



FROM PUSH OUT TO LOCK UP:

North Carolina's Accelerated School-to-Prison Pipeline

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October 2013

About Action for Children

Action for Children North Carolina is a statewide nonpartisan, non-profit child research and advocacy organization dedicated to educating and engaging all people across the state to ensure that our children are healthy, safe, well-educated and have every opportunity for success.

Since 1983, Action for Children has used data and research to promote better outcomes for North Carolina's children and families. Action for Children is the Annie E. Casey Foundation's North Carolina KIDS COUNT partner and a First Focus partner.

North Carolina KIDS COUNT

KIDS COUNT, a project of the Annie E. Casey Foundation, is a national and state-by-state effort to track the status of children in the United States. By providing policymakers and citizens with benchmarks of child well-being, KIDS COUNT seeks to enrich local, state and national discussions of ways to secure better futures for all children.

National, state, and community-level data are available online through the KIDS COUNT Data Center at datacenter.kidscount.org.



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Executive Summary

A good education is the foundation for successful life experiences. Children who graduate from high school have significantly brighter outcomes during adulthood. On measures of health, income and employment, adults who have completed more years of formal schooling consistently perform better than those with fewer years of education.

More than 80 percent of today's fastest-growing and highest-paying jobs require post-secondary education or training. In the 21st century global economy, a high school diploma and resultant skills to succeed in college and the workplace are essential. And yet, each year far too many students in North Carolina fail to graduate on time with their peers. Studies have shown a link between juvenile and adult criminal system involvement and dropouts. A student arrested in high school is twice as likely to leave school early or to be pushed out, and a court involved high school student is four times as likely to drop out of school as his or her peers. Although juvenile delinquency has declined across the nation and the state, the percentage of complaints filed against juveniles that originate in North Carolina public schools continues to rise.

The funneling of students from schools to jail or prison is a national phenomenon that has come to be called the school-to-prison pipeline. North Carolina's pipeline differs from that in most other states because it deposits 16- and 17-year-old students *directly* into the adult criminal system, regardless of the severity of their alleged offense. Juveniles who are prosecuted in the adult system are more likely to reoffend, and to commit more serious crimes when they do, than youth who receive age-appropriate treatment and rehabilitation through the juvenile justice system. The stigma of an adult criminal record erects barriers that, in many cases, prevent young people from reintegrating into society, successfully transitioning into the workforce or pursuing advanced education or training.

The school-to-prison pipeline leaks talent and potential from North Carolina's future workforce, while limiting the trajectory of many of our students' lives. Investing in dismantling the school-to-prison pipeline is good policy because it ensures that students become productive and contributing members of society. At a time when businesses face an increasingly competitive global marketplace, it is imperative that every student in North Carolina graduates from high school prepared to pursue college and career success.

This report presents a statewide overview of the various segments in North Carolina's school-to-prison pipeline that move vulnerable students into the court system: underfunded schools, harsh discipline, increased policing of school hallways and a lack of adequate intervention programs or alternative education placements. The final section of the report proposes four recommendations to begin dismantling the school-to-pipeline:

1. Raise the age of juvenile court jurisdiction from 16 to 18 for youth who commit misdemeanor offenses;
2. Implement evidence based reforms to ensure equitable treatment for all students in North Carolina;
3. Improve data collection and reporting requirements to better inform school administrators, parents and policymakers; and
4. Establish a legislative task force on school discipline policies.

Introduction

These various policies, collectively referred to as the School-to-Prison Pipeline, push children out of school and hasten their entry into the juvenile, and eventually, criminal system where prison is the end of the road. Persistent inequities, such as concentrated poverty and racial disparities in law enforcement, all feed the pipeline. The school-to-prison pipeline is one of the most urgent challenges in education today.

Dismantling the School-to-Prison Pipeline Report¹

Policymakers, employers and the media are increasingly focused on high school graduation rates as a bellwether of students' future success in the labor market, and an indicator of the overall effectiveness of North Carolina's education system. A high school diploma has become an increasingly important step in preparing young people to live healthy, productive and independent adult lives. And yet, at a time when economic opportunities and wages for those with low levels of education have dwindled, one in four students in North Carolina fails to graduate from high school on-time with his or her peers.

The causes of student dropout and potential strategies for preventing it have arguably become the most discussed education topics in our state. But the term 'dropout' can be misleading. It suggests that a student has made a conscious decision to end his or her school career, which is often not the case. The current discussion of school dropout tends to ignore the harsh reality of what could more appropriately be considered school 'push out.' Although there are several causes of push out, punitive approaches to school discipline that move students out of the classroom and into the court system have garnered increasing national attention.²

This funneling of students from the schoolhouse to the jailhouse is a phenomenon that has come to be called the *school-to-prison pipeline*—the convergence of laws, policies and practices that move children away from mainstream learning



environments and into the juvenile or adult criminal systems.³ Directly, students enter the school-to-prison pipeline through school-based arrests and court referrals. Indirectly, students are pushed into the pipeline by underfunded schools, suspensions, expulsions, and/or a lack of quality alternative education programs.

North Carolina is losing too much of its talent and potential through the school-to-prison pipeline. Research shows students subjected to harsh discipline practices are less likely to graduate from high school, become employed, enroll in college or enlist in the military.⁴ The effects of these consequences extend beyond individual students and their families; they weaken our state and local communities by limiting the contributions of these young people as citizens. North Carolina's future in the global economy depends on the state's ability to build a world-class education system that keeps our young people in school learning, and out of jails and prisons.

The Pipeline Starts Early

We are guilty of many errors and many faults but our worst crime is abandoning the children, neglecting the fountain of life. Many of the things we need can wait. The child cannot. Right now is the time his bones are being formed, his blood is being made, and his senses are being developed. To him we cannot answer



"Tomorrow." His name is "Today."

Gabriela Mistral, Chilean poet, educator,
Nobel Laureate

A truly comprehensive analysis of the school-to-prison pipeline would begin much earlier than the first time a student enters kindergarten; it would start at birth. National research has identified a 'cradle-to-prison pipeline' caused by numerous risk factors that place some students—many of whom are low-income and/or children of color—at greater risk for court involvement. These risks range from pervasive poverty, inadequate access to health insurance and medical care, lack of early education, abuse and neglect, historical inequities, unmet mental and emotional health needs and overwhelmed public schools.

Poverty, persistent racial inequalities and a culture of punishment rather than prevention and early intervention are driving forces behind the school-to-prison pipeline. In North Carolina:

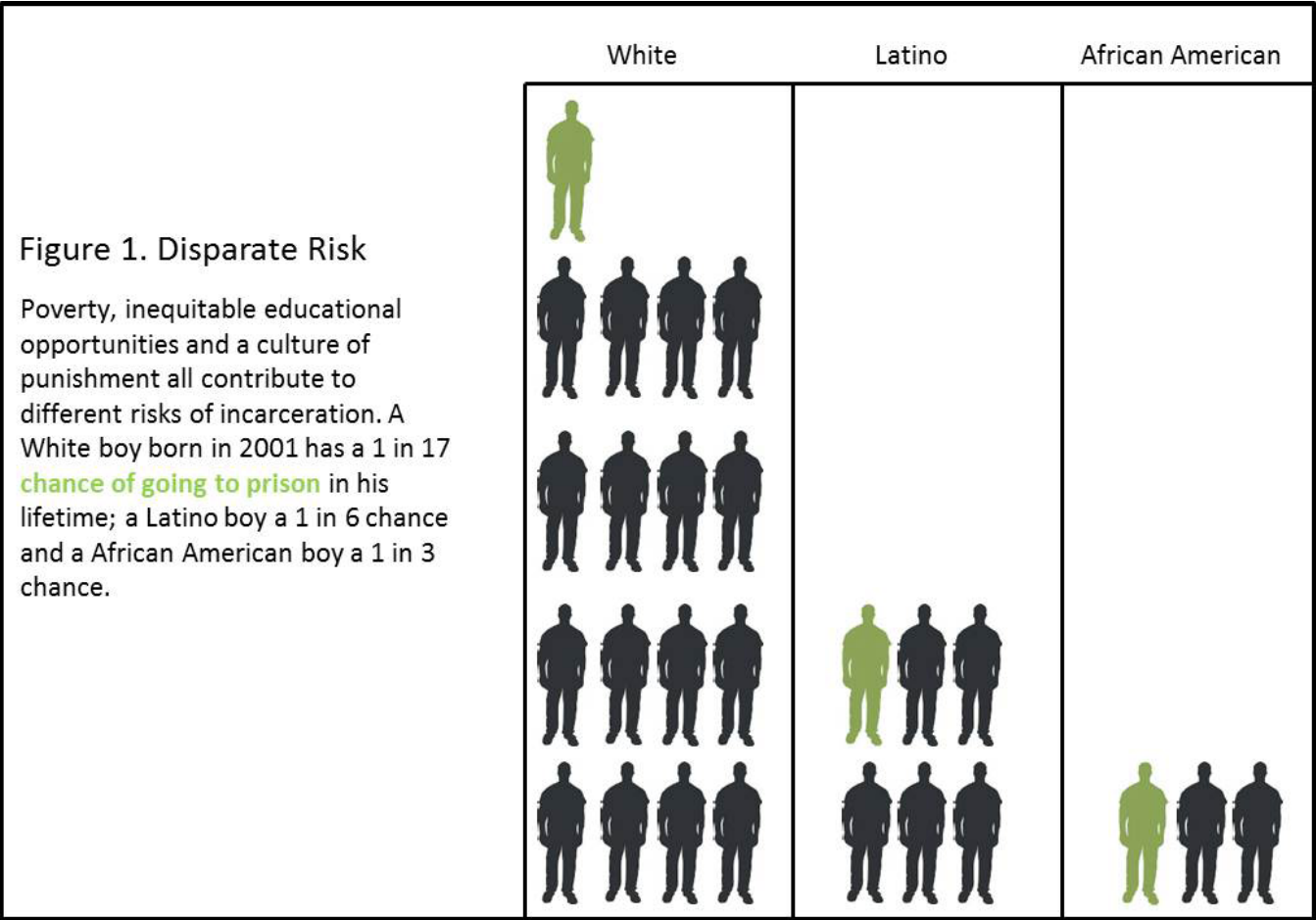
- One in 11 children lacks access to health insurance.⁵
- Half of all children (1.1 million) live in low-income families.⁶
- More than 43,000 children from working families are on the waiting list for child care subsidies.⁷
- Black, Hispanic and American Indian children are nearly three times as likely to live in poverty as their White counterparts.⁸

Promising Practice: Nurse-Family Partnership

Nurse-Family Partnership® (NFP) is an evidence-based, community health program that helps transform the lives of first-time, low-income mothers. Each mother served by NFP is partnered with a registered nurse early in her pregnancy and receives ongoing nurse home visits that continue through her child's second birthday. The nurse teaches mothers preventive health, prenatal practices, child health and development, as well as education and reasonable and competent care for both mother and child. NFP has been proven effective through extensive research conducted over more than 30 years. Three randomized, controlled trials concluded that NFP results in better pregnancy outcomes, improved child health and development, and increased economic self-sufficiency. These outcomes contribute to preventing child abuse, reducing juvenile crime and increasing school readiness. Studies estimate that every dollar invested in NFP yields taxpayers more than five dollars in return. NFP currently serves nearly 2,500 families across 22 counties in North Carolina.¹⁰

- Just three-quarters (76 percent) of economically disadvantaged students graduate on time, compared to 87 percent of their higher income peers.⁹

By the time students reach middle school where the school-to-prison pipeline accelerates, punitive discipline policies leave low-income children and children of color at greater risk of



Source: Children’s Defense Fund. Cradle to Prison Pipeline Factsheet. Retrieved from: <http://www.childrensdefense.org/child-research-data-publications/data/cradle-to-prison-pipeline-overview-fact-sheet-2009.pdf>.

becoming entangled in harsh discipline policies, and one step closer to involvement with the juvenile or adult criminal system.

