarding the appropriate qualifications, responsibilities and the corresponding weights to be assigned to each within the RFP. Among other things, the Special Master’s qualifications shall include recognized expertise in positive behavioral supports. DOE shall also afford serious consideration to any individuals referred by stakeholders for possible appointment as the Special Master.

13. DOE shall provide the stakeholders with on-going, formalized access to the Special Master throughout the course of the Special Master’s assignment under this Settlement Agreement. The stakeholders shall be permitted to provide quarterly written information to the Special Master and DOE involving either the claims raised in the Complaint or the activities outlined in this Agreement. The Stakeholders shall also be permitted to meet with DOE and the Special Master at least annually to discuss the implementation status of the Special Master’s Plan of Correction. The stakeholders shall be provided with a copy of the Special Master’s Plan of Correction detailed in Paragraphs 14-18 below within fourteen (14) days of its completion. The stakeholders shall also be provided two annual written updates on the Plan’s implementation by DOE. These updates shall be provided in January and June of each year.
SPECIAL MASTER’S PLAN OF CORRECTION

RELATED SERVICES VIOLATIONS

14. DOE shall ensure that the Special Master’s Plan of Correction addresses all violations found in the Monitoring Report and contains the following minimum corrective measure with regard to JPSS’ systemic violations of IDEA’s Related Services requirements involving Emotionally Disturbed students: development and implementation of specific strategies that shall ensure JPSS significantly increases the frequency and duration of social work and/or counseling and/or psychological services provided to Emotionally Disturbed students and that also shall ensure that these related services are provided based upon individual need and not staff availability.

DISCIPLINE VIOLATIONS

15. DOE shall ensure that the Special Master’s Plan of Correction addresses all violations found in the Monitoring Report and contains the following minimum corrective measures with regard to JPSS’s systemic violations of IDEA’s discipline procedures:

a. District-wide Training Protocol and Program

i. Development and implementation of a district-wide Training Protocol and Program that shall be provided to JPSS pupil appraisal staff as well as all teachers, paraprofessionals, disciplinarians, and other school administrators working at schools which have Emotionally Disturbed students.
ii. The Training Protocol and Program shall address appropriate methods for conducting Functional Behavioral Assessments (FBA); for drafting and implementing effective Behavior Intervention Plans (BIP) that entail and emphasize positive behavioral interventions and supports.

b. Central Administrative Tracking System

Creation and implementation of a reliable central administrative electronic tracking system for recording the number of disciplinary referrals and removals from school for special education students including students identified as emotionally disturbed in JPSS.

c. Discipline Policies and Practices

i. Elimination of JPSS’ policy that requires an aide to accompany and remain with any Emotionally Disturbed student who is issued an in-school suspension. The policy effectively denies Emotionally Disturbed students access to in-school suspensions and guarantees that these students will be subject to out-of-school suspensions. The elimination of the current policy will allow Emotionally Disturbed students to have the same opportunity to participate in in-school suspensions as their non-disabled peers.

ii. Elimination of the policy and/or practice involving the use of “Until Parent Conference” (UPC) or “Cool –Off” suspensions with Emotionally Disturbed students.

iii. Elimination of the policy that limits the number of in-school-suspension days per school year to nine (9) days. This policy shall be
eliminated for special education students identified as emotionally disturbed.

iv. Development of a written district policy and accompanying form for the JPSS Violence Prevention Program (VPP) which clearly states that special education students identified as emotionally disturbed are exempt from the $75 fee associated with the VPP due to IDEA’s fundamental requirement of FAPE. This policy and form shall be disseminated and communicated to every principal and disciplinarian in JPSS.

v. Development and implementation of a written policy that requires Manifestation Determination Reviews (“MDR”s) be held prior to the commencement of any suspension which result in a special education student identified as emotionally disturbed being removed for more than ten (10) cumulative school days in a year. The policy shall include a method for providing prior notice to parents regarding MDR meetings and for the determination to be made with parents regarding the requisite MDR participants.

vi. Development and implementation of a written policy requiring that prior to any suspension resulting in a special education student identified as emotionally disturbed being removed for more than ten (10) cumulative school days in the school year a meeting shall be held to determine the educational services that must be provided to the student to enable him/her to participate in the general curriculum and to progress toward meeting his/her IEP goals. The policy shall provide guidance as to the
types of educational services and instructional personnel that must be provided to students during such suspensions (in or out-of school). The policy shall also state that the issuance of homework and assignment packages alone shall not constitute the provision of educational services as mandated by IDEA.

LEAST RESTRICTIVE ENVIRONMENT (LRE) VIOLATIONS

16. DOE shall ensure that the Special Master’s Plan of Correction addresses all violations found in the Monitoring Report and contains the following minimum corrective measures with regard to JPSS systemic violations of IDEA’s Least Restrictive Environment (“LRE”) provisions involving Emotionally Disturbed students:

a. The closure of all “John Martyn” or “Most Restrictive Environment” (MRE) classrooms in JPSS within twelve to eighteen (12-18) months of the appointment of the Special Master.

b. Specific strategies and objectives for significantly increasing Emotionally Disturbed students’ access to less restrictive environments including increased access to the general education curriculum and general education classrooms over the next three to four (3-4) years.

EDUCATIONAL BENEFIT VIOLATIONS

17. DOE shall ensure that the Special Master Plan addresses all violations found in the Monitoring Report and contains the following minimum corrective measures with regard to JPSS’ systemic violations of IDEA’s Educational Benefit mandate:

a. Development and implementation of a menu of intervention strategies that include but are not limited to intensive reading and math remediation for
Emotionally Disturbed students in elementary school who are determined to be more than two years behind their chronological grade level in reading and/or math based upon standardized test scores or curriculum based assessment.

b. Development and implementation of a menu of intervention strategies that include but are not limited to the provision of compensatory education for Emotionally Disturbed students who are determined to be three years or more behind their chronological grade level in middle school, junior high or high school based on either standardized test scores or curriculum based assessment.

**TRANSITION SERVICES VIOLATIONS**

18. DOE shall ensure that the Special Master’s Plan addresses all violations found in the Monitoring Report and contains the following minimum corrective measures with regard to JPSS’ systemic violations of IDEA’s Transition Services requirements involving Emotionally Disturbed students:

a. Development and implementation of specific strategies to increase coordination between JPSS’ middle schools, junior high and high schools and district operated career and technical education/vocational/Pre-GED/Skills Option programs.

b. Development and implementation of a written district policy requiring the district operated career and technical education/vocational/Pre-GED/Skills Option programs to provide IEP services including behavior intervention plans for enrolled special education students.
c. Development and implementation of specific strategies to increase Emotionally Disturbed students’ participation in district operated career and technical education/vocational/Pre-GED/Skills Option programs over the next three to four (3-4) years.

d. Development and implementation of a Training Protocol and Program for all administrative personnel at the district operated career and technical education/vocational/Pre-GED/Skills Option programs and all middle school, junior high and high school principals, counselors and special education teachers regarding the rights of special education students to attend and receive IEP services in Jefferson Parish schools that offer career and technical education/vocational/Pre-GED/Skills Option programs. This training will include a description of the courses offered, specific admissions criteria for each course and requirements for successful completion.

ATTORNEYS’ FEES

19. DOE shall pay petitioners’ counsel the amount of $5,000 (five thousand dollars) in attorneys’ fees. A check made payable to the Southern Poverty Law Center for $5,000 shall be mailed from DOE to petitioners’ counsel within ninety (90) days of the execution of this Agreement.

RELEASE

20. Petitioners and DOE expressly acknowledge and agree that the terms of this Settlement Agreement are contractual and not merely recitals, and that the terms, conditions, and provisions of the Agreement are for the sole purpose of compromising disputed claims and avoiding further litigation, and that releases or other consideration
given hereunder shall not be construed as an admission of liability by or on behalf of either the Petitioners or DOE, all such liability being expressly denied. Petitioners and DOE also expressly acknowledge and agree that this Agreement contains the entire agreement between them, and hereby mutually release each other from any and all matters, claims, complaints, or charges including attorneys’ fees arising out of the same subject matter or occurrence as this Complaint. The Petitioners further agree not to add any additional claims to their Complaint versus DOE.

21. The parties agree that this Agreement may not be modified, amended or altered except upon written consent by each of the parties hereto. Should any provision of this Settlement Agreement be held invalid or unenforceable by a court of competent jurisdiction, the parties agree that such provision shall be severed from the remainder of the Agreement and the Agreement shall be construed as if the invalid provision did not exist.

22. The parties expressly acknowledge and agree that this Settlement Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

23. The parties agree that this Settlement Agreement shall be governed by and construed in accordance with the laws of the state of Louisiana and the laws of the United States of America. The parties also agree that this contract may be enforced in state or federal court in the state of Louisiana.

24. The parties agree that all undersigned counsel and undersigned representatives of DOE have the authority to enter into and execute this Settlement Agreement on behalf of their clients.
SIGNED THIS ___ DAY OF AUGUST, 2005.

On behalf of Petitioners,

__________________________
James Comstock-Galagan, Esq.
Southern Disability Law Center
976 Beach Blvd.
Bay St. Louis, MS 39520
(Ph.) 228-467-0092
(Fax) 228-467-0856

Courtney A. Bowie, Esq.
Southern Poverty Law Center
400 Washington Ave.
Montgomery, AL 36104
(Ph.) 334-956-8200
(Fax) 334-956-8481

Hector Linares, Esq
Juvenile Justice Project of Louisiana
1600 Oretha Castle Haley Blvd.
New Orleans, LA 70113
(Ph.) 504-522-5437
(Fax) 504-522-5430
On behalf of Louisiana Dept. of Education and BESE,

__________________________
Cecil J. Picard
State Superintendent of Education
Louisiana Department of Education
1201 N. 3rd St.
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- Winner School District Consent Decree
UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

SAM ANTOINE, a minor, by and through
) )
LAVINA MILK, his legal guardian;
) )
RICHARD CHASING HAWK, a minor, by and
) )
through ROSE MENDOZA, his legal guardian;
) )
CHARLES DUBRAY;
) )
MINDI FELIX, a minor, by and through
) )
DONNA EISEN BRAUN, her mother;
) )
JESSE MILK, a minor, by and through
) )
JOANNE BATES, his mother;
) )
DEIDRICK OLD LODGE, a minor, by and
) )
through YVETTE IRON HEART, his mother;
) )
JENNIFER PENEAUX;
) )
JOHNATHON SCRUGGS, a minor, by and
) )
through CHRISTINE RINKER, his mother;
) )
JOSEPHINE TRAVERSIE, a minor, by and
) )
through REGINA TRAVERSIE-LAPOINTE,
) )
her mother; TAYLOR WHITE BUFFALO,
) )
a minor, by and through DALE AND BEATRICE
) )
WHITE BUFFALO, his parents; and all others
) )
similarly situated,
) )
Plaintiffs,
) )

v.

WINNER SCHOOL DISTRICT 59-2;
) )
MARY FISHER, Individually and as
) )
Superintendent of the Winner School District;
) )
BRIAN NAASZ, Individually and as Principal
) )
of Winner Middle School; and MIKE HANSON,
) )
Individually and as Principal of Winner High
) )
School,
) )
Defendants.
) )

CONSENT DECREE

1
WHEREAS, on March 24, 2006, Plaintiffs filed this lawsuit, by and through their next friends and on behalf of others similarly situated against Defendants alleging multiple allegations of discrimination, including disparate treatment in school discipline, forwarding students’ statements regarding disciplinary matters to law enforcement, and allowing the existence of a racially hostile educational environment. These allegations were detailed in the Complaint referenced as Sam Antoine, et al., vs. Winner School District 59-2, et al., Civ. 06-3007 in the United States District Court, District of South Dakota, Central Division.

