

# ***The Discipline Dish***

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**Bimonthly newsletter about the school-to-prison pipeline in Wake County**  
**September/October 2011**

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## **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 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. During the 2009-10 school year, the Wake County Public School System (WCPSS) had:

- 19,392 short-term suspensions (lasting one to ten 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).

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## **WAKE COUNTY PUBLIC SCHOOLS VIOLATE STATE, FEDERAL LAW: DISTRICT FOUND NONCOMPLIANT WITH LEGAL PROTECTIONS FOR STUDENTS WITH DISABILITIES**

For the second consecutive year, the North Carolina Department of Public Instruction's Exceptional Children Division found the Wake County Public School System (WCPSS) in violation of state and federal laws that protect students with disabilities who are long-term suspended.

The findings were prompted by a complaint filed by Advocates for Children's Services (ACS). Students with disabilities who are long-term suspended have a right to continue receiving a "free, appropriate public education" in the "least restrictive environment." School districts must provide such students with the services necessary for them to continue to participate in the general curriculum and to progress toward meeting the goals established in their Individualized Education Programs (IEPs).

According to DPI, "the current system of delivering services to students who are long-termed suspended for disciplinary reasons is not effective and has caused a deprivation of educational benefit." Other specific findings for the 2010-11 school year include:

- WCPSS is "failing to develop IEPs based on the unique needs of each student with a disability who is long-term suspended."
- Long-term suspended students with disabilities—who are desperately in need of high quality, extensive services—received a drastically reduced number of hours of instruction (3-32 hours/month).
- Some of the instructional services were provided in the following locations: McDonalds, Starbucks, Dunkin Donuts, Borders, Hardees, and Subway.
- 45 suspended students received computer-based instruction via SCORE (Second Chance Online Resource for Education). According to DPI, "A system of service delivery via a computer is fraught with problems from its inception; and the data supports that it had not proven successful. The data from the first semester clearly indicates that a vast majority of students failed...the evidence from grades and EOC test results indicates that the students are not benefitting from the services delivered via the computer..."
- "Student grades and EOC test results indicate that a vast majority of the students are failing."

Officials from the DPI and the WCPSS were scheduled to meet at the end of August to develop a corrective action plan. Shortly after the report was issued, the Senior Administrator for Special Education Services in the WCPSS was no longer in his position.

For copies of the DPI reports, visit:

- [www.legalaidnc.org/public/learn/Media\\_Releases/2011\\_MediaReleases/2011\\_MediaRel\\_ACS\\_WakeCountyPublicSchoolsViolateStateFederalLaw\\_Aug\\_08\\_11.aspx](http://www.legalaidnc.org/public/learn/Media_Releases/2011_MediaReleases/2011_MediaRel_ACS_WakeCountyPublicSchoolsViolateStateFederalLaw_Aug_08_11.aspx)

For coverage of the report, visit:

- *Wake County Students with Disabilities Get Short Shrift--Again*, Independent Weekly, August 17, 2011, [www.indyweek.com/indyweek/wake-county-students-with-disabilities-get-short-shriftagain](http://www.indyweek.com/indyweek/wake-county-students-with-disabilities-get-short-shriftagain)
- *Wake Schools Misses Mark Again in Educating Special Needs Students*, News 14 Carolina, August 8, 2011, [http://charlotte.news14.com/content/school\\_news/645030/wake-schools-misses-mark-again-in-educating-special-needs-students](http://charlotte.news14.com/content/school_news/645030/wake-schools-misses-mark-again-in-educating-special-needs-students)

## REVISIONS TO THE STUDENT CODE OF CONDUCT: GOOD PROGRESS, BUT KEY REFORMS STILL MISSING

The nearly yearlong process of revising the WCPSS' student discipline policies has concluded. At its July 12, 2011 meeting, the Board of Education (BOE) voted on the edits. For more background, read the July/August edition of *The Discipline Dish*.

Many of the changes had to be made to reflect the new state school discipline statute, which was ratified on June 23, 2011 and took effect for the 2011-12 school year (House Bill 736; S.L. 2011-282). The changes to Board Policy prompted by the new statute include:



July 12, 2011 BOE Meeting

- Eliminating most zero tolerance policies;
- Limiting long-term suspension to serious misconduct;
- Requiring that students who receive long-term suspensions be offered an alternative education unless the superintendent presents a significant or important reason for not doing so (Note: This part of the statute codifies the *Beaufort* decision that was covered in the November/December edition of *The Discipline Dish*.);
- Allowing students who are expelled or suspended for 365 days to request to be readmitted every six months;
- Limiting suspensions for truancy to no more than two school days;
- Granting students and parents/guardians the right to review, before the appeal hearing, any video or audio recordings of the incident, as well as any evidence that may be presented as evidence at the hearing;
- Prohibiting people who are under the direct supervision of the principal recommending the long-term suspension or expulsion from serving on the appeal hearing panel;
- Requiring that all notices of suspension and expulsion be in English and in the primary language of the parents, if foreign language resources are readily available; and
- Requiring that all notices of suspension and expulsion include a short statement in the main foreign language spoken by parents in the district, alerting the parent of the importance of the notice and need to contact school officials.

