

# ***The Discipline Dish***

---

**Bimonthly newsletter about the school-to-prison pipeline in Wake County**  
**July/August 2011**

---

## **Background**

The school-to-prison pipeline is a system of laws, policies, and practices that pushes students out of schools and into the juvenile and criminal justice systems. Unmet educational needs (including special education), academic failure, high-stakes testing, excessive use of suspension and expulsion, over-policing, excessive school-based arrests and court referrals, and a lack of interventions and alternatives all contribute to students ending up in the pipeline.

Wake County has one of the largest school-to-prison pipelines in the nation. Last school year (2009-2010), the Wake County Public School System (WCPSS) had:

- 19,392 short-term suspensions (lasting one to 10 school days), 837 long-term suspensions (lasting the rest of the school year), ten 365-day suspensions, and ten expulsions (permanent removal from the school system);
- 54 law enforcement officers, six security investigators, and dozens of private security guards assigned full-time to public schools;
- 648 school-based court referrals for students age 15 and younger (WCPSS does not track the number of school-based arrests and criminal court referrals for students age 16 and older); and
- Huge racial disparities—e.g., Black students represented 26% of students in WCPSS, but received 61% of short-term suspensions, 63% of long-term suspensions, 80% of 365-day suspensions, 80% of expulsions, and 63% of school-based delinquency complaints.

For more background on the school-to-prison pipeline, visit [www.legalaidnc.org/acs](http://www.legalaidnc.org/acs).

Inside this newsletter:

- p. 2: Revisions to the Student Code of Conduct
- p. 6: Board Considers School Resource Officers
- p. 7: WCPSS Appeals Superior Court Ruling Against Suspension
- p. 7: The Wake Help Initiative: A Network of Support
- p. 8: Office for Civil Rights Visits Wake County
- p. 9: Revision of NC's School Discipline Law
- p. 10: U.S. Supreme Court Rules in Favor of NC Student Interrogated at School
- p. 11: Parent's Piece
- p. 12: Words of Wisdom
- p. 13: About *The Discipline Dish*

## REVISIONS TO THE STUDENT CODE OF CONDUCT

After nearly a decade of having one of the largest school-to-prison pipelines in the nation, the WCPSS is starting to change some of its discipline policies and practices. In September 2010, the Board of Education (BOE) changed the definition of long-term suspension from always being for the rest of the school year to more than ten school days (see the November/December edition for more information). Additionally, the district plans to expand the number of alternative learning program seats (see the May/June edition for more information). Also, Superintendent Tata established a "behavior advisory council," which met for the first time on April 27, 2011. Finally, community members are playing a larger role in school discipline policy conversations and gaining seats on WCPSS committees, task forces, and professional learning teams (PLTs).

The WCPSS is also revising the Student Code of Conduct (SCC). The process started nearly a year ago and was supposed to be completed by January 2011. For approximately eight months (roughly August 2010 to March 2011), the SCC was edited without public participation, primarily by WCPSS Board Attorney, Ann Majestic, and WCPSS Student Due Process Officer, Victoria Curtis.

The first time any member of the public saw a draft of the revised SCC was at the Suspension PLT meeting on April 11, 2011. Representatives from three community-based organizations (CBOs) serve on the Suspension PLT: Advocates for Children's Services, Great Schools in Wake, and the YWCA of the Greater Triangle. During the meeting, Suspension PLT members were given only thirty minutes to provide edits and comments.



A draft of the SCC was then presented to the BOE at the April 26 work session. Ms. Majestic called the revisions **"the first real, substantial change in the code of conduct in 30 years."** Donna Hargens, WCPSS Chief Academic Officer, told BOE members, "When we looked at our data, **it was clear that we were suspending too many students.**" Dr. McLaurin (a member of the WCPSS BOE) asked about tiering offenses by age or grade level (the offenses were leveled by severity). Mr. Tedesco (a member of the WCPSS BOE) noted that the revised SCC did not mention more positive alternatives to suspension. Moreover, the draft presented to the BOE on April 26 incorporated virtually none of the feedback that was provided during the April 11 Suspension PLT. Therefore, on May 1, representatives from the CBOs that serve on the Suspension PLT sent a letter to WCPSS staff, Ann Majestic, Superintendent Tata, and BOE members outlining their concerns with the SCC.

The SCC was then discussed at the May 3 BOE work session. Mr. Tedesco mentioned that the policy needed further review. Mr. Margiotta (a member of the WCPSS BOE) agreed. At the BOE meeting on the same day, staff requested BOE approval for first reading. However, Mr. Tedesco proposed postponing the vote because more improvements were needed. Several BOE members agreed with him. Consequently, first reading of the SCC was removed from the meeting agenda.

The next round of community input occurred during the May 5 Economically Disadvantaged Student Performance Task Force meeting. Ms. Curtis provided an overview of the changes. Then, attendees were given a copy of the SCC and worked in groups for approximately thirty minutes to provide written and oral feedback. The written edits and comments were collected and provided to Ms. Curtis. Many of the concerns raised by the Task Force members mirrored the feedback previously provided by representatives from the CBOs on the Suspension PLT.

