The State of the School-to-Prison Pipeline in the Wake County Public School System

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Advocates for Children’s Services
a project of Legal Aid of North Carolina
ABOUT ADVOCATES FOR CHILDREN’S SERVICES

Advocates for Children’s Services (ACS) is a project of Legal Aid of North Carolina (LANC). LANC is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove barriers to economic opportunity. ACS staff strive for education justice through legal advocacy, community education, and collaboration.

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EXECUTIVE SUMMARY

The mission of the Wake County Public School System (WCPSS) is to “significantly increase achievement for all students by providing a world-class education that equips students with the knowledge and expertise to become successful, productive citizens.” To achieve this laudable mission, the WCPSS must overcome tremendous challenges, including inadequate funding, size, growth, changing demographics, competition from charter schools and private schools, and diverse student needs.

The school-to-prison pipeline is another, although much less discussed, challenge that stands in the way of WCPSS achieving its mission. The pipeline is a system of laws, policies, and practices that pushes students out of school and on a path toward the juvenile and criminal systems. Schools should be safe and orderly, but also equitable, fair, and just, including when it comes to school discipline. We owe it to our students to help them stay in school and on a path to graduation, rather than pushing them out of school onto a path to prison. Research, data, and information are essential to achieving these goals.

With a focus on data from the 2011-12 school year (the most recent set of data available), this report aims to provide stakeholders with a detailed analysis of five primary components the school-to-prison pipeline in the WCPSS:

1) Efforts to prevent misbehavior and to intervene when behavior occurs;
2) Alternative education;
3) Suspension;
4) Due process for students facing suspension and expulsion; and
5) Security, including WCPSS security staff, private security guards, and law enforcement officers.

If certain analyses appear to be missing from the report, it is likely the result of either: a) the WCPSS not collecting the necessary data or producing relevant public records; or b) the district’s inability to provide such data due to confidentiality laws.

This report also provides detailed, proven, cost-effective, practical strategies that have been shown to both alleviate the school-to-prison pipeline and increase student achievement, improve school safety and climates, promote equity, and reduce disparities based on gender, race, class, and disability. This report does not address other important aspects of the pipeline, such as underfunding, academic failure, unmet special education needs, or laws, policies, and practices in the juvenile and criminal systems. This report also does not address environmental factors that have major impacts on student behavior and school safety, including poverty and parental engagement.

More broadly, this report aims to reinvigorate dialogue and activity around school-to-prison pipeline reform in Wake County. From 2004-05 to 2008-09, the WCPSS short-term suspended more than 20,000 students per year and long-term suspended (for the entire remainder of the school year) more than 1,000 students per year. During the same time period, the district also expelled – i.e., indefinitely removed – 48 students. The WCPSS also had massive school
Facing mounting pressure from advocates – including critical publications,19 multiple federal civil rights complaints,20 multiple state special education complaints,21 litigation,22 testimonies and presentations at board meetings,23 and intense media scrutiny24 – WCPSS policymakers made some efforts to review and change the district’s discipline policies and practices. The Economically Disadvantaged Student Performance Task Force had a major focus on discipline reform and a suspension professional learning team (PLT) formed; however, both are now defunct.25 Additionally, there was a Prevention of Suspensions Professional Learning Community that met six times during 2009-10. In September 2010, the Board of Education (BOE) voted to revise the definition of long-term suspension from “removal from the school system for the remainder of the school year” to “in excess of 10 school days but not exceeding the time remaining in the school year.”26 The Board also voted to give the Superintendent authority to reduce the length of mandatory (i.e., zero tolerance) long-term suspensions for individual students when mitigating factors exist.27 During 2011-12, the WCPSS spent approximately $2.5 million in additional funds for more seats in alternative schools and programs (although as discussed in the Alternative Education section of this report, some of the schools and programs were largely ineffective).28 In July 2011, the BOE approved revisions to the Student Code of Conduct,29 most of which were designed to bring the district into compliance with a new state statute ratified in June 2011.30

Unfortunately, systemic improvements have come to a screeching halt well short of much needed comprehensive reform. Little progress has been made over the last two years, and the reasons behind the inaction are unclear: Is it indifference, complacency after some progress had been made, changes in district leadership, competing priorities, or something else?

As evidenced by the findings of this report (summarized on the next two pages), one thing is clear: much work remains to be done in order to fully dismantle the school-to-prison pipeline in Wake County. Equipped with the information contained in this report, stakeholders can take the next steps toward ensuring fair and equitable discipline policies and practices, as well as school safety.
Findings

Prevention & Intervention

• The WCPSS does not have a comprehensive approach to preventing misbehavior or intervening when misbehavior occurs.
• The WCPSS does not have adequate prevention and intervention services across the district.
• The WCPSS has a shortage of counselors, social workers, and psychologists.
• Most schools in the WCPSS are too large.
• The prevention and intervention services that exist are inconsistently available across schools.

Alternative Education

• The WCPSS does not have an adequate continuum of high-quality alternative education options.
• The WCPSS invest too many resources in unstudied, failing, punitive alternative programs rather than in expanding its capacity to meet the academic and behavioral needs of students in alternative schools.
• The WCPSS disproportionately segregates male students, Black students, and economically disadvantaged students into low-performing alternative education programs.

Suspension

• In-school suspension is used inconsistently throughout the district and does not provide sufficient academic or behavioral services.
• While the WCPSS has reduced the use of out-of-school suspension (OSS) over the last few school years, far too many students are still given OSS for minor offenses and for too long.
• The WCPSS disproportionately suspends male students, Black students, economically disadvantaged students, and students with disabilities.
• The WCPSS does not have an adequate continuum of research-based alternatives to suspension.
Security

• The WCPSS and local law enforcement agencies spend millions of taxpayer dollars on security personnel and equipment without any evidence that these measures actually make schools safer.
• WCPSS school resource officers (SROs) and private security guards lack adequate guidelines, training, and accountability.
• WCPSS students have been seriously injured by excessive force.
• School-based delinquency complaints in Wake County have increased substantially in recent years.
• Black students in the WCPSS are disproportionately subjected to school-based delinquency complaints.

Due Process

• Due process for students facing suspension and expulsion is unfair.
• There are no hearings for students who are repeatedly short-term suspended.
• The WCPSS has ready access to attorneys but does not provide students appealing long-term suspensions with a list of advocacy resources.
• Students can be long-term suspended for up to 180 school days without there ever even being an in-person meeting with the student's parent.
• Each long-term suspension recommendation is not reviewed in a timely manner by a consistent Superintendent designee prior to the imposition of the suspension.
• Suspension notices are not automatically provided to parents who only speak Spanish, even when the district is aware of their limited English.

All Areas

• The WCPSS lacks adequate data and does not regularly evaluate and disseminate public information about its prevention, intervention, alternative education, suspension, due process, or security practices.


Wake delays vote on student discipline changes


New School Discipline Law, JUVENILEJUSTICEANDCHILDRENSRIGHTS.NCBAR.ORG (Dec. 5, 2011),
The State of the School-to-Prison Pipeline in the WCPSS

Prevention & Interventions

2013

Advocates for Children’s Services
Introduction

Research has consistently shown that, when implemented with fidelity, programs that focus on preventing misbehavior by enhancing students’ strengths and resiliencies are among the most effective tools in reducing school misbehavior and violence, while simultaneously increasing student achievement.\(^1\) In recent years, the Wake County Public School System (WCPSS) has begun to endorse strategies and goals that emphasize this kind of positive prevention and intervention. Specifically, the WCPSS’ most recent strategic plan included the following:

- “Promote Positive Behavioral Interventions and Support (PBIS) training in schools with discipline issues to aid in the enhancement of student achievement.”
- “Support schools in the use of district tools to identify students with varying ‘at risk’ indicators (e.g., achievement, language, or behavior).”
- “Assist schools with identifying and deploying appropriate supports and interventions for identified at-risk students.”
- “Build support systems to foster the social and emotional health of students throughout the district, schools, and classrooms.”\(^2\)

Though the district has set laudable goals, the reality is that the WCPSS does not yet have a comprehensive or well-coordinated approach to preventing misbehavior or intervening when misbehavior occurs. This section of the report is intended to: (1) give an overview of existing prevention and intervention practices and programs in the district; and (2) highlight areas in which there are concerns with existing services or gaps in services.