There are additional positive changes to the policies, which were not required by the new statute. Advocates from community-based organizations who serve on the WCPSS' Suspension Professional Learning Team (PLT) and the Economically Disadvantaged Student Performance Task Force (e.g., Advocates for Children's Services, Great Schools in Wake, and the YWCA of the Greater Triangle), as well as some BOE members, fought hard for them to be included. The Student Code of Conduct (SCC) now has:

- Examples of in-school interventions (6410(B));
- Examples of mitigating factors (6410R&P(A));
- Somewhat simplified language;
- Rules leveled by severity of violation (6410(B)); and
- Limits on the length of suspension for the minor offenses in the first two levels—two school days for Level I offenses and five school days for Level II offenses.

Despite the good progress, there are still aspects of WCPSS' discipline policies that advocates find very troubling, including:

- There is no category of offenses for which suspension is never allowed. Therefore, students can be suspended for two school days for violations such as being tardy or truant (6410(C)(I-3)) and wearing "saggy pants" (6410(C)(I-5)).

- Offenses are not tiered by age or grade level (although elementary school students cannot be long-term suspended and age can be a mitigating factor). Therefore, the SCC does not explicitly require administrators to align consequences with students' developmental stage and maturity.
- There are no specific suspension lengths associated with each rule in Level III, which could result in two major problems. First, two students who commit the exact same offense could get very different suspensions. One could get an 11-day out-of-school suspension, while the other could get a 179-day out-of-school suspension. Second, the offenses in Level III vary dramatically in terms of severity. For example, possessing a beer, drawing a gang sign, and pushing another student are in the same category, and consequently could result in the same punishment, as selling cocaine, recruiting other students to join a violent gang, and assaulting a teacher with a dangerous instrument.
- There are rules that should be broken down further and divided into separate levels because the behavior which could be considered to fall within the rules are so broad in severity (see e.g., Class/Activity Disturbance (6410(C)(II-4)), School Disturbance (6410(C)(II-5)), Drugs and Alcohol (6410(C)(III-1), Gang and Gang Activity (6410(C)(III-2))).
- The SCC does not require administrators to utilize more positive and productive alternatives to out-of-school suspension. Instead, it merely encourages them to do so.
- The Regulations and Procedures (R&P) for the SCC only state that school staff "*should* consider possible mitigating" factors. (Note: The R&P contradicts the policy itself, which allows principals to give out-of-school suspensions "*after* considering potential mitigating factors" (6410(B)).
- Although some of the language in the SCC was simplified and clarified, it still contains difficult words, superfluous language, and complex sentences, despite the fact that parents and students are expected to read, understand, and sign it. For example, the policy uses words and phrases like: "adornment" (6410(C)(I-5); "extort" (6410(C)(II-12); "adjacent thereto" (6410(C)(II-7); and "promulgated" (6500(B)(2)).
- The SCC is written in a very negative tone, contrary to the principles of positive behavior interventions and supports (PBIS).
- The SCC is still too broad and vague in many places, which allows for excessive subjectivity and discretion for administrators, and ultimately will lead to zero tolerance practices, racial disparities, and large differences in suspension rates among schools across the district (e.g., Inappropriate Dress (6410(C)(I-6)); Gang and Gang Related Activity (6410(C)(III-2)); and Level V).
- There is not a section on students' rights. Such a section is important because it sends the right message to students and/parents about fairness and provides an important civics lesson. It is also important because many of the rules in the SCC directly implicate students' fundamental constitutional rights (see e.g., Disruptive Protest (6410(C)(II-7)) and Search and Seizure (6410(C)(II-20)).
- Board Policy now permits long-term suspensions to last beyond the end of the school year if the offense leading to the suspension occurs during the final quarter of the school year. Therefore, students could be set up to fail two school years, rather than just one. (Note: This is allowed by the new state discipline statute, but WCPSS could have chosen the more prudent route and not allowed for such a harmful change.)
- While the Superintendent is required to keep data on each student suspended or expelled (including race, gender, age, grade, disability status, duration of suspension, whether alternative education services were provided, and whether a student had multiple suspensions in that academic year), the policy does not require the Superintendent to keep data on individual schools, students who receive free and reduced-price lunch, students who have limited English proficiency, in-school suspension, and bus suspensions. There is also no requirement that the Superintendent publish the data each year, which would generate greater transparency, accountability, and public input.
- There is no community-based oversight built into the SCC.
- A new Board Policy (6405) allows school-based committees to recommend that a student be assigned to an alternative learning program, yet prohibits parents/guardians from appealing the committees' decisions.
- There are many problems with the due process policy. First, it states that "if the student/parent requests a delay in the hearing or requests a hearing after the deadline, the student is not entitled to return to school pending the hearing" (6500(E)(1)(b)). However, the policy says nothing about