On June 1, the CBO representatives sent a second letter to WCPSS staff, Ms. Majestic, Superintendent Tata, and BOE members. They provided both general feedback and very specific edits to

the SCC. They also sent examples of better policies from nine school districts across the country. The list of concerns included that the SCC:

- Did not have a category of offenses for which suspension is never allowed (e.g., for tardiness and truancy);
- Did not tier offenses by age or grade level (i.e., different consequences based on whether a student is in elementary school, middle school, or high school);
- Did not limit the length of suspension for each tier (under the policy as it was written, one student could get suspended for 11 school days for a minor fight while another student could get suspended for 179 school days for a similar minor fight)
- Did not require school administrators, hearing panels or officers, and the Board of Education to consider mitigating factors before suspending students or upholding suspensions during the appeals process;
- Did not have a section on students' rights;
- Did not have a section on interventions and alternatives to out-of-school suspension;
- Was written in a negative tone, contrary to the principles of positive behavior interventions and supports (PBIS);
- Contained difficult words, superfluous language, and complex sentences, despite the fact that parents and students are expected to read, understand, and sign it; and
- Was too broad and vague in many places, which allows for excessive subjectivity and discretion for administrators, and ultimately, zero tolerance practices, racial disparities, and large differences in suspension rates among schools across the district.



At the June 7 BOE meeting, changes to the SCC were again discussed. The conversation focused on who should hear the first level of appeal of recommendations for long-term suspension and expulsion. For years, a student appealing a principal's recommendation for long-term suspension had the first level of appeal at the school he or she attended (called a "school-based hearing"). At the school-based hearing, three teachers, all of whom worked at the school and were supervised by the principal seeking the long-term suspension, decided, by majority vote, whether to agree with the principal's recommendation. Moreover, the principal seeking the long-term suspension chose two of the teachers, while the student was only allowed to choose one. Therefore, the school-based

hearings were biased in favor of the principal and fundamentally unfair before they even began. However, the new state school discipline law reads: "Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension" (see article below for more information).

Ann Majestic suggested, in her presentation to the BOE and in the revised SCC, that, in order to comply with the new statute, one person (a "hearing officer") be assigned to hear all initial appeals of long-term suspensions and expulsions. She also recommended limiting the appeal process to two levels--a hearing officer and the Board. The current process is three levels--a hearing panel, the Superintendent, and the Board. The only evidence Ms. Majestic offered in favor of the one hearing officer model (and to support her claim that "it's tried and true") was a conversation she had with a "counterpart" in Guilford County. Unsurprisingly, the "counterpart" said that the model they use works. In response, Mr. Tedesco and Mr. Sutton (a member of the WCPSS BOE) expressed serious concerns about a single person judging the appeal and wielding so much power. Mr. Tedesco noted his concern about students losing "access to a broader collection of open minds" and "people to see the situation from different mind sets." Finally, Ms. Majestic added that the BOE could select a hearing panel option with, for example, teachers or administrators from another school. Mr. Margiotta replied, "Or we could use someone from the outside," correctly completing



the fuller range of options. Ms. Majestic said: "Our hope was to create a shorter system, a simplified system, a faster system." She repeatedly emphasized the need for efficiency and simplification, and raised issues of "manpower," logistics, management, and resources. The BOE members appeared to be more concerned with creating a fairer system that produces more just results. Dr. Morrison (a member of the WCPSS BOE) said: "It seems like it's money well-spent." Dr. McLaurin asked for examples of how hearings are handled in other states.

Ms. Majestic asked the BOE to approve the revised SCC on first reading and waive second reading, a move that would have prevented additional dialogue, reflection by Board members, and community input. Fortunately, the BOE chose the more thoughtful approach--to not vote until after second reading.

Next, the SCC was discussed at the June 21 BOE work session. Dr. Morrison was the most outspoken critic of the revisions as they were currently drafted. During the work session, she:

- Noted that the term "aggravating factors" was used in the SCC but not defined and most students would not know what it means;
- Expressed concern about the excessiveness of suspending students for incidents that occur off-campus;
- Pointed out the logically inconsistent fact that truancy is punishable by suspension;
- (Along with Ms. Prickett, and Mr. Tedesco) raised concerns about the complexity of the language used in the SCC, given that all students and parents are expected to read and follow the rules;
- Said, "I like the idea of restorative justice not just punishment...We really need to be building the children up, not knocking them down;" and
- Suggested that the SCC have more tiering with limited suspension lengths, mandatory interventions, a category in which suspension is never allowed, and a requirement that administrators consider mitigating factors.



Dr. Morrison, Mr. Tedesco, and Superintendent Tata reminded others in attendance that the CBO representatives on the Suspension PLT provided good examples from other school districts. Superintendent Tata told Ms. Majestic that they owe it to the BOE to provide an explanation about what was included, what was not included, and why. Dr. McLaurin asked Ms. Majestic, "Why not do it,

right?...Why create a document we know we're going to correct?" Ms. Majestic said, "I think there's nothing wrong with the policy, as to these changes as proposed, but there are refinements that certainly can be made, will be made. Some of it may be in wording and tone. Some of it may be in the level...Every year we've done some improvements on the student code of conduct." However, at the April 26 BOE work session, Ms. Majestic told BOE members that they were working on the "the first real, substantial change in the code of conduct in 30 years." Dr. Morrison requested a report, by the next BOE meeting, about how changes to the SCC are being handled; and asked if a committee could start working immediately on additional revisions to be in place by the beginning of the 2012-13 school year.