This section does not provide an analysis of all prevention and intervention measures that reduce incidents of misbehavior and violence. For example, it does not address: high-quality, varied, engaging instruction; community building; staff training; certain academic interventions (e.g., Individualized Education Programs and Personal Education Plans); school-based mental health services; or parent engagement initiatives. Additionally, this section does not address the district’s lack of a uniform plan or process for connecting students and families to community-based resources (e.g., using Child and Family Teams).\(^3\) Finally, this section does not address some existing supports in the district, such as student assistance program (SAP) counselors, due to the fact that little to no information about these counselors or related programs is made publicly available. Instead, the following sections focus on prevention and intervention tools in the district for which data and information were made available to the authors via public records requests or on the WCPSS’ or North Carolina Department of Public Instruction’s websites.

Prevention and Intervention Programs and Practices

This section addresses the following prevention and intervention programs and practices: (1) small schools; (2) support staff; (3) Positive Behavioral Interventions and Supports; (4) Responsiveness to Instruction; (5) character education; (6) bullying prevention; (7) social and emotional learning; (8) mentoring; (9) Project Enlightenment; (10) student support teams.
Small Schools

Research consistently shows that small schools are better positioned to promote student achievement,\(^4\) deter misbehavior,\(^5\) and increase positive student involvement in school. They enable staff, students, and families to get to know each other better and create a sense of collective responsibility for one another.\(^6\) Small schools can be more flexible in responding to students’ individual circumstances and needs, as well as faster in responding to safety threats.\(^7\) Smaller schools also produce more positive school environments because “students have better attitudes when the school is personalized, when all can take part in activities, and when everyone knows their actions will be noticed.”\(^8\) According to a U.S. Department of Education study, schools with more than 1,000 students had higher rates of violent student behavior than schools with fewer than 300 students.\(^9\) Furthermore, studies have overwhelmingly found that the size of a school greatly impacts a student’s ability to learn, specifically noting that, “in large high schools, especially those enrolling over 2,100 students, [students] learn considerably less.”\(^10\) Overall, the research tends to agree that school sizes of 600-900 students are ideal for high school students,\(^11\) while a maximum student body of 400-450 students is necessary to ensure appropriate supports for elementary school students.\(^12\)

Most WCPSS schools have too many students and are much larger than what extensive research has shown to be optimal school size.\(^13\) During 2011-12, 15 individual WCPSS schools had over 1,900 students (see Table 1).\(^14\) By comparison, there were 14 entire school districts in North Carolina that had fewer than 1,900 students.\(^15\) The WCPSS’ average school sizes far exceed the state averages at all levels: WCPSS elementary schools are 36% larger than state averages, its middle schools are 53% larger, and its high schools are 92% larger (see Chart 1).\(^16\)

Notably, class sizes in the WCPSS are also too large. In 2009, the State Board of Education denied the WCPSS’ request to keep more than 300 K-3 elementary school classes larger than the state requirement (i.e., 24 students per teacher).\(^17\) The State Board of Education denied a similar request for 25 classes in 2008.\(^18\) In 2011-12, class sizes in the WCPSS were larger than statewide averages for every grade K-8, except third.\(^19\) According to a study of WCPSS teacher working conditions during 2011-12, over 40% of WCPSS teachers disagreed with the following statement: “Class sizes are reasonable such that teachers have the time available to meet the needs of all students.”\(^20\) The number of WCPSS teachers who reported that class sizes were unreasonably large was significantly higher than the statewide average.\(^21\) Similarly, teachers in the WCPSS reported a higher rate of dissatisfaction (34%) with the sufficiency of “instructional time to meet the needs of all students” as compared to teachers across the state.\(^22\)

Table 1: Largest schools in the WCPSS during 2011-12 (based on final average daily membership)

<table>
<thead>
<tr>
<th>School</th>
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<th>ADM</th>
<th>School</th>
<th>ADM</th>
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<tr>
<td>Holly Springs*</td>
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<td>Heritage*</td>
<td>1,494</td>
<td>Millbrook</td>
<td>2,542</td>
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<tr>
<td>Sycamore Creek*</td>
<td>1,047</td>
<td>Durant Rd*</td>
<td>1,466</td>
<td>Enloe</td>
<td>2,538</td>
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<tr>
<td>Durant Rd.</td>
<td>1,034</td>
<td>Mills Park</td>
<td>1,323</td>
<td>Panther Creek</td>
<td>2,440</td>
</tr>
<tr>
<td>Mills Park</td>
<td>1,044</td>
<td>W. Lake*</td>
<td>1,295</td>
<td>Wakefield</td>
<td>2,406</td>
</tr>
<tr>
<td>Willow Springs*</td>
<td>947</td>
<td>E. Garner</td>
<td>1,294</td>
<td>Apex</td>
<td>2,325</td>
</tr>
</tbody>
</table>
Support Staff

WCPSS has a Counseling and Student Services Department “that encompasses the program areas of school counseling, school psychology, school social work, Student Support Team coordination, and Section 504 coordination and compliance.” Unfortunately, the Department is under-funded and under-staffed. To that end, the Wake County Board of Education’s “Task Force for Creating Safer Schools in Wake County” specifically recommended that, in order to maintain safe school environments, each WCPSS school should have a full-time, highly-trained staff of therapeutic professionals, including counselors, social workers, psychologists, and nurses.

During 2011-12, the WCPSS had a severe shortage of school counselors, social workers, and psychologists. The American School Counselor Association recommends that the student-to-counselor ratio not exceed 250 students to one school counselor. However, during 2011-12, the counselor-to-student ratio in WCPSS elementary schools was one per 614, in middle schools it was one per 352, and in high schools it was one per 396 students (see Chart 2). Guidance counselors in the WCPSS are also pulled away from their core duties for cafeteria monitoring, proctoring tests, classroom coverage, etc.
As for school social workers, No Child Left Behind recommends a ratio of one month of employment (MOE) per 80 students. The School Social Work Association recommends a ratio of one MOE per 40 students. Yet, during 2011-12, the WCPSS had one MOE per 211 students (see Chart 3).\(^3\)

Finally, the National Association of School Psychologists recommended ratio for schools implementing a comprehensive model is one school psychologist to 500-700 students.\(^3\)\(^1\) The WCPSS’ ratio is two to three times larger than this national standard. During 2011-12, WCPSS had one psychologist per 1,675 students (see Chart 4).\(^3\)\(^2\)

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**Chart 2: School counselor-to-student ratios**

<table>
<thead>
<tr>
<th>Number of Students Per School Counselor (2011-12)</th>
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<tbody>
<tr>
<td><img src="chart.png" alt="Bar chart showing counselor-to-student ratios" /></td>
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</table>

**Chart 3: School social worker-to-student ratios**

<table>
<thead>
<tr>
<th>Number of Students Per One Social Worker MOE (2011-12)</th>
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</thead>
<tbody>
<tr>
<td><img src="chart.png" alt="Bar chart showing social worker-to-student ratios" /></td>
</tr>
</tbody>
</table>
Positive Behavioral Interventions and Supports

Positive Behavioral Interventions and Supports (PBIS) is a nationally recognized program targeted at training school personnel to integrate evidence-based behavioral interventions into the school environment so as to “enhance academic and social behavior outcomes for all students.” The central focus of PBIS is on “changing underlying attitudes and policies concerning how behavior is addressed.” The goal of PBIS is to foster an overall positive school climate by preventing the development and reducing existing patterns of negative behavior. Strategies include “school-wide behavior support planning, professional development on best behavioral practices, supporting teachers to master strategies, and developing systems of intervention for small groups of students and for specific students.” The increase in positive school climate and decrease of problem behaviors in turn serve to improve the academic performance of students by creating “an environment supportive of high levels of learning.”

In the WCPSS, the PBIS program operates on the foundational belief that, in “schools that implement PBIS with fidelity over time” the following outcomes can be attained:

- “Improved school climate”;
- “Reductions in office discipline referrals and in-school and out of school suspensions”;
- “Increased parent and community satisfaction”; and
- “Improved systems for responding to students in need of additional support with social behavior”.