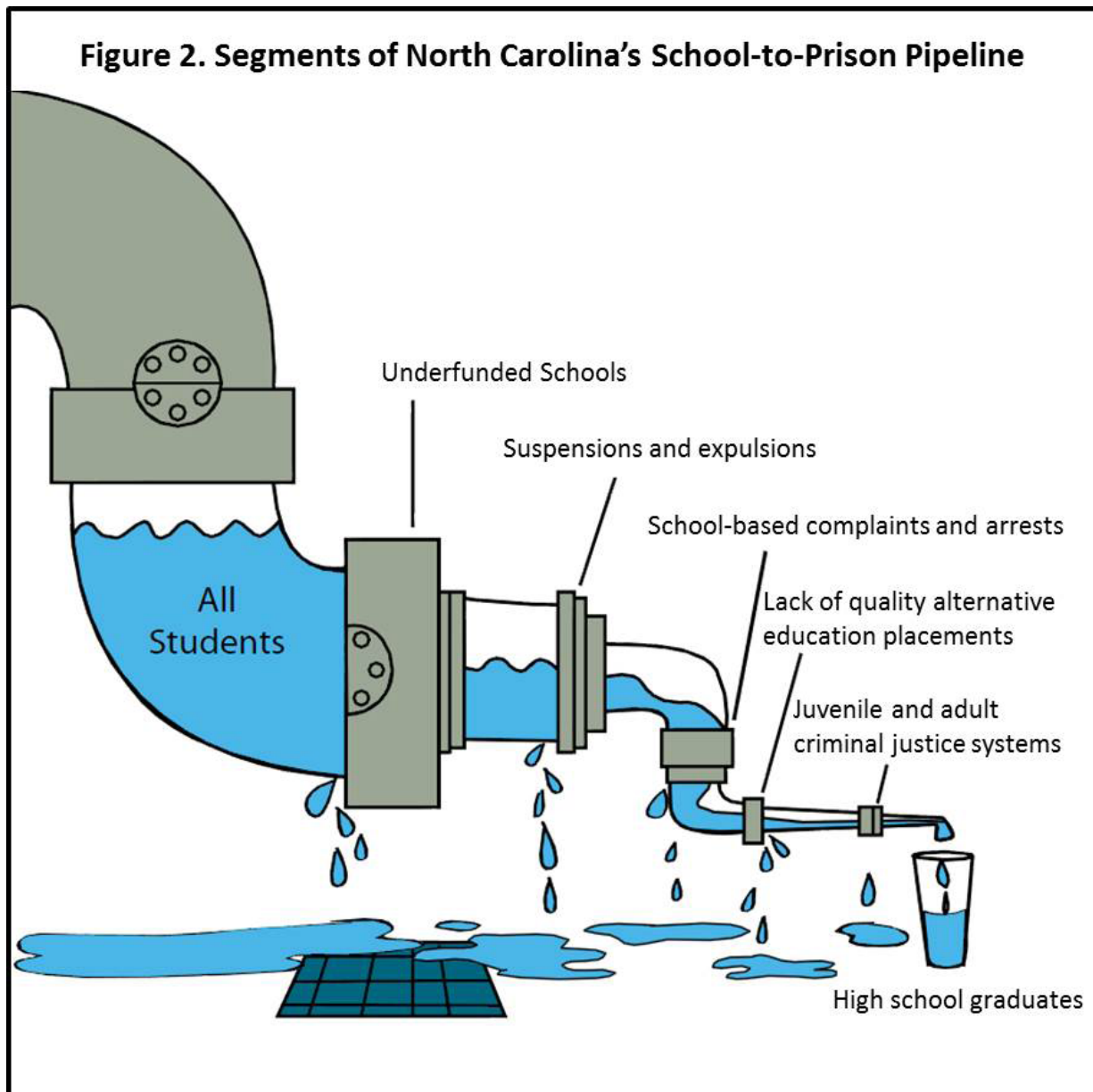
Underfunded schools, harsh discipline, increased policing of school hallways and a lack of adequate intervention programs and alternative education placements have created a school-to-prison pipeline that is moving many vulnerable students in North Carolina into the court system.

The school-to-prison pipeline in North Carolina, however, differs from the rest of the nation on a crucial point. While 48 other states handle most minors in juvenile justice systems, North Carolina’s criminal justice system treats all youth over the age of 15 as adults, without exception. As a result, our students face a more accelerated pipeline than other students. Without the buffer of the juvenile justice system to provide treatment, rehabilitation and family-focused services, youthful mistakes or adolescent behavior can lead them directly to adult court, prison and a permanent criminal record.

Workforce Connection

The school-to-prison pipeline undercuts students’ ability to complete their education and hinders North Carolina’s capacity to build a globally competitive workforce. A 2012 report by the Center for Law and Social Policy estimated that by the year 2025 North Carolina will need more than 630,000 credentialed workers with advanced science, technology, engineering and mathematics training in order to keep pace with mounting workforce competition across the globe.¹² Regrettably, if current degree attainment rates remain constant, North Carolina is set to produce just 54,000 degreed individuals within that timeframe—less than 10 percent of the state’s total need.¹³

Eliminating North Carolina’s school-to-prison pipeline is more than a moral imperative: it is an economic imperative as well. The road to engaged citizens, skilled workers and a robust state economy starts with students who have earned their high school diploma. Without a diploma, the



lost lifetime earnings of high school dropouts are estimated to cost North Carolina \$4.4 billion through reduced income and property tax revenues, and increased Medicaid and corrections spending.¹⁴

How Does the School-to-Prison Pipeline Work?¹⁵

Underfunded schools, harsh discipline practices, school policing, and lack of appropriate alternative education options are the segments of the school-to-prison pipeline that can move vulnerable students towards the juvenile or adult criminal system.

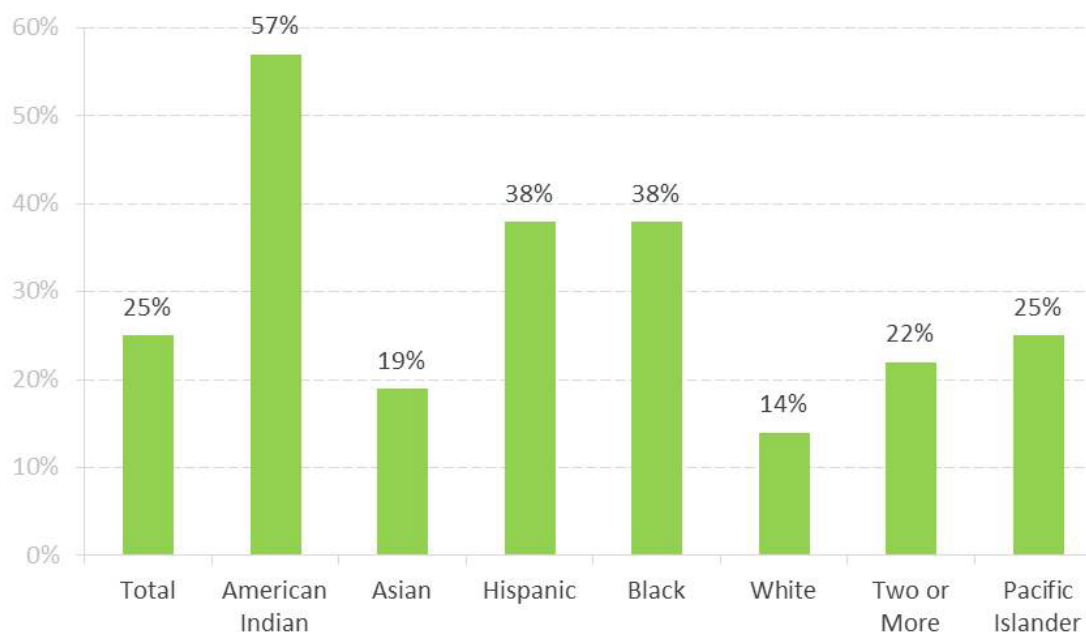
Underfunded Schools

All children in North Carolina have a state constitutional right to the equal opportunity to receive a sound, basic public education.¹⁶ Unfortunately, North Carolina's inequitable education funding schema results in many students being enrolled in poorly funded schools that jeopardize their academic progress, often despite intrepid efforts by individual administrators and teachers.¹⁷

North Carolina uses a complicated teacher allocation, or flat-grant, approach to education funding which rewards districts that employ teachers with higher levels of education or

Figure 3. High Poverty School Enrollment by Race/Ethnicity

Percentage of public school students enrolled in high poverty schools, 2011-2012



Source: North Carolina Department of Public Instruction. Free and Reduced Price Lunch, 2011-2012.

qualifications. Since schools in wealthier communities can generally provide their students with more experienced teachers than schools in poorer communities, the net effect of this approach to educational funding entrenches already observable resource disparities between school districts.

North Carolina has a large number of high-poverty schools. In the 2011-2012 school year, more than one in four public school students (25 percent) attended schools where 76 percent or more of enrolled students were eligible for free or reduced price lunch.¹⁸ American Indian, Black and Hispanic students are more likely to attend high-poverty schools.

Often the most vulnerable students are enrolled in schools that are most affected by lack of resources, racial and economic segregation, lack of parental engagement and overwhelmed teachers and principals. Underfunding contributes to students' academic failure and can widen achievement gaps.¹⁹

In the 2011-2012 school year, 33 percent of all elementary and middle school students in grades three through eight scored below proficiency on their end-of-grade reading and math exams, and 19 percent of high school students were not proficient on all of their end-of-course exams.²⁰

Measurable achievement gaps exist between Asian and White students and their Black and Latino peers, as well as for students who are economically disadvantaged, students who have limited English proficiency, and students with disabilities.