At the June 21 BOE meeting, staff asked the BOE to approve the SCC on first reading and waive second reading. After Ms. Majestic gave a brief statement, Dr. Morrison started the discussion by saying, "I'd like to speak against the waiver of the second reading. I think we need a second reading of this. And I think we need to work with the PLT and Task Force and change the minor things that they've recommended because they really make sense." Mr. Tedesco agreed. Ms. Majestic responded: "It's just going to create a delay." She later added that if the BOE did not waive second reading, the policies would not be "updated in time for school to open." Mr. Tedesco responded:

"Couldn't we just do what we have been doing for this whole past year, and that is maintain our policies as suspended for another month...There were some Board members who are still not comfortable with seeing where are the answers to some of

the questions we're still asking...do you want it done right or do you want it done fast, and I tend to think you can do both...to push this through knowing there's an opportunity to make sure we have it a little bit better, and then maybe see that fall on the back burner, would be a bit disappointing..."



Mr. Sutton made a motion to pass the revisions through first reading. Mr. Malone (a member of the WCPSS BOE) seconded the motion. Only Dr. Morrison and Dr. McLaurin voted to not pass the policy through first reading. Dr. Morrison explained her objection by saying, "...it's not right yet. I haven't seen it corrected yet." Mr. Margiotta encouraged the BOE to waive second reading. Then, Mr. Sutton made a motion to waive second reading. Again, Mr. Malone seconded the motion. Ms. Prickett (a member of the WCPSS BOE) voted with Mr. Sutton and Mr. Malone. However, the remaining BOE members--Dr.

Morrison, Mr. Tedesco, Mr. Hill (a member of the WCPSS BOE), Ms. Goldman (a member of the WCPSS BOE), and Dr. McLaurin--all voted to take the more thoughtful approach and not waive second reading.

The SCC will once again be on the agenda at the July 12 BOE work session and meeting. It remains to be seen whether the issues raised by the CBO representatives on the Suspension PLT, the members of the ED Task Force, and the BOE members will be addressed by staff and Ms. Majestic, and more importantly, whether the WCPSS' new SCC will be a dramatic improvement and a national model.

For coverage of the changes visit:

- *Looking at Retired Teachers to Hear Suspension Recommendations*, The News & Observer, June 21, 2011, <http://blogs.newsobserver.com/wakeed/looking-at-retired-teachers-to-hear-suspension-recommendations>
- *Debating Who Should Hear Recommendations for Long-Term Suspensions*, The News & Observer, June 8, 2011, <http://blogs.newsobserver.com/wakeed/debating-who-should-hear-recommendations-for-long-term-suspensions>
- *Reorganizing Staff and Changing Discipline Policies*, The News & Observer, June 7, 2011, <http://blogs.newsobserver.com/wakeed/reorganizing-staff-and-changing-discipline-policies>
- *More Schools Rethinking Zero Tolerance Discipline Stand*, The Washington Post, June 1, 2011, [www.washingtonpost.com/local/education/more-schools-are-rethinking-zero-tolerance/2011/05/26/AGS1KmGH\\_story.html](http://www.washingtonpost.com/local/education/more-schools-are-rethinking-zero-tolerance/2011/05/26/AGS1KmGH_story.html)
- *Wake Proposes More Student Discipline Changes*, The News & Observer, May 17, 2011, [www.newsobserver.com/2011/05/17/1204948/wake-proposes-more-student-discipline.html](http://www.newsobserver.com/2011/05/17/1204948/wake-proposes-more-student-discipline.html)
- *Additional Revisions Proposed to Code of Student Conduct*, The News & Observer, May 17, 2011, <http://blogs.newsobserver.com/wakeed/additional-revisions-proposed-to-code-of-student-conduct>
- *Proposing More Revisions to the Code of Student Conduct*, The News & Observer, May 5, 2011, <http://blogs.newsobserver.com/wakeed/proposing-more-revisions-to-the-code-of-student-conduct>
- *ED Task Force to Review Student Discipline Policy Changes*, The News & Observer, May 5, 2011, <http://blogs.newsobserver.com/wakeed/ed-task-force-to-review-student-discipline-policy-changes>
- *Second Chances*, The News & Observer, May 3, 2011, [www.newsobserver.com/2011/05/03/1170868/second-chances.html](http://www.newsobserver.com/2011/05/03/1170868/second-chances.html)
- *Wake Schools Soften on Zero Tolerance*, The News & Observer, May 2, 2011, [www.newsobserver.com/2011/05/02/1168743/wake-softens-on-zero-tolerance.html](http://www.newsobserver.com/2011/05/02/1168743/wake-softens-on-zero-tolerance.html)
- *Wake to Overhaul Student Discipline Policies*, The News & Observer, May 2, 2011, <http://blogs.newsobserver.com/wakeed/wake-to-overhaul-student-discipline-policies>

## BOARD CONSIDERS SCHOOL RESOURCE OFFICERS

On the heels of a middle school female student being TASERed by a school resource officer (SRO), a revealing report by Advocates for Children's Services documenting the costs of SROs in the WCPSS, a United States Supreme Court decision in a North Carolina-based case related to interrogations of students, and budget problems, the WCPSS is starting to look more carefully at its SRO program.

At the April 26 work session, various BOE members commented on SROs in the WCPSS. Dr. McLaurin said there should be uniform standards for SROs. Mr. Tedesco expressed concern about use of force. Mr. Sutton raised the need to review the use of SROs and protection of students' rights.

At the June 7, 2011 BOE meeting, WCPSS staff requested: \$113,514 to pay for SROs at Cary High School, Middle Creek High School, Green Hope High School, and Panther Creek High School. The staff also requested \$340,542 to pay for SROs at 10 additional high schools: Athens Drive, Millbrook, Leesville Road, Broughton, Sanderson, Enloe, Southeast Raleigh, Longview, Mary Phillips, and Wakefield.