Stressing the importance of achieving these outcomes for all students, the North Carolina Department of Public Instruction’s PBIS Department stated mission is that “[a]ll schools in North Carolina will implement [PBIS] as an effective and proactive process for improving social competence and academic achievement for all students.”
Despite a laudable vision of universal and effective PBIS implementation, the WCPSS has taken insufficient steps to ensure the success of the PBIS program, particularly at the high school level. In 2011-12, only 78% of WCPSS elementary schools, 86% of WCPSS middle schools, and 52% of WCPSS high schools were “PBIS schools.” Furthermore, of the schools that were actually “PBIS schools,” a very low number had actually been recognized by the North Carolina Department of Public Instruction (NCDPI) as implementing the program with fidelity. In 2011-12, only 44% of the 82 PBIS elementary schools received classification as a green ribbon, model, or exemplar PBIS school. Likewise, only 37% of the 30 PBIS middle schools and a disappointing 13% of the 15 PBIS high schools received recognition status. Notably, high schools have the highest rates of suspension in the district (see the Suspension section of this report), yet the lowest implementation rate of PBIS and the lowest fidelity of implementation recognition rate.

The district purports to ensure effective implementation of the PBIS program by providing PBIS coaches to participating schools for assistance with “professional development and technical support, and…data analysis, problem solving and planning.” Notably, the coaches are only given authority to make recommendations; they cannot actually require that schools make necessary changes to ensure implementation fidelity. Furthermore, understaffing undermines the coaches’ effectiveness. Currently, the WCPSS has only four PBIS coaches for 170 schools – one per 42.5 schools and 37,377 students. Put into context, this means that the district employs 16 times more law enforcement officers than PBIS coaches (see the Security section of this report for more information about law enforcement officers).

This lack of true investment in the program is directly at odds with best practice recommendations by experts in the field. According to the Center for Civil Rights Remedies of the Civil Rights Project at UCLA:

[s]chools and districts will reduce both suspensions and racial disparities more effectively if they revise their school codes to align with the positive and constructive framework of PBIS, and provide multicultural training that pays specific attention to the data on race and ethnicity as part of the PBIS implementation. These are very important but not simple changes, and schools will need professional help and resources to implement them successfully,
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particularly in districts where counselors and other support staff have been drastically reduced.\textsuperscript{47}

Rather than investing in its PBIS program in order to reduce suspension and racial disparities, the WCPSS instead offers only the bare minimum of support and oversight in the ongoing implementation of PBIS. Notably, the program was last evaluated in 2008.\textsuperscript{48} Since that time, there has been no publicly available information regarding the successes or struggles of schools in their implementation of PBIS.

**Responsiveness to Instruction**

Responsiveness to Instruction (RtI) is a “multi-tiered framework which promotes school improvement through engaging, high quality instruction.”\textsuperscript{49} The aim of the program is to equip schools to identify students at risk for academic failure, implement evidence-based interventions, and conduct ongoing monitoring in order to adjust the intensity and nature of those interventions depending on a student’s responsiveness to the instructional interventions.\textsuperscript{50}

The RtI approach is divided into three tiers. Tier I focuses on high-quality core instruction for all students.\textsuperscript{51} If a student continues to demonstrate difficulty within the context of classroom interventions, the teacher can implement more individually-tailored Tier II interventions matched to the student’s specific needs, such as small-group instruction.\textsuperscript{52} In the WCPSS, these interventions are typically implemented via a Personal Education Plan (PEP),\textsuperscript{53} which is a legally mandated plan that is supposed to include a diagnostic assessment, individualized interventions (e.g., coaching, mentoring, tutoring, summer school, Saturday school, and extended days), and progress monitoring strategies for students who are at risk of academic failure.\textsuperscript{54} Teachers are responsible for monitoring the effectiveness of the interventions at this stage. If a student continues to struggle, she is then supposed to be referred to the school’s Tier III intervention team. In Wake County, every school is supposed to have such a team.\textsuperscript{55} At Tier III, a student’s team is charged with creating a plan with strategic interventions matched to the student’s need (e.g., one-on-one work with a reading specialist).\textsuperscript{56} Interventions are more intensive in duration and frequency than those provided at Tier I and Tier II, and the plan is required to be monitored on a regular basis to ensure the intervention is an effective intervention for a particular student.\textsuperscript{57}

The district’s most recent strategic plan highlighted the importance of a strong RtI program, including having it as a necessary element in eliminating achievement gaps.\textsuperscript{58} Specifically, the district set goals related to refining the program’s “framework and practices” and “implement[ing] the [RtI] framework with fidelity.”\textsuperscript{59} Additionally, the strategic plan calls for training for staff in the
use of RtI, enhanced support for schools in implementation of RtI, and alignment of school programming with DPI’s RtI standards.60

Currently, it is difficult to monitor the fidelity of RtI implementation in the WCPSS for two reasons. First, no evaluations have been conducted and no data regarding students in the program has been made publicly available. Second, parents are not required to be a part of the RtI process; so, there is no consistent mechanism for parent input or oversight. While a parent must be notified of his child’s involvement with the Tier III team, the WCPSS does not require that a parent actually be invited to be a contributing member of the team.61

A final problem with the implementation of RtI in the WCPSS is that RtI is sometimes used in a way that conflicts with special education law. Under state and federal law, if a school has notice that a student has a disability and is in need of special education services, the school must seek permission from the child’s parent or guardian to conduct an evaluation.62 If permission is granted, the school must then conduct an evaluation, determine eligibility, and for an eligible child, develop an Individualized Education Program (IEP) and place the child in the appropriate setting, all within 90 days of the notice.63 If a school requires a child they suspect of having a disability to progress further through the RtI process prior to referring her for a special education evaluation, the school has violated their duty under special education law.

Character Education

In 2001, the North Carolina General Assembly passed a statute requiring all school districts to “develop and implement character education instruction with input from the local community.”64 The law mandates that character education be incorporated into the standard curriculum and states that it should address the following traits: courage, good judgment, integrity, kindness, perseverance, respect, responsibility, and self-discipline.65 Finally, the law encourages districts to also include instruction on the following “responsibilities”: respect for school personnel, responsibility for school safety, service to others, and good citizenship.66

In directing the implementation of character education in North Carolina, the NCDPI notes, “Character Education is effectively integrated into the Social Studies Standard Course of Study and may be used as the underpinning for other critical issues such as discipline problems, gang violence, teen pregnancy, and poor academic achievement.”67 In its character education guide to support implementation of the new 2001 law, the NCDPI stated:

It’s not about pretty posters and motivational quotes. It is about people

Goals of Character Education listed in DPI’s Character Education Handbook:

- Provide staff development and establish a common language
- Integrate with the school’s academic environment and curriculum
- Build community consensus on common values and recruit community support and partnerships
- Involve parents
- Integrate service-learning
- Publicly recognize the work and achievement of students
- Incorporate character traits, school motto, and character quotes into the school environment
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caring about others...It’s not a program to implement and then set on a shelf until you go on to something else. It’s a process of caring and determination. Strength lies in comprehensive processes, not in new, short lived programs.\textsuperscript{68}

The guide also highlighted the importance of evaluating character education programs, including determining: “(1) Is the program affecting positive changes in student behavior, academic achievement and cognitive understanding of the traits?; and (2) Is the implementation process providing the tools and support teachers need?”\textsuperscript{69}

WCPSS Board Policy 5130 largely mirrors the state law, with the district defining character education as “a national movement creating schools that foster ethical, responsible, and caring young people by modeling and teaching good character through an emphasis on universal values that we all share.”\textsuperscript{70} Likewise, WCPSS Board Policy purports to set firm guidelines that are in accordance with the NCDPI guide described above, asserting that “[s]chool staff members \textit{will ensure} that positive behavior is practiced, demonstrated, modeled, and reinforced within an environment of mutual respect, caring, and dignity.”\textsuperscript{71} However, as with the other programs discussed in this section, there is no established means of monitoring or evaluating the implementation of the Character Education program so as to ensure that the program is being implemented with fidelity and that it is about more than pretty posters and motivational quotes.