Students who attend poorly funded schools; who feel unchallenged, unsafe, threatened, marginalized, or stereotyped in school; or whose parents and/or teachers are too overwhelmed to be fully engaged in their education, are less likely to succeed academically. Many of these are the first wave of students lost through the school-to-prison pipeline.²¹

Suspensions and Expulsions

'Zero tolerance' is an approach to school discipline that imposes *automatic* removal from school, often for long periods of time, for an array of rule violations.²² While there is no evidence that zero-tolerance policies make schools safer or improve student behavior,²³ many states and school systems have adopted them following the wave of 'tough on crime' criminal justice policies of the 1980s which included mandatory sentencing and 'three strikes' laws.²⁴

In North Carolina there is no statewide Code of Student Conduct. Local Boards of Education

establish policies that govern the conduct of students and create procedures that are followed by school officials when disciplining students.²⁵ Although the North Carolina legislature amended the state school discipline law in 2011 to prevent local school districts from enacting zero tolerance policies with the exception of circumstances where suspension is otherwise required by state or federal law, local school boards still have broad latitude to establish and enforce discipline policies.

²⁶ As a result, discipline policies vary widely by school district, ranging from proscriptive policies that mandate specific responses to disciplinary infractions, to flexible policies that offer school administrators broad discretion to determine their application. This local control means that children who commit similar infractions may receive vastly different consequences depending on the district, or school, where they are enrolled.

An increasingly punitive approach to student discipline has led to skyrocketing numbers of suspensions and expulsions in public schools across the nation, with many students being suspended more than once per school year.^{27, 28} Repeated short-term and long-term suspensions and expulsions have been shown to make it much more difficult and unlikely for students to graduate from high school. Loss of valuable classroom instructional time coupled with the rejection and social isolation many children experience when they are kicked out of school cause many suspended students to lose academic ground—a loss some never regain.

When a student is suspended from school without alternative educational placements, he or she may engage in unsupervised activities, becoming more at risk for juvenile or criminal justice system involvement. Studies have shown that a child who has been suspended is more likely to be retained in a grade, to drop out, to commit a crime, to be incarcerated as an adult, and to lack employment or higher education opportunities as a result.²⁹

The North Carolina Department of Public Instruction cautions:

‘If the student is not admitted to an [Alternative Learning Program], the student is out of school for the duration of the suspension, often unsupervised. The student may then become more at-risk of

Promising Practice: Positive Behavioral Interventions and Supports (PBIS) Program

PBIS is a systematic approach that establishes and reinforces clear behavioral expectations by teaching students appropriate social behavior and reinforcing good behavior. Instead of using the piecemeal method of individual behavioral management plans, a continuum of positive behavioral support for all students within a school is implemented in areas including the classroom and non-classroom settings (such as hallways, buses, and restrooms).¹ PBIS began in North Carolina in 2000 with five pilot schools. More schools have signed on every year, and as of 2011-12, about 46 percent, or 1,154 of North Carolina's schools were implementing PBIS. Two evaluations of the program in North Carolina have shown that, when implemented with fidelity, schools participating in PBIS have lower rates of office referrals than the national average; average suspension rates have dropped every year; and more participating schools have seen improvements in their graduation rates than non-participating schools. In addition to climbing graduation rates, individual participating schools have seen improvements in attendance rates and test scores.³⁴

Short-term suspension: Lesser offenses are often dealt with using short-term suspensions, which can last from one to ten days.

Long-term suspension: More serious offenses are usually dealt with using long-term suspensions as a consequence. Long-term suspensions last from eleven days up to the remainder of the school year.

Expulsion: When a student is expelled from school, the student cannot return to their home school or any school within their district.

academic failure; involvement in high-risk behaviors such as sex, drugs/alcohol/tobacco, delinquent behaviors; and/or serious trouble with the law...Those who are suspended and expelled out of school often go unsupervised, resulting in negative academic consequences and, all too frequently, increases in crime and delinquency problems. As these students fall further behind in their academic progress, it increases the probability that they will not catch up with their schoolwork, or worse, that they may never return to school.³⁰

During the 2011-2012 school year, students in North Carolina received 258,197 short-term and 1,609 long-term suspensions. One in every 11 students in North Carolina receives at least one out-of-school short-term suspension each year; and when only high school students are considered, this ratio increases to one in every seven students.

Although long and short-term suspension rates have declined slightly over the past five years, males, students of color and students with disabilities continue to be disproportionately affected by out-of-school suspensions.

School-Based Complaints and Arrests

States and school districts across the country are increasingly relying on law enforcement in addition to school personnel to handle minor school misconduct.³⁵ A growing number of schools now utilize law enforcement officers known as School Resource Officers (SROs) to police elementary, middle and high school hallways and handle disciplinary issues that formerly would have been handled by school personnel. SROs may have little or no training in child and adolescent development and mental health, safe restraint techniques, recognizing signs of trauma or how to work effectively with students with disabilities.³⁶ As a result, some SROs tend to approach misbehaving students as adult criminals rather than seeking out and addressing the underlying needs behind students' misbehavior, as trained teachers or school administrators might.³⁷

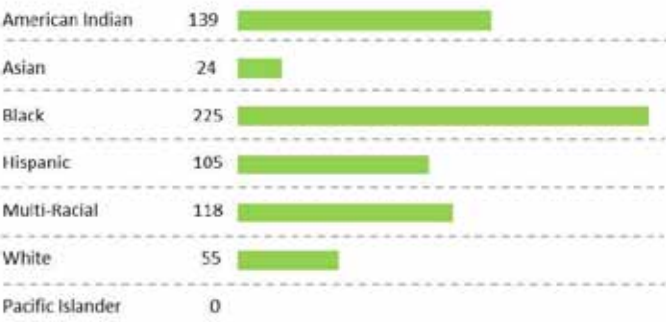
When SROs become involved in incidents that otherwise would have been handled by educators, students are criminalized, the school culture changes, and school-based complaints and

Figure 4. Racial Imbalance
Short-term suspensions per 10 students, 2011-2012



North Carolina Department of Public Instruction. Consolidated Report, 2011-2012.

Figure 5. Racial Imbalance
Long-term suspensions per 100,000 students, 2011-2012



North Carolina Department of Public Instruction. Consolidated Report, 2011-2012.

arrests skyrocket.³⁸ Many students go straight from the classroom into the juvenile or adult criminal system for behavior that, though certainly disruptive, might be expected from adolescents – particularly students in underfunded schools who are dealing with the stress of disabilities, home or personal crises and/or poverty.³⁹

Studies have found that the presence of SROs has no significant impact on students' perception of police, and no deterrent effect toward offending. Instead, these studies find that the presence of SROs can create an atmosphere of mistrust and alienation in schools which could cause students to disengage from their studies and misbehave.⁴⁰

In North Carolina, many students who misbehave at school end up in the criminal system. The percentage of complaints filed against juveniles in North Carolina that originated in the public school system increased 10 percent over the past

Offenses	Complaints	% School-Based Offenses
Simple assault	2,363	15
Simple affray*	1,592	10
Disorderly Conduct at School	1,567	10
Truant under age 16	1,051	7
Larceny (Misdemeanor)	853	5
Weapons on educational property / aid (Misdemeanor)	768	5
Communicating threats	685	4
Assault employee	606	4
Drug paraphernalia	400	3
Possess marijuana up to 1/2 oz.	397	3
Grand Total	10,282	64

Top 10 Most Common School-Based Offenses, 2011

*Minor offenses that refer to an altercation between at least two people that does not involve weapons. Source: North Carolina Division of Juvenile Justice, Special Data Request.

Charged Class	Complaints	% School-Based Offenses
Class A-E	45	<1
Class F-I, A1	2,132	13
Misdemeanor Offenses Class 1-3	13,950	86

School-Based Offenses by Charged Class, 2011

Source: North Carolina Division of Juvenile Justice, Special Data Request.

five years. In 2011, school-based misbehavior accounted for 43 percent (16,127) of all complaints referred to the juvenile justice system in North Carolina.⁴¹ Students were most commonly referred to the juvenile justice system for low-level offenses, Class 1-3 misdemeanors and status offenses which include behaviors like truancy and disorderly conduct.⁴²

Research shows a strong link between school arrests and dropouts. A student arrested in high school is twice as likely to leave school early or to be pushed out, and a court involved high school student is four times as likely to drop out of school as his or her peers.⁴³

Since all youth over age 15 are automatically charged and prosecuted in the adult criminal system in North Carolina, it is also important to understand the number and percentage of

Promising Practices: Building Collaborative Agreements between Law Enforcement, Schools and Courts

Cooperative Agreement in Clayton County, Georgia
School based referrals to the juvenile justice system were of epic proportions in Clayton County (Georgia). As a result, Judge Steven Teske helped enact a school conflict diversion program as an alternative to sending youth to the juvenile justice system. Three years later, Judge Teske convened a cross-sector workgroup which drafted a cooperative agreement between law enforcement and school administrators that would prevent and reduce the number of referrals to juvenile court. The resulting cooperative agreement includes a tiered approach which ensures that 'misdemeanor delinquent acts' like fighting and disorderly conduct do not result in delinquency complaints unless a student has prior complaints. The agreement also requires a review by the principal before disciplinary action can proceed. Students receive a warning after a first offense and referral to mediation, or a conflict resolution program after a second offense. The agreement also includes a clause that misdemeanor disciplinary acts committed by elementary school-aged youth are excluded from referral to law enforcement, if those acts are committed at school.⁴⁴

School Offense Protocol in Jefferson County, Alabama
In Jefferson County (Alabama), Family Court Judge Brian Huff along with advocacy and legal support from the Southern Poverty Law Center (SPLC) successfully implemented a School Offense Protocol in 2010. The protocol, developed with input from key stakeholders in the community including schools, law enforcement and advocates, is a set of graduated consequences for certain offenses which establish alternatives to incarceration for children who commit minor delinquent offenses within the school system.⁴⁵

Under the protocol, a first offense results in a warning, a second offense may require the student and a parent to attend a special workshop, and a third offense may be referred to court. The offenses included in this new protocol were specifically affrays (fighting), disorderly conduct, harassment, misdemeanor assault and criminal trespass. The protocol also added more frequent and detailed reporting requirements so that data can be easily and readily analyzed to determine the protocol's effectiveness.

16- and 17-year old minors who enter the adult criminal system through school-based arrests and complaints. Unfortunately, those data are neither collected nor reported by the Department of Public Safety or the Department of Public Instruction. However, given that more than 40 percent of all juvenile (age 15 and under) complaints are for school-based offenses, the percentage for 16- and 17-year-olds is likely just as large.