Defendants denied each allegation and filed an Answer on April 20, 2006. On October 20, 2006, the Court entered an Order pursuant to Fed. R. Civ. P. 23(b)(2) and certified the litigation as a “class action.”

WHEREAS to avoid time and expense of a trial, the Plaintiffs and Defendants entered into mediation before the Honorable Magistrate Judge John E. Simko and have come to an agreement. The Parties hereby submit the following to the Court for approval as a Consent Decree.

The Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

**STUDENT AFFIDAVITS**

1. Defendants shall not require any student to make any statement, whether in the form of a written affidavit or otherwise, that may be used against him or her in a juvenile court proceeding or criminal proceeding.

**DISCIPLINARY INTERVIEWS AND POLICE REFERRALS**
2. Once a school official has decided to refer a student to law enforcement as a result of alleged misconduct, that official must: (a) immediately notify an adult family member or guardian of the accused student; (b) promptly cease any further interview of the student until the adult family member or guardian arrives; and (c) inform the student that anything he or she says can be used against him or her in a criminal court and that the student has no obligation to continue speaking.

ANNUAL TRAINING OF STAFF REGARDING STUDENTS' PROCEDURAL DUE PROCESS RIGHTS AND LAW ENFORCEMENT REFERRALS

3. Defendants shall provide annual training, at the beginning of each academic year, to Winner Middle School and Winner High School staff and faculty, on the constitutional due process rights of students.

4. Defendants shall request that the Associated School Boards of South Dakota provide a non-local legal expert on the constitutional due process rights of students to conduct this Training.

5. Defendants shall make attendance at this training mandatory for all School Board members and for all school administrators authorized to make law enforcement referrals.

6. Defendants shall submit the agenda of the training, any written materials distributed at the training, and a sign-in sheet of all participants of the training to the Monitor within thirty (30) days of the training.

DISCIPLINARY MATRIX

7. Defendants shall retain an Expert to assist them with the development of educationally sound, objective and non-discriminatory Disciplinary Matrices for the Middle and High Schools.
8. The Expert shall be selected by mutual agreement of the Parties. If the Parties cannot agree within thirty (30) days of the entry of this Consent Decree, each Party shall submit two (2) names to the Court within forty (40) days of the entry of this Consent Decree and the Court shall select the Expert from among the four names submitted. Preference shall be given to Native American candidates.

9. The matrices developed with the assistance of the Expert shall: (a) eliminate mandatory police referrals, except to the extent required by state law; (b) clearly define discrete categories of misconduct; (c) set forth appropriate consequences for each category of misconduct; and (d) identify the circumstances under which deviations from the punishment dictated by the matrices shall be made. Where appropriate, the matrices shall incorporate the use of traditional Native American practices and tactics as consequences for misconduct.

10. The matrices shall apply equally to all students regardless of race or ethnicity.

11. Defendants shall use their best efforts to have the new matrices in place by the beginning of the 2007-2008 school year.

**DISCIPLINARY RECORDKEEPING**

12. Defendants shall maintain consistent and accurate records of all disciplinary incidents.

13. The Winner Middle School and the Winner High School shall maintain their records in an identical manner.

14. For each disciplinary incident, the Principals or their designees shall record, in writing, the name, race, gender, and grade of the student; the date, time, and location of the incident; a description of the incident to the extent possible consistent with Paragraph 2; the matrix category within which the misconduct falls; the punishment imposed; whether the
punishment deviated from the matrix and if so the reason for the deviation; and the staff member who made the initial disciplinary referral.

15. If the incident involved a Native American student and the Native American student was referred by a school official to law enforcement, the Principals or their designees also shall record whether the procedural steps set forth in Paragraph 2 were followed.

16. Defendants shall send a copy of each incident report to the family or guardian of each student involved in the incident within five (5) days of the incident, with any other students' names redacted.

17. Defendants shall submit copies of all incident reports to the Monitor and Plaintiffs' Counsel on a monthly basis for the duration of the Decree.

18. Defendants shall not be responsible for any fees associated with Plaintiffs' Counsel's review of these reports, except as provided for in Paragraphs 71 and 72.

**EVALUATIONS FOR STUDENTS WITH THREE OR MORE INCIDENTS OF MISCONDUCT**

19. With respect to every student punished three or more times during an academic year, Defendants shall conduct an evaluation of the student, with the participation of the student's parent or guardian, the principal, the Ombudsperson, and the Special Education Coordinator, within ten (10) days of the third disciplinary incident to determine whether the student has particular needs that are causing him or her to misbehave.

20. The Principals or their designees shall record the results of the evaluation in writing and shall include in their reports the date of the evaluation, the names of those who attended, efforts made to contact the parents if the parents were not present, any conclusions reached, and any steps to be taken in the future.
21. Defendants shall provide copies of the all such reports to the Monitor and to Plaintiffs’ Counsel at the end of each month. Defendants shall not be responsible for any fees associated with Plaintiffs’ Counsel’s review of monitor’s reports, except as provided for in Paragraphs 71 and 72.

THE OMBUDSPERSON

22. Defendants shall hire a Native American Ombudsperson by the beginning of the 2007-2008 academic year or within sixty (60) business days of entry of this Consent Decree. The Ombudsperson shall be selected by Defendants from a list of no less than seven persons provided by the Native American community, as communicated to Defendants by the Rosebud Sioux Tribal Education Department ("RSTED"). All persons on the list must meet the legal qualifications for employment by the Winner School District.

23. The Ombudsperson shall be a full-time employee of Winner School District and shall be provided with an office at either the Middle School or the High School. Plaintiffs and Defendants shall collaborate on the job description for the Ombudsperson, and the job description may be amended with the agreement of both parties.

24. The Ombudsperson shall serve as a liaison between the Native American community and the Winner School District, and shall serve as a voice for Native American students and families before the District, particularly with respect to disciplinary issues.

25. The Ombudsperson shall serve on both the Middle School Principal Advisory Committee and the High School Principal Advisory Committee as set forth in Paragraph 32.

26. The Ombudsperson shall be present during every interview of a Native American student by the Principal of the Middle or the High School (or his or her designee) in the Principal’s Office for disciplinary purposes.
27. The Ombudsperson shall prepare a written report for each Native American disciplinary incident. The written report shall include for each disciplinary incident the name, race, gender, and grade of the student; the date, time, and location of the incident; a description of the incident to the extent possible, and any other information the Ombudsperson wishes to report. If the Native American student was referred by a school administrator to law enforcement, the Ombudsperson shall record whether the procedural steps set forth in Paragraph 2 were followed.

28. In addition, the Ombudsperson shall encourage and assist any adult family member or guardian who responded to a call from a Principal concerning the referral of a student to law enforcement to record whether, in the adult family member’s or guardian’s view, the procedural steps set forth in Paragraph 2 were followed.

29. The Ombudsperson shall submit his/her reports to the Monitor at the end of each month. In addition, the Ombudsperson shall report on his or her activities twice during each academic year, both in writing and in person, to the School Board and to RSTED.

PRINCIPALS' ADVISORY COMMITTEES

30. Defendants shall establish and maintain a Principal’s Advisory Committee (“PAC”) at both the Middle School and the High School.

31. The PACs shall meet at regular intervals four times during each academic year to review all documentation pertaining to student discipline to determine whether there are any racial disparities in the imposition of discipline.

32. Each PAC shall consist of seven members, one of whom shall be the Ombudsperson. Two of the remaining six members shall be Native Americans selected by the Native American community, with one member from the Ideal community and one member from
the Winner housing community. No individual other than the Ombudsperson may serve on both PACs.

33. Defendants shall arrange for the Interwest Equity Assistance Center (“Interwest”) to provide, at the beginning of each academic year, training and orientation to all PAC members on their duties and responsibilities.

34. The PACs shall report the results of their reviews in writing to the School Board, the Monitor, and Plaintiffs’ Counsel. Each report shall state the date of the meeting, the names of PAC members who attended, the documents reviewed, the conclusions reached, and the rationale for those conclusions.

35. Defendants shall not be responsible for any attorneys’ fees associated with Plaintiffs’ Counsel’s review of these PAC reports, except as provided for in Paragraphs 71 and 72.

36. Defendants shall ensure that the PACs are in place by the beginning of the 2007-2008 academic year, and that each PAC have its first meeting in the Fall of 2007.

**TEACHER TRAINING ON INDIAN EDUCATION AND EDUCATIONAL EQUITY**

37. Defendants shall train all teachers on culturally-sensitive pedagogy, with ongoing training and support. Specifically, defendants shall arrange for the Interwest Equity Assistance Center (“Interwest”) to train all administrators and staff on the American Indian Education Professional Development Workshop (“AIEPDW”) Program and the Generating Expectations for Student Achievement (“GESA”) Program bi-annually or at more frequent intervals if recommended by the Monitor. The initial training shall be conducted as soon as practicable upon establishment of the Benchmarks referred to in Paragraphs 62 through 68 below.
38. Once an appropriate number of administrators and staff have been trained, the District shall implement the AIEPDW Program and the GESA Program as recommended by Interwest.

39. Interwest may consult with RSTED in providing these Programs as it deems appropriate.

STUDENT-ON-STUDENT CONFLICT RESOLUTION

40. Defendants shall arrange for Interwest to train all administrators and staff at the Winner Middle and High Schools on the Olweus Anti-Bullying Program and the Aggressors, Victims, and Bystanders Program bi-annually, or at more frequent intervals if recommended by the Monitor. Training on both Programs shall be conducted as soon as practicable after the establishment of the Benchmarks contemplated by Paragraphs 62 through 68. All administrators and staff who have been trained shall work with Interwest to implement the programs.

NATIVE AMERICAN CLASSES, PROGRAMS AND ACTIVITIES

41. Defendants shall:

a. Offer an elective one-semester Lakota History, Culture, and Language Class each academic year at the Winner High School. The class shall be taught by a Native American teacher. Defendants shall work with RSTED to assist in identifying appropriate candidates for this position.

b. Incorporate Lakota history, culture, and language into the mainstream K-12 curriculum by the beginning of the 2008-09 school year.

c. In consultation with RSTED, sponsor and promote in-school and after-school events in the Winner Middle and High Schools focusing on Native American history, culture and language, such as drum classes or programs, dance classes or
programs, language classes or programs, Lakota After-School Clubs and/or a school-wide recognition and celebration of Native American Heritage Month.

42. Defendants shall implement the requirements of the new South Dakota Indian Education Act.

INCREASING THE NUMBER OF NATIVE AMERICAN EMPLOYEES

43. Defendants shall improve the numbers of Native Americans on the District’s staff and faculty, consistent with the Benchmarks developed under Paragraphs 62 through 68.

IMPROVING PARENTAL PARTICIPATION

44. In collective bargaining sessions with the teachers' union, Defendants shall advocate for holding Parent-Teacher conferences at the 4-H Building once per semester. Defendant shall provide food at these Parent-Teacher conferences.

45. Defendants shall work with an Expert such as Interwest to develop and implement steps to improve parental participation in Winner School District’s educational community.