Bullying Prevention

Bullying prevention programs use measures at the school, classroom, and individual levels to send a message that bullying is not acceptable behavior and will not be tolerated.\textsuperscript{72} Research shows that best practices in bullying prevention require comprehensive efforts targeting, among other things, training adults and students, ensuring early intervention in potential bullying situations, involving parents and support staff in ongoing review of protocols, and, ultimately, aiming for changing the total social climate of the school environment.\textsuperscript{73}

However, in the WCPSS, there is no comprehensive bullying prevention curriculum or system of therapeutic interventions for students being bullied. Instead, the district’s bullying prevention “program” focuses solely on encouraging students to report bullying, with no follow-up protocol for resolving bullying issues and/or providing counseling or supports for students involved in bullying.\textsuperscript{74} Likewise, the Board policy on the topic of bullying focuses solely on reporting, investigation, and discipline in situations of bullying.\textsuperscript{75} There is no provision for the development of a bullying prevention curriculum, tools for intervening and positively resolving situations involving bullying, or emotional support services for students who have bullied or who have been the victims of bullying. In light of the importance of holistic bullying prevention programs in creating a safe and welcoming school environment, the Wake County Board of Education’s “Task Force for Creating Safer Schools in Wake County” specifically recommended that each WCPSS school have a comprehensive bullying prevention program.\textsuperscript{76} A truly comprehensive and effective program would include all of the steps outlined below.
Social and Emotional Learning

Social and Emotional Learning (SEL) is a research-based curriculum that focuses on “developing social and emotional competencies in children.” The curriculum for SEL derives from its fundamental principles:

- The best learning emerges in the context of supportive relationships;
- Social and emotional skills are critical to being a good student and citizen; and
- Risky behaviors (e.g., drug use, violence, bullying, and dropping out) can be prevented or reduced when multi-year, integrated efforts develop students’ social and emotional skills.

SEL is effective in increasing students’ academic achievement, behavior, and overall attitudes. Integrated implementation of PBIS, RtI, and SEL is a best practice for educating via a “whole child” approach. Though the WCPSS has implemented RtI and PBIS in its some of its schools, it has not yet implemented SEL programming. The Wake County Board of Education’s “Task Force for Creating Safer Schools in Wake County” specifically recommended that each WCPSS school have SEL programming.
The North Carolina Guidance Essential Standards are currently being implemented around the state. They are based on the Revised Bloom’s Taxonomy and the American School Counselor Association (ASCA) National Standards for Students, and were approved by the State Board of Education in fall 2011. The Standards call for addressing three domains: socio-emotional, cognitive, and career. Each domain has two or three standards and ten or more clarifying objectives. The essential standards for the socio-emotional domain are: (1) understand the meaning and importance of personal responsibility and awareness; (2) understand the relationship between self and others in the broader world; and (3) use communication strategies effectively for a variety of purposes and audiences. To date, there are no available data regarding the status of SEL programming in the WCPSS. However, starting in 2013-14, the WCPSS should be able to report to the NCDPI how the activities and services of school counselors are supporting the socio-emotional needs of students.

**Mentoring**

Mentoring can decrease students’ violent attitudes, raise self-esteem and career aspirations, and improve social skills and academic achievement. During 2011-12, the School/Community Helping Hands Mentoring Program was one of the positive intervention programs targeting individual WCPSS elementary and middle school students. The mission of the mentoring program was to “provide academic and personal development support services to African-American male students, while enabling their parents to effectively utilize educational and community resources, which will enhance positive student outcome.”

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### Core Area of Social and Emotional Competency

<table>
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<tr>
<th></th>
<th>Self-Awareness</th>
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<th>Social Awareness</th>
<th>Relationship Skills</th>
<th>Responsible Decisionmaking</th>
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<td><strong>Self-Awareness</strong></td>
<td>• Identifying and recognizing emotions</td>
<td>• Impulse control and stress management</td>
<td>• Perspective taking</td>
<td>• Communication, social engagement, and relationship building</td>
<td>• Problem identification and situation analysis</td>
</tr>
<tr>
<td></td>
<td>• Accurate self-perception</td>
<td>• Self-motivation and discipline</td>
<td>• Empathy</td>
<td>• Working cooperatively</td>
<td>• Problem solving</td>
</tr>
<tr>
<td></td>
<td>• Recognizing strengths, needs, and values</td>
<td>• Goal setting and organizational skills</td>
<td>• Difference recognition</td>
<td>• Negotiation, refusal, and conflict management</td>
<td>• Evaluation and reflection</td>
</tr>
<tr>
<td></td>
<td>• Self-efficacy</td>
<td></td>
<td>• Respect for others</td>
<td>• Help seeking</td>
<td>• Personal, social, and ethical responsibility</td>
</tr>
<tr>
<td><strong>Self-Management</strong></td>
<td></td>
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<tr>
<td><strong>Social Awareness</strong></td>
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<tr>
<td><strong>Relationship Skills</strong></td>
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<tr>
<td><strong>Responsible Decisionmaking</strong></td>
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</table>
evaluation of the program was conducted in 2008, with findings that the mentoring program was successful in reducing suspension rates for African-American male students.92

Despite the positive results of mentoring on student discipline, the program did not serve high school students in the district. During 2011-12, mentors were provided to students at 23 of the district’s 104 elementary schools and 12 of the district’s 32 middle schools.93 No mentors were provided for 81 elementary schools, 20 middle schools, or any of the 25 high schools.94 Individual schools may have their own mentoring program;95 however, the WCPSS does not maintain a central list or assist in coordinating school-based programs.

**Project Enlightenment**

Project Enlightenment is a WCPSS program targeted at preschool aged children with a mission to “promote the optimal development of young children by providing a unique blend of quality services to the Wake County community.”96 The ultimate goal of the Project is to help ensure that students are best equipped to enter kindergarten in the WCPSS.97 Project Enlightenment employs educators, child development specialists, psychologists, and counselors who offer tiered levels of services and interventions aimed at providing holistic supports that will improve early childhood development and preparedness for kindergarten.98

According to a recent evaluation conducted by the WCPSS, Project Enlightenment far outpaces early education programs of comparably large school systems.99 Specifically, the evaluation found that “Project Enlightenment appears to be rather unique in its triangular service model directed to children, parents, and teachers.”100 Whereas the majority of other large districts rely solely on developmental screenings and Title I pre-k programs to serve their at-risk students, Project Enlightenment offers a much more comprehensive array of services for children, parents, and even teachers.101 Specifically, Project Enlightenment offers: a parent-teacher resource center, training for teachers and early childhood professionals, classroom observations and consultations, parent education and counseling, a help line, developmental screenings, and demonstration preschool classrooms.102

Project Enlightenment is an excellent program that has been recognized as a national model.103 Thankfully, deep funding cuts to Project Enlightenment in 2010 were reversed later that year.104

**Student Support Teams**

In the WCPSS, the Student Support Team (SST) operates as “a multidisciplinary team of school staff that provides support to students who are experiencing academic, behavioral, family, and/or emotional difficulties that interfere with learning.”105 An SST works with other school staff (e.g., regular and special education teachers, school counselors, psychologists, social workers, nurses, and administrators) and parents/guardians to gather resources and develop strategies to help students succeed in the regular education classroom.106 The stated goal of the SST program is “to strengthen and support the student by developing and implementing an action plan using classroom-, school-, family-, or community-based strategies. SST strategies
involve school personnel, families, and/or community members as part of the action plan.”

The SST’s basic responsibilities are to:

- “Gain a full understanding of the student's school and home life that may be affecting the student's success”;
- “Generate and select effective strategies that will increase the student’s success”; 
- Develop and implement an action plan that reflects the areas of strength and concern for the student”;
- “Provide follow-up on the action plan”; and
- “Make changes to the action plan as often as necessary”.

Every school in the WCPSS has an SST. However, the last time SSTs were evaluated by the district (in July 2005), 80% of the students served by SSTs were elementary school students. According to that evaluation, “Earlier SST meetings and family-based strategies were correlated with positive academic outcomes. Classroom-based strategies were correlated with fewer suspensions. Schools varied in their success in improving SST students’ achievement.”

Notably, there has been no publicly available information regarding the implementation of SST since 2005.