a delay in the hearing because of the school or school system. In such situations, students should have a right to return to school pending the hearing. Second, the policy does not require a hearing panel to include in its written decision the specific evidence and factual findings it considered (6500(E)(1)(f)). Without such specificity, it is very difficult for students to effectively exercise their right to appeal the hearing panel's decision to the BOE (6500(E)(2)). Third, appeal hearings are not automatically granted to students—a hearing must be requested (6500(E)(1)(a)). Long-term suspension and expulsion are such severe consequences with profound negative effects on children that hearings should automatically be scheduled unless the student's parent/guardian waives the hearing in writing. Fourth, the policy gives the BOE 30 calendar days to render a decision after receiving the appeal request. Typically students facing long-term suspension or expulsion have already been out of school for at least two weeks before the appeal to the Board. Therefore, it could take six weeks to complete the appeals process. Finally, Board Policy does provide for appeals of short-term suspensions, even though new state statute explicitly allows for it.

For the new state 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 the new Board Policies, visit:

- 6400: [www.wcpss.net/policy-files/series/policies/6410-bp.html](http://www.wcpss.net/policy-files/series/policies/6410-bp.html)
- 6405: [www.wcpss.net/policy-files/series/policies/6405-bp.html](http://www.wcpss.net/policy-files/series/policies/6405-bp.html)
- 6410: [www.wcpss.net/policy-files/series/policies/6410-bp.html](http://www.wcpss.net/policy-files/series/policies/6410-bp.html)
- 6500: [www.wcpss.net/policy-files/series/policies/6500-bp.html](http://www.wcpss.net/policy-files/series/policies/6500-bp.html)
- 6505: [www.wcpss.net/policy-files/series/policies/6505-bp.html](http://www.wcpss.net/policy-files/series/policies/6505-bp.html)

For coverage of the changes visit:

- *New Discipline Policies for Wake Schools*, Raleigh Public Record, July 13, 2011, [www.raleighpublicrecord.org/news/2011/07/13/new-discipline-policies-for-wake-schools/](http://www.raleighpublicrecord.org/news/2011/07/13/new-discipline-policies-for-wake-schools/)
- *Changes on Tap for Wake Student Discipline Policies*, Raleigh Public Record, July 11, 2011, [www.raleighpublicrecord.org/news/2011/07/11/changes-on-tap-for-wake-student-discipline-policies/](http://www.raleighpublicrecord.org/news/2011/07/11/changes-on-tap-for-wake-student-discipline-policies/)

## INADEQUATE STUDY OF SCHOOL RESOURCE OFFICERS DISAPPOINTS ADVOCATES AND LEAVES MORE QUESTIONS THAN ANSWERS



Russ Smith, WCPSS  
Head of Security

This summer, school discipline reform advocates were tremendously excited about the BOE's receptiveness to concerns about school resource officers (SROs) and its apparent willingness to look carefully at the use of SROs. At the June 2011 Board meeting, WCPSS head of security, Russ Smith, requested \$113,514 to pay for SROs in Cary high schools and \$340,542 to pay for SROs at 10 Raleigh high schools. Mr. Smith revealed that each SRO costs taxpayers \$80,000 per year. Board members expressed serious concerns about SROs and asked Superintendent Tata to conduct a study of SROs and report back within three months. For two months, advocates from community-based organizations requested to be involved in the study and waited with optimism to hear how the study would be conducted. For more background see the July/August edition of *The Discipline Dish*.

However, hopes were dashed at the BOE work session on August 2, 2011. Russ Smith surprised education justice advocates when he presented the results of the mysterious "study." He sent the relevant materials to Board members less than three full business days before the Board meeting and then provided new materials just minutes before the work session began. The public was not informed about the process. The advocates who had been working diligently for over a year to ensure that the SRO program actually produces safe and fair schools were stunned that they were left in the dark. There

were no SROs, educators, students, parents, or representatives from community-based organizations involved in the "study." There were no public hearings. There was not an opportunity for public comment. There was no online survey. It appears that the survey was conducted solely by Mr. Smith, a former law enforcement officer and the current head of security in WCPSS (in effect, Mr. Smith was reviewing his own program).

What is worse, the "study" produced little, if any, useful information. The entirety of the "study" was a survey sent to middle and high school principals and assistant principals. The survey consisted of only five leading, loaded, "agree" or "disagree" questions. There were no questions that asked about how to improve the SRO program. There were no SROs, elementary school administrators, support staff (e.g., school counselors, psychologists, and social workers), teachers, students, or parents surveyed. In other words, 99.9% of people directly affected by the presence of SROs were completely ignored. From this miniscule amount of unreliable information, Mr. Smith and Superintendent Tata concluded that the SRO program is successful, and in fact, that SROs should be even more integrated into leadership teams.