46. Defendants must organize at least one activity per academic year to bring families of different cultures together to the school for social purposes.

LOCAL INDIAN EDUCATION COMMITTEE (“JOM BOARD”)

47. The Parties acknowledge that the Local Indian Education Committee (also known as the “JOM Board”) is not Defendants’ Committee, but rather the Native American community’s Committee.

48. Defendants shall comply with all federal laws, rules, and regulations regarding the Local Indian Education Committee under the Johnson O’Malley Act.

49. The Local Indian Education Committee shall develop its own charter and by-laws as it is entitled to pursuant to federal law.
50. Defendants shall refrain from establishing the Local Indian Education Committee's meeting agendas, budgets, and membership. Winner School District staff shall not run meetings of the Local Indian Education Committee.

THE ROSEBUD SIOUX TRIBAL EDUCATION DEPARTMENT

51. The Winner School Board shall have a standing place for the RSTED on the agenda of its first regular meeting every month. RSTED shall decide, at its discretion, whether to make a formal appearance at the meeting. If it decides to make such an appearance, it shall follow all regular Board procedures, including the submission of a letter briefly summarizing its presentation.

52. Defendants shall invite a representative from RSTED to the annual School Board retreat.

53. The President of the Winner School Board and the Superintendent shall make a presentation to the Rosebud Sioux Tribal Education Committee each academic year.

54. By the beginning of the 2007-08 academic year, the Winner School District shall enter into a Memorandum of Understanding with RSTED. The Memorandum of Understanding shall include how the Defendants shall obtain advice and guidance of the RSTED regarding Indian culture programs and curriculum development, the confidentiality of educational records disclosed to RSTED pursuant to this Consent Decree, and any other matters in which RSTED’s involvement is either suggested or required by this Consent Decree. The memorandum will also provide the RSTED with the Winner School Board procedures which should be followed if RSTED decides to make an appearance as contemplated in Paragraph 51.

THE MONITOR
55. Defendants shall contract with a Monitor who shall oversee Defendants’ implementation of the Consent Decree and shall facilitate the development of Benchmarks that Defendants must meet to exit from the Consent Decree.

56. The Monitor shall be certified as a No Child Left Behind Act supplemental service provider, certified by the United States Department of Education Institute of Education Sciences, and if possible, a Native American.

57. The Monitor shall be selected by mutual agreement of the Parties. If the Parties cannot agree on the Monitor within forty-five (45) days of the entry of the Consent Decree, each Party shall submit two names for potential Monitors to the Court within fifty-five (55) days of entry of this Consent Decree, and this Court shall decide from among the four candidates submitted, giving a strong preference to Native Americans.

58. The Monitor shall conduct on-site reviews twice a year for the life of the Consent Decree, to measure progress toward and achievement of the Benchmarks, as well as to consider and/or facilitate modification of Benchmarks where appropriate. Each full year of substantial compliance with the terms of this Consent Decree, including all Benchmarks, will reduce the number of the following year’s on-site investigations to one.

59. The Monitor shall report quarterly to the Parties and the Court regarding overall compliance and make recommendations as needed to reach Benchmarks. Defendants shall not be responsible for any fees associated with Plaintiffs’ Counsel’s review of Monitor’s reports, except as provided for in Paragraphs 71 and 72.

60. The Monitor shall work with RSTED throughout the monitoring process.

61. Defendants shall be responsible for all costs associated with the Monitor and the Monitor’s functions.
BENCHMARKS

62. The Benchmarks to be developed shall address the following: (1) improving Native American graduation rates; (2) racial disparities in suspensions and police referrals; (3) reduction in overall number of suspensions and referrals; (4) reduction in Native American transfer and dropout rates; (5) improvement of Native American academic achievement; (6) reduction in Native American truancy and tardiness; (7) improvement of Native American parental participation in school meetings and events; (8) improvement of Native American participation in extracurricular activities; (9) improvement of school climate for Native American students, as measured by student perceptions of fairness of discipline, whether they feel their school is responsive to them, and whether they feel they are an important part of the school community; (10) inclusion of Native American culture, history, and language in the curriculum; and (11) accountability for all finances related to Native American students.

63. The Monitor shall conduct initial research and an on-site evaluation during the summer of 2007 or within sixty (60) business days of being selected as the Monitor to assist in the development of Benchmarks. This project shall include a review of data from the School District, including all financial data, interviews with parents, students and other members of the Native American community, and consultation with RSTED. The Parties, in good faith, will provide the monitor access to all information requested and facilitate meetings with all persons deemed appropriate to interview.

64. Using data gathered from the initial research and evaluation, the Monitor shall engage in a “co-construction process” to develop the Benchmarks and establish baselines against which progress can be measured. The co-construction process consists of convening stakeholders to take part in collaborative decision making through equal voice and consensus
principles. The co-construction process shall be undertaken by an eight- to ten- person group with representatives from the following: Winner School District staff and faculty, Winner School Board, RSTED, and the Native American Winner and Ideal communities. Each stakeholder group shall select its own representatives. Counsel for the Parties may attend those group meetings, but shall not be considered stakeholders. Defendants will not be responsible for Plaintiffs’ attorneys’ fees if they choose to attend any monitor’s meetings or the “co-construction process.”

65. The Parties recognize that in some instances, the Benchmarks will be the successful implementation in good faith of a program, such as the Olweus Bullying Prevention Program, whereas in other situations, the Benchmarks will be that of achieving a specific outcome, such as increasing the graduation rate of Native American students to a specific level. In other words, depending on the context, a Benchmark could be expressed in the form of a program, task, number, or a percentage.

66. If it appears, during the implementation phase of this Consent Decree, that a Benchmark developed during the initial co-construction process should be modified or amended, the Monitor shall re-convene the stakeholders identified in Paragraph 64 for the purpose of deciding upon that modification or amendment. Modifications or amendments may be warranted if a program mandated by the Consent Decree proves to be ineffective or if a particular percentage established as an initial Benchmark is subsequently deemed to be too high, too low or in need of adjustment.

67. Each Party shall accept the Benchmarks developed through the co-construction process unless it believes that a Benchmark is unrealistic, unreasonable, or will likely be ineffective, in which case that Party may petition the Court to alter that Benchmark.
68. When considering a challenge to a Benchmark, the Court shall defer to the expertise of the Monitor unless the Court is convinced that the Benchmark is indeed unrealistic, unreasonable, will likely be ineffective, or is arbitrary and capricious. In making this determination, this Court shall take into account the overall goals of this Consent Decree, which are to ensure that Native American students are treated equally with all other students and with appropriate cultural sensitivity, as well as the educational and pedagogical needs of Winner School District.

IMPLEMENTATION TIME TABLE

69. Teacher training and implementation of the programs mandated by Paragraphs 37 through 41 of the Consent Decree shall begin immediately or as soon as practicable after development of Benchmarks and establishment of measurement baselines.

ATTORNEYS’ FEES AND COSTS

70. Defendants shall pay $100,000 to Plaintiffs’ Counsel in attorneys’ fees and costs.

71. Notwithstanding any other provision of this Consent Decree, if Plaintiffs successfully move to hold Defendants in contempt for failure to comply with any term of the Consent Decree or any benchmark established pursuant to the Consent Decree, Plaintiffs are entitled to reasonable attorneys’ fees and costs incurred in connection with that motion.

72. Plaintiffs reserve the right to petition for attorneys’ fees and costs associated with the defense of a motion to terminate the Consent Decree pursuant to Paragraph 77 below, if that motion is unsuccessful. Defendants reserve the right to challenge such a petition.

MEDIA RELATIONS
73. The Parties shall issue one joint press release announcing the Consent Decree, with no additional press release to be issued by either Party with respect to the settlement of this lawsuit.

DISCLOSURES OF EDUCATION RECORDS

74. This Consent Decree constitutes a court order authorizing Defendants to disclose information protected by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(b)(2)(B) for the purpose of effectuating this Consent Decree to (a) the Monitor; (b) RSTED; (c) Interwest; (d) any other Expert retained pursuant to this Consent Decree; (e) Plaintiffs' counsel; and (f) PAC members.

75. Each of the entities and/or individuals receiving information protected by FERPA pursuant to Paragraph 74 shall enter into a confidentiality agreement with Defendants prior to receiving such records, consistent with 20 U.S.C. § 1232g(b)(4)(B).

RETENTION OF JURISDICTION AND ENFORCEMENT OF CONSENT DECREE

76. This Court shall retain jurisdiction over all matters relating to the implementation and enforcement of the Consent Decree.

77. This Consent Decree shall remain in effect until Defendants have complied with all Benchmarks, for four consecutive school years, at which time the Consent Decree shall automatically terminate. Defendants may, however, move for termination of the Consent Decree if they believe that they have substantially complied with both the Consent Decree and the benchmarks for four consecutive years.

MISCELLANEOUS PROVISIONS

78. Failure by a Party to enforce any provision of the Consent Decree will not be construed as a waiver of the Party's right to enforce other provisions of the Consent Decree.
79. Terms of this Consent Decree shall be binding upon the Parties hereto, their agents, their successors-in-interest and their assigns.

80. This Consent Decree only affects the Parties to this action.

81. If any provision of this Consent Decree is declared void and/or unenforceable by any court of competent jurisdiction, for any reason, the remainder of the Consent Decree shall remain in full force and effect.

82. All undersigned counsel of record for the Parties has the authority to enter into and execute this Consent Decree on behalf of their clients.

SIGNED on the dated indicated below:

DANA HANNA

Date: December 10, 2007
PO Box 3080
Rapid City, SD 57709

CATHERINE YONSOO KIM

ROBIN DAHLBERG

AMERICAN CIVIL LIBERTIES
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COUNSEL FOR DEFENDANTS

DONALD KNUDSEN

Date: December 10, 2007

SARA FRANKENSTEIN

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P.O. Box 8045
Rapid City, South Dakota 57709-8045

COUNSEL FOR DEFENDANTS

Pursuant to stipulation, and for good cause shown, IT IS SO ORDERED.
Dated this 10th day of December, 2007.

BY THE COURT:

CHARLES B. KORNMAANN
United States District Judge

ATTEST:

JOSEPH HAAS, Clerk

BY: [Signature]
DEPUTY
Jeffrey Sprague

- PowerPoint slides
- School Wide Positive Behavior Supports
School Wide Positive Behavior Supports: Breaking the School to Prison Pipeline

Jeffrey Sprague, Ph.D.
University of Oregon Institute on Violence and Destructive Behavior

Challenging Behaviors

• Exist in every school and community (always will)
• Vary in intensity and frequency
  – Mild to Violent
• Are associated w/ a variety of risk factors (no single pathway)
• Present our greatest public health problem!
We Know a Lot About Human Development

- It’s never too early, nor too late to nurture and support children and youth
  - Prevention is the outcome for everyone
  - Intervention is how we achieve prevention
- Simple things form the basis for all effective interventions
  - Positive, caring interactions
  - Monitoring and supervision
  - Physical activity
  - Multiple points of influence

The Impact of Adverse Childhood Experiences Throughout The Lifespan

- Adverse Childhood Experiences
- Disrupted Neurodevelopment
- Academic, Emotional and Behavioral Problems
- Early Adoption of Health Risk Behaviors
- Onset of Disease and Disability
- Early Death

Where is school on the path to destruction?
The Typical Response to Problem Behavior

- Reactive – address it once it happens
  - “Get tough” and “Zero tolerance” policies
- Add staff to monitor and supervise
- Pay more attention to problem behaviors than positive behaviors
- Discipline = Office referral, suspension, or expulsion
  - (wasn’t there something about a disciple?)
  - Disciplus – to teach or follow
- Let no good deed go unpunished!