WCPSS Board Policy 6405, “Management and Placement of Students with Disruptive Behavior”, details a process similar to the SST process. Notably the title of policy reflects a culture and mindset in the WCPSS that struggling students need to be managed and placed, rather than supported.
Conclusion

Overall, the district has made laudable commitments on paper to investing in prevention and intervention tools to address WCPSS students’ academic and behavioral struggles. However, as outlined above, there is currently no cohesive or consistent plan for ensuring the delivery and ongoing monitoring of these vital services for all students. First and foremost, the WCPSS will need to comprehensively review all of its prevention and intervention efforts so as to better understand its strengths and the areas in which it is not adequately serving students. The WCPSS has not even published a comprehensive list of programs since May 2009 – over four years ago.¹¹⁴ A crucial first step to ensuring maximum student access to these programs will be raising parent, community, and school staff awareness of what services actually exist and how to utilize the services. Finally, as the district continues to focus on improving its prevention and intervention efforts, it will be critical that the district incorporate the best practices outlined below.

Qualities of Safe and Fair Schools: Prevention and Interventions

1) Clear, consistent expectations
2) Caring, loving, supportive staff
3) Well-trained staff, including training in:
   a) Cultural competency
   b) Positive behavior management
   c) Adolescent development
   d) Disabilities and mental health issues
   e) Students’ rights
   f) Utilizing prevention and intervention resources and programs
4) A strong sense of community developed through:
   a) Small schools and classes
   b) Retreats for students, families, and staff
   c) Town hall/school community meetings for students, families, and staff
   d) Student and parent advisory committees
5) Engaging, rigorous curriculum and instruction
6) Extensive parent engagement initiatives, such as:
   a) Parent liaisons and mentors
   b) Parent trainings and classes
   c) Home visits
   d) Parent newsletters
7) Readily available student support teams that include:
   a) The student
   b) The student’s family
   c) The student’s teachers
   d) The student’s principal or assistant principal
   e) Support staff (e.g., psychologist, social worker, and counselor)
   f) Other important people in the student’s life (e.g., physician, therapist, psychiatrist, mentor, tutor, coach, religious leader, close family friend, etc.)
Prevention & Interventions

8) A broad array of well-coordinated, research-based best practices for preventing misbehavior and intervening when misbehavior occurs, including:
   a) Positive Behavioral Interventions and Supports
   b) School-based mental health, social work, and counseling services
   c) Mentoring
   d) Bullying prevention
   e) Character Education
   f) Social and Emotional Learning
   g) Responsiveness to Instruction
   h) Support groups

9) Teachers, support staff staff, and administrators have the time necessary to carefully utilize prevention and intervention measures

10) Each school has a detailed plan to prevent misbehavior, and notifies all students, parents, and staff of the plan at the beginning of the school year

11) School administrators are required to utilize interventions, including as a prerequisite to using suspension, and to notify all students, parents, and staff of available interventions at the beginning of the school year

12) Data on prevention and intervention efforts is collected annually

13) Prevention and intervention efforts are regularly evaluated
APPENDIX A: NATIONAL SCHOOL BOARD ASSOCIATION’S 10 ACTION STEPS TO PREVENT THE USE OF OUT-OF-SCHOOL SUSPENSIONS

1. Review existing discipline codes to ensure that they are appropriate and effective. Monitor implementation to ensure fair and equitable administration of the codes.

2. Develop policies that support alternative school discipline models district-wide.

3. Engage teachers, parents, students, community members and other stakeholders in developing comprehensive positive school discipline strategies.

4. Allocate resources to support and implement positive alternative discipline programs.

5. Host ongoing public discussions on school discipline to encourage community engagement, specifically reaching out to communities that are impacted by overrepresentation in the data.

6. Continually monitor the district’s progress on eliminating or reducing out-of-school suspensions by examining disaggregated data based by student subgroups. Also monitor progress by school, grade level, type of infraction and the number of days of missed instruction that resulted from such removals.

7. Establish a district-wide task force involving key stakeholders and recognized experts to examine the issue in greater detail and provide recommendations for improvement based on the district’s needs and circumstances.

8. Provide ongoing professional development for teachers, administrators and other school staff that emphasizes the importance of evidenced-based positive school discipline, behavior management, cultural relevancy and responsiveness, and social justice and equity to meet district goals.

9. Use or develop a constituent newsletter to educate parents, community members and opinion leaders about the negative impact of out-of-school suspensions.

10. Develop comprehensive student behavioral handbooks that outline the responsibilities for every student, parent, caregiver, teacher, school administrator, district staff member, visitor and community member and that provide clear guidelines regarding the types of supports or interventions that must be used prior to suspension.


5 AMANDA K. MILLER, VIOLENCE IN U.S. PUBLIC SCHOOLS: 2000 SCHOOL SURVEY ON CRIME AND SAFETY 8 (2004), available at http://nces.ed.gov/pubs2004/2004314.pdf (“[T]he greater the school size, the less likely the school is to utilize certain successful components of school safety programs.”).


33 PBIS Frequently Asked Questions, POSITIVE BEHAVIORAL INTERVENTIONS & SUPPORTS, http://www.pbis.org/pbis_faq.aspx (last visited July 18, 2013); *See also Positive Behavioral Interventions and*
Prevention & Interventions


44 Meeting with Dr. Marvin Connelly, WCPSS Assistant Superintendent for Student Support Services (July 16, 2013).


65 N.C. Gen. Stat. § 115C-81(h) (2012); In fact, the list of traits was developed by the Wake County Character Education Task Force in 1994, see N.C. Dep’t Pub. Instruction, Character Education: Informal Handbook & Guide 15 (Mike Frye et al. eds., 2002), available at http://www.ncpublicschools.org/docs/charactereducation/handbook/content.pdf.

66 N.C. Gen. Stat. § 115C-81(h) (2012); In fact, the list of traits was developed by the Wake County Character Education Task Force in 1994, see N.C. Dep’t Pub. Instruction, Character Education: Informal Handbook & Guide 15 (Mike Frye et al. eds., 2002), available at http://www.ncpublicschools.org/docs/charactereducation/handbook/content.pdf.


90 Records Request from WCPSS (Dec. 27, 2012)(on file with Author).

91 Records Request from WCPSS (Dec. 27, 2012)(on file with Author).


93 Records Request from WCPSS (Dec. 27, 2012)(on file with Author).

94 Records Request from WCPSS (Nov., 2012)(on file with Author).


104 T. Keung Hui, School board members voice support for restoring Project Enlightenment jobs, NEWSOBSERVER.COM (Sept. 15, 2010), http://blogs.newsobserver.com/wakeed/school-board-members-voice-support-for-restoring-project-enlightenment-jobs; T. Keung Hui, Supporters lobbying to save Project


The State of the School-to-Prison Pipeline in the WCPSS

Alternative Education

2013

Advocates for Children’s Services
Alternative Education

Introduction

Alternative education programs can be valuable tools for ensuring school safety, providing supports to “at-risk” students, and dismantling the school-to-prison pipeline. Providing students with effective alternative education can result in positive changes in students’ morale and attitudes towards school, in students’ academic performance, and to students’ future academic and career goals. Alternative education programs can encourage dropout prevention, and reduce disciplinary issues and recidivism. Research and scholarship on the efficacy of alternative education programs have revealed that high-quality and effective programs are marked by their adherence to recognized youth development principles.

Successful alternative education programs share a set of basic characteristics:

- A primary focus on ensuring the physical and psychological safety of students;
- An appropriate level of structure that is communicated to students (i.e., setting limits, clear rules, and a predictable structure as to how the program is going to function);
- An inclusive and supportive learning environment that nurtures supportive relationships among students, empowers youth by creating a challenging environment and providing chances for leadership, and fosters the development of positive social norms by communicating high expectations to students;
- Integration of family, school, and community efforts;
- High-quality academic instruction, with a low student-to-teacher ratio; and
- Comprehensive transition services designed to ensure that students are socially and academically prepared to reenter a traditional school.