The only data presented, other than the survey results, was about a decline in the incidents of crime in schools. Mr. Smith pronounced a statistically invalid causal relationship between a decline in school crime and violence and the presence of SROs. It is unclear on which data Mr. Smith based his conclusion, since he did not present the actual data. What *is* clear is that Mr. Smith failed to mention that the juvenile crime rate is decreasing across the board, both inside and outside of school. Furthermore, he failed to mention that the rate of "violent incidents" is already so low that a 54% decline over a six-year period, if in fact that statistic is true, is not a very meaningful piece of information. He also failed to provide the Board with any data about the use of force, school-based arrests and court referrals, and racial disparities. Additionally, he failed to mention that data clearly shows that schools are among the safest places for children—they were before the massive increase in the number of SROs and they still are. Finally, he did not offer a scintilla of proof that SROs make schools safer or that they are worth the nearly four and a half million dollars they cost taxpayers every year.



The BOE spent less than 12 minutes discussing the SRO issue. No BOE members requested answers to the following questions:

- Why were students, parents, teachers, support staff, or SROs not surveyed or involved in interviews and focus groups?
- Who else was involved in conducting the study? If no one else was involved, why not?
- How many students were arrested at school last school year, and why were they arrested?
- How many students were referred to juvenile court and criminal court last school year, and why were they referred?
- Are there disparities (e.g., gender, race, disability) among the students arrested at school and those referred to courts from schools?
- Which schools have the highest rates of court referrals? Why are their rates high? How can their rates be reduced?
- Which schools have the lowest rates of court referrals? Why are their rates low? How can their success be replicated?
- Which schools had the greatest disparities? How can their disparities be reduced?
- To which schools are SROs assigned and why are they assigned to those schools?
- Have school administrators and teachers been given a copy of the memorandum of understanding (MOU) that exists among WCPSS and local law enforcement agencies? If so, when? If not, why not?
- Specifically, what specialized trainings do SROs receive?

- Did you conduct a thorough literature review of the research about the presence of law enforcement officers in schools? If so, what did you find? If not, why not?
- Did you study better practices from around the country? If so, what did you find? If not, why not?
- Did you consult with experts on this issue?

Community-based organizations have repeatedly suggested ways to improve the SRO program, including:

- **Improved qualifications**, including experience working with "at-risk" youth;
- **Improved training**, including trainings about students' rights, legal standards for searches and seizures in public schools, creating positive school climates, adolescent development, working with students with disabilities and mental health issues, cultural competency and dismantling oppression, de-escalating students without using physical force, safe restraint techniques, restorative justice, and the consequences for youth of arrests and court-involvement;
- **Improved data collection and publication**, including disaggregated data about the use of force and school-based arrests, delinquency complaints, and criminal complaints;
- **Proper guidelines** for SROs, including limitations on complaints being filed against students whose behavior is a manifestation of their disabilities and limitations on the use of force; and
- **Greater accountability**, including clear complaint procedures for use when SRO misconduct occurs and a community-based oversight committee.

Some SROs have great relationships with students and school staff and seemingly deter misbehavior. Some have completed good trainings. Some refer very few students to juvenile and criminal court. Some never used force inappropriately. Some know what community resources are available and make appropriate referrals. However, there are also SROs who do not possess such traits. There is also inconsistency across schools and law enforcement agencies. Reforming the SRO program should be about replicating what works, eliminating what does not work, creating consistency and accountability, not settling, and constantly improving.

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:

- *Community Groups Challenge Positive SRO Evaluation*, Raleigh Public Record, August 11, 2011, [www.raleighpublicrecord.org/news/2011/08/11/community-groups-challenge-positive-sro-evaluation/](http://www.raleighpublicrecord.org/news/2011/08/11/community-groups-challenge-positive-sro-evaluation/)
- *Questioning the Study of the School Resource Officer Program*, The News & Observer, August 8, 2011, <http://blogs.newsobserver.com/wakeed/questioning-the-study-of-the-school-resource-officer-program>
- *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>

## COMMUNITY VOICES ON BRIDGING THE OPPORTUNITY GAP AND THE IDEAL EDUCATION IN NORTH CAROLINA

Submitted by Jasmine E. Harris, Staff Attorney, Advancement Project

Close your eyes and imagine your ideal school as a student, as a teacher, and as a parent. Now, hold those images and compare them to the following description of the state of education for many North Carolinians:

Teachers and administrators entangled in cheating scandals, students with trash cans alongside their desks as a precaution for vomiting from anxiety, students acting out in class because they can't read and understand the worksheets in front of them, struggling students being suspended around test time to exclude their scores, worksheets and rote memorization replacing critical thinking and student/teacher creativity in the classroom, teachers vomiting from the pressure on test day, parents having to quit their jobs to fight for their children's education, neighborhood schools boarded up and shut down...