Do Sanctions “work”? 

- Sanctions such as office referrals or suspensions may appear to “work” in the short term
  - Removes student
  - Provides relief to teachers, peers, administrator
  - We often attribute responsibility for change to student &/or others (family)
Does Punishment Work Without A Balance of Positive Acknowledgement?

- Detrimental effects on teacher-student relations
- Modeling: undesirable problem solving
  - Reduced motivation to maintain self-control
  - Generates student anger
  - May result in more problems (Mayer, 1991)
    - Truancy, dropout, vandalism, aggression
- Does not teach: Weakens academic achievement
- Limited long term effect on behavior
Positive Behavior Support is....

What parents, teachers, peers and others do to increase student success---the whole village!

SUCCESS 4 : 1 FAILURE

RE-AIM for PBS Success

- Reach
- Efficacy
- Adoption
- Implementation
- Maintenance
**PBS: Adoption Conditions**

- School/program improvement priority
- Administrator is an active leader and involved!
- Each school has “champions”
  - Training and coaching for the adults
- Use of standard curriculum content and procedures (for kids and adults)
  - Most adults help implement the program (go with the goers)
  - All students affected and involved (even the tough ones)
- System for performance-based feedback (Are we meeting our outcomes? Are we consistent?)

**School-Level PBS Teams**

- Team meets monthly at school
  - Continuous assessment of school progress and problems
  - Implement discipline systems
- Team provides staff training/coaching across the year and is continuously available
- Team gives status report monthly to all staff
  - Office Referral patterns and updates
  - Successes and Concerns
School-wide Rules

- Stated in positive rather than negative terms (avoid using NO)
  - “do” instructions are context setting
- Must be in clear, student-friendly language
- Visible in all school settings (e.g., classroom, office, cafeteria, library)
- Teach rules and discuss the importance of following rules
- Train all staff members on monitoring and reinforcing appropriate rule following behavior
Directly teach and review expected behavior

School Rule Lesson Plan Example

The Topic/Rule: Use appropriate language in conversations

What do we expect the student to do?
1. Speak appropriately in all school settings
2. Give up use of profanity
3. Express anger or frustration with appropriate words

How will we teach the expected behavior?

Tell why following the rule is important: Profanity is offensive to other people and spreads negative attitudes. Using appropriate language is an important social skill for behaving in future employment and community settings.

List examples and non examples of the expected behavior (two to three each): Ask students to identify examples and not-examples of both parts of the rule. Ask them to identify both and tell why is good or bad example of expected behavior.

- **A positive example:**
  - John's locker won't open and class is about to start. He says "******" and slams the locker with his fist.
  - Other people in the area feel uncomfortable and afraid.

- **A non example:**
  - Mary saw an excellent car in the parking lot at the local store. She said, "I saw this really cool car today!"

Provide opportunities to practice and build fluency:
1. Brainstorm a list of alternative words or terms.
2. Engage students in a frustrating activity and prompt them to use appropriate language.
3. Discuss or identify positive things about our school or other students.
4. Generate a list of words that are not acceptable/acceptable.
Adopt a Mantra of Positivity

- Staff members to use at least 4 positive interactions to every 1 negative interaction (e.g., reprimands)
  - Positivity ratio
- Recognize appropriate behavior when it is happening, rather than react to problem behavior
- Prompt students to do the right thing (e.g., what they have been taught) before reprimanding
When dealing with non-compliance

- Stop and think
- Restate the request (won’t do it or can’t do it)
- Matter of factly deliver the penalty or loss of privilege if that is your plan.
- Avoid…
  – Arguing with the student
  – Holding a grudge
  – Trying to make the student feel bad or guilty for previous poor choices

Performance-based feedback

- How often do I get feedback about discipline patterns in my school?
- What kind of feedback do I get?
  – Total referrals
    • Referrals per day
  – Behaviors
  – Locations
  – Actions/consequences?
Is There a Problem?

Office Referrals per Day per Month

Last Year and This Year

Ave Referrals per Day

School Months

Office Referrals per Day per Month

Last Year and This Year

Frequency of Problem Behaviors

Problem Behaviors

Frequency

Problem Behaviors: 18

Referrals: 120
School Wide PBS

- What can we expect?
  - Reduced office referrals, suspensions and expulsions
  - Increased academic achievement
  - Deviant peer groups less likely to form
    - Reduced delinquency
    - Reduced alcohol, tobacco and other drug use
  - Increased commitment to conventional pursuits
Books and resources

- Institute on Violence and Destructive Behavior
  - http://uoregon.edu/~ivdb/
- Iris Media
  - www.lookiris.com
- Safe and Healthy Schools: Practical Strategies (Sprague & Walker, 2005) www.guilford.com
- LAUSD Foundation Discipline Policy
  - http://notebook.lausd.net/portal/page?_pageid=33,911578&_dad=ptl&_schema=PTL_EP
School Wide Positive Behavioral Supports
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The Handbook of School Violence and School Safety: From Research to Practice
Edited by Shane R. Jimerson and Michael J. Furlong
Lawrence Erlbaum Associates, Inc.
Mahwah, New Jersey

To prevent minor, as well as serious, antisocial behavior, educators are turning to a comprehensive and proactive approach to discipline commonly referred to as School Wide Positive Behavior Support (SWPBS) (Osher, Dwyer, & Jackson, 2002; Sprague & Golly, 2004; Gresham, Sugai, & Horner, 2001). SWPBS is based on the assumption that when faculty and staff in a school actively teach and acknowledge expected behavior, the proportion of students with serious behavior problems will be reduced and the school’s overall climate will improve (Colvin, Kame’enui, & Sugai, 1993; Sugai & Horner, 2002; Sugai et al., 2000).

The procedures that define SWPBS are organized around three main themes: Prevention; Multi-Tiered Support; and Data-based Decision Making. Investing in prevention of problem behavior involves (a) defining and teaching core behavioral expectations, (b) acknowledging and rewarding appropriate behavior (e.g., compliance to school rules, safe and respectful peer to peer interactions, academic effort/engagement), and (c) establishing a consistent continuum of consequences for problem behavior. The focus is on establishing a positive social climate in which behavioral expectations for students are highly predictable, directly taught, consistently acknowledged, and actively monitored.

Multi-tiered support is available beyond the prevention level for those students with at-risk and antisocial behavior. The greater the student’s need for support the more intense the support provided. Within the SWPBS approach, emphasis has been on using the principles and procedures of behavior analysis as a foundation for defining behavioral challenges, completing functional behavioral assessments, and using these assessments, in conjunction with person-centered planning, to design effective and efficient procedures for addressing patterns of unacceptable behavior.

Data-based decision-making is a theme that is interwoven throughout SWPBS, and builds on the assumption that the faculty, staff, family and students will be most effective in the design of preventive and reactive supports if they have access to regular, accurate information about the behavior of students. The value of data for decision-making is emphasized for both the design of initial supports, and the on-going assessment and adaptation of support strategies. The SWPBS approach includes adoption of practical strategies for collecting, summarizing, reporting and using data on regular cycles.

Evidence suggests that sustained use of SWPBS practices can alter the trajectory of at-risk children toward destructive outcomes, and prevent the onset of risk behavior in typically developing children. It is expected that effective and sustained implementation of SWPBS will create a more responsive school climate that supports the twin goals of schooling for all children: academic achievement and social development (Horner, Sugai, Todd, & Lewis-Palmer, in press; Walker et al., 1996).

Implementing and sustaining an organized, school-wide system for behavior support and teaching social behavior is the foundation for effective prevention. In addition to the direct benefit it has on student behavior in school, such a system creates the context for school-based efforts to support effective parenting. When school personnel have a shared vision of the kind of social behavior they want to promote among students and a shared understanding of the type of social environment that is needed to achieve such behavior, they are in a position to inform and support families in creating the same kind of supportive environment at home. When educators are clear about how to use rules, positive reinforcement, and mild, consistent negative

consequences to support behavioral development, they are better able to coordinate their efforts with those of parents. As a result, parents will know more about their children’s behavior in school and will be able to provide the same supports and consequences that the school is providing.

As of 2005, over 2700 schools across the country are actively implementing SWPBS. These schools are reporting reductions in problem behavior, improved perceptions of school safety, and improved academic outcomes (Horner et al., in press). This chapter describes how to establish and implement a school-wide positive behavior support system. To first establish the context in which SWPBS is being adopted, we begin by framing the challenge that antisocial behavior presents in schools.

**The Challenge of Antisocial Behavior in Schools**

Schools in the United States are responding to increasingly serious problem behaviors (e.g., bullying, harassment, victimization, drug and alcohol abuse, the effects of family disruption, poverty) (Kingery, 1999). These problem behaviors, and their related challenges (the effects of family disruption, poverty) have created fears about the personal safety of students, teachers, parents, and community members that are very real and need to be addressed in every school.

While most schools in the U.S. are relatively safe places for children, youth, and the adults who teach and support them (U.S. Departments of Justice and Education, 1999, 2000), it also is true that some schools have serious antisocial behavior and violence problems. No school is immune from challenging behaviors and the potential for violence. They exist in every school and community, and they always will. The extent of the challenge will vary in intensity and frequency across schools, and the onset and development of antisocial behavior are associated with a variety of school, community, and family risk factors (Sprague, Walker, Sowards, Van Bloem, Eberhardt & Marshall, 2002; Walker & Sylwester, 1991). The challenge is to reduce the frequency and intensity of these problems, and sustain behavioral gains over time.

The social problems noted above compete directly with the instructional mission of schools. The result is decreased academic achievement and a lower quality of life for students and staff alike. The *National Educational Goals Panel Report* (U.S. Department of Education, 1998, 2000) lists five essential areas in which national school performance has declined: (a) reading achievement at grade 12 has decreased (Goal 3); (b) student drug use has increased (Goal 7); (c) sale of drugs at school in grades 8, 10, and 12 has increased; (d) threats and injuries to public school teachers have increased (Goal 7); and (e) more teachers are reporting that disruptions in their classroom interfere with their teaching (Goal 7). These outcomes illustrate the clear link between declining school climate, school violence, and academic achievement. It is not possible to achieve national educational goals and meaningful reform without addressing these disturbing conditions (Elias, Zins, Graczyk, & Weissberg, 2003).

**School practices contribute to the problem.** Many school practices contribute to the development and prevalence of antisocial behavior and the potential for violence. Because of the nearly exclusive emphasis on detecting individual child or youth characteristics that predict antisocial behavior and violence, many important systemic variables are often overlooked as contributors (Colvin, Kame’enui, & Sugai, 1993; Hawkins, Catalano, Kosterman, Abbott, & Hill, 1999); Mayer, 1995; Walker & Eaton-Walker, 2000; Walker et al., 1996). These include, among others:

1. ineffective instruction that results in academic failure;
2. failure to individualize instruction and support to adapt to individual differences (e.g., ethnic and cultural differences, gender, disability);
3. disagreement and inconsistency of implementation among staff members;
4. lack of administrator involvement, leadership and support;
5. inconsistent and punitive classroom and behavior management practices;
6. unclear rules and expectations regarding appropriate behavior;
7. failure to reward compliance to school behavior expectations;
8. lack of opportunity to learn and practice prosocial interpersonal and self-management skills; and
9. failure to assist students from at-risk (e.g., poverty, racial/ethnic minority members) backgrounds to bond with the schooling process.