Alternative education programs that are not built around the principles described above can be harmful to students and exacerbate the school-to-prison pipeline. This outcome is often related to the purpose and design of the alternative program; programs that are intended to enable at-risk students to achieve academically and socially are typically more successful than programs that are a “last resort” for “difficult” students. The punitive nature of some alternative education programs renders them less effective, but many regular school systems still consider alternative schools merely as a disciplinary solution, even as many alternative education practices are being incorporated into regular schools. When alternative education programs are designed to convey punishment and remove difficult students from the regular learning environment, rather than to rehabilitate and reintegrate students, they augment the school-to-prison pipeline and create barriers to meaningful education that disproportionately impact economically disadvantaged and students of color.

In the Wake County Public School System (WCPSS), the majority of available alternative education options are either disciplinary and/or “last resort” measures for “difficult” students who have struggled for years. This section focuses on schools and programs designed to serve students who are not succeeding in a traditional school environment. Specifically, this section provides an overview and analysis of: 1) non-disciplinary alternative education for students who are struggling in school; and 2) alternative education for students who have been suspended from school.
Non-Disciplinary Alternative Education for Students Who Are Struggling in School

The WCPSS has three alternative options for students who are struggling in school (e.g., have a history of suspensions and failing grades) but have not been long-term suspended from school: (1) Alternative Learning Centers; (2) PATHS; and (3) alternative schools. Alternative Learning Centers and PATHS are alternative programs housed in separate classrooms within a traditional school, whereas alternative schools function as stand-alone schools referred to by the district as “special(optional) schools.” Each is described and analyzed in turn below.

Alternative Learning Centers

Unlike at the elementary school level, there are no therapeutic alternative classrooms at the middle and high school levels for non-disabled students. Instead, students who struggle with academics and behavior in traditional classrooms are frequently placed in in-school suspension (ISS) or in an Alternative Learning Center (ALC) that largely mirrors ISS. ISS is discussed in more detail in the Suspension section of this report.

An ALC is a separate classroom inside of a traditional school that is supposed to be used as an intervention for students who repeatedly commit Level I and Level II disciplinary code infractions. According to public records, placement of a student in an ALC should occur only after a team—that includes the student and parent/guardian—decides that the ALC can best meet the student’s academic and behavioral needs. Prior to a placement in an ALC, multiple interventions should have been implemented. If the student continues to struggle behaviorally, notwithstanding existing supports, she would then be considered for placement in the ALC.

Once placement in an ALC occurs, an individualized plan is supposed to be created for the student. The plan is supposed to address: (1) the instructional delivery and academic needs of the student; and (2) the behavioral needs of the student. ALCs are supposed to be staffed by an ALC teacher who is in charge of monitoring students, acting as a liaison between classroom teachers and ALC students, implementing “curriculum aligned with the standard course of study for individual students, including electronic and virtual delivery,” and facilitating communication about wraparound support for ALC students. Students who make adequate progress while in an ALC should then be returned to the traditional classroom. Students who continue to struggle while placed in an ALC are supposed to be considered for referral to one of the district's alternative schools (discussed in more detail below). Placements in an ALC can last up to 45 school days.

In theory, ALCs can provide much-needed, in-school, positive environments for students who may otherwise be suspended. However, in practice, many ALCs are utilized as little more than extended ISS placements. In fact, in a recent review of ALCs across the WCPSS, the vast majority of ALCs were found to be operating as de facto ISS programs. As part of the review, staff members were asked about the difference between an ISS room and an ALC. Observations included the following:

\[\begin{align*}
\text{• “They are the same.”} \\
\text{• “ISS/ALC combined. Difference in the period of time served.”}
\end{align*}\]
Alternative Education

- “All students in ISS/ALC are on the same program and receive the same benefits.”
- “ISS is for short period, ALC is longer. Time is the only difference.”
- “ALC students do not stay all day, they go to lunch with their peers.”
- “In time only. ISS is 1-4 days, ALC for 5+ days. Chill out lunch detention and ALC in the same room.”
- “ALC is usually long term ISS.”
- “Principal uses ISS and ALC interchangeable [sic].”
- “Just time. ISS is daily placement and ALC is for 3-10 day placement.”

Equating of ISS and ALCs has consistently occurred despite the district’s explicit stance that the ALC model “is not designed to replace the In-School Suspension option provided at most middle schools, but is intended to supplement and formalize preventative staff/students interactions and interventions.” However, even at the district level, little delineation is made between the two programs. The proposed budget for 2011-12 included an increase of 330 seats as follows: “Alternative Learning Options for students at base school. In-School Suspension and up to 45 day placements for persistently disruptive behavior.” Likewise, the adopted budget further blurred the lines between the two programs, calling for students in those middle school settings to be taught by “[t]hirty-three repurposed middle school In School Suspension (ISS) teachers.”

Even school officials are frustrated by the fact that ALCs and ISS are not clearly delineated. When school staff were asked what should be done to improve the ALC program, responses included the following:

- “ALC and ISS need to be separate.” This concern was the most prevalent issue noted, and was echoed in the majority of feedback from school staff.
- “Need more structure and expectations for program.”
- “Program needs more structure. Parent involvement before ALC assignment.”
- “Split ISS and ALC, often used interchangeable [sic].”
- “Communication within school is needed. Parents are not aware that student is in ALC. Students don’t know why they are in ALC.”
- “Students with IEP are hard to have in ALC and meet IEP service requirement.”
- “Have school psychologist involved.”
- “More consistency with ALC programs across the county.”
- “Should not be a dumping ground; involve more struggling students in ALC program.”
- “Establish more prevention, better communication process for schools (to staff & parents).”

These comments highlight a major issue with ALCs: the complete lack of consistent and publicly available information about the program. While the district website contains information regarding alternative schools, alternative programs, and in-school interventions, such as RTI and PBIS, there is no information on the website regarding ALCs. The result has been that WCPSS staff are unclear on ALC protocols and too many parents have no idea that the program even exists, much less that their children have been placed in it. Ultimately ALCs operate with virtually no accountability because the district does not maintain any publicly available information about the program or disaggregated data regarding students placed in
ALCs. Furthermore, there has not been a formal evaluation of ALCs since they were initiated. Accordingly, there is no way of knowing whether interventions were tried before placement in an ALC, whether plans were created for students in ALCs, whether students in ALCs received wrap around support, how many students are placed in ALCs each year, whether parents were involved in placement decisions, for how long students remain placed in ALCs, how students who were placed in ALCs performed academically, or whether certain students were disproportionately placed in ALCs.

Despite a complete lack of data and evaluation to support the effectiveness of ISS and ALCs, funding and capacity for the programs were dramatically increased for 2011-12. In 2011-12, funds were allocated to provide 330 additional ISS and ALC seats per day in middle schools (increased from “as needed” in the previous year) and an additional 210 seats per day in high schools (increased from the 30 seats in the previous year). In total, the proposed budget provided for an average of 570 ISS and ALC seats per day across all middle schools and in 24 high schools. Accordingly, rather than investing in research-based, therapeutic, in-school alternative options for middle and high school students, the district instead dramatically increased its capacity to place students in an unproven, pseudo in-school suspension programs from 30 seats to 570 seats.

PATHS

PATHS is an alternative classroom program for students in grades three, four, and five who struggle academically and behaviorally in traditional classroom settings. The stated purpose of PATHS is to provide a structured alternative classroom with low student-to-teacher ratios (10:1) and a heightened focus on academic remediation and social skills development for students who are unable to be successful in a traditional classroom. Additionally, a part-time counselor is assigned to each classroom to assist in providing students with adequate behavioral and emotional support.

Students from any elementary school can be referred to a PATHS classroom for the remainder of the school year in which the referral was made. However, PATHS’ capacity is very limited. During 2011-12, PATHS was housed in only four of the district’s elementary schools: Banks Road, Root, Weatherstone, and Wendell.