Lunch with Advancement Project and Wake County education justice advocates

How did we get so far away from the ideal? The common response is to engage in a series of unproductive finger-pointing exercises chastising teachers, students, and parents in an effort to derail the investigation. This shifts the discussion away from one of the central culprits: the focus on high-stakes testing—such as the End-of-Grade (EOG) and End-of-Course (EOC) exams and interim/benchmark assessments—as the measure of student performance and aptitude. High-stakes testing has directly linked student performance on standardized tests with such things as grade promotion, graduation, teacher performance and retention, as a

means of holding students, teachers, and schools accountable for quality education. While there is almost unanimous consent around the need for a system of accountability to ensure that each student receives a “sound basic education” as guaranteed by the North Carolina Constitution, there is also consensus that the current system is broken and has mis-incentivized participants at all levels.

Over the past few weeks, Advancement Project,\* in partnership with Advocates for Children's Services and with support from the North Carolina State Conference of the NAACP, has had the privilege of meeting with community-based organizations and members of communities across the state to discuss the impact of high-stakes testing on education\*\* and how to structure and balance accountability with the need for creativity, different teaching and learning styles, and teacher-student support in the classroom. In Raleigh we met with a wide cross-section of community members and education advocates. For example, with support from Ms. Calla Wright, we shared an evening with concerned parents, grandparents, guardians, and community members at the Martin Street Baptist Church. The YWCA Greater Triangle organized a lunch with education advocates and community organizers who wore many hats as parents, teachers, school administrators, social workers, and testing proctors.

We quickly learned how high-stakes testing has contributed, and in fact, created a perverse incentive, to push students into the school-to-prison pipeline in North Carolina. Many participants talked about the transformation of the school environment into a “factory of mass production” where students and teachers are labeled and sorted by their test scores. Schools invest time and resources into the higher-achieving students and teachers who teach tested EOC/EOG subjects, while everyone else is “pushed out” or “left behind.” They are either counseled or placed into “alternative tracks” or remedial classes, or actually driven out of school based on school climate, overly harsh and punitive disciplinary measures, or academics.

One woman shared the story of a young man who was increasingly acting out in class and being “disruptive.” He was suspended several times and ultimately considered dropping out. When finally asked by his mother why he acted out, the young man said that he “didn’t understand the teacher or the reading” so it was too hard to pay attention. This story resonated with a teacher who shared that the major problem with the focus on tests was the elimination of time with her students. In conjunction with increasing class sizes, she was unable to spend the individual time she wanted and the students needed. She had to “keep up” with the teaching plans which are based on the tested subjects. Further, she noted that when trying to prepare 40 students for tests, any disruption in a classroom was unmanageable and at times resulted in referrals to the principal or school resource officers.

We are immensely grateful for the welcome and support we received in Raleigh and throughout the state and look forward to our continued work on this project. A report chronicling the experiences of teachers, students, parents/grandparents/guardians with high-stakes testing and community-based solutions will be released in late 2011/early 2012. If you or someone you know would like to share their story/experience with testing in North Carolina, please contact Jasmine Harris at (202) 728-9557 or via email at [jharris@advancementproject.org](mailto:jharris@advancementproject.org). Your stories will be kept anonymous unless you give specific permission for us to identify you by name.

*\* Advancement Project is a next generation, multi-racial civil rights organization. We tackle inequity with innovative strategies and strong community alliances. With a national office in Washington, DC and two offices in California, we combine law, communications, policy and technology to create workable solutions and achieve systemic change. We aim to inspire and strengthen movements that expand opportunity for all. Our staff of attorneys and communications professionals partner with community organizations, providing legal advocacy and strategic communications tools to reframe public discourse around and dismantle structural exclusion. Our areas of focus include Power & Democracy (Voter Protection Program, Felony Re-enfranchisement Project and Redistricting), Opportunity to Learn (Quality Education for All and Ending the Schoolhouse to Jailhouse Track Project) and Strategic Initiatives (Inclusive Development and Immigrant Justice).*

*\*\* The most recent (and devastating) budget cuts to education have resulted in the elimination of a majority of high-stakes tests in North Carolina. However, while the elimination of the tests themselves may be cause for celebration, we must be cautious of the impetus for the cuts. Lawmakers have not eliminated high-stakes tests from the budget because of the direct and collateral damage to education but rather, because the tests are accompanied by a hefty price tag.*

## TAKING ON CAPITOL HILL TO PUSH BACK ON PUSH OUT

Submitted by Crystal Hayes, Director of Racial Justice and Maternal and Child Wellness, YWCA Greater Triangle



Ms. Jeanette  
Education Justice Advocate

*“Oppressed people, whatever their level of formal education, have the ability to understand and interpret the world around them...to transform it.”*

*- Ella Jo Baker*

A YWCA Greater Triangle racial and education justice team visited Washington, DC from July 24-26th as part of the Dignity in Schools Campaign (DSC) to end school push-out.