Common response to behavioral problems: Turn to office referrals, suspensions and expulsions! Often when a student misbehaves, the first line of response involves increasing monitoring and supervision of the student, restating rules, and delivering sanctions (e.g., referrals to the office, out of school suspension, and/or loss of privileges). The administrator may come to a point of frustration and attempt to establish a “bottom line” for disruptive students (usually referral or suspension). Unfortunately, these “get tough” responses produce immediate, short-lived relief for the school but do not facilitate the progress of the student who may already be disengaged from the schooling process.

Paradoxically, while punishment practices may appear to “work” in the short term, they may merely remove the student for a period of time, thus providing a brief respite. All too often, these practices also can lead some to assign exclusive responsibility for positive change to the student or family and thereby prevent meaningful school engagement and development of solutions. The use of sanctions, without an accompanying program of teaching and recognition for expected positive behavior, may merely displace the problem elsewhere (to the home or the community). There is little evidence of the long-term effect of these practices in reducing antisocial behavior (Irvin, Tobin, Sprague, Sugai, & Vincent, 2004; Skiba & Peterson, 1999). In fact, evidence suggests that schools using punishment practices alone promote more antisocial behavior than those with a firm, but fair discipline system (Mayer, 1995; Skiba & Peterson, 1999). Research shows clearly that schools using only punishment techniques tend to have increased rates of vandalism, aggression, truancy, and ultimately school dropout (Mayer, 1995).

For students with chronic problem behavior these negative practices are more likely to impair child-adult relationships and attachment to schooling rather than reduce the likelihood of problem behavior. Punishment alone, without a balance of support and efforts to restore school engagement, weakens academic outcomes and maintains the antisocial trajectory of at risk students. Instead, the discipline process should help students accept responsibility, place high value on academic engagement and achievement, teach alternative ways to behave, and focus on restoring a positive environment and social relationships in the school.

If not punishment, then what is the solution? Schools can serve as an ideal setting to organize efforts against the increasing problems of children and youth who display antisocial behavior patterns (Mayer, 1995; Sugai & Horner, 1994; Walker et al., 1996). This practice is sustained by a tendency to try to eliminate the presenting problem quickly by removing the student via suspension or expulsion, or fix a “within-child” deficit rather than focus on the

administrative, teaching and management practices that either contribute to or reduce them (Tobin, Sugai, & Martin, 2000).

**Conceptual Basis for School Wide Positive Behavior Supports**

A solid research base exists to guide an analysis of the administrative, teaching, and management practices in a school and design alternatives to ineffective approaches. An important theme from this research is that no single intervention practice should be viewed as meeting all the behavioral challenges in schools. Student behavior is complex and influenced by many variables within the school, within the family/community, and within the student. The behavior support strategies needed to establish a school-wide social culture need to be supplemented with classroom interventions and individualized supports for students with chronic and intense patterns of problem behavior. The range of student behavior support needs requires that **interventions target both school-wide and individual student support strategies**. Educators in today’s schools and classrooms must be supported to adopt and sustain effective; cost-efficient practices in this regard (Gottfredson, 1997; Gottfredson, Gottfredson, & Czeh, 2000; Walker et al., 1996). A well-developed body of research evidence on school safety indicates that (a) early identification and intervention with at-risk children in schools is feasible; (b) the risk of dropping out of school, delinquency, violence and other adjustment problems is high unless these children are helped; (c) academic recovery is difficult if early intervention is not provided; and (d) universal interventions need to be combined with interventions targeted to specific problems (Gottfredson, 2001; Tolan, Gorman-Smith, & Henry, 2001). Effective schools have shared values regarding the school’s mission and purpose, carry out multiple activities designed to promote prosocial behavior and connection to school traditions, and provide a caring nurturing social climate involving collegial relationships among adults and students (Bryk & Driscoll, 1988; Gottfredson, Gottfredson & Czeh, 2000; Scott & Eber, 2003).

**Changing school climate is an essential element.** The biggest challenge schools face is to enhance their overall capacity to create and sustain positive and behaviorally effective schools. Schools should provide school wide positive behavior supports at the point of school entry and continue implementing through high school (O’Donnell, Hawkins, Catalano, Abbott, & Day, 1995). It is never too late, nor never too early to support children and youth in our schools (Loeber & Farrington, 1998). Research indicates that schools can create establish clear expectations for learning and positive behavior, while providing firm but fair discipline. Students will be more motivated if they are in environments that are perceived as safe, positive and predictable. Increased motivation is associated with improved acquisition of skills that will be of value for years following formal education (Katz, 1997).

Thus, the challenge becomes how to give schools the capacity to adopt and sustain the processes, organizational structures, and systems that enable them to carry out these effective interventions (Gottfredson, Gottfredson, & Czeh, 2000). The problem for schools is not the lack of effective programs (those that work), but rather it is one of **efficacy** (helping typical schools adopt and carry out effective interventions).

**Where to start: No Child Left Behind Principles of effectiveness.** Education professionals may use the USDOE Office of Safe and Drug Free Schools “Principles of Effectiveness” as an organizing framework for planning and implementing whole-school approaches to safety and effectiveness. The principles recommend: (a) a local **needs assessment**

of the risk and protective factors affecting the school, families, and the community (including the status of support systems); (b) establishment of measurable goals and objectives by the school that are integrated with school improvement planning; (c) selection of research-based and research-validated curricula and interventions; and (d) implementation of a comprehensive and rigorous evaluation plan, which includes evaluation of inputs (resources, staff, materials), outputs (actual costs, description of the process of implementation), outcomes (e.g., student behavior change), and impact (overall satisfaction with project products and outcomes). In the next section, School Wide PBS use and the Principles of Effectiveness as an organizing framework are introduced.

Implementing School-Wide, Positive Behavior Supports

School-Wide Positive Behavior Support (SWPBS) is a systems-based approach that promotes safe and orderly schools. Researchers at the University of Oregon (see Sprague, Sugai & Walker, 1998; Sprague, Walker, Golly et al., 2002; Sugai & Horner, 1999; Taylor-Greene et al., 1997, www.pbis.org) have field-tested the efficacy of SWPBS approaches in reducing school behavior problems and promoting a positive school climate. SWPBS is a multiple system approach to addressing the problems posed by students displaying antisocial behaviors and coping with challenging forms of student behavior. The key practices of SWPBS are:

- clear definitions of expected appropriate, positive behaviors are provided for students and staff members;
- clear definitions of problem behaviors and their consequences are defined for students and staff members;
- regularly scheduled instruction and assistance in desired positive social behaviors is provided that enables students to acquire the necessary skills for the desired behavior change;
- effective incentives and motivational systems are provided to encourage students to behave differently;
- staff commits to staying with the intervention over the long term and to monitor, support, coach, debrief, and provide booster lessons for students as necessary to maintain the achieved gains;
- staff receives training, feedback and coaching about effective implementation of the systems; and
- systems for measuring and monitoring the intervention’s effectiveness are established and carried out.

Improving discipline is a priority. First, the improvement of school discipline should be one of the top school improvement goals. With competing resources and goals, if work in this area is not a priority, progress will be difficult.

Administrator leadership. Every school needs a principal committed to SWPBS leadership and participation. In the absence of administrative leadership and district support (e.g., policy, fiscal) it will be difficult to effect broad-based changes. Hallinger and Heck (1998) reviewed the evidence on the principal’s contribution to school effectiveness. They concluded that principals exercise a measurable effect on schooling effectiveness and student achievement. Kam, Greenberg, and Walls (2003), reported that the ability of principals to initiate and sustain innovations in their schools is related to successful program implementation. The length of time administrators have spent in the school setting and the leadership characteristics they show in maintaining good relations with teachers, parents, school boards, site councils, and students also

are positively related to successful implementation outcomes. Gottfredson et al. (2000) and Ingersoll (2001) showed that high levels of administrative support were also associated with reduced staff turnover.

**Commitment to participate by all or “most” adults in the school.** It is important to secure a commitment to implement the intervention by at least 80% of school staff. Some schools have chosen to use a “vote” to assess this level of commitment. We have found a few approaches that can move a group of colleagues toward program implementation (Embry, 2004).

- **Talk about cost and benefit.** All adults involved need to know the costs (time, funds) and benefits of working to improve school discipline. For example, presentations by school leaders on the anticipated effects of program adoption (e.g., studies indicate that as discipline problems and referrals to the principal’s office are dramatically reduced, teaching time is substantially increased [cites?]).

- **Emphasize the long-term benefits.** It also is useful to discuss the “higher good” of prevention and how much your colleagues value such outcomes as better academic achievement, prevention of alcohol, tobacco and other drug use, less teacher stress, etc. These discussions may prove to be more powerful and persuasive than simply appealing to authority or law (i.e., we have to do it!).

- **“Try before you buy.”** School-wide PBS is comprised of many smaller techniques (reward systems, teaching rules; Embry, 2004) that can be promoted as trial products. You can ask innovators in your building to share their successes, or arrange visits to schools that have already adopted SWPBS practices.

- **“Go with the goers.”** The practice is far more likely to be adopted if you recognize and support people who get on board early, as well as encourage those who are reluctant, or even resistant.

To begin your journey toward establishing a more effective school program, we recommend that you begin by completing the needs assessment presented in Figure 1 (we include only the school-wide section here). The “Assessing Behavior Support In Schools” survey developed by George Sugai and his colleagues (Sugai, Lewis-Palmer, Todd, & Horner, 2000; available for no charge at [www.pbis.org](http://www.pbis.org)) prescribes the essential features of SWPBS at the school-wide (Figure 1), common area, classroom, and individual student levels. The survey asks respondents to reflect on whether the practice is in place in their school and to choose which items are priorities for improvement. Your school behavior team will refer to these goals often, and modify them as indicated by a review of key data regarding effectiveness (e.g., office discipline referrals, rates of problem behavior on the playground).

---Insert Figure 1 Here---

**Select evidence-based practices.** The School-Wide Behavioral Support (SWPBS) (Sprague, Sugai & Walker, 1998; Sugai & Horner, 1994) approach was developed at the University of Oregon and the National Center on Positive Behavioral Interventions and Supports ([www.pbis.org](http://www.pbis.org)) (an Office of Special Education Programs funded research center). The goal of SWPBS is to facilitate the academic achievement and healthy social development of children and youth in a safe environment conducive to learning. SWPBS involves providing embedded and ongoing staff development and coaching aimed at improving school and classroom discipline and associated outcomes such as school violence, and alcohol, tobacco and other drug use.

SWPBS includes intervention techniques based on over 30 years of rigorous research regarding school discipline from education, public health, psychology, and criminology.

disciplines. SWPBS components address whole-school, common area, classroom, and individual student support practices and may be used in combination with other evidence-based prevention programs such as the Second Step Violence Prevention Curriculum (Committee for Children, 2002). Representative school team members are trained to develop and implement positive school rules, direct teaching of rules, positive reinforcement systems, data-based decision making at the school level, effective classroom management methods, curriculum adaptation to prevent problem behavior, and functional behavioral assessment and positive behavioral intervention plans. Teams are also coached to integrate SWPBS systems with other prevention programs to maximize effectiveness.