Lack of Appropriate Alternative Education Placements

When students are suspended or expelled, they are removed from the classrooms and deprived of in-class instructional time.⁴⁶ In North Carolina, state law mandates that every school district have some kind of alternative education program, and the constitutional right to an education of suspended students cannot be taken away without a significant and important justification.⁴⁷

According to the North Carolina Department of Public Instruction, alternative learning placements include schools and programs with a wide array of activities, locations, and student characteristics, specifically:

*A program that serves students at any level, serves suspended or expelled students, serves students whose learning styles are better served in an alternative program, or provides individualized programs outside of a standard classroom setting in a caring atmosphere in which students learn the skills necessary to redirect their lives.*⁴⁸

Suspended students are often left unsupervised at home or on the streets, slipping out of the mainstream and away from positive peer and adult influences they might otherwise have been exposed to in a formal learning environment.⁴⁹ Many of these students cannot see a viable educational pathway for themselves after being rejected by the very educational system that was supposed to help them build a successful future.

In 2010, a lawsuit was brought by a Beaufort County (North Carolina) high school student who was denied access to alternative education placement after receiving a five month out-of-school suspension for a brief schoolyard fight. The North Carolina Supreme Court ruled that, although



a suspended or expelled student does not have a constitutional right to an alternative education under the North Carolina constitution, “[b]ecause exclusion from alternative education potentially infringes on a student’s state constitutional right to equal educational access... school administrators must articulate an important or significant reason for denying students access to alternative education[.]”⁵⁰ The ruling clarified that students who receive out-of-school suspensions have a statutory right to receive alternative education placements when feasible and appropriate, barring exceptions when the student has been deemed too violent or disruptive, or when the district does not have the resources to provide alternative services or the student has failed to meet conditions for admission.

Alternative learning programs in North Carolina served more than 14,000 students during the 2011-2012 school year.⁵¹ And yet, there is evidence that there are not enough alternative education programs in the state to meet the needs of all eligible students. A study of Wake County alternative education schools, for example, found that the county requires more options to meet the needs of suspended elementary school students, students with serious behavioral issues who do not qualify for special education services, and students who have been suspended long-term from school.⁵²

Adult Criminal Justice System: The End of the Road for Too Many North Carolina Youth

Any young person without a high school diploma is at a severe disadvantage in our high-tech labor market, with its accompanying demands for advanced education. We can’t prepare students for the 21st century who

aren't in school. Increasing graduation rates requires a continuum of strategies that engage students, including ensuring their presence in the classroom.

*National Education Association President
Dennis Van Roekel*

In combining all segments of the school-to-prison pipeline—underfunded schools, harsh and inequitable school discipline, increased school policing and lack of equal access to high quality alternative education options – it becomes clear how many of North Carolina's most vulnerable children begin pouring into the juvenile and adult criminal justice systems.

North Carolina's school-to-prison pipeline is arguably more accelerated than in any other state in the nation. Not only can students legally drop out of school at age 16, but North Carolina is also one of only two states where youth over age 15 are automatically tried as adults for *all* offenses, regardless of the nature of their infraction or extenuating circumstances.⁵³ This policy means that nearly all juniors and seniors in high school, and some sophomores and even freshmen, are sent directly to the adult criminal justice system if charged with school-based infractions. Students are removed from school – a setting that should be positive, nurturing and safe – and deposited directly into a system that exists to punish adults for criminal behavior.

In 2009-2010, the most recent year for which data are available, 26,000 16- and 17- year olds were processed in the adult criminal justice system.⁵⁴ Eight in every 10 charged acts for 16- and 17-year-olds in the adult court criminal justice system were for misdemeanors, which includes offenses like trespassing or possessing a small amount of marijuana.⁵⁵ In North Carolina, very few youth commit serious felonies. In 2009-2010, less than four percent of charges against 16- and 17-year-olds were for Class A-E felonies, offenses that include serious violent crimes like murder, rape or robbery.⁵⁶

Promising Practice: Restorative Justice

Restorative Justice is a theory of justice that emphasizes repairing the harm caused by criminal behavior. Practices and programs reflecting restorative purposes respond to crime by identifying and taking steps to repair harm, involving all stakeholders, and transforming the traditional relationship between communities and government in responding to crime. While most approaches to juvenile justice concentrate on punishing or treating delinquent youths, the restorative justice process seeks to repair the harm by involving the entire community in rehabilitating offenders and holding them accountable for their behavior. In the traditional juvenile justice system, professionals ask questions such as 'What laws have been broken?' or 'What punishment does the offender deserve?' Under the restorative justice model, questions are framed differently, asking: 'What is the nature of the harm resulting from the crime?', 'What needs to be done to repair the harm?'

The North Carolina Governor's Crime Commission and the Norman Adrian Wiggins School of Law at Campbell University have created a collaborative effort that aims to help spread the word of Restorative Justice throughout the state of North Carolina and to assist others across the state in starting Restorative Justice programming. The Juvenile Justice Project (JJP) uses mediation to discover how people and communities are hurt as a result of crime, and seeks to find the best solution to repair the damage that has been done. The program receives referrals from juvenile intake counselors, juvenile court, teen court, and the local school system for juveniles who have been accused of criminal activity or disruptive behavior. Approximately 85 percent of cases referred to the JJP are successfully mediated, resulting in both parties coming together for a face-to-face meeting to address and satisfy their needs as a result of the incident. Less than five percent of juveniles that successfully completed the process between 2004 and 2010 reoffended, while 25 percent of juveniles that did not complete the process later faced other charges.⁵⁷



*"The question is not whether we can afford to invest in every child;
it is whether we can afford not to."
-Marian Wright Edelman*

The following recommendations are for policymakers and officials in child-serving departments, school districts, law enforcement agencies and court systems.

RECOMMENDATION 1:

Raise the Age of Juvenile Court Jurisdiction from 16 to 18 for Youth Who Commit Misdemeanor Offenses

North Carolina must take swift action to stop the accelerated pipeline from public schools to the adult criminal justice system. It is imperative that the North Carolina General Assembly pass legislation to incrementally phase 16- and 17-year-olds who have committed minor crimes into the juvenile justice system, and provide the juvenile system with adequate resources where they will be supported by a developmentally-appropriate, research-based continuum of services. Allocating adequate public funds to meet the needs of court involved 16- and 17- year-olds is critical to fully implement this policy change and to ensure the success of all youth served in the juvenile justice system. Crime costs the state untold millions in lost productivity. Raising the age will place wayward youth on a path to becoming responsible, contributing adults, therefore returning those millions to the public coffers. Efforts to keep more students in schools rather than pushing them out for minor offenses would mean a higher graduation rate. Less crime and more educated youth mean more public savings, a higher state Gross Domestic Product and more tax revenue for the state. High quality juvenile justice programs show significant public return because they literally save lives—lives that would have otherwise been wasted in crime or ended prematurely. National cost benefit analysis shows that developmentally appropriate intervention in the lives of troubled youth is one of the most cost effective uses of public money.⁵⁸

RECOMMENDATION 2:**Implement Evidence Based Reforms to Ensure Equitable Treatment for All North Carolina Students**

The North Carolina Department of Public Instruction should require or encourage school districts, law enforcement agencies that provide school resource officers (SROs), and court systems to create memoranda of understanding (MOUs) that limit when school-based arrests and court referrals can be made, including limitations for minor offenses and students with disabilities.

Individual school districts should create and implement discipline matrices that list very specific consequences for individual rule infractions. Discipline matrices should include graduated interventions and consequences based on grade level, and make out-of-school suspension and expulsion options for only the highest levels of misbehavior, and then only for middle and high school students. The matrices should also require school administrators to consider students' discipline histories and mitigating factors outside of their control, including disabilities, homelessness, domestic violence, bullying, health and mental health needs. By limiting school administrator discretion, the matrices will help increase fairness and reduce excessive suspensions and discrepancies in treatment based on factors such as race, gender and disability status.

Require and adequately fund all school districts in the state – and all schools within those districts – to implement, with fidelity, Positive Behavior Interventions and Supports (PBIS), which focus on clear expectations, academic achievement and individualized interventions.

Adequately fund expanded alternative education options to ensure that school districts can offer every long-term suspended or expelled student the opportunity to attend a high-quality, classroom-based, alternative education programs.

- See Appendix A for an example of a discipline matrix used in the Baltimore City School District.
- See Appendix B for an example of a collaborative agreement implemented in Jefferson County, Alabama among the Birmingham City Schools, the Birmingham Police Department, the Jefferson County Family Court and the Jefferson County District Attorney's Office.
- See Appendix C for the collaborative agreement between the Clayton County, Georgia, Public School System and local law enforcement.



RECOMMENDATION 3:**Improve Data Collection and Reporting Requirements to Better Inform School Administrators, Parents and Policymakers**

Improve data collection, publication and monitoring systems by standardizing data definitions and collection procedures statewide. Collect and report data annually to the Joint Legislative Education Oversight Committee on relevant indicators for all age groups, including school-based arrests and school-based delinquency complaints, as well as criminal complaints. This data should include race, gender, age, grade level, ethnicity, primary offense and disability status. Suspension and expulsion data should be provided on state, district, and individual school-level, disaggregated by grade, race, gender, disability status, free and reduced lunch status, English language proficiency, primary violation and length of suspension. Also, the state should reinstate the SRO census that was eliminated in 2009 due to budget cuts and make it more detailed, including providing the raw data that lists specific schools to which SROs are assigned, as well as SRO employers across the state.

North Carolina should continue to work toward implementation of a continuum of evidence-based prevention and intervention services from birth to adulthood for at-risk children, including in-home visiting, high-quality early education, physical and mental health care, substance abuse treatment, after-school programming, mentoring and other community-based programs which are informed by a coordinated data collection and reporting system.

RECOMMENDATION 4:**Establish a Legislative Task Force on School Discipline Policies**

The Legislative Task Force on School Discipline should include key stakeholders from all sectors: public, non-profit, private and active community leaders.

The Task Force shall be charged with:

- Examining disproportionate minority discipline,
- Reviewing data regarding alternatives to school based arrests such as civil citations, and
- Studying model legislation that will reduce the flow of school-based complaints being referred to the court systems.

The Task Force should issue a final report of its findings to include an implementation plan. The Legislative Task Force on School Discipline will utilize data to educate and engage decision makers at the local and state levels on the benefits of implementing research-based behavior management programs that take positive approaches to improving student behaviors. The Task Force will advocate for legislation and policies that promote positive, cost-effective alternatives to the criminalization of student misbehavior.

Conclusion

All children deserve the opportunity to learn, achieve success and become productive citizens. The school-to-prison pipeline funnels vulnerable students out of classrooms and into courtrooms, often for minor events. The criminalizing of routine disciplinary problems has not made our schools safer. To the contrary, the school-to-prison pipeline has damaged the lives of many children by making them more likely to drop out and entangling them, sometimes permanently, in the juvenile or adult criminal system.