Russ Smith, the WCPSS Security Director, presented the request to the BOE. He revealed that each of the 54 WCPSS SROs costs taxpayers approximately \$80,000, including salary, benefits, training, and equipment. According to Mr. Smith, approximately 80% of SRO funding comes from local tax dollars, and the remaining amount comes from state tax dollars. He also testified that the WCPSS has a five-year (though 2014) memorandum of understanding (MOU) with the local law enforcement agencies that provide SROs, and that the MOU can be reviewed at any time and voided with 30 days notice.

Mr. Tedesco expressed concern about moving forward with the contracts without having first evaluated SROs. He noted that the BOE could lose its sense of urgency about SRO reform, if the contracts were approved. Dr. McLaurin added that WCPSS needs to figure out if SROs have the training they need to be in schools and what kind of difference they make. Mr. Sutton called for the district to also look at the use of force and referrals to the court system. Dr. Morrison said: "There's one theory that discipline means to punish. And there's another theory that discipline means to learn from your mistake. And that seems to be what we're missing here. If they're just punishing, it's not good." Mr. Margiotta stated: "It is my opinion that our resource officers—the entire program—needs a good, strong evaluation and I think that's something that should be undertaken." (However, according to *The News & Observer* WakeEd Blog, Mr. Margiotta said the following on a June 6 radio show: "I have some serious concerns with the fact that we're even considering making any changes...Hopefully we will retain the resource officers in the positions that they're in...in the same manner that they're working...I think my understanding of the training that these resource officers receive, the performance of the officers in the schools have never created any problems." He also said the SRO review was taking place because of "some outside groups that would like to see no resource officers in the schools. Or, if they'd like to see them in the schools, they would like to see them perform, in a bit of an exaggeration, but as nurses or nursemaids.")

Nevertheless, the contracts passed after Mr. Sutton moved to approve them and Mr. Hill seconded the motion. However, first the BOE asked Superintendent Tata to conduct a study of SROs. Superintendent Tata agreed to report his findings to the BOE within three months.

For Advocates for Children's Services February 2011 report on SROs in the WCPSS, visit:

- [www.legalaidnc.org/public/learn/statewide\\_projects/acs/ACS\\_Publications/IssueBrief\\_Feb-11\\_LawEnforcementOfficersInWakCountySchools-Human-Educ-FinancialCosts.pdf](http://www.legalaidnc.org/public/learn/statewide_projects/acs/ACS_Publications/IssueBrief_Feb-11_LawEnforcementOfficersInWakCountySchools-Human-Educ-FinancialCosts.pdf)

For the MOU among the WCPSS and the local law enforcement agencies providing SROs, visit:

- [www.newsobserver.com/content/media/2011/7/2/SRO.pdf](http://www.newsobserver.com/content/media/2011/7/2/SRO.pdf)

For coverage of the review, visit:

- *Ron Margiotta on the School Resource Officer Program*, The News & Observer, July 8, 2011, <http://blogs.newsobserver.com/wakeed/ron-margiotta-on-the-school-resource-officer-program>
- *Wake Schools Review Resource Officers*, The News & Observer, July 5, 2011, [www.newsobserver.com/2011/07/05/1321137/schools-review-resource-officers.html](http://www.newsobserver.com/2011/07/05/1321137/schools-review-resource-officers.html)
- *Wake Reviewing the School Resource Officer Program*, The News & Observer, July 5, 2011, <http://blogs.newsobserver.com/wakeed/wake-reviewing-the-school-resource-officer-program>
- *School Board Agrees to SRO Contracts with Raleigh and Cary*, The News & Observer, June 7, 2011, <http://blogs.newsobserver.com/wakeed/school-board-agrees-to-sro-contracts-with-raleigh-and-cary>

## **WCPSS APPEALS SUPERIOR COURT RULING AGAINST SUSPENSION**

In September 2009, the WCPSS long-term suspended a ninth grade Millbrook High School student for a fight that occurred at or near a bus stop before school. The student appealed to the Superintendent and BOE; both upheld the long-term suspension. The case was then appealed to the Wake County Superior Court.

In March 2011, Judge Carl Fox ruled that the WCPSS should not have suspended the student. He reasoned that the BOE did not have jurisdiction to suspend the student because the incident did not occur in school, on school property, at a school-sponsored event, or at a related school activity. Ultimately, Judge Fox reversed the decision by the BOE to uphold the long-term suspension and ordered the BOE to remove any reference to the misconduct from the student's records (see the May/June edition for more information). Now, nearly two years after the initial long-term suspension, the WCPSS is appealing the Superior Court ruling. The appeal will likely cost taxpayers thousands of dollars.

For Judge Fox's order, visit:

- [www.newsobserver.com/content/media/2011/3/23/courtorder.pdf](http://www.newsobserver.com/content/media/2011/3/23/courtorder.pdf)

For coverage of the case, visit:

- *Allowing Suspensions for Incidents at School Bus Stops*, The News & Observer, May 20, 2011, <http://blogs.newsobserver.com/wakeed/allowing-suspensions-for-incidents-at-school-bus-stops>
- *Judge Rules in Favor of Wake Student Suspended for Fighting*, The News & Observer, March 22, 2011, [www.newsobserver.com/2011/03/22/v-print/1071608/judge-rules-in-favor-of-student.html](http://www.newsobserver.com/2011/03/22/v-print/1071608/judge-rules-in-favor-of-student.html)
- *Judge Rules Wake Can't Suspend Student for Fight at Bus Stop*, The News & Observer, March 22, 2011, <http://blogs.newsobserver.com/wakeed/judge-rules-wake-cant-suspend-student-for-fight-at-bus-stop>

## **THE WAKE HELP INITIATIVE: A NETWORK OF SUPPORT**

*Submitted by Carly Campbell, Wake Help Initiative Coordinator, YWCA of the Greater Triangle*

The Wake Help Initiative (WHI) is a resource for families in the WCPSS. Through the WHI telephone (919-576-WAKE(9253)) and email ([wakehelp@gmail.com](mailto:wakehelp@gmail.com)) hotlines, we connect families with peer supporters who are trained as advocates. Peer supporters work with families to navigate the school system and advocate for their rights. When the families' issues are resolved, they can participate in trainings to become peer supporters themselves. The WHI facilitates the transformation from client to advocate, and weaves together a network of support for families in Wake County.