How is SWPBS implemented? The process for adopting and sustaining SWPBS revolves around a school team typically composed of 5-10 individuals that includes an administrator, representative faculty/staff, and local family/community members. While it may seem ideal to train all school staff all the time, it will rarely be feasible or sustainable to provide training at this level due to cost and logistical concerns. However, a representative group of adults, representing all school stakeholders (including students at the secondary level) can learn the key practices of SWPBS and set goals for improvement. The stakeholders can then function as leaders or coaches as they inform their groups of the team activities (for example, at staff or area meetings) and give support and encouragement during the improvement process. Increasingly, we see district- and state-wide initiatives supporting the dissemination of SWPBS training and coaching systems.

While participating in training, and after mastery of the basic material, it is recommended that school discipline teams (building administrator, representative teachers, and other stakeholders) meet approximately once per month to review training content as needed and to set up a regular process of reviewing and refining the school discipline plan (initial goals are developed during training) and other, school site-based activities. A format for these meetings should be specified and each meeting should last between 20-60 minutes.

Set and promote school wide expectations. A critical first task for the implementation team is to establish school-wide behavior rule teaching related to student-teacher compliance, peer-to-peer interaction, academic achievement, and academic study skills. Using the general framework of “safety,” “respect,” and “responsibility” and directly teaching lessons throughout the year to establish and maintain the patterns of behavior associated with these personal qualities is recommended. In addition, posting the rules publicly in posters, school newsletters, local media, announcements, assemblies, can be valuable.

Plan to recognize expected behavior and actively supervise students. The school will need to establish a consistent system of enforcement, monitoring, and positive reinforcement to enhance the effect of rule teaching and maintain patterns of desired student behavior. Reinforcement systems may include school-wide token economies in the form of "tickets" stating each school rule delivered by all adults in the building. These tokens are to be “backed up” with weekly drawings and rewards for the teachers as well. Each school should implement the procedures to fit their school improvement plan and specific discipline needs.

Define and effectively correct problem behaviors and their consequences for students and staff members. As stated earlier, schools using excessive sanctions experience greater levels of vandalism and other forms of misbehavior (Mayer, 1995; Skiba & Peterson, 1999). Positive reinforcement is more effective than punishment because it does not result in the type of counter-aggression and withdrawal (fight or flight) that punishment can produce and because it does not focus teachers’ attention on detecting and correcting rule violations.

Students should see rules applied fairly. When they feel that rules are unevenly applied, students are more likely to misbehave. Schools with clear rule and reward systems and business-like corrections and sanctions also experience fewer problems. These schools signal appropriate behavior for students and respond to misbehavior predictably. Students in such schools are clear about expected behavior and learn there are consequences for misbehavior. When rules are consistent, students develop a respect for rules and laws, and internalize beliefs that the system of governance works (Bryk & Driscoll, 1988; Gottfredson, 1987; Gottfredson, Gottfredson, & Hybl, 1993).

**Report data for active decision-making.** The efficiency of team problem solving is enhanced by providing the team with data-based feedback to schools regarding their implementation of basic SWPBS practices (c.f. “Assessing Behavior Support in Schools” survey; Figure 1) and the impact of implementation on problem behavior as indexed by discipline referral patterns (c.f. School-Wide Information System (SWIS); Sprague, Sugai, Horner, & Walker, 1999; Sugai, Sprague, Horner, & Walker, 2000; www.swis.org ). The goal is to use highly efficient data systems that allow teams to ask (a) are we implementing evidence-based, SWPBS practices, and (b) are the practices having an effect on the behavior of students? Data on implementation of SWPBS practices typically are collected, summarized and reported quarterly, and data on student behavior are collected continuously, and reported to the school team weekly, the school faculty monthly, and the school district annually. Irvin et al., (in press) provide an evaluation documenting the value that regular access to student behavioral data has for typical school teams.

Examples of data collection and display tools for assessing implementation of SWPBS can be found on the internet at www.pbssurveys.org (Boland et al., 2004). Similarly, an example of a web-based information system designed to help school personnel to use office referral data to design schoolwide and individual student interventions is available at www.swis.org (May et al., 2000). It is anticipated that as school-wide systems become more common an increasing array of data collection options will become available to schools. A major focus for research on educational systems-change lies in the process, and impact of providing teachers, administrators, families and students with regular, accurate information for decision-making.

**Implementing for Sustainability**

Too often educational innovations, even effective innovations, have been implemented but not maintained (Latham, 1988). If SWPBS is to result in educational change at a scale of practical relevance, schools adopting SWPBS procedures will need to sustain the practices and benefits. An important feature of the SWPBS approach is inclusion of formal strategies for improving the likelihood of sustained implementation. These include (a) the development of training materials at each school that make it “easier” to implement from year to year, (b) the implementation of policies for using SWPBS, and reporting student data, and (c) the training of district-level “coaches” who are available to provide booster training for school teams, initial training for new faculty members, and help with problem solving around more intense challenges. The district coaching role is designed to help a school team sustain effective practices through periodic perturbations in the staffing, organization or fluctuation in student behavior. The issue of sustaining educational innovation is not unique to SWPBS, and remains a worthy focus for research.

**What is the Evidence for SWPBS Effectiveness?**

A number of researchers (see Embry & Flannery, 1994; Knoff & Batsche, 1995; Taylor-Green et al., 1997) have studied SWPBS practices. The effects of the program are documented in a series of studies implemented by researchers at the University of Oregon (Horner et al., in press; Metzler, Biglan, Rusby, & Sprague 2001; Sprague, Walker, Golly et al., 2002; Taylor-Greene et al., 1997, see also www.pbis.org for the latest research studies and reports). Studies have shown reductions in office discipline referrals of up to 50% per year, with continued improvement over a three-year period in schools that sustain the intervention (Irvin et al., 2004). In addition, school staff report greater satisfaction with their work, compared to schools that did not implement SWPBS. Comparison schools typically show increases or no change in office referrals, along with a general frustration with the school discipline program.

In studies employing the SWPBS components, reductions in antisocial behavior (Sprague et al., 2002), vandalism (Mayer, 1995), aggression (Grossman et al., 1997; Lewis, Sugai, & Colvin, 1998), later delinquency (Kellam, Mayer, Rebok & Hawkins, 1998; O’Donnell et al., 1995), as well as alcohol, tobacco and other drug use (Biglan, Wang, & Walberg, 2003; O’Donnell et al., 1995) have been documented. Positive changes in protective factors such as academic achievement (Kellam et al., 1998; O’Donnell et al., 1995) and school engagement (O’Donnell et al., 1995) have been documented using a school-wide positive behavior support approach such as SWPBS in concert with other prevention interventions.

**Conclusion**

We have described a school-wide system for positive behavior support, and the implementation steps being used to build both a positive school-wide social culture, and the capacity to support individual students with more intense behavioral needs. The major messages are that (a) problem behavior in schools is both a significant social challenge and a barrier to effective learning, (b) traditional “get tough” strategies have not proven effective, (c) the foundation for all behavior support in schools begins with establishing a positive social culture by defining, teaching and rewarding appropriate behaviors, (d) additional behavior support procedures based on behavior analysis principles are needed for children with more intense behavior support needs, and (e) school personnel are demonstrating both the ability to collect and use quality improvement data systems, and the value of those systems for improving schools.

At this writing, randomized controlled research studies are in progress to examine the effects of SWPBS with greater precision and control. Current evaluation results, however, are encouraging. Schools throughout the country are demonstrating the ability to adopt SWPBS practices with fidelity (Horner, Todd, Lewis-Palmer, Irvin, Sugai & Boland, 2004; Horner et al., in press). When schools adopt SWPBS practices they are reporting reductions in problem behavior, improved perceptions of school safety, and improved academic performance. Recent Illinois evaluations also report that schools establishing a positive social climate are proving more effective in their implementation of individual, wrap-around support for students with high behavior support needs.

The overall picture is encouraging. Schools are able to improve, and to demonstrate that change is linked to valued student outcomes. If these gains are to become important at a national scale, additional research is needed to demonstrate experimentally controlled effects, strategies for improving efficiency, and strategies for supporting sustained implementation.

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References


Table 1.
What does School Wide PBS look like?

- Train and support a representative school team (20-30 hours of formal training)
  - Principal actively leads and facilitates the process
  - Take time to plan, coach and continuously improve
- Set and promote school wide expectations
  - Plan to teach expected behavior
  - Plan to recognize expected behavior and actively supervise
- Use performance-based data for active decision-making
  - Office discipline referral patterns (www.swis.org)
  - Discipline survey results
  - Changes in academic performance, attendance
  - Student safety surveys
- How do I know it’s working?
  - Expected behaviors taught 20+ times/year
  - Students actively supervised in all school areas
  - Students acknowledged frequently for expected behavior
  - 4:1 positive : negative interactions
  - >80% students & adults can describe school-wide expectations

  - Safe, respectful, responsible
Figure 1: Sample needs assessment for planning and evaluating SWPBS

**Effective Behavior Support (EBS) Survey**

**Assessing and Planning Behavior Support in Schools**

Name of school ___________________________ Date ______________

District ___________________________ State ______________

Person Completing the Survey:

- Administrator
- Special Educator
- Parent/Family member
- General Educator
- Counselor
- School Psychologist
- Educational/Teacher Assistant
- Community member
- Other ___________________________

1. Complete the survey independently.

2. Schedule 20-30 minutes to complete the survey.

3. Base your rating on your individual experiences in the school. If you do not work in classrooms, answer questions that are applicable to you.

To assess behavior support, first evaluate the status of each system feature (i.e. *in place, partially in place, not in place*) (left hand side of survey). Next, examine each feature:

a. “What is the current status of this feature (i.e. *in place, partially in place, not in place*)?”

b. For those features rated as partially in place or not in place, “What is the priority for improvement for this feature (i.e., *high, medium, low*)?”

4. Return your completed survey to ___________________________ by _______ _______
# SCHOOL-WIDE SYSTEMS

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<thead>
<tr>
<th>Current Status</th>
<th>Feature</th>
<th>Priority for Improvement</th>
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<tbody>
<tr>
<td>In Place</td>
<td><strong>School-wide</strong> is defined as involving all students, all staff, &amp; all settings.</td>
<td>High Med Low</td>
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<tr>
<td>Partial in Place</td>
<td>1. A small number (e.g. 3-5) of positively &amp; clearly stated student expectations or rules are defined.</td>
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<tr>
<td>Not in Place</td>
<td>2. Expected student behaviors are taught directly.</td>
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<td>3. Expected student behaviors are rewarded regularly.</td>
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<td>4. Problem behaviors (failure to meet expected student behaviors) are defined clearly.</td>
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<td>5. Consequences for problem behaviors are defined clearly.</td>
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<td>6. Distinctions between office vs. classroom managed problem behaviors are clear.</td>
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<td></td>
<td>7. Options exist to allow classroom instruction to continue when problem behavior occurs.</td>
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<td></td>
<td>8. Procedures are in place to address emergency/dangerous situations.</td>
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<td>9. A team exists for behavior support planning &amp; problem solving.</td>
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<td>10. School administrator is an active participant on the behavior support team.</td>
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<td><strong>Not in Place</strong></td>
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<tr>
<td>11. Data on problem behavior patterns are collected and summarized within an on-going system.</td>
<td></td>
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<tr>
<td>12. Patterns of student problem behavior are reported to teams and faculty for active decision-making on a regular basis (e.g. monthly).</td>
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<tr>
<td>13. School has formal strategies for informing families about expected student behaviors at school.</td>
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<td>14. Booster training activities for students are developed, modified, &amp; conducted based on school data.</td>
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<tr>
<td>15. School-wide behavior support team has a budget for (a) teaching students, (b) on-going rewards, and (c) annual staff planning.</td>
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<tr>
<td>16. All staff are involved directly and/or indirectly in school-wide interventions.</td>
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<tr>
<td>17. The school team has access to on-going training and support from district personnel.</td>
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<tr>
<td>18. The school is required by the district to report on the social climate, discipline level or student behavior at least annually.</td>
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</tbody>
</table>

Name of School ____________________________________________

Date ______________

Table 2.
Implications for Practice: What Educational Professionals Should Do to Enhance Social and Behavioral Competence in Schools?