“I’m here because my grandson deserves the same rights as all the white children he sits alongside in school,” said an elder parent advocate in a meeting with the Department of Justice Monday, July 25th in Washington, DC. Alongside her were youth and parent activists from across the nation. Their stories echoed hers: tales of children being suspended in record numbers, most for minor school infractions such as talking back to teachers, or, as in the

case of the grandson of another parent advocate, horsing around in the hall a little too long for his teacher's liking.

Similar stories came from Ms. Jeanette Clinding (73), affectionately known as Ms. Jeanette, committed grandmother and YWCA education justice advocate. As part of the YWCA North Carolina delegation, Ms. Jeanette shared her concerns about the nationwide school push-out epidemic in meetings with the offices of North Carolina Representatives Brad Miller, Renee Ellmers, and Virginia Foxx, and Senator Kay Hagan. There Ms. Jeanette discussed the lost instruction time and other problems caused by suspending children for minor, non-violent infractions, especially when students in schools such as her grandson's cannot bring their textbooks home with them to study.

Alternatives to suspension and support for public schools to end school-to-prison-pipelines (a.k.a. school push-out) was the focus of the DSC Days at the Capitol, which had parent activists like Ms. Jeanette urging elected officials and their staff to support bills that help public schools reduce push-out and use tools like "positive behavior interventions and supports" or PBIS to create healthy, student-affirming learning environments instead of "drop-out factories." These policies also save taxpayer money by reducing the amount of cases clogging up juvenile justice courts. In fact, judges have been some of the most ardent supporters of ending school push-out.

*"The major job was getting people to understand that they had something within their power that they could use, and it could only be used if they understood what was happening and how group action could counter violence..." - Ella Jo Baker*

DSC is a national campaign that challenges push-out in our nation's schools and advocates for the human right of every child to a quality education and to be treated with dignity. Their work promotes local and national alternatives to a culture of zero-tolerance, punishment and removal. As a member group, the YWCA Greater Triangle sent a three-person delegation to the July 2011 Days at the Capitol gathering. The delegation was led by YWCA Director of Racial Justice, Crystal Hayes and included Study Circle Coordinator, Julia Dawson, and most important, grassroots parent advocate, Ms. Jeanette.

**At A Glance: Dignity in Schools Days at the Capitol  
July 24-26, 2011 • Washington, DC**

**Team North Carolina**

1. Jeanette Clinding, Parent Advocacy Work Group and Family Education Justice Institute Member
2. Crystal Hayes, YWCA Greater Triangle Director of Racial Justice
3. Julia Dawson, Study Circles on Race & Ethnicity Coordinator

**Team North Carolina met with:**

1. Staff of Senator Kay Hagan (D)
2. Rep. Brad Miller (D)
3. Staff of Rep. Renee Ellmers (R)
4. Staff of Rep. Virginia Foxx (R)
5. Representatives from the Department of Justice, which has launched an initiative in partnership with the Department of Education to combat the school-to-prison-pipeline

**Team North Carolina asked elected officials to:**

1. Reauthorize the Elementary and Secondary Education Act (reauthorization is now 4 years overdue) and to include the following bills in that re-authorization
  - a. Senate Bill: Successful Safe and Healthy Students Act (S.919) (Harkin, D-IA)
  - b. House Bill: Positive Behavior for Safe and Effective Schools Act (HR 2597 from the last Congress)
  - c. House Bill: Restorative Justice in Schools Act (HR 415) (Cohen, D-TN)
2. Oppose the following bills:
  - a. House Bill: State and Local Funding Flexibility Act (HR 2445), not introduced yet.
  - b. House Bill: Setting New Priorities in Education Act (HR 1891) (Hunter, R-CA)
  - c. Ideas around 5% Federal Accountability

**Does the above look Greek to you? You're not alone. We felt the same way, but were well taught by our DSC friends. So call us at 919.828.3205 for details. We'd love to share what we learned.**

The trio urged North Carolina elected officials to sign on to the DSC campaign by sponsoring or co-sponsoring key pieces of legislation connected with the reauthorization of the Elementary and Secondary

Education Act (ESEA), now also known as No Child Left Behind (NCLB). ESEA was originally passed in 1965 as a way to give teeth to civil rights legislation that made public school segregation illegal. States that did not desegregate, the bill stated, would be denied federal funding.

While ESEA's modern version retains some of that original legacy, the changes that transformed it into NCLB have unfortunately marked reversals in education justice gains. NCLB's high-stakes testing and "zero-tolerance" discipline practices continue race and class segregation within schools, and push devastating amounts of students, especially students of color, into the criminal justice system instead of fulfilling, sustaining careers.