- ¹ NAACP Legal Defense and Educational Fund, Incorporated (2005). Dismantling the School-to-Prison Pipeline. Retrieved from http://naacpldf.org/files/publications/Dismantling_the_School_to_Prison_Pipeline.pdf.
- ² Including high-stakes testing. For more information, read FairTest (2010). How Testing Feeds the School-to-Prison Pipeline. Retrieved from <http://www.fairtest.org/how-testing-feeds-schooltoprison-pipeline>.
- ³ ACLU (2008). Locating the School-to-Prison Pipeline factsheet Retrieved from <http://www.aclu.org/racial-justice/school-prison-pipeline-fact-sheet-pdf>.
- ⁴ Advancement Project (2003). Derailed! The Schoolhouse to Jailhouse Track. Retrieved from http://b3cdn.net/advancement/312f5738d82736d249_mlbqr3seg.pdf.
- ⁵ North Carolina Institute of Medicine (2012). Characteristics of Uninsured North Carolinians. Retrieved from http://www.nciom.org/wp-content/uploads/2010/08/County-Level_Estimates_09-10-pdf.
- ⁶ Annie E. Casey Foundation. KIDS COUNT Data Center. Low-income refers to those families earning less than \$45,622 for a family of four (two adults and two children) in 2011.
- ⁷ North Carolina Division of Child Development and Early Education. Monthly Statistical Summary, December 2012. Retrieved from http://ncchildcare.dhhs.state.nc.us/general/Child_Care_Statistical_Report.asp.
- ⁸ Ibid, see note 6.
- ⁹ North Carolina Department of Public Instruction. Cohort Graduation Rate 2011-2012. Retrieved from <http://apxcd.schools.nc.gov/pls/apex/f?p=775:1:2210198668919501>
- ¹⁰ Nurse-Family Partnership National Service Office, special data request 2012.
- ¹¹ Children's Defense Fund. Cradle to Prison Pipeline Campaign Fact Sheet. Retrieved from <http://www.childrensdefense.org/child-research-data-publications/data/cradle-to-prison-pipeline-overview-fact-sheet-2009.pdf>.
- ¹² Center for Law and Social Policy (2012). The Credential Differential: The Public Return to Increasing Postsecondary Credential Attainment. Retrieved from http://www.clasp.org/postsecondary/pages?type=postsecondary_and_economic_success&id=0025&utm_source=Copy+of+PRESS+RELEASE%3A+CLASP+Credential+Differential&utm_campaign=CLASP+Credential+Differential&utm_medium=archive
- ¹³ Ibid, see note 12.
- ¹⁴ Alliance for Excellent Education (2012). North Carolina High Schools (State Card). Retrieved from http://www.all4ed.org/files/NorthCarolina_hs.pdf.
- ¹⁵ This report borrows the ACLU's framework of 'stops' on the school-to-prison pipeline: failing public schools, zero-tolerance and other school discipline, policing school hallways, disciplinary alternative schools and court involvement and juvenile detention. ACLU (2008). Locating the School-to-Prison Pipeline. Retrieved from <http://www.aclu.org/racial-justice/school-prison-pipeline-fact-sheet-pdf>.
- ¹⁶ N.C. Const. Art. I, § 15; N.C. Const. Art. IX, § 2; Leandro v. State, 346 N.C. 336, 345 (1997).
- ¹⁷ Ellinwood, M. (2010). North Carolina's Public School Funding System: Underfunded, Unclear and Unfair. Retrieved from http://www.ncjustice.org/sites/default/files/EPP_Public_School_Funding.pdf.
- ¹⁸ North Carolina Department of Public Instruction. Free and Reduced Price Lunch, 2011-2012. Retrieved from <http://www.ncpublicschools.org/fbs/resources/data/>. High-poverty schools refer to public schools where 76 percent or more students are eligible for free or reduced price meals. Low poverty schools refer to public schools where up to 25 percent of students are eligible for free or reduced price meals.
- ¹⁹ Condron, D. (2009). Social Class, School and Non-School Environments, and Black/White Inequalities in Children's Learning. American Sociological Review. Retrieved from: <http://asr.sagepub.com/content/74/5/685.abstract>.
- ²⁰ North Carolina Department of Public Instruction. Reports of Disaggregated State, School System (Local Education Agency) and School Performance Data for 2010-2012. Retrieved from: <http://accrpt.ncpublicschools.org/app/2012/disag/>.
- ²¹ ACLU of Northern California (2008). Schools for All Campaign: The School Bias & Push Out Problem. Retrieved from https://www.aclunc.org/s4a/full_report.pdf.

- ²² Losen, D. and Russell J. Skiba (2010). *Suspended Education: Urban Middle Schools in Crisis*. Retrieved from http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/suspended-education-urban-middle-schools-in-crisis/Suspended-Education_FINAL2.pdf.
- ²³ American Psychological Association Zero Tolerance Task Force (2008). *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*. Retrieved from <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>. Skiba, R. (2004). *Zero Tolerance: The Assumptions and the Facts*. Retrieved from http://ceep.indiana.edu/projects/PDF/PB_V2N1_Zero_Tolerance.pdf; Sweeten, G. (2006). *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*. Retrieved from <https://www.ncjrs.gov/App/publications/Abstract.aspx?id=238096>.
- ²⁴ Advancement Project (2010). *Test, Punish and Push Out: How 'Zero Tolerance' and High-Stakes Testing Funnel Youth into the School-to-Prison Pipeline*. Retrieved from http://b3cdn.net/advancement/d05cb2181a4545db07_r2im6caqe.pdf.
- ²⁵ NCGS § 115C-390.2. Retrieved from http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-390.2.html
- ²⁶ Ibid, see note 25.
- ²⁷ NAACP Legal Defense and Educational Fund, Inc (2005). *Dismantling the School-to-Prison Pipeline*. Retrieved from http://naacpldf.org/files/publications/Dismantling_the_School_to_Prison_Pipeline.pdf
- ²⁸ North Carolina Department of Public Instruction. 2011-12 Consolidated Data Report. Available online at: <http://www.ncpublicschools.org/docs/research/discipline/reports/consolidated/2011-12/consolidated-report.pdf>.
- ²⁹ Advancement Project and The Civil Rights Project at Harvard University (2000). *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies*. Retrieved from <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf>.
- ³⁰ North Carolina Department of Public Instruction (2001). *Three Year Trends of Long-Term Suspended and Expelled Students*. Retrieved from <http://www.ncpublicschools.org/docs/data/reports/final-suspension-expulsion.pdf>.
- ³¹ North Carolina Department of Public Instruction. Consolidated Data Report on School Crime and Violence. Retrieved from <http://www.ncpublicschools.org/research/discipline/reports/>.
- ³² U.S. Department of Education, Office of Special Education Programs (2013). *School-wide PBIS*. In OSEP Technical Assistance Center on Positive Behavioral Intervention and Supports: Effective School wide Interventions. Retrieved from <http://www.pbis.org/school/default.aspx>.
- ³³ North Carolina Department of Public Instruction (2012). *North Carolina Positive Behavior Intervention and Support 10-11 Evaluation Report*. Retrieved from <http://www.ncpublicschools.org/docs/positivebehavior/data/evaluation/2011-eval-report.pdf>
- ³⁴ NC Positive Behavior Intervention and Supports, Department of Public Instruction, Exceptional Children Division, PowerPoint presented by Heather Reynolds at the Safe Schools, Fair Schools Summit, November 12, 2010 and <http://www.ncpublicschools.org/positivebehavior/data/>
- ³⁵ ACLU (2008). *Talking Points: The School-to-Prison Pipeline*. Retrieved from <http://www.aclu.org/racial-justice/school-prison-pipeline-talking-points>.
- ³⁶ School Resource Officers are encouraged to take a training course offered by the NC Justice Academy, but are not required to do so.
- ³⁷ Ibid, see note 35.
- ³⁸ Ibid, see note 35.
- ³⁹ ACLU of Northern California (2008). *Schools for All Campaign: The School Bias & Push Out Problem*. Retrieved from https://www.aclunc.org/s4a/full_report.pdf.
- ⁴⁰ Jackson, A. (2002). Police-school resource officers' and students' perception of the police and offending. 25(3) *Policing: An Int'l J. Police Strategies & Management* and Beger, R. (2002). *Expansion of Police Power in Public Schools and the Vanishing Rights of Students*. 29(1-2) *Social Justice*.
- ⁴¹ North Carolina Division of Juvenile Justice, special data request.
- ⁴² North Carolina Division of Juvenile Justice, special data request.

⁴³ Sweeten, G. (2006). Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement. 24.4, Justice Quarterly, 462-480.

⁴⁴ The Advancement Project. Stop the Schoolhouse to Jailhouse Track.
Retrieved from <http://www.stopschoolstojails.org/clayton-county-georgia.html>

⁴⁵ Jefferson County Family Court. J.Brian Huff Bio. Retrieved from <http://jeffconline.jccal.org/familycourt/judicial/judges/Huff.html/?hideleftnav=1&hideheader=1&noHeader=1&nofooter=1&nofooterProcess=1&printit=1>

⁴⁶ Garson, J. (2010). Overview of Fourteen Southern States' Suspension Laws. Duke University Center for Child and Family Policy. Retrieved from http://www.childandfamilypolicy.duke.edu/pdfs/familyimpact/2010/Other_States_Suspension_Policies.pdf.

⁴⁷ N.C.G.S. § 115C-47(32a) Retrieved from http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-47.html . Also see: http://www.legalaidnc.org/public/learn/media_releases/2010_MediaReleases/2010_MediaRel_NCSupremeCtRulesSchoolsCannotDenyEdUnlessArticulateReason_Oct_15_10.aspx

⁴⁸ North Carolina Department of Public Schools (2003). Alternative Learning Program Evaluation: 2001-2002. Retrieved from <http://www.ncpublicschools.org/docs/data/reports/0308-hsp07-attach1.pdf>.

⁴⁹ Ibid, see note 48.

⁵⁰ Behrend, D. King v. Beaufort County Board of Education: North Carolina Supreme Court Rules on Right to Alternative Education. Retrieved from <http://sites.duke.edu/sjpp/2010/king-v-beaufort-county-board-education-north-carolina-supreme-court-rules-alternative-education/>

⁵¹ Ibid, see note 28.

⁵² Rhea, A. (2010). An Evaluation of the Wake County Public School System Alternative Educational Options. Wake County Public School System Evaluation and Research Division. Retrieved from http://www.wcpss.net/results/reports/2010/1015alt_options.pdf

⁵³ National Conference of State Legislatures (2012). Retrieved from http://www.evidencebasedassociates.com/reports/trends_in_juvenile_justice.pdf. Note: 38 states set the maximum age of juvenile court jurisdiction at 17, 10 states—Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas and Wisconsin—set the age at 16, and two states—North Carolina and New York—set it at 15; therefore, 16- and 17- year-olds automatically are tried in the adult system.

⁵⁴ N.C. Sentencing Commission, special data request 2011. Estimate is based on the number of convicted youth in the adult system in 2009-10 and the current conviction rate (38 percent) for 16- and 17-year-olds.

⁵⁵ Ibid, see note 54.

⁵⁶ Ibid, see note 54.