- Systematically assess the nature, prevalence and effects of antisocial behavior in one’s school, using office discipline referral patterns, and other sources of data.
- Share the findings with members of the school community in order to raise awareness of the prevalence of antisocial behavior, thereby motivating school authorities to address the problem.
- Develop clear goals and objectives for improving school discipline, well supported by the entire school community. This should include guidelines to help the school to identify, prevent and deal with incidents of problem behavior.
- Consistently and continuously communicate, teach, and reward school-wide behavioral expectations (compliance to adult requests, positive peer and teacher interactions, and school effort).
- Provide continuous and ongoing performance-based feedback to staff members regarding the type, location, time and referring staff persons of office discipline referrals and other indicators of problem behavior. Encourage shared problem solving and recognition of reductions or improvements.

Judge Steven Teske

- Clayton, GA Cooperative Agreement
- County of Clayton Uniform Notice of Offense School Resource Officer Form
- PowerPoint slides
SCHOOL REFERRAL REDUCTION PROGRAM:
Reducing Racial Disparities and the Criminalization of Low Risk Youth

ACLU/NYLS School to Prison Pipeline Conference
April 1, 2009
New York, NY

THE PROBLEM
EFFECTS OF POLICE PRESENCE WITHOUT PROTOCOL

- Administrators abandon disciplinarian role
- Police become disciplinarians
- Police are taken away from collecting intelligence about serious crimes about to occur
- Increase in court dockets
- Widen the net for detention
- Increase in probation caseloads
- Criminalize kids for typical juvenile behavior
- Disproportionate Minority Contact (DMC)

MISDEMEANORS VS. FELONIES:
Before School Reduction Referral Protocol

![Graph showing comparison between Misdemeanors and Felonies over years]
STEP ONE

The Role of the Judge: Bringing the Stakeholders Together

FIRST LAW OF MOTION

Objects keep on doing what they are doing unless acted upon by an unbalanced force
JUDICIARY: FORCE FOR CHANGE

GETTING THE STAKEHOLDERS TOGETHER

- Meet individually with School Superintendents and Chiefs of Police;
- Discuss the problem;
- Provide a one page outline of protocol objectives;
- Tell them that unilateral judicial edicts deprive community of their respective expertise in achieving favorable outcomes
- You need their HELP!
STEP TWO

Discuss the Objectives

OBJECTIVES OF PROTOCOL

- Reduce misdemeanor school referrals to the juvenile court;
- Reduce probation caseloads that will increase supervision of high risk youth (the kids we are scared of);
- Give police more time to build rapport with students to gather intelligence on crimes about to occur;
- Overall, increase safety in the school and the community.
PROTOCOL EFFECT ON SCHOOL SAFETY

STEP ONE
DECREASE MINOR SCHOOL REFERRALS

STEP TWO
INCREASES POLICE PRESENCE

STEP THREE
INCREASES INTELLIGENCE

STEP FOUR
DECREASE WEAPON CASES

STEP FIVE
INCREASES SCHOOL SAFETY

---

PROTOCOL EFFECT ON COMMUNITY SAFETY

STEP ONE
DECREASE Misdemeanor SCHOOL REFERRALS

STEP TWO
DECREASE PROBATION CASELOADS

STEP THREE
INCREASE SURVEILLANCE OF HIGH RISK KIDS

STEP FOUR
REDUCE RECIDIVISM

STEP FIVE
INCREASE COMMUNITY SAFETY

---
STEP THREE

Identify a Neutral Moderator to Limit the Role of the Judge

THE FIRST STAKEHOLDERS MEETING

- Judge makes introductions;
- Judge explains objective (to reduce referrals to the juvenile court);
- Judge role is limited to bringing the stakeholders together;
- Judge has no veto power except if what is proposed is illegal;
- Judge is equal participant with stakeholders;
- Judge introduces moderator who establishes ground rules and meeting times and places;
- Appoint a scribe;
- Judge or court administrator may present a draft proposal to get discussion going (optional).
STEP FOUR

Negotiate Instrument

SCHOOL OFFENSE PROTOCOL AGREEMENT

- Focused Acts: Affray, DPS, DC, Obstruction
- First Offense/Warning
- Second Offense/Referral to Workshop
- Third Offense/Complaint Filed

School Offense Agreement Signed by all Police Chiefs, School Superintendent, Juvenile Judges, DPCS Director, and other partners on July 8, 2004
STEP FIVE

Collect Data & Conduct Periodic Reviews

QUALITY CONTROL: BRINGING INTEGRITY TO THE PROCESS

- Collect data;
- Measure the data;
- Is the protocol meeting the objectives;
- If not, what changes are required?
- Publish results to stakeholders;
THE IMPACT OF THE PROTOCOL

MISDEMEANORS VS. FELONIES
RESIDUAL EFFECT: NON-FOCUS ACTS

<table>
<thead>
<tr>
<th>Year</th>
<th>Non-Focused</th>
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</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>350</td>
</tr>
<tr>
<td>2004-05</td>
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<td>2005-06</td>
<td>200</td>
</tr>
<tr>
<td>2006-07</td>
<td>150</td>
</tr>
<tr>
<td>2007-08</td>
<td>100</td>
</tr>
</tbody>
</table>

DETENTION RATES ON SCHOOL REFERRALS

- Misdemeanors
- Felonies

Graph shows trends from 1995 to 2008.
Impact of Protocol & Other JDAI Programs on Total Referrals

IMPACT OF PROTOCOL & OTHER EFFORTS ON DISPROPORTIONATE MINORITY CONTACT

Youth of Color
QUESTIONS

Steve.teske@co.clayton.ga.us
COOPERATIVE AGREEMENT

BETWEEN

THE JUVENILE COURT OF CLAYTON COUNTY
THE CLAYTON COUNTY PUBLIC SCHOOL SYSTEM
THE CLAYTON COUNTY POLICE DEPARTMENT
THE RIVERDALE POLICE DEPARTMENT
THE JONESBORO POLICE DEPARTMENT
THE FOREST PARK POLICE DEPARTMENT
THE CLAYTON COUNTY DEPARTMENT OF FAMILY & CHILDREN SERVICES
THE CLAYTON CENTER FOR BEHAVIORAL HEALTH SERVICES

ROBERT E. KELLER, DISTRICT ATTORNEY

AND

THE GEORGIA DEPARTMENT OF JUVENILE JUSTICE
1. PURPOSE OF AGREEMENT

This agreement is entered into between the Juvenile Court of Clayton County (hereinafter referred to as the Court), Clayton County Public School System (hereinafter referred to as the School System), Clayton County Police Department (hereinafter referred to as the Police), Forest Park Police Department (hereinafter referred to as the Police), Riverdale Police Department (hereinafter referred to as the Police), Jonesboro Police Department (hereinafter referred to as the Police), the Clayton County Department of Family and Children Services (hereinafter referred to as DFCS), Robert E. Keller (hereinafter referred to as the District Attorney), The Clayton Center for Behavioral Health Services (hereinafter referred to as The Clayton Center), and the Georgia Department of Juvenile Justice (hereinafter referred to as DJJ) for the purpose of establishing a cooperative relationship between community agencies (hereinafter referred to as the Parties) involved in the handling of juveniles who are alleged to have committed a delinquent act on school premises. The Parties acknowledge that certain misdemeanor delinquent acts defined herein as the focused acts can be handled by the School System in conjunction with other Parties without the filing of a complaint in the Court. The Parties acknowledge that the commission of these focused acts does not require the finding that a student is a delinquent child and therefore not in need of treatment or supervision (OCGA 15-11-65). The parties acknowledge that the law requires the Court to make a preliminary determination that a petition be certified in the best interest of the child and the community before it can be filed with the Court (OCGA 15-11-37) The parties acknowledge that the Court has the authority to give counsel and advice to a juvenile without the filing of a petition and to delegate such authority to public or private agencies (OCGA 15-11-68 & 15-11-69).

The Parties acknowledge that the law expressly prohibits the detention of a student for punishment, treatment, satisfy the demands of the victim, police or the community, allow parents to avoid their legal responsibility, provide more convenient administrative access to the child, and to facilitate further
interrogation or investigation (OCGA 15-11-46.1 (c)). The law allows for the detention of a student who is a flight risk, presents a risk of serious bodily injury, or requests detention for protection from imminent harm (OCGA 15-11-46.1 (b)).

The parties acknowledge and agree that decisions affecting the filing of a complaint against a student and whether to place restraints on a student and place a student in secure detention should not be taken lightly, and that a cooperative agreement delineating the responsibilities of each party when involved in making a decision to place restraints on a student and to file a complaint alleging the child is a delinquent child would promote the best interest of the student and the community.

The parties acknowledge and agree that this Agreement is a cooperative effort among the public agencies named herein to establish guidelines for the handling of school related delinquent acts against public order which are defined herein as the focused acts. The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of student who has committed one of the focused acts as defined herein while simultaneously ensuring that each case is addressed on a case by case basis to promote a response proportional to the various and differing factors affecting each student’s case. The parties acknowledge and agree that the manner in which each case or incident is handled by SROs, school administrator, and/or the Juvenile Court is dependent upon the many factors unique to each child that includes, but is not limited to, the child’s background, present circumstances, disciplinary record, academic record, general demeanor and disposition toward others, mental health status, and other factors. Therefore, the parties acknowledge that students involved in the same incident or similar incidents may receive different and varying responses depending on the factors and needs of each student.

Finally, the parties acknowledge that a Cooperative Agreement has previously been entered into by the Juvenile Court of Clayton County, Georgia Department of Juvenile Justice, Clayton County Department of Family and Children Services, and The Clayton Center for Behavioral Health Services to coordinate intake services to ensure that children who do not present a high risk to re-offend are not detained using a Detention Screening Instrument (DSI) and that children presenting a low to medium risk are returned home.
II. DEFINITIONS

As used in this Agreement, the term:

A. “Student” means a child under the age of 17 years.

B. “Juvenile” means a child under the age of 17 years, which term is used interchangeably with “Student.”

C. “Regional Youth Detention Center” or also known as RYDC means a secure detention facility for the housing of juveniles detained by authorization of Intake and awaiting adjudication and/or disposition of their case.

D. “Intake” means the division of the Juvenile Court responsible for making reviewing complaints to determine which complaints may be handled informally and by diversion, which complaints may be forwarded to the District Attorney’s Office for a petition to be drawn, and which juveniles should be detained in the RYDC, or placed at another location, or returned home.