The DSC Days at the Capitol allowed the YWCA Greater Triangle to deepen knowledge about federal bills that impact North Carolina's education justice efforts, while connecting the YWCA to national movements to reclaim the Civil Rights gains represented by ESEA and by members of the generation who sacrificed to win them.

## OTHER NEWS AND NOTES

### North Carolina Court of Appeals Rules Search of Students Unconstitutional

In a case called *In re T.A.S.*, the North Carolina Court of Appeals wrote that a search for pills at a Brunswick County alternative school that required female students to untuck their shirts and pull out their bras with their thumbs was "degrading, demeaning and highly intrusive." A school-wide student search was conducted after a principal was informed by other students that pills that "would cause kids to be unsafe" were coming into the school in hidden places such as students' shoe tongues, socks, bras, and underwear. Although there was no indication of the type of pills or which students were bringing them into the school, all of the students were searched by a staff member in the presence of the school principal, school administrators, a school resource, and a male law enforcement officer. The Court of Appeals held that the search of T.A.S.'s bra violated her Fourth Amendment right to be free from unreasonable search and seizure. The court ruled, "where the blanket search of the entire school lacked any individualized suspicion as to which students were responsible for the alleged infraction or any particularized reason to believe the contraband sought presented an imminent threat to school safety, the search of T.A.S.'s bra was constitutionally unreasonable." The judges mentioned several reasons for their decision, including that the tip about pills wasn't specific and that there was no indication that the underwear of male students also was searched. They also mention that a male law enforcement officer observed all the searches, regardless of the sex of the student. The court said that any group search conducted without suspicion of a particular individual should be limited to less-invasive searches such as pockets, shoes, socks, jackets and pat-downs of outer clothing. For the full text of the Court of Appeals' ruling visit: <http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0yNzUtMS5wZGY=>.

### TASERs Continue to Kill North Carolinians—Use Suspended in Charlotte and Fayetteville

In July 2011, a North Carolina family was awarded \$10 million in a lawsuit filed against Taser International, Inc. over the death of a 17-year-old in 2008. The young man was TASERed by a Charlotte-Mecklenburg police officer at a local grocery store, causing him to fall to the floor and pass away shortly thereafter. The City of Charlotte also had to pay the family \$625,000 in 2009. Also in July 2011, a 21-year-old Charlotte man was killed when a Charlotte police officer used a TASER on him. Later in July 2011, the Charlotte-Mecklenburg Police Chief ordered a temporary stop to all TASERs and ordered that all of the devices be inspected and tested. Then, in August 2011, a man was killed by a TASER used by Fayetteville police. Consequently the Fayetteville Police Department also suspended the use of TASERs. TASERs, which can discharge 50,000 volts into victims' bodies, have been linked to hundreds of deaths across the country. TASERs are carried and occasionally used by WCPSS SROs.

### Federal Supportive School Discipline Initiative Announced

On July 21, 2011, U.S. Attorney General Eric Holder and U.S. Secretary of Education Arne Duncan announced the launch of the Supportive School Discipline Initiative, a collaborative project between the Departments of Justice and Education that will address the "school-to-prison pipeline" and the disciplinary

policies and practices that can push students out of school and into the justice system. The initiative aims to support good discipline practices to foster safe and productive learning environments in every classroom. The goals of the Supportive School Discipline Initiative are to: build consensus for action among federal, state and local education and justice stakeholders; collaborate on research and data collection that may be needed to inform this work, such as evaluations of alternative disciplinary policies and interventions; develop guidance to ensure that school discipline policies and practices comply with the nation's civil rights laws and to promote positive disciplinary options to both keep kids in school and improve the climate for learning; and promote awareness and knowledge about evidence-based and promising policies and practices among state judicial and education leadership. In order to implement the initiative, the two departments will coordinate with other organizations in the non-profit and philanthropic communities who are also working to help ensure students succeed by addressing inappropriate school discipline.

## BRAYAN'S STORY

*The following was written by Angela Grant, Paralegal, Advocates for Children's Services, in collaboration with Brayan, a WCPSS middle school student, and Brayan's mother, Veronica.*



Brayan is a 14-year-old, eighth grade student attending middle school in the Wake County Public School System. He likes school and had no disciplinary problems before the sixth grade. But, like so many students, he is highly energetic and easily loses focus in the classroom. He has been at risk of academic failure in middle school, but has never been provided with a Personal Education Plan (PEP) as required by law.

His first long-term suspension came at the beginning of his seventh-grade year, when he was in a scuffle at school. He was put into the Second Chance Online Resource for Education (SCORE) program and he tried to keep up with his

studies through the online classes.

For a student who is easily distracted, even in the classroom, it is a tall order to ask him to sit in front of a computer and keep himself motivated and focused all day without any supervision or encouragement. But he did his best and was allowed to return to school in January of the same school year.