To date, no formal evaluation has been conducted regarding the PATHS program. Furthermore, because achievement data for participating students is reported as part of the host school’s general population data, rather than as disaggregated data, it is difficult to determine whether PATHS is an effective intervention for improving student achievement and behavior. Furthermore, there is no data or public information about how many students qualified for PATHS in 2011-12, how the students who participated were selected, or about plans to expand the number of PATHS classrooms.
Alternative Schools

In the WCPSS, there are five alternative schools: one elementary, four middle, and two high schools. The Bridges Program is the sole alternative option for elementary school students, targeting students in kindergarten through fifth grade who are “in need of intensive and intrusive academic and behavioral interventions.” It is a separate program that is housed in the Mount Vernon Middle School. Mount Vernon Middle School serves at-risk middle school students who are experiencing academic failure and behavior difficulties in their base schools. River Oaks Middle School has two programs: 1) a base program that serves students who are not finding success in their base schools due to issues such as motivation, minor behavioral issues, or adjustment issues; and 2) the Booster Program, which is a rigorous academic program designed to help over-age seventh and eighth grade students get on track for high school graduation. Longview School is a combined middle and high school serving students with disabilities in grades six through 12 who have experienced significant behavioral difficulty in a regular school setting. Lastly, Mary Phillips High School serves high school students “who display academic and behavioral challenges that impede their ability to complete grade level requirements and/or obtain their high school diploma.”

Some of the biggest issues facing alternative schools in the WCPSS during 2011-12 were: (1) segregation; (2) low academic achievement; (3) high suspension rates; and (4) insufficient capacity. Each of these issues is discussed in greater detail below.

Operation as Racially-Identifiable, High-Poverty Schools

The authors of a 2010 evaluation of WCPSS alternative schools cited national research cautioning against the misuse of alternative schools and programs as “dumping grounds’ or ‘warehouses’ for at-risk students with behavioral problems and/or poor academic performance who also tend to be disproportionately minority, requiring special education, and/or from lower socioeconomic families.” Unfortunately, recent data indicate that WCPSS alternative schools unfortunately fit that profile. According to data from the 20th school day of 2011-12, the WCPSS’ alternative school population was 71.5% Black and 75.6% economically disadvantaged (see Table 1).

Table 1: 20th day count at alternative schools (2011-12)

<table>
<thead>
<tr>
<th>School</th>
<th>% Black</th>
<th>% White</th>
<th>% Economically Disadvantaged</th>
</tr>
</thead>
<tbody>
<tr>
<td>District</td>
<td>24.7</td>
<td>49.3</td>
<td>33.3</td>
</tr>
<tr>
<td>Bridges</td>
<td>57.9</td>
<td>31.6</td>
<td>75.5*</td>
</tr>
<tr>
<td>Mount Vernon</td>
<td>51.5</td>
<td>33.0</td>
<td>75.5*</td>
</tr>
<tr>
<td>River Oaks</td>
<td>61.0</td>
<td>14.6</td>
<td>78.0</td>
</tr>
<tr>
<td>Longview</td>
<td>78.7</td>
<td>9.3</td>
<td>78.7</td>
</tr>
<tr>
<td>Mary Phillips</td>
<td>80.7</td>
<td>4.7</td>
<td>73.1</td>
</tr>
</tbody>
</table>

* Separate data not available from WCPSS for BRIDGES and Mt. Vernon
**Low Academic Achievement**

Additionally, all of the alternative schools are academically low-achieving, particularly when compared with non-alternative schools. In 2011-12, only 27.2% of alternative school students passed all of their end-of-grade (EOG) exams, 22.2% passed all of the end-of-course (EOC) exams, and the combined four-year cohort graduation rate was 60.2%.

Table 2: Academic achievement in alternative schools (2011-12)

<table>
<thead>
<tr>
<th>School</th>
<th>% Proficient on All EOG Exams</th>
<th>% Proficient on All EOC Exams</th>
<th>Four-Year Cohort Graduation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>District</td>
<td>74.2</td>
<td>86.5</td>
<td>80.4</td>
</tr>
<tr>
<td>Bridges</td>
<td>19.4</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Mount Vernon</td>
<td>28.4</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>River Oaks</td>
<td>38.3</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Longview</td>
<td>5.1</td>
<td>23.7</td>
<td>10.5</td>
</tr>
<tr>
<td>Mary Phillips</td>
<td>N/A</td>
<td>21.9</td>
<td>75.0</td>
</tr>
</tbody>
</table>

In theory, alternative schools *should* improve academic achievement through the provision of smaller classes, lower teacher/student ratios, and more intervention services than “regular” schools. However, based on publicly available data, it is impossible to know whether students are actually improving in WCPSS alternative schools. Instead, all that can be determined is that, on the whole, students are performing poorly in the alternative school environments in the WCPSS. A thorough data analysis of the academic achievement of alternative schools would analyze comparative data – i.e., how students performed in their base schools compared to how students performed in the alternative setting. Privacy laws protect such data; thus, only WCPSS is in a position to perform such an analysis but has declined to do so. This information would be invaluable in determining whether WCPSS students are being best served in the district’s alternative schools and would inform what changes are needed to ensure that students improve academically in alternative settings.

**High Suspension Rates**

WCPSS alternative schools have higher suspension rates than non-alternative schools. In 2011-12, the suspension rate (based on final average daily membership) at WCPSS alternative schools was 11.7 suspensions per 10 students. This rate was almost 12 times higher than the rate at the district-wide level (see Table 3). While Mary Phillips’ suspension rate was close to that of the entire district, Longview suspended its students at a rate that was almost 30 times greater than the district average. Given that Longview also boasts the lowest EOG exam scores, EOC exam scores, and graduation rates of any school in the WCPSS, it is all the more concerning that it is excluding its students from school via suspension at such egregiously high rates.
### Alternative Education

**Table 3: Discipline in alternative schools (2011-12)**

<table>
<thead>
<tr>
<th>School</th>
<th>Total Suspensions</th>
<th>Total Students Suspended</th>
<th>Suspension Rate (Per 10 Students)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>District</td>
<td>14,626</td>
<td>8,420</td>
<td>1.0</td>
</tr>
<tr>
<td>Mount Vernon/Bridges</td>
<td>66</td>
<td>45</td>
<td>5.3</td>
</tr>
<tr>
<td>River Oaks</td>
<td>146</td>
<td>50</td>
<td>20.6</td>
</tr>
<tr>
<td>Longview</td>
<td>310</td>
<td>122</td>
<td>27.7</td>
</tr>
<tr>
<td>Mary Phillips</td>
<td>29</td>
<td>23</td>
<td>1.8</td>
</tr>
</tbody>
</table>

* Based on final ADM

**Insufficient Capacity**

Finally, the WCPSS has a significant problem with inadequate alternative school capacity. As of 2010-11, the WCPSS had not expanded alternative education in over 15 years – since the opening of River Oaks in 1995-96. In fact, the WCPSS closed Richard Milburn, the district’s largest alternative school, after the 2008-09 school year. In a 2010 independent evaluation of alternative education in Wake County, the number one recommendation was for the WCPSS to “[i]ncrease the capacity for serving students districtwide [sic] by creating more alternative options for students” in light of the fact that “the need for service exceeds current capacity.”

Although alternative school capacity in the WCPSS is still inadequate, the district did add seats in 2011-12. In 2010-11, the district’s budget provided for 563 seats for 145,922 students; enough alternative school seats to serve approximately one out of every 259 WCPSS students. In 2011-12, the allotted number of seats was increased to 783 for 146,687 students; enough alternative school seats to serve approximately one out of every 187 WCPSS students.

**Table 4: Increase in Alternative School Allotments**

<table>
<thead>
<tr>
<th>Program/School</th>
<th>Allotted Seats (2010-11)</th>
<th>Allotted Seats (2011-12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridges</td>
<td>48</td>
<td>138</td>
</tr>
<tr>
<td>Mount Vernon</td>
<td>105</td>
<td>105</td>
</tr>
<tr>
<td>River Oaks</td>
<td>105</td>
<td>105</td>
</tr>
<tr>
<td>Longview</td>
<td>105</td>
<td>135</td>
</tr>
<tr>
<td>Mary Phillips</td>
<td>200</td>
<td>300</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>563</strong></td>
<td><strong>783</strong></td>
</tr>
</tbody>
</table>

In most of the alternative settings, demand for seats was higher than budgeted capacity in 2011-12. According to Month 9 of the principal’s monthly report (PMR) data, which captures the aggregate enrollment, membership, and attendance information for a school, 859 students were served with funds appropriated to serve 783 students (see Table 5). Notably, according to campus capacity reports and PMR Month 1 data, Longview and Mary Phillips were both over capacity as of the end of the first month of 2011-12.