⁵⁷ Campbell University, Norman Adrian Wiggins School of Law. The Juvenile Justice Project. Retrieved from <http://law.campbell.edu/page.cfm?id=587&n=the-juvenile-justice-project>.

⁵⁸ Washington State Institute for Public Policy (2004). Benefits and Costs of Prevention and Early Intervention Programs for Youth. Retrieved from <https://www.wsip.wa.gov/rptfiles/04-07-03901.pdf>.

APPENDICES



BALTIMORE CITY SCHOOLS DISTRICT DISCIPLINE MATRIX
JEFFERSON COUNTY, ALABAMA COLLABORATIVE AGREEMENT
CLAYTON COUNTY, GEORGIA COLLABORATIVE AGREEMENT

LEVELS OF INTERVENTIONS AND DISCIPLINARY RESPONSES

Level 1	EXAMPLES OF CLASSROOM INTERVENTIONS AND RESPONSES These interventions aim to teach and correct alternative behavior so students can learn and demonstrate safe and respectful behavior. Teachers are encouraged to try a variety of teaching and classroom management strategies.	<ul style="list-style-type: none"> ■ Contact Parent Via Telephone, E-mail or Text Message ■ Verbal Correction ■ Reminders and Redirection (i.e. Role Play) ■ Written Reflection or Apology ■ Seat Change ■ Parent or Guardian Conference ■ Parent or Guardian Accompany Student to School 	<ul style="list-style-type: none"> ■ Daily Progress Sheet on Behavior ■ In-Class Time-Out ■ Establish Buddy Teacher System ■ Loss of Classroom Privileges ■ Teacher or Student Conference ■ Detention
	EXAMPLES OF STUDENT SUPPORT TEAM INTERVENTIONS AND RESPONSES These interventions often involve support staff, both school-based and within the broader community, and aim to engage the student's support system to ensure successful learning and consistency of interventions, and change the conditions that contribute to the student's inappropriate or disruptive behavior.	<ul style="list-style-type: none"> ■ Parent or Guardian Notification ■ Community Conferencing ■ Mentoring Program ■ Peer Mediation ■ Referral to IEP Team ■ Functional Behavioral Assessment ■ Referral to School-based Health or Mental Health Clinic ■ Referral to After-school Program 	<ul style="list-style-type: none"> ■ Service to School ■ Conflict Resolution ■ Restorative Justice ■ Community Mediation ■ Short-term Behavioral Progress Reports ■ Behavioral Intervention Plan ■ Referral to Community Organization ■ Develop 504 Plan
Level 2	EXAMPLES OF INTENSIVE SUPPORT STAFF AND ADMINISTRATIVE INTERVENTIONS AND RESPONSES These interventions can involve the school administration and aim to correct behavior by stressing the seriousness of the behavior while keeping the student in school.	<ul style="list-style-type: none"> ■ Change in Schedule or Class ■ Parent or Guardian Notification ■ Restorative Justice Strategies, including School and Community Service ■ Loss of Privileges ■ Restitution ■ Detention ■ Conflict Resolution 	<ul style="list-style-type: none"> ■ Peer Mediation ■ Reprimand by Appropriate Administrator ■ Referral to SST and when needed IEP Team ■ Revision to IEP (for students with disabilities) ■ Community Conferencing ■ In-School Suspension ■ Assignment of Work Projects ■ Mentoring
	EXAMPLES OF SUSPENSION AND REFERRAL RESPONSES These interventions may involve the short-term removal of a student from the school environment because of the severity of the behavior. The duration of the short-term suspension, if issued, is to be limited as much as practicable while adequately addressing the behavior.	<ul style="list-style-type: none"> ■ Parent or Guardian Notification ■ Short-term Suspension (one-five days) ■ Referral to SST ■ Referral to Substance Abuse Counseling ■ Referral to the Twilight and Credit Recovery Program 	<ul style="list-style-type: none"> ■ Referral to IEP Team (Students with Disabilities) ■ Revision to IEP (Students with Disabilities) as needed ■ Develop FBAs and BIPs ■ Referral to Community Organizations, including Community Conferencing and Community Mediation
Level 3	EXAMPLES OF EXTENDED SUSPENSION AND REFERRAL RESPONSES These interventions involve the removal of a student from the school environment because of the severity of the behavior. They may involve the placement of the student in a safe environment that provides additional structure to address behavior. These interventions focus on maintaining the safety of the school community and ending self-destructive and dangerous behavior.	<ul style="list-style-type: none"> ■ Parent or Guardian Notification ■ Extended Suspension ■ Functional Behavioral Assessment ■ Community Conferencing ■ Referral to Community Organizations ■ Expulsion (serious behavioral infractions) ■ Referral to IEP Team (Students with Disabilities) for Manifestation Determination 	<ul style="list-style-type: none"> ■ Alternative Educational Placement by Office of Suspension Services ■ Behavioral Intervention Plan ■ Community Mediation ■ Referral to Substance Abuse Counseling ■ Permanent Expulsion (currently under review by the Board of School Commissioners)

INAPPROPRIATE AND DISRUPTIVE BEHAVIORS AND LEVELS OF RESPONSE

KEY: USE LOWEST LEVEL INDICATED FIRST	
LEVEL 1: Classroom Support and Student Support Team – may be appropriate when student has no prior incidents and interventions have not been put in place.	LEVEL 2: Intensive Support Staff and Appropriate Administration – may be appropriate when supports have been put in place in the classroom to address behavior but the behavior has continued to negatively impact the learning of the student and others
LEVEL 3: Suspension and Referral – may be appropriate when interventions and supports have been put in place but the behavior is escalating (repeated offenses)	LEVEL 4: Extended Suspension, Expulsion, and Referral – may be appropriate when student's behavior seriously impacts the safety of others in the school.

Inappropriate or Disruptive Behavior	Level 1	Level 2	Level 3	Level 4*	Must be Referred to School Police
ABSENCES (103)					
• Unexcused Absence from School	■				
• Persistent or Excessive Absences from School	■	■			
• Habitual Truancy (e.g. unlawfully absent from school for a number of days in excess of 15%, or 14 days, within any marking period, semester, or year)	■	■			
ACADEMIC DISHONESTY* (801)					
(e.g. cheating or plagiarizing)	■	■			
• Students may receive a failing grade for that assignment					
ALCOHOL* (201)					
• Under the Influence		■	■		
• Using, Possessing, Distributing or Selling (*School staff is required to refer students to appropriate substance abuse counseling)			■	■	■ Only repeat infractions that reach Level 4 may be reported to Police.
ATTACK ON STUDENT (402)					
• No Injury (no visual, physical injuries; includes incidents of domestic violence or relationship disputes)		■	■		
• Bodily Injury for pre-k to Grade 4		■	■		
• Bodily Injury for Grades 5 to 12 (If administrators think Level 4 is warranted for students in Grade 5 to Grade 12, they must contact the executive directors of elementary or secondary schools, or student support services before giving Level 4 consequences)			■	■	■ Only repeat infractions that reach Level 4 may be reported to Police
BOMB THREAT (502)					
• Pre-k to Grade 4			■	■	
• Grades 5 to 12				■	■
BULLYING, INCLUDING CYBERBULLYING AND GANG-RELATED INCIDENTS (407)					
• Intentional conduct, including verbal, physical or written conduct, or electronic communication that is threatening or seriously intimidating and substantially disrupts the orderly operation of a school	■	■			
• Serious Bullying is defined as repeatedly over time engaging in intentional negative behaviors that adversely affect another student's ability to participate in or benefit from the school's education or extra-curricular programs.		■	■	■	
BUS VIOLATIONS (705)					
• Minor disruption on the bus (e.g., eating, drinking, being too loud, standing)	■	■			
• Serious disruption on the bus		■	■		
CLASS CUTTING (101)					
• Failure to appear or attend a scheduled class	■	■			

* Expulsions may be permanent for serious offenses.

INAPPROPRIATE AND DISRUPTIVE BEHAVIORS AND LEVELS OF RESPONSE

KEY: USE LOWEST LEVEL INDICATED FIRST

LEVEL 1: Classroom Support and Student Support Team – may be appropriate when student has no prior incidents and interventions have not been put in place.

LEVEL 2: Intensive Support Staff and Appropriate Administration – may be appropriate when supports have been put in place in the classroom to address behavior but the behavior has continued to negatively impact the learning of the student and others

LEVEL 3: Suspension and Referral – may be appropriate when interventions and supports have been put in place but the behavior is escalating (repeated offenses)

LEVEL 4: Extended Suspension, Expulsion, and Referral – may be appropriate when student's behavior seriously impacts the safety of others in the school.

Inappropriate or Disruptive Behavior	Level 1	Level 2	Level 3	Level 4*	Must be Referred to School Police
CLASSROOM DISRUPTION (704)					
<ul style="list-style-type: none"> Talking out in class or talking out of turn, throwing objects, picking on, bothering, or teasing other students, and other behavior that distracts from student learning 	■	■	■ 1-2 day suspension maximum		
DEFIANCE OF AUTHORITY OR INSUBORDINATION (NON-VIOLENT OR NON-PHYSICAL)					
<ul style="list-style-type: none"> Failure to Follow Directions (807) Failure to Respond to School Staff Questions or Requests (702) 	■	■	■ 1-2 day suspension maximum		
	■	■	■ 1-2 day suspension maximum		
DISRESPECTFUL BEHAVIOR (701)					
<ul style="list-style-type: none"> Making inappropriate gestures, symbols, or comments, or using profane or offensive language Using verbal insults or put-downs, or lying to, misleading or giving false information to school staff 	■	■	■ 1-2 day suspension maximum		
	■	■	■ 1-2 day suspension maximum		
DRESS CODE VIOLATION (807)					
<ul style="list-style-type: none"> Refer to dress code standards listed on pages 28-30 	■	■			
DRUGS OR CONTROLLED SUBSTANCES* (at school, school-sponsored activities or when involved in incidents affecting the safety or welfare of the school community)					
<ul style="list-style-type: none"> Under the influence (203, 892) Using or possessing (203, 892) Distributing or selling (203, 891) 		■	■		
			■	■	■
*School staff is required to refer students to appropriate substance abuse counseling.				■	■
EXTORTION (406) (e.g., taking or attempting to take from another money or property by threat of force, express or implied)					
<ul style="list-style-type: none"> Pre-k to Grade 4 Grades 5 to 12 		■	■		
			■	■	■ Only repeat infractions that reach Level 4 may be reported to Police
FALSE ACTIVATION OF A FIRE ALARM* (502)					
<ul style="list-style-type: none"> Pre-k to Grade 4 Grades 5 to 12 			■	■	
*Students are required to complete a fire safety class.				■	■

* Expulsions may be permanent for serious offenses.

INAPPROPRIATE AND DISRUPTIVE BEHAVIORS AND LEVELS OF RESPONSE

KEY: USE LOWEST LEVEL INDICATED FIRST

LEVEL 1: Classroom Support and Student Support Team – may be appropriate when student has no prior incidents and interventions have not been put in place.