The WHI grew out of the Parent Advocacy Work Group (PAWG), a People of Color-led grassroots group working to strengthen a community of confident, informed, and effective parent advocates for justice and equity in public education. WHI is connected to the YWCA of the Greater Triangle, which is actively engaged in efforts to empower families and address structural inequality in the

WCPSS. Peer supporters include members of the PAWG and other education justice advocates in Wake County.

On June 15th, we held a wonderful orientation and training for 12 WHI peer supporters. The collective wisdom in the room was palpable, and many of the participants had already been acting as advocates for their families and communities. The peer supporters were able to share their experiences in the WCPSS, like facing discrimination and having unmet special education needs. We expanded our knowledge about the school system as we learned about individualized education programs (IEPs), personal education plans (PEPs), long-term suspension, and how to file a grievance. We also discussed different methods for addressing these issues and protecting families' rights.

Interested in becoming a WHI Peer Supporter? Well, you are in luck! There will be another WHI Peer Supporter training on Thursday, July 21st! Please contact the WHI Coordinator at [wakehelp@gmail.com](mailto:wakehelp@gmail.com) or 919-265-4645, if you are interested in coming to the training and/or getting involved with the WHI. You can also contact the Coordinator if you would like to help us distribute "Know Your Rights in Schools" cards in English and Spanish, which include contact information and the website ([www.wakehelp.org](http://www.wakehelp.org)) for the WHI

The power of the WHI comes from the experience, dedication, and knowledge of families themselves. The WHI lifts up the leadership and advocacy roles that parents play every day, as we hone those skills and expand our network of support. In the words of June Jordan, "We are the ones we've been waiting for."

## OFFICE FOR CIVIL RIGHTS VISITS WAKE COUNTY



On September 24, 2010, the NAACP, NC HEAT (Heroes Emerging Among Teens), and others filed a Title VI complaint with the U.S. Department of Education, Office for Civil Rights (OCR) against WCPSS, alleging, among other things, that its discipline system has a discriminatory impact on Black students. The Complainants are represented by NAACP attorneys along with attorneys from the Southern Coalition for Social Justice, the UNC Center for Civil Rights, and the North Carolina Justice Center. The Complaint includes data showing that Black students are grossly overrepresented in WCPSS' school-to-prison pipeline.

During the 2009-10 school year, Black students continued to be extremely over-represented among suspended students. They were 25.9% of all students, yet 57.6% of students who received at least one suspension. They were 6.0 times more likely than White students to receive a short-term suspension and 6.9 times more likely than White students to receive a long-term suspension. They also were given 80.0% of 365-day suspensions and 80.0% of expulsions. Finally, 17.0% of all Black students received at least one suspension or expulsion, compared to 3.4% of White students.

On May 4, 2011, a meeting was held at Martin Street Baptist Church in Raleigh. Approximately 200 people filled the fellowship hall. About thirty attendees testified--most of whom spoke in support of the claims of discrimination--before a handful of lawyers from OCR. OCR may visit Wake County again and is still actively investigating the complaint.

For the full text of the complaint, visit:

- <http://pulse.ncpolicywatch.org/2010/09/28/understanding-the-complaint-filed-against-the-wakecounty-schools/>

For a summary of the complaint, visit:

- <http://wakeupwakecounty.com/cms/page/title-vi-complaint-against-wake-county-public-schoolsschool-board>

For coverage of the visit from OCR, visit:

- *Wake Turns Down Offer to Host Meeting for OCR*, The News & Observer, May 9, 2011, <http://blogs.newsobserver.com/wakeed/wake-turns-down-offer-to-host-meeting-for-ocr>
- *Wake Schools Decline Offer for Second Public Meeting*, The News & Observer, May 7, 2011, [www.newsobserver.com/2011/05/07/1181140/schools-decline-offer-for-second.html](http://www.newsobserver.com/2011/05/07/1181140/schools-decline-offer-for-second.html)
- *Civil Rights Panel Get an Earful on Wake Schools*, The News & Observer, May 5, 2011, [www.newsobserver.com/2011/05/05/1176189/passion-spills-at-schools-hearing.html](http://www.newsobserver.com/2011/05/05/1176189/passion-spills-at-schools-hearing.html)
- *Heated Words Used at ORC Meeting*, The News & Observer, May 5, 2011, <http://blogs.newsobserver.com/wakeed/heated-words-used-at-ocr-meeting>
- *Defending Holding the OCR Meeting at Martin Street Baptist*, The News & Observer, May 4, 2011, <http://blogs.newsobserver.com/wakeed/defending-holding-the-ocr-meeting-at-martin-street-baptist>
- *Federal Civil Rights Investigators Hear Community Thoughts on Wake Schools*, WRAL, May 4, 2011, [www.wral.com/news/education/wake\\_county\\_schools/story/9549396/](http://www.wral.com/news/education/wake_county_schools/story/9549396/)
- *Wake Questioning Fairness of Wednesdays OCR Meeting*, The News & Observer, May 2, 2011, <http://blogs.newsobserver.com/wakeed/wake-questioning-fairness-of-wednesdays-ocr-meeting>
- *Tedesco Objects to Meeting Venue*, The News & Observer, April 29, 2011, [www.newsobserver.com/2011/04/29/1161784/tesesco-objects-to-meeting-venue.html](http://www.newsobserver.com/2011/04/29/1161784/tesesco-objects-to-meeting-venue.html)
- *Questioning Holding the OCR Public Meeting at Martin Street Baptist*, The News & Observer, April 29, 2011, <http://blogs.newsobserver.com/wakeed/questioning-holding-the-ocr-public-meeting-at-martin-street-baptist>
- *Feds to Hold Public Meeting in Raleigh Next Week on Complaint Against Wake*, The News & Observer, April 26, 2011, <http://blogs.newsobserver.com/wakeed/feds-to-hold-public-meeting-in-raleigh-next-week-on-complaint-against-wake>