On February 3, he wore a belt to school that was just like the belts being worn by other students. There was one difference: his belt was blue. Because his shirt covered the belt, his principal had to lift Brayan's shirt to see that he was wearing a blue belt. The principal then determined that because the belt was blue, it was gang-related attire, and suspended Brayan until the end of the school year.

The principal told Brayan that he was already suspected of gang activity because he had seen him "throw a gang sign" earlier in the day. In fact, the gesture Brayan had used was the PEACE sign! Brayan, knowing that much of what happens in school these days is captured on camera, and knowing that he was innocent, asked the principal to review the video. The principal refused and Brayan was removed from school, again.

He again went into the SCORE program. Again, he did his best, but it was difficult to keep up with the work with no supervision or direction. He feels that the teachers in the SCORE program are good, but is concerned that often there was no teacher available. He would access the online program to find a "be back soon" message from the teacher, and would then be without access to that teacher for up to three days. He reports that, at the times when this happened, the students would just use the chat feature on SCORE to talk with each other all day.

Having spent the majority of his seventh-grade year in the SCORE program, Brayan was not adequately prepared for his end-of-grade tests and was not able to get passing scores on these exams. Another complication of the SCORE program was that he was reported as absent most of the time, even though he was attending classes online. Based on these two factors, he did not technically pass the seventh grade. But he was socially promoted based on his age, and is now in the eighth grade and ill-prepared for the curriculum. He still has no PEP or interventions of any kind in place to help him succeed. He is happy to be back in school and plans to work hard this school year, but without the proper interventions he may be at risk again.

His mother is concerned about another ramification of the subpar academic services he received in the SCORE program last year. Brayan would like to play football, but students who are not succeeding academically are not eligible to play sports. Brayan's mom feels that participation in athletics would benefit him in several ways: he is highly active and would have a positive outlet for that energy; he would be spending his time on a constructive activity and less likely to get into trouble; and he would benefit from the heightened self-esteem often enjoyed by student athletes.

Had he not been unfairly targeted as a gang member and thrust out of school and into an inadequate academic alternative, his story going into this school year might be very different. He looks forward to a positive and productive school year, but he will have to work even harder due to last year's setbacks. Brayan and his mother want to share his story to encourage other students and parents to learn about, and fight for, their educational rights..

### WORDS OF WISDOM

"removal of students from school...can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout."

- New State Discipline Statute (House Bill 736; Session Law 2011-282)

"Recognizing that removal of students from school can exacerbate behavioral problems, diminish academic achievement, and hasten school drop outs, the Board encourages teachers and school administrators to use in-school disciplinary measures when possible and to reserve long-term out-of-school suspensions for serious misconduct..."

- WCPSS Board Policy 6400

"Students who were suspended and/or expelled, particularly those who were repeatedly disciplined, were more likely to be held back a grade or to drop out than were students not involved in the disciplinary system...When a student was suspended or expelled, his or her likelihood of being involved in the juvenile justice system the subsequent year increased significantly...research to date does not support the conclusion that 'zero tolerance' and other efforts emphasizing suspension and expulsion are responsible for the reduction in crimes committed in schools...a school that makes frequent use of suspension and expulsion does not necessarily create an environment that enables the overall school to achieve better academic outcomes."

- *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, Council of State Governments Justice Center and The Public Policy Research Institute at Texas A&M University, July 2011, pp. xi, xii, 4, 82.  
Available at [http://justicecenter.csg.org/files/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](http://justicecenter.csg.org/files/Breaking_Schools_Rules_Report_Final.pdf).

"many school districts are frittering away valuable instructional time with discipline codes that literally push the most vulnerable kids out of school...Research backs up what common sense tells us: Too many absences drag down student achievement and, by 6th grade, begin to predict the likelihood that a student will eventually drop out of school. Suspensions, especially for minor rule infractions, unnecessarily create

more absences, more time out of the classroom, more chances that students will fall further behind. Typically, the students missing school to suspension are the students who can least afford to miss valuable learning experiences. They need more time in school, not less...Preventive measures and alternatives to suspension are key elements in making this different approach work...Baltimore's schools more often use tactics such as in-school suspensions, after-school detention, and mentoring. Violent students are referred to anger-management or conflict-resolution sessions or, in some cases, mental-health counseling."

- Jane Sundius and Faith Connolly, *Rethinking Suspensions to Keep Kids Learning*, Education Week, August 2, 2011. Available at [www.edweek.org/ew/articles/2011/08/02/37sundius.h30.html?tkn=SSYFO%2BVZ79BZRWJbxyxq1GiGO%2FMcyLBv%2BRym&cmp=ENL-EU-VIEWS1](http://www.edweek.org/ew/articles/2011/08/02/37sundius.h30.html?tkn=SSYFO%2BVZ79BZRWJbxyxq1GiGO%2FMcyLBv%2BRym&cmp=ENL-EU-VIEWS1).

### 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' five 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).