E. “Detention Screening Instrument” or known also as “DSI” means a risk assessment instrument used by Intake to determine if the juvenile should be detained or release. The DSI measures risk according to the juvenile’s present offense, prior offenses, prior runaways or escapes, and the juvenile’s current legal status such as probation, commitment, etc.

F. “Detention Assessment Questionnaire” or known also as “DAQ” means a document used to determine if the juvenile presents any mental health disorders, aggravating circumstances, or mitigating circumstances. The DAQ assists Intake in making a final decision regarding detention or release.

G. “Warning Notice” means a document or form used by the SRO to place a student on notice that he or she may be referred to the Court upon the commission of another similar delinquent act involving a misdemeanor against public order or to refer a child and parent to a Court Diversion Program in lieu the filing of a formal complaint.

H. “Diversion” means an educational program developed by the Court for those juveniles who have been charged with less serious delinquent acts, and Intake believes is not a delinquent child and most likely does not require probation or commitment to DJJ.

I. “Informal Adjustment” means informal supervision in which the juvenile is required to comply with conditions established by Intake of the judge for up to 90 days and is dismissed upon successful completion.

J. “Bully” is a student who has three (3) times in a school year willfully attempted or threatened to inflict injury on another person, when accompanied by an apparent present ability to do so or has intentionally displayed force such as would give the victim reason to fear or expect immediate bodily harm.

K. “Focused Acts” are misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (limited to acts of
III. TERMS OF AGREEMENT

A. Warning Notice and Referral Prerequisites to Complaint in Cases Where a Student has Committed a Focused Act.

Misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey an officer’s command to stop or not leave campus), and criminal trespass (not involving damage to property) shall not result in the filing of a complaint alleging delinquency unless the student has committed his or her third or subsequent similar offense during the school year and the Principal or designee has reviewed the behavior plan with the appropriate school and/or system personnel to determine appropriate action. In accordance with O.C.G.A. §20-2-735, the school system’s Student Codes of Conduct will be the reference documents of record. The parties agree that the response to the commission of a focused act by a student should be determined using a system of graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the Juvenile Court. The parties agree that a student who commits one of the focused acts must receive a Warning Notice and a subsequent referral to the School Conflict Diversion Program before a complaint may be filed in the Juvenile Court. An SRO shall not serve a Warning Notice or make a referral to the School Conflict Diversion Program without first consulting with his or her supervisor if the standard operating procedures of the SRO Program of which the SRO belongs requires consultation.

1. First Offense. A student who commits one of the focused acts may receive a Warning Notice that his or her behavior is a violation of the criminal code and school policy, and
that further similar conduct will result in a referral to the Juvenile Court to attend a diversion program. The SRO shall have the discretion not to issue a Warning Notice and in the alternative may admonish and counsel or take no action.

2. **Referral to School Conflict Diversion Program.** Upon the commission of a second or subsequent focused act in that or a subsequent school year, the student may be referred to Intake to require the student and parent to attend the School Conflict Diversion Program, Mediation Program, or other program sponsored by the Court. However, a student who has committed a second "bullying" act shall be referred to the School Conflict Diversion Program to receive law related education and conflict resolution programming, and may also be required to participate in the mediation program sponsored by the Court for the purpose of resolving the issues giving rise to the acts of aggression and to hold the student accountable to the victim(s). Intake shall make contact with the parent of the child within ten (10) business days of receipt of the notice from the School Resource Officer or the school to schedule the parent and child to attend the School Conflict Diversion Program, or other program of the Court appropriate to address the student's conduct. Intake shall forward to the school where the child attends a confirmation of the child's successful participation in the diversion program. A child's failure to attend shall be reported to the School Resource Officer to determine if a complaint should be filed or other disciplinary action taken against the child.

3. **Complaint.** A student receiving his or her third or subsequent delinquent offense against the public order may be referred to the Court by the filing of a complaint. If the student has attended a diversion program sponsored by the Court in that year or any previous school year and the student has committed a similar focused act, the student may receive a Warning Notice warning that the next similar act against the public order may result in a complaint filed with the juvenile court. A student having committed his or her third "bullying" act shall be referred to the Juvenile Court on a juvenile complaint and the
Court shall certify said petition provided probable cause exists and if adjudicated shall proceed to determine if said student is delinquent and in need of supervision. The school system shall proceed to bring the student before a tribunal hearing and if found to have committed acts of bullying shall in the least, with consideration given to special education laws, expel said child from the school and place in an alternative educational setting, unless expulsion from the school system is warranted. All acts of bullying shall be reported by school personnel and addressed immediately to protect the victims of said acts of bullying.

B. **Emergency Shelter Care In Event Parent Cannot Be Located.**

The Clayton County Juvenile Court, Georgia Department of Juvenile Justice, and The Clayton County Department of Family and Children Services previously entered into an agreement that establishes a protocol for the handling of youth who are charged on a delinquent offense and present a high risk using the Detention Assessment Instrument and a parent, guardian or custodian cannot be located or refuses to take custody of the youth. The protocol set forth in said agreement is incorporated herein and made a part hereof and shall continue in full force and effect. Nothing in this agreement shall be construed to alter or modify the prior agreement. Reference is made to said agreement reflect the relationship and continuity between the agreements as it relates to the handling of school related offenses described herein.

C. **Treatment of Elementary Age Students.**

Any situation involving violence to the extent that others are placed at risk of serious bodily injury shall constitute an emergency and warrant immediate action by police to protect others and maintain school safety. O.C.G.A. §15-11-150 et seq. sets forth procedures for determining if a juvenile is incompetent also provides for a mechanism for the development and implementation of a competency plan for treatment, habilitation, support, supervision for any juvenile who is determined not to be mentally competent to participate in an adjudication or disposition hearing. Generally, juveniles of elementary age do not possess the requisite knowledge of the nature of
court proceedings and the role of the various players in the courtroom to assist his or her defense attorney and/or grasp the seriousness of juvenile proceedings, including what may happen to them at the disposition of the case. The parties acknowledge that the Court will make diligent efforts to avoid the detention of juveniles who may be mentally incompetent upon reasonable suspicion, unless they pose a high risk of serious bodily injury to others. Furthermore, it is a fundamental best practice of detention decision-making to prohibit the intermingling of elementary age juveniles from adolescent youth and to treat elementary age students according to their age and level of development. Furthermore, the parties acknowledge that the commission of a delinquent act does not necessitate the treatment of the child as a delinquent, especially elementary age juveniles in whom other interventions may be made available within the school and/or other agencies to adequately respond to and address the delinquent act allegedly committed by the juvenile. The Court shall make its diversion, intervention, and prevention programs available to the juvenile without the filing of a complaint upon a referral from the school social worker. Intake shall respond to any and all referrals made by elementary school staff within 24 hours of receipt of the referral. Any delay shall be communicated to the official making the referral within 24 hours with an explanation for the delay. Intake shall respond no later than 72 hours or the matter shall be referred to the Intake Supervisor or the Chief Probation Officer. In the event an elementary age student is taken into custody and removed from the school environment for the safety of others, the decision to detain said child shall be made by the Intake Officer pursuant to law. The parties acknowledge that taking a child into protective custody is not a detention decision, which is a decision solely reserved for a juvenile judge or his or her intake officer and therefore requiring law enforcement to immediately contact the Court to determine if the child should be detained or released and under what conditions, if any, if so released.

III. DURATION AND MODIFICATION OF AGREEMENT

This Agreement shall become effective immediately upon its execution by signature and shall remain in full force and effect until such time as terminated by any party to the Agreement. The Agreement may be modified at any time by amendment to the Agreement. The parties
acknowledge and agree to meet quarterly to provide oversight of the Agreement and make recommendations to the heads of each agency on any modifications to the Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to cooperate with one another, have hereunder set their hands on the date set forth below.

K. Van Banke
K. Van Banke, Chief Judge
Juvenile Court of Clayton County

Chuck Fischer
Chuck Fischer, Deputy Director
for Cathy Ratti, Director
Clayton County Department of Family and
Children Services
(with expressed permission)

Juvenia Jackson
Juvenia Jackson, Assistant Superintendent
for Dr. Barbara Fullam, Superintendent
Clayton County Public School System
(with expressed permission)

Dr. Thomas Coleman, Deputy Commissioner
for Albert Murray, Commissioner
Georgia Department of Juvenile Justice
(with expressed permission)

Darrell Partain, Chief
Clayton County Police Department

Robert E. Keller
Robert E. Keller, District Attorney
Clayton Judicial Circuit

Duwayne Harris, Chief
Forest Park Police Department

Jimmy Wiggins, Director
The Clayton Center for Behavioral Health Services

Robert Thomas, Chief
Jonesboro Police Department

Greg Barney, Chief
Riverdale Police Department
COUNTY OF CLAYTON  
UNIFORM NOTICE OF OFFENSE  
SCHOOL RESOURCE OFFICER  

Upon ___________ (Day) ___________ (Year) ___________ at ___________ ___________  

Name_________________ DOB_________________  

Grade_______ Location_____________ School_________  

Parent/Guardian_________________ Address_________________  

Home Phone_________________ Other Phone_________________  

Offense  
In violation of Code Section_________________  
Remarks_________________  

□ WARNING:  
You are hereby warned for the above-cited offense in violation of the laws of the State of Georgia and the code of conduct of the Clayton County Public School System. You are further warned that conduct involving certain focused acts that include fighting, disorderly conduct, obstruction of a police officer (failure to obey the lawful commands of a police officer), and disrupting the school may result in other action that may include attendance by the student and parent in a school conflict education class, mediation, or other program (failure to attend will result in the filing of delinquent charges against the student in the juvenile court) or filing of a complaint in juvenile court if the student has already attended such a program or if the conduct involves a felony or a non-focused misdemeanor act. A copy of this Warning will be sent to your parent, guardian or custodian and kept on file in the school office. You must conduct yourself in a manner required by the code of conduct provided to you and your parent, guardian or custodian and by the laws of the State of Georgia or you will be subject to further action.  

□ REFERRAL:  
You have been cited for the above offense and you and a parent, guardian or custodian will be referred to a program indicated below and sponsored by the Juvenile Court of Clayton County. You are being referred because you have previously been cited for a similar delinquent act and warned or the officer considers your conduct after investigation to constitute an act of “bullying” and immediate action to address your conduct is required. This referral will be sent to your parent, guardian or custodian, the Juvenile Court of Clayton County, and kept on file in the school office. This referral does not constitute a formal complaint to the juvenile court, but will be used by the court to arrange for your attendance at the program as indicated below. Failure to respond to the court or attend the program as instructed will result in formal action brought against the student by the filing of the above-cited offense in the juvenile court.  

You and your parent, guardian or custodian are referred to:  
□ School Conflict Education Workshop  
□ Mediation  
□ Other_________________  

SCHOOL USE ONLY  
Parent notified by: □ Phone □ In person □ Mail  
Date of Notice_________________  

STUDENT ACKNOWLEDGEMENT AND RECEIPT: The undersigned hereby acknowledges service of this Warning/Referral and receipt of copy of same.  
SIGNATURE_________________  

SRO CERTIFICATION: The undersigned has just and reasonable grounds to believe, and does believe, that the student named herein has committed the offense set forth  
SIGNATURE_________________ Badge #_________________  

Original-SRO yellow-school pink-student Juvenile Court Fax-770-472-8192