LEVEL 2: Intensive Support Staff and Appropriate Administration – may be appropriate when supports have been put in place in the classroom to address behavior but the behavior has continued to negatively impact the learning of the student and others

LEVEL 3: Suspension and Referral – may be appropriate when interventions and supports have been put in place but the behavior is escalating (repeated offenses)

LEVEL 4: Extended Suspension, Expulsion, and Referral – may be appropriate when student's behavior seriously impacts the safety of others in the school.

Inappropriate or Disruptive Behavior	Level 1	Level 2	Level 3	Level 4*	Must be Referred to School Police
FIGHTING (405)					
▪Physical Aggression with Another Student (e.g., shoving or pushing)	■	■			
▪Minor Fighting (e.g., may include incidents resulting in minor injuries)		■	■		
FIRE SETTING/ARSON* (501)					
*Students are required to complete any mandatory classes offered by the Baltimore City Fire Department				■	■
GAMBLING (807)					
▪Requiring the use of money or exchangeable goods		■	■ 1-2 day suspension maximum		
HALLWAY MISBEHAVIOR (705)					
▪Running, making excessive noise or loitering	■	■			
HARASSMENT BASED ON RACE, ETHNICITY, GENDER, SEXUAL ORIENTATION, DISABILITY, OR RELIGION, INCLUDING CYBER HARASSMENT, AGAINST MEMBERS OF THE SCHOOL COMMUNITY (703)					
▪Minor harassment (e.g., verbal discriminatory actions)	■	■			
▪Serious harassment (e.g., persistent or long-term harassment)		■	■	■	
INCITING OR PARTICIPATING IN DISTURBANCE (705)					
▪Causing a large disruption to the atmosphere of order and discipline in the school that is necessary for effective learning, outside of general classroom disruption, such as a riot		■	■	■	■ Only if School Police Officer is not assigned to school
INHALANTS*					
▪Under the influence (202, 892)		■	■		
▪Using or possessing (202, 892)				■	
▪Distributing or selling (202, 891)			■	■	■ Only repeat infractions that reach Level 4 may be reported to Police
*Medical personnel must be immediately notified if a student is found to be under the influence or using an inhalant. School staff is required to refer students to appropriate substance abuse counseling.				■	■ Only repeat infractions that reach Level 4 may be reported to Police
PHYSICAL CONTACT WITH SCHOOL PERSONNEL (401)					
▪Unintentional physical contact with school personnel	■				
▪Attack against school personnel: physically attacking an employee of City Schools or other adult, including striking a staff member who is intervening in a fight or other disruptive activity (Pre-k to Grade 4)			■	■	■
▪Attack against school personnel (Grades 5 to 12)				■	■

* Expulsions may be permanent for serious offenses.

INAPPROPRIATE AND DISRUPTIVE BEHAVIORS AND LEVELS OF RESPONSE

KEY: USE LOWEST LEVEL INDICATED FIRST

LEVEL 1: Classroom Support and Student Support Team – may be appropriate when student has no prior incidents and interventions have not been put in place.

LEVEL 2: Intensive Support Staff and Appropriate Administration – may be appropriate when supports have been put in place in the classroom to address behavior but the behavior has continued to negatively impact the learning of the student and others

LEVEL 3: Suspension and Referral – may be appropriate when interventions and supports have been put in place but the behavior is escalating (repeated offenses)

LEVEL 4: Extended Suspension, Expulsion, and Referral – may be appropriate when student's behavior seriously impacts the safety of others in the school.

Inappropriate or Disruptive Behavior	Level 1	Level 2	Level 3	Level 4*	Must be Referred to School Police
PORTABLE ELECTRONIC DEVICES USE AT UNAUTHORIZED TIMES* (802)					
<ul style="list-style-type: none"> Use of cell phones, PDAs, iPods, electronic game devices <p><i>*On the first infraction, students must only be given a warning. Only after the first infraction can the student be subject to Level 1 responses. On the second infraction, parent notification must occur.</i></p>	■	■			
PROPERTY DAMAGE, INCLUDING GRAFFITI (806)					
<ul style="list-style-type: none"> Minor or accidental damage (less than \$50) 	■	■			
<ul style="list-style-type: none"> Damage to another person's or school property (\$50 to \$500) 		■	■		
<ul style="list-style-type: none"> Damage to another person's or school property (over \$500) 			■	■	■
REFUSAL TO OBEY SCHOOL POLICIES (807)					
<ul style="list-style-type: none"> Failure to comply with school rules, regulations, policies and or procedures, not otherwise defined in the suspension code; includes toy guns that look like toys. 	■	■	■ 1-2 day suspension maximum		
SCHOOL EQUIPMENT USE WITHOUT PERMISSION (807)					
<ul style="list-style-type: none"> Use of computers, fax machines, phones, etc. 	■	■			
SERIOUS BODILY INJURY (408)					
<ul style="list-style-type: none"> Causing substantial risk of death or causing permanent or serious disfigurement, loss of function of any part of the body, or impairment of the function of any part of the body 				■	■
SEXUAL ASSAULT OR OFFENSE* (601)					
<ul style="list-style-type: none"> Forced sexual act <p><i>*School staff is required to refer students to appropriate counseling</i></p>				■	■
SEXUALLY-BASED INFRACTION					
<ul style="list-style-type: none"> Sexual Harassment (602) (e.g., unwelcome sexual advances, requests for sexual favors, other inappropriate verbal, written, or physical conduct of a sexual nature) 		■	■		
<ul style="list-style-type: none"> Sexual Activity or Sexual Misconduct (603) (e.g., indecent exposure, engaging in sexual activity, etc.) (Pre-k to Grade 4) 	■	■			
<ul style="list-style-type: none"> Sexual Activity or Sexual Misconduct (603) (Grades 5 to 12) 			■	■	
TARDINESS (102)					
<ul style="list-style-type: none"> Persistent or excessive tardiness to class or school 	■	■			
TECHNOLOGY ACCEPTABLE USE POLICY VIOLATION (807)					
<ul style="list-style-type: none"> Please refer to pages 31-32 of this code for details 	■	■			

* Expulsions may be permanent for serious offenses.

INAPPROPRIATE AND DISRUPTIVE BEHAVIORS AND LEVELS OF RESPONSE

KEY: USE LOWEST LEVEL INDICATED FIRST

LEVEL 1: Classroom Support and Student Support Team – may be appropriate when student has no prior incidents and interventions have not been put in place.

LEVEL 2: Intensive Support Staff and Appropriate Administration – may be appropriate when supports have been put in place in the classroom to address behavior but the behavior has continued to negatively impact the learning of the student and others

LEVEL 3: Suspension and Referral – may be appropriate when interventions and supports have been put in place but the behavior is escalating (repeated offenses)

LEVEL 4: Extended Suspension, Expulsion, and Referral – may be appropriate when student's behavior seriously impacts the safety of others in the school.

Inappropriate or Disruptive Behavior	Level 1	Level 2	Level 3	Level 4*	Must be Referred to School Police
THREAT AGAINST SCHOOL PERSONNEL WRITTEN OR VERBAL (403)					
▪ Pre-k to Grade 4	■	■	■		
▪ Grades 5 to 12		■	■	■	■ Only repeat infractions that reach Level 4 may be reported to Police
THEFT (803)					
▪ Less than \$500		■	■		
▪ Greater than \$500 (It is recommended that the police are not to be contacted for students in pre-k or kindergarten)			■	■	■
TOBACCO POSSESSION OR USE* (204)					
*School staff is required to refer students to appropriate substance abuse counseling	■	■			
TRESPASSING (804)					
▪ Being on school property without permission, including while suspended or expelled, includes breaking and entering			■	■	■
UNAUTHORIZED SALE OR DISTRIBUTION (805) (e.g., unauthorized or unapproved selling or distributing of not otherwise included in this code)					
▪ Items with little monetary value (under \$50)	■	■			
▪ Items with significant monetary value		■	■		
VERBAL OR PHYSICAL THREAT TO STUDENT (404)					
▪ Threatening or aggressive language or gestures directed toward another student	■	■	■ 1-2 day suspension maximum		
WEAPONS, FIREARMS AND EXPLOSIVES (at school, school-sponsored activities or when involved in incidents affecting the safety or welfare of the school community)					
▪ Explosives (503, 892)* Possession, sale, distribution, detonation or threat of detonation of an incendiary or explosive material or devise including firecrackers, smoke bombs, flares or any combustible or explosive substances or combination of substance or articles, other than a firearm.				■	■
▪ Firearms (301, 893)* Possession of a firearm as defined in 18 USC 921 of the federal code (e.g., handguns, rifles, shotguns and bombs).				■	■
▪ Other guns (302, 893)* Possession of any gun, of any kind, loaded or unloaded, operable or inoperable, including any object that is a look-alike of a gun, other than a firearm (e.g., BB guns, pellet guns, water guns, etc.).				■	■
▪ Other weapons (303, 893)* Possession of any implement which could cause bodily harm, other firearm, or other gun. *Expulsion for no less than one calendar year is mandated by state law, but can be modified on a case-by-case basis by the CEO				■	■

* Expulsions may be permanent for serious offenses.

COLLABORATIVE AGREEMENT

BIRMINGHAM CITY SCHOOLS COLLABORATIVE

This agreement is entered into between the Birmingham City Schools ("the School System"), the Birmingham Police Department ("BPD"), the Jefferson County Family Court ("the Court"), and the Jefferson County District Attorney's Office for the purpose of establishing a cooperative relationship between community agencies involved in the handling of juveniles who are alleged to have committed a delinquent act over which the school may have disciplinary power.

The Parties agree that students may be held accountable for offenses without referral to the juvenile justice system. Further, the Parties agree that certain misdemeanor delinquent acts, defined in this document as "minor school-based offenses," should generally be handled by the School System, in conjunction with other Parties, without the filing of a complaint in the Court.

I. PURPOSE OF AGREEMENT

The Parties agree that decisions affecting the removal of a student from school grounds, the arrest of a student, the use of chemical or physical restraints on a student, the filing of a legal complaint against a student, and the confinement of a student in secure detention should not be taken lightly. Further, the Parties agree that a cooperative agreement delineating the responsibilities of each party when involved in making such decisions would promote the best interest of the student, the School System, law enforcement and the larger 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, defined in this agreement as minor school-based offenses.

The guidelines in this agreement are intended to establish uniformity in the

handling of a student who is accused of having committed a minor school-based offense, 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.

II. DEFINITIONS

As used in this Agreement, the term:

A. "Student" means an individual enrolled in the Birmingham City School System. The term "Juvenile" is used interchangeably with "Student."