## REVISION OF NC'S SCHOOL DISCIPLINE LAW

Submitted by Chris Hill, Education and Law Project Director, North Carolina Justice Center



This past legislative session saw a revision of the law regarding school discipline. Governor Bev Perdue signed House Bill 736 on June 23, 2011 and it became Session Law 2011-282. The law makes several changes to codify court cases and clarify certain issues. It should also be noted that Senate Bill 498, which deals with corporal punishment, was also signed into law by Governor Perdue. This law allows parents to opt out of having corporal punishment administered to their child. Because of legislative procedure, this law will now be inserted into the school discipline revision.

Some of the features of the new school discipline law are as follows:

- The new law defines terms that were either absent or unclear.
- Local school boards may only create policies which discipline students for off-campus actions if there is an immediate and direct effect to school safety and order.
- Policies cannot be created to keep a superintendent from taking mitigating and aggravating factors into consideration when suspending a student.
- Long-term suspension may only be used for serious misconduct.
- Reasonable force may only be used in specified instances.
- A local board of education may allow appeals of short-term suspensions.

- If the school is aware that the student's parent's or guardian's first language is not English, and resources are readily available, a long-term suspension notice has to be written in the parent's or guardian's primary language, as well as English.
- Students who receive long-term suspensions must be offered the services of an alternative education unless the superintendent presents a significant or important reason for not doing so.
- Students who are expelled or suspended for 365 days may request to be readmitted every six months.

Hopefully, the revision in the law will make it easier for laypersons and lawyers to navigate the school discipline statute. Of course, students' rights advocates are hopeful that the revision will lead to fewer suspensions, fewer expulsions, and fewer uses of corporal punishment.

For the text of the revised state school discipline statute, visit:

- [www.ncga.state.nc.us/Sessions/2011/Bills/House/PDF/H736v7.pdf](http://www.ncga.state.nc.us/Sessions/2011/Bills/House/PDF/H736v7.pdf)

For coverage of the changes to state law, visit:

- *Zero-Tolerance Laws May be Eased*, The News & Observer, May 12, 2011, [www.newsobserver.com/2011/05/12/1191767/zero-tolerance-laws-may-be-eased.html](http://www.newsobserver.com/2011/05/12/1191767/zero-tolerance-laws-may-be-eased.html)

## **U.S. SUPREME COURT RULES IN FAVOR OF NC STUDENT INTERROGATED AT SCHOOL**

*Submitted by Barbara Fedders, Clinical Assistant Professor of Law, UNC School of Law*



On June 16, the U.S. Supreme Court bolstered the rights of young people around the country. In *J.D.B. v. North Carolina*, the Court ruled that police officers and judges must consider the age of an individual being interrogated when deciding whether that individual is entitled to receive Miranda warnings. This holding, which was discussed in the last issue of *The Discipline Dish*, is extremely unusual in that the conservative majority on the U.S. Supreme Court typically decides cases involving the rights of criminal defendants in favor of the state.

The case involved a 13-year-old special education student at Chapel Hill's Smith Middle School, now known in all the court documents simply as "J.D.B." He was removed from his classroom by a police officer, taken to a conference room, and interrogated behind closed doors by an off-campus police officer and a school official for approximately thirty minutes. His grandmother, who was his legal guardian, was never notified. (In North Carolina, police are required to notify parents/guardians when they are questioning a minor in custody.) Nor was J.D.B. informed of his Miranda rights. After being threatened by the off-campus cop with a search of his home and juvenile detention, J.D.B. confessed to some break-ins that had occurred in a nearby neighborhood. Only then did the police tell J.D.B. that he could refuse to answer questions and was free to leave. The police searched his home, found stolen goods, and charged him in juvenile court. After the local juvenile court denied his motion to suppress his confession, he was found delinquent. The case eventually made it to the Supreme Court.

Justice Sotomayor, who wrote the majority opinion, described the pressure of a custodial interrogation as "so immense that it can induce a frighteningly high percentage of people to confess to crimes they never committed," and she referenced studies showing young people as particularly vulnerable to such pressure. Thus, as she wrote, "a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go."