B. "Minor school-based offenses" refer to the following violations of the Birmingham City Code and the Alabama Criminal Code:

- I. Affray, as defined by Birmingham City Code § 11-6-9:
 - (a) It shall be unlawful for two (2) or more persons to engage in any fight or use any blows or violence towards each other in any public place to disturbance of others.
 - (b) On the trial of any person for engaging in an affray, he may give in evidence any opprobrious word or abusive language used by the other participant or participants in such affray at or near the time of the affray and that evidence shall be in extenuation or justification as the municipal judge may determine.
2. Criminal Trespass 3, as defined by § 13A-7-4 of the Alabama Criminal Code:

A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.
3. Assault 3 (not involving a weapon), as defined by Section 13A-6-22(a)(1)-(2):
 - (a) A person commits the crime of assault in the third degree if:
 - (1) With intent to cause physical injury to another person, he causes physical injury to any person; or
 - (2) He recklessly causes physical injury to another person; . . .
4. Disorderly Conduct, as defined by § 13A-11-7 of the Alabama Criminal Code:
 - (a) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:
 - (1) Engages in fighting or in violent tumultuous or threatening behavior; or
 - (2) Makes unreasonable noise; or
 - (3) In a public place uses abusive or obscene language or makes an

obscene gesture; or

- (4) Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- (5) Obstructs vehicular or pedestrian traffic, or a transportation facility; or
- (6) Congregates with other person in a public place and refuses to comply with a lawful order of the police to disperse.

5. Harassment, as defined by § 13A-11-8 of the Alabama Criminal Code:

- (a) (1) HARASSMENT. A person commits the crime of harassment if, with intent to harass, annoy, or alarm another person, he or she either:
 - a. Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact.
 - b. Directs abusive or obscene language or makes an obscene gesture towards another person.
- (2) For purposes of this section, harassment shall include a threat, verbal or nonverbal, made with the intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.

6. Menacing, as defined by § 13A-6-23 of the Alabama Criminal Code, but excluding offenses that involve a weapon:

- (a) A person commits the crime of menacing if, by physical action, he intentionally places or attempts to place another person in fear of imminent serious physical injury.

7. Theft of Property 3, as defined by § 13A-8-5 of the Alabama Criminal Code:

- (a) The theft of property which does not exceed five hundred dollars (\$500) in value and which is not taken from the person of another constitutes theft of property in the third degree.

C. "Intake" is the division of the Court that is responsible for accepting complaints and conducting a review to determine sufficiency, subject matter jurisdiction, and other factors relevant to deciding whether the complaint may be handled informally or should result in a formal petition. Intake is also responsible for determining whether a juvenile should be detained or released.

D. "G. Ross Bell Youth Detention Center" or "GRBYDC" is a secure detention facility located adjacent to the Court at 120 2nd Ct. North. If detention is authorized by Intake or by the Court, a juvenile may be temporarily confined in detention pending a hearing.

E. A "School Resource Officer" or "SRO" is a law enforcement officer who is stationed at one or more schools.

F. "Warning Notice" is a document or form issued to a student as a formal citation for misbehavior that could be charged as a delinquent act. The Warning Notice places a student on notice that he or she may be subject to more severe consequences upon the commission of another similar act, including referral to a mandatory diversion program (upon the second similar offense) or the filing of a formal complaint (upon the third similar offense).

G. "School Conflict Workshop" means a program which shall be used as an alternative to referral to the court. The goal of the Workshop shall be to hold the student accountable and prevent future incidents without referral to the juvenile justice system.

III. TERMS OF AGREEMENT

A. *Graduated Responses to Minor School-Based Offenses*

Subject to the exception described in Subsection **111(8)**, the Parties agree that the commission of a minor school-based offense 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.

The parties agree that the response to the commission of a minor school-based offense 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 Court. The parties agree that a student who commits a minor school-based offense must receive a Warning Notice and a subsequent referral to the School Conflict Workshop before a complaint may be filed in the Juvenile Court.

1. **First Offense.** A student who commits a minor school-based offense may receive a Warning Notice that his or her behavior is a violation of the Alabama Criminal Code or the Birmingham Municipal Code, and that further similar conduct will result in a referral to attend a mandatory School Conflict Workshop. A school official shall have the discretion not to issue a Warning Notice and in the alternative may admonish and counsel or take no action.
2. **Second Offense.** Upon the commission of a subsequent, similar minor school-based offense in the same school year, a school official shall have the discretion to admonish and counsel, to issue a second Warning Notice, or to require the student **and** parent/guardian to attend the School Conflict Workshop.
 - a. **Referral to School Conflict Workshop.** When a student is referred for participation in the School Conflict Workshop,

the school official shall also issue a Warning Notice alerting the child and his or her parent/guardian that any additional similar minor school-based offenses will result in the filing of a complaint in juvenile court. If the student does not attend the next School Conflict Workshop, the school is authorized to file a complaint based on the incident underlying the referral to the Workshop.

- b. **Responsibility for School Conflict Workshop.** The Court shall develop and take all necessary steps to implement and maintain a School Conflict Workshop. The Workshop will be offered at no cost to students, parents/guardians, or any of the Parties to this agreement. The School Conflict Workshop will be offered at least once per month, will be staffed by Court personnel or their designees, and will include at least two hours of instruction. A representative of the School System will attend each meeting in order to oversee attendance at the Workshop.
3. **Third or subsequent offense.** A student who commits a third or subsequent minor school-based offense during the school year may be referred to the Court by the filing of a complaint. **The filing of a complaint does not require that a child be taken into custody.** Before an SRO makes an arrest for a minor school-based offense, the SRO must witness the offense and receive documentation from the school that the student has previously received a Warning Notice and a referral to the School Conflict Workshop for a similar offense committed earlier in that school year. Each individual school is responsible for maintaining records sufficient to document compliance with this Agreement.

B. Exceptional Circumstances

Notwithstanding the graduated response system outlined in Subsection III(A), an SRO has the discretion to make an arrest and file a complaint against a student in exceptional circumstances. This provision is subject to the laws of arrest, which prohibit warrantless arrests for misdemeanors and violations not witnessed by the arresting officer.

DURATION AND MODIFICATION OF AGREEMENT

This Agreement shall become effective January 1, 2010 and shall remain in full force and effect until such time as the Agreement is modified. The Agreement may be modified at any time by amendment to the Agreement. The Parties acknowledge and agree to meet on a quarterly basis to review to provide oversight of the Agreement, review relevant statistics, 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 this the ____ day of _____ 2009.

Barbara Allen
Superintendent
Birmingham City School System

A.C. Roper
Chief of Police
Birmingham Police Department

Jeff McGee
Court Administrator & Chief Juvenile Probation Officer
Jefferson County Family Court

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), 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 delinquent acts against public order and other misdemeanor delinquent acts defined herein 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 a delinquent act 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. The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of delinquent acts against public order 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 or appropriately placed in a non-secured or staff-secured setting. The parties acknowledge that the prior Agreement remains in full force and effect and is interrelated to this Agreement as part of the Juvenile Detention Alternative Initiative and Collaborative of Clayton County, Georgia.

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. "Citation" 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.

III. TERMS OF AGREEMENT

A. Procedure for Detention Decision.

Upon charging a juvenile with a delinquent act, the police officer may release the juvenile to a parent or contact Intake for a decision to place the juvenile in the RYDC, or other placement as determined by Intake. The police officer does not require approval from Intake to release to a parent if the police officer, in his or her discretion, believes the juvenile does not pose a serious risk of injury to the person or property of others. If the police officer believes the child may pose serious injury, or is not sure and requires a decision from Intake, the police officer shall contact Intake by phone to provide the necessary information for Intake to determine if the juvenile requires detention. If the juvenile does not require detention, the police officer shall release to the parent or the

school. Under no circumstances shall the police officer transport the juvenile to the RYDC or to Intake unless bona fide attempts to locate the parent are unsuccessful and Intake has given permission for the transport of the juvenile to Intake or the RYDC or Intake has found special circumstances for the transport of the juvenile to Intake or the RYDC.

Upon receiving a call from a police officer regarding a detention decision, Intake shall respond immediately and provide a detention decision within ten (10) minutes of receipt of the call. If unforeseen circumstances arise that cause a delay in the response to the police officer, Intake shall contact the police officer before the expiration of the ten (10) minutes to explain the delay and give an estimated time for the decision. Under no circumstances shall the decision be delayed for more than twenty (20) minutes. Any delays should be reported by the police officer to the Intake Supervisor or the Chief Probation Officer. The police officer shall not contact the judge for a detention decision unless the police officer cannot contact Intake. The parties acknowledge that the judge does not always have immediate access to the information required to make an appropriate and fair detention decision, and that all juveniles shall be afforded the same assessment procedure to ensure equity and fair treatment of all juveniles coming in contact with law enforcement, public school system, and the Court.

Upon receiving a call from a police officer for a detention decision, Intake shall immediately follow the procedure set forth by the policy on detention decision- making in delinquent cases that require the completion of the Detention Screening Instrument (DSI) and the Detention Assessment Questionnaire. The parties acknowledge and agree that a juvenile scoring low risk shall be released without conditions unless there sufficient aggravating circumstances exist to impose conditions or detention. The parties further acknowledge

and agree that a juvenile scoring medium risk shall be released with conditions unless sufficient mitigating factors exist to release without conditions or sufficient aggravating factors exist to detain the juvenile. The parties further acknowledge and agree that a juvenile scoring high risk shall be detained unless sufficient mitigating factors exist to release the juvenile. The parties further acknowledge and agree that the Court has several alternative detention programs for the monitoring of juveniles who require a conditional release pending the next hearing that include, and may not be limited to, electronic monitoring, wrap-around services, Behavior Aide in the home, and Evening Reporting Centers. The Parties acknowledge and agree that absent a juvenile posing a risk of serious bodily injury to others, express threat to flee the jurisdiction of the court, or a request by the juvenile to be detained for his or her own protection due to threats by others in the community, it is illegal and not a method of best practice to incarcerate a juvenile in a secure facility.

B. 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.

C. Citation and Referral Prerequisites to Complaint in Certain Cases.

Misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (not involving resisting arrest), 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 offenses against public order 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 must receive a citation and a subsequent referral to the School Conflict Diversion Program before a complaint may be filed in the Juvenile Court, except in cases involving delinquent acts that do not include offenses against public order and the SRO has followed the procedures set forth by his or her supervisor in determining if a complaint should be filed. An SRO shall not serve a citation 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 may receive a citation upon the commission of an offense against public order warning the student 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 citation 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 similar offense against public order in a school year, the student may be referred to Intake using a citation 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 citation 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 any previous school year and the student has committed a similar offense against the public order, the student may receive a citation 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.

- D. 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.

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, Chief Judge Juvenile Court of Clayton County	Cathy Ratti, Director Clayton County Department of Family and Children Services
Dr. Barbara Pulliam, Superintendent Clayton County Public School System	Neal Kaltenecker, Regional Director Georgia Department of Juvenile Justice
Darrell Partain, Chief Clayton County Police Department	Robert E. Keller, District Attorney Clayton Judicial Circuit
Dwayne Hobbs, 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	

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