While an important victory for J.D.B. and all youth forced to confront an intimidating police interrogation, the opinion is nevertheless somewhat limited. The Court did not address, for example, whether or not the same result would have held if J.D.B. had been interrogated by the so-called "school

resource officers” (SROs) who populate so many North Carolina schools. Our state courts have repeatedly ruled that SROs are not law enforcement officials who trigger the same level of constitutional scrutiny as other police officers. (This view is not uniform across the states; in Texas, for example, SROs are treated just as other cops for constitutional purposes.) Thus, youth questioned by SROs in schools may find themselves without much in the way of constitutional protection—at least until a successful challenge in our state, or in the federal, courts. In the meantime, young people and their families and advocates should continue to pressure school administrators to voluntarily enact school policies--such as ensuring the presence of a parent or guardian during all SRO interrogations--that protect youth from the unfair pressures of law enforcement.

For the United States Supreme Court's opinion, visit:

- [www.supremecourt.gov/opinions/10pdf/09-11121.pdf](http://www.supremecourt.gov/opinions/10pdf/09-11121.pdf)

For coverage of the case, visit:

- *In School and in Custody*, The News & Observer, June 22, 2011, [www.newsobserver.com/2011/06/22/1290978/in-school-and-in-custody.html](http://www.newsobserver.com/2011/06/22/1290978/in-school-and-in-custody.html)
- *New Legal Rights for Children a Good Step*, Atlanta Journal-Constitution, June 20, 2011, [www.ajc.com/opinion/new-legal-rights-for-982638.html](http://www.ajc.com/opinion/new-legal-rights-for-982638.html)
- *Supreme Court Case More Clearly Defines the Role of School Resource Officers*, Beaufort Observer, June 19, 2011, [www.beaufortobserver.net/Articles-c-2011-06-19-253873.112112-Supreme-Court-case-more-clearly-defines-the-role-of-school-resource-officers.html](http://www.beaufortobserver.net/Articles-c-2011-06-19-253873.112112-Supreme-Court-case-more-clearly-defines-the-role-of-school-resource-officers.html)
- *Court Sets New Miranda Standard*, The News & Observer, June 17, 2011, [www.newsobserver.com/2011/06/17/1279788/court-sets-new-miranda-standard.html](http://www.newsobserver.com/2011/06/17/1279788/court-sets-new-miranda-standard.html)
- *Miranda Rights for Middle Schoolers*, The New York Times, June 16, 2011, [www.nytimes.com/2011/06/17/opinion/17fri2.html?\\_r=1](http://www.nytimes.com/2011/06/17/opinion/17fri2.html?_r=1)
- *Does Suspect Need Miranda Warning? It May Depend on Age, Justices Rule*, New York Times, June 16, 2011, [www.nytimes.com/2011/06/17/us/17scotus.html?\\_r=1&scp=3&sq=miranda&st=cse](http://www.nytimes.com/2011/06/17/us/17scotus.html?_r=1&scp=3&sq=miranda&st=cse)
- *Supreme Court Expands Juveniles' Miranda Rights*, Wall Street Journal, June 16, 2011, <http://blogs.wsj.com/law/2011/06/16/supreme-court-expands-juveniles-miranda-rights/>
- *Supreme Court: When Police Question Children, Their Age Matters*, Christian Science Monitor, June 16, 2011, [www.csmonitor.com/USA/Justice/2011/0616/Supreme-Court-When-police-question-children-their-age-matters](http://www.csmonitor.com/USA/Justice/2011/0616/Supreme-Court-When-police-question-children-their-age-matters)
- *Supreme Court Says Age Matters in Police Questioning*, Los Angeles Times, June 16, 2011, <http://articles.latimes.com/2011/jun/16/nation/la-na-court-miranda-20110617>
- *Read Me a Story, and My Rights*, Slate Magazine, June 16, 2011, [www.slate.com/id/2297099/](http://www.slate.com/id/2297099/)

## PARENT'S PIECE

*The following was written by the mother of a sixth grade WCPSS student who was suspended twice for fighting.*

In each case my son was attacked by two different students. The incident on March 3 took place in the back of the school bus on the school campus. Another student accused my son of stepping on his new shoes and getting them dirty and started fussing with my son. My son said words back to him, which made the student retaliate and come to the back of the bus with the intent to harm my son. The child then proceeded to ask the bus driver if he could hit my child and the bus driver gave him permission. The child struck my child, and in fear and with the attempt to defend himself, my child struck back trying to get the boy (who was also bigger than him) off him.

The offense on April 6, my son was walking towards his class when he was approached by another student (who is almost twice his size) who teases on him and often pushes my son. Yet again, my son tried to run away, when the other student's friend blocked him from running away. Then the student pushed and shoved on my son some more. Out of fear and embarrassment my son tried to push

the student away from him. This is when the teacher saw and immediately assumed that my son was fighting the student.

Since August of 2010, when my son started attending middle school, he has been teased, laughed at, picked on, and bullied by several of the students at this school. We have reported this to the school on several occasions, yet the school failed to assist. When his behavior started showing up in the classroom I requested a conference with his teachers to see what we can do as a team to assist him. However, in this meeting they only wanted to give me all of the negative things they have observed in the class--that my son has trouble being able to stay in his seat, trouble turning in assignments, difficulty with memory and attention span, and his concentration is very low. I explained to them that he was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) in late 2008. I have documented this on his health forms at school. My concern was the bullying from the other students, which was bothering me and my son, because he would come home every day saying what someone had done to him, i.e., the student who shared a locker next to him would hit him in the head everyday with his locker and laugh at him. The teachers stated they would keep a closer eye on my son to ensure these types of behavior were stopped. However, it didn't. I also requested that we put my son on a Student Support Team again to see if this will help him. My son was on a SST back in 2006 where he did very well and I knew that this would help him and his behavior issues. I also asked about other programs that the school had to assist my son with making friends (because of his condition I know that he has a difficult time making friends well which causes his impulsive behavior to set in when attempting to make friends or even play with others).

Things became so bad I requested another meeting right before the winter break with the counselor and asked for help with these issues because my son was very frustrated at the fact that every time he would try to tell his teachers or administration staff no one would help, but just tell him to go sit down. I was told to wait until after the break--"maybe he just need a break from school" and "lets see how things go when the kids come back from break." Well, needless to say, that when the break was over and they returned to school in January things wasn't better--they had gotten worst. Kids were still picking at him and then started hitting and pushing on him. That is where all of this aggression has started. Children with ADHD do not know how to handle aggression when it is presented to him/her. He only did what he knew how to do and that is to react. With the school aware of his medical condition and did not attempt to assist me from August 2010, I feel that the school has violated federal law and in return has neglected to assist my child to avoid situations like this.

### **WORDS OF WISDOM**

"suspensions can have a profound negative impact on students"

- Agenda Item 39, Board of Education meeting, WCPSS, June 7, 2011,  
[www.wcpss.net/Board/agendas\\_schedules/06\\_07\\_2011-agenda.html](http://www.wcpss.net/Board/agendas_schedules/06_07_2011-agenda.html)

"...We currently bear the brunt of policy decisions that have created the School-to-Prison Pipeline, turning many of our schools into hostile and alienating environments that literally push us and our peers out of school and closer to a future of under-employment, unemployment, and incarceration...we are inundated with, and oppressed by, high-stakes standardized testing, harsh "zero-tolerance" disciplinary practices, and academic "tracking" practices that set us up to fail, continuously putting our educational opportunities at risk and limiting our life chances. With every passing year, the role of law enforcement agencies in our lives increases, so that many of our schools increasingly resemble prisons, and public school students may now be the most policed individuals in the country. We are often treated as criminals, viewed as little more than test scores, and seemingly expected to drop out. Moreover, if we attempt to improve these conditions, we find that our ability to effect change – to simply help ourselves – is severely limited by policies that destabilize or even eliminate our local democratic structures...There are extraordinary economic and public health benefits to be had from expanding access to high-quality education and de-emphasizing policies and practices that contribute to student pushout and criminalization. And the cost of not doing so is the continuation of a downward spiral that will only result in increased income and wealth

disparities, continued over-incarceration, and further deterioration of our communities. It is thus time to stop “getting tough” on so-called failing schools, teachers, and students, and instead get smart about using our resources in ways that benefit young people, families, and communities over the long term...Zero-tolerance school discipline has, quite simply, been a profound failure, in that it has not made schools safer or improved educational quality. In fact, it has been counterproductive, producing a series of devastating effects on youth, families, and communities across the country. Therefore, there must be a systematic dismantling of the School-to-Prison Pipeline and its over-reliance on harsh school discipline, ineffective school security methods, and justice-system intervention...”

- Youth Success Act, National Campaign for Quality Education,  
[http://www.nationalcampaignforqualityeducation.org/wp-content/uploads/2011/06/YSA\\_Concept-Paper\\_Full.pdf](http://www.nationalcampaignforqualityeducation.org/wp-content/uploads/2011/06/YSA_Concept-Paper_Full.pdf)

### Resources for Students, Parents, and Advocates

For assistance with education issues:

- Advocates for Children's Services, [www.legalaidnc.org/acs](http://www.legalaidnc.org/acs), 919-226-0052
- Duke Children's Law Clinic, [www.law.duke.edu/childedlaw](http://www.law.duke.edu/childedlaw), 919-613-7169
- Exceptional Children's Assistance Center, [www.ecac-parentcenter.org](http://www.ecac-parentcenter.org), 919-571-8092
- Wake Help Initiative, [www.wakehelp.org](http://www.wakehelp.org), 919-576-9253

To become more involved in advocating for an end to the school-to-prison pipeline in Wake County:

- YWCA of the Greater Triangle, [educationadvocates@ywcatriangle.org](mailto:educationadvocates@ywcatriangle.org), 919-828-3205 ext. 19

For research and information about the national movement to end the school-to-prison pipeline:

- Advancement Project, [www.stopschoolstojails.org](http://www.stopschoolstojails.org)
- Dignity in Schools Campaign, [www.dignityinschools.org](http://www.dignityinschools.org)

### ABOUT THE DISCIPLINE DISH

The goal of *The Discipline Dish* is to provide the citizens of Wake County with the information they need to:

- Understand the school-to-prison pipeline crisis and recent events related to the crisis;
- Hold policymakers accountable; and
- Advocate for more fair, just, and equitable school discipline policies and practices.

*The Discipline Dish* is published by Jason Langberg, an Equal Justice Works Fellow at Advocates for Children's Services (ACS). ACS is a statewide project of Legal Aid of North Carolina, Inc. ACS' managing attorney, three staff attorneys, and paralegal primarily engage in the following activities:

- Direct representation: ACS staff provide free, high-quality legal advice and representation for children from low-income families, primarily in education law matters, including school suspension and special education.
- Community education: ACS staff conduct “Know Your Rights” workshops for students and parents, as well as trainings for local service providers and advocacy organizations. Additionally, ACS staff engage in media outreach and publish fact sheets, reports, policy briefs, self-help guides, op-eds, articles, and other materials.

For more information about ACS, visit [www.legalaidnc.org/acs](http://www.legalaidnc.org/acs).