According to the PMR data, Bridges functioned as the only alternative program that was under-utilized in 2011-12, serving only 78 students over the course of 2011-12 rather than the 138 as budgeted. However, though the program was underutilized over time, it appears that, at any given time, it actually served larger populations than originally envisioned for a program
intended to maintain a small student-to-teacher ratio. According to the average daily membership (ADM) data, which captures the average number of students in attendance at any given time over the course of the year, instead of maintaining a small population of 40 students at a time, Bridges actually housed an average of 51 students at a given time, with the number reaching 61 students according to Month 9 ADM data.\(^6^1\)

<table>
<thead>
<tr>
<th>Alternative School</th>
<th>Seat Allotment</th>
<th>Campus Capacity</th>
<th>Month 1 PMR(^iii)</th>
<th>Month 9 PMR(^iv)</th>
<th>Final ADM(^v)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridges</td>
<td>138</td>
<td>138 (Bridges/Mt. Vernon)</td>
<td>39</td>
<td>78</td>
<td>51</td>
</tr>
<tr>
<td>Mount Vernon</td>
<td>105</td>
<td>138 (Bridges/Mt. Vernon)</td>
<td>58</td>
<td>108</td>
<td>74</td>
</tr>
<tr>
<td>River Oaks</td>
<td>105</td>
<td>0</td>
<td>41</td>
<td>111</td>
<td>71</td>
</tr>
<tr>
<td>Longview</td>
<td>135</td>
<td>102</td>
<td>111</td>
<td>192</td>
<td>112</td>
</tr>
<tr>
<td>Mary Phillips</td>
<td>300</td>
<td>144</td>
<td>177</td>
<td>370</td>
<td>162</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>783</strong></td>
<td><strong>384</strong></td>
<td><strong>366</strong></td>
<td><strong>859</strong></td>
<td><strong>470</strong></td>
</tr>
</tbody>
</table>

\(^i\) Taken from the adopted 2011-12 budget published by the WCPSS.\(^6^2\)
\(^ii\) Taken from the 2011-12 Enrollment Report published by the WCPSS.\(^6^3\)
\(^iii\) Taken from PMR data published by the NC Department of Public Instruction.\(^6^4\)
\(^iv\) Taken from PMR data published by the NC Department of Public Instruction.\(^6^5\)
\(^v\) Taken from ADM data published by the NC Department of Public Instruction.\(^6^6\)

Notably, these numbers only capture the students who were actually granted enrollment in an alternative school or program. There is no publicly available information that captures the number of students who were referred but refused enrollment in an alternative school, or the number of students who should have been, but were never referred in the first place. However, even from the limited information that is actually maintained, it is clear that WCPSS does not have sufficient capacity to effectively serve students who need a small, alternative setting.

Alternative Education for Students Who are Suspended from School

According to a state statute passed in 2011, students who are long-term suspended must be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services.\(^6^7\) A consequence of that statute has been that a large percentage of the district’s alternative school population are students who are forced into alternative settings due to long-term suspensions, rather than by choice or based on their needs. As discussed above, research shows that forced enrollment in an alternative school for punitive purposes is a bad model for effectively serving students.\(^6^8\) Nonetheless, the WCPSS continues to place more and more suspended students in its disciplinary alternative programs.

As the district has continued to suspend large numbers of students (see the Suspensions section of this report), it has also expanded the capacity, but unfortunately not the quality, of its alternative education for students who are suspended. When the WCPSS Alternative School Program was evaluated in 2010, a key finding was that the WCPSS has “a gap in service compared to the offering in other school districts. WCPSS does not have a public separate school specifically designed for students serving long-term suspensions[.]”\(^6^9\) Three years later, the WCPSS still does not have such a school available to all of its students. Instead, the bulk of options available to long-term suspended students are part-time programs that isolate the students from their teachers and positive peer influences, and limit their access to a full curriculum. The
WCPSS does not have any programs for short-term suspended students. In total, the WCPSS has three programs serving students who are long-term suspended from school: 1) Home/Hospital; 2) Infinity; and 3) Second Chance Online Resource for Education.

**Home/Hospital**

Home/Hospital (H/H) is an alternative education option for students with disabilities (SWD) who have been suspended from school for more than 10 school days in a given school year or whose Individualized Education Program (IEP) Team determines that a home-based placement is appropriate. In H/H, tutoring services are provided by a WCPSS teacher at a location in the community or at the school after regular school hours. For years, long-term suspended SWD in the WCPSS have been placed on H/H in alarmingly high numbers, despite the fact that, according to the WCPSS, “Home/Hospital should be a consideration only when all other programs are deemed inappropriate.” The WCPSS has placed hundreds of students on H/H in recent years.

H/H practices continued to be problematic during 2011-12. Many SWD experienced unreasonably large gaps in special education services during the time between the start of their suspension from school and the beginning of H/H services. Moreover, once students on H/H finally began tutoring, they did not receive free or reduced-price lunch or transportation to tutoring sites, nor were they able to participate in elective classes, advanced class, or extracurricular activities. In the case of some students, H/H services were also delivered in inappropriate community settings, such as McDonalds.

None of the students placed on H/H received an adequate number of instructional hours to constitute an appropriate education, as required by state and federal special education law. On average, students on H/H received only four hours of tutoring services per week. No student placed on H/H during 2011-12 received more than 7.5 hours of H/H services per week. At least two students received only three hours of H/H services per week, at least nine students received only two hours of H/H services per week, and at least two students received fewer than two hours of H/H services per week.

No data is tracked or made publicly available regarding academic outcomes of students placed on H/H. The WCPSS’ website only has one paragraph worth of information available about H/H, and it is buried on page 24 of the Special Education Services Department’s Supplemental Guide for Parents.

**Infinity**

Infinity was a second program in operation during 2011-12 for SWD who were recommended for long-term suspension. The WCPSS paid AMIkids, Inc., a Florida-based
nonprofit corporation, $213,930 to run the program for one year.  

Infinity was a computer-based program housed at Heritage High School for middle and high school SWD who were recommended for long-term suspension.  

Students attended the program during one of two sessions, for a maximum of four hours per day.  

On average, students received only three hours of actual academic curriculum in a given day.  

All coursework was completed online.  

Students worked independently on the computer during instructional time, and there was no means of tracking how much time a student actually spent on coursework (versus, for example, playing online) and/or how many instructional units on average were completed during those allotted times.

During 2011-12, Infinity operated as a racially-identifiable program, with Black and Latino males comprising the overwhelming majority of the student population.  

As of May 21, 2012, a total of 85 students had been enrolled in Infinity over the course of the fall and spring semesters.  

Of the 83 students for whom gender was reported, 78 (or 94%) were male.  

Of the 81 students for whom race was provided, 68 (or 84%) were Black or Latino.

Students who attended the Infinity program were not reported as being “suspended.”  Thus, EOG and EOC exam scores were reported for each student’s base school.  When requested, no aggregated data regarding academic outcomes (grades and/or EOG and EOC exam scores) were made available to the authors.  

As a result, there is no means of publicly monitoring how students who attended Infinity progressed in their academics.

Following the filing of three consecutive state complaints by Advocates for Children’s Services (a statewide project of Legal Aid of North Carolina) against the district regarding its failure to provide a free and appropriate public education for long-term suspended SWD, as required by state and federal law, the WCPSS took important steps to improve alternative education services for that student population in 2012-13.  

Whereas Infinity previously had the capacity to serve a maximum of 60 students on a half-day schedule via a strictly computer-based system of service delivery, the WCPSS has expanded alternative programs for suspended SWD by offering 64 seats in full-time programs with predominately live, in-person instruction.  

Lunch and transportation are provided to participating students.  

Additionally, the district is piloting a part-time evening alternative education program for suspended students with disabilities with a capacity to serve 20 students.
Second Chance Online Resource for Education

Second Chance Online Resource for Education (SCORE) is an online program that operates to provide alternative education for WCPSS students who are recommended for long-term suspension. Because Infinity and H/H were available only to SWD, SCORE was the only option available for general education students who were recommended for long-term suspension. In SCORE, students participate purely via computer. There are no teachers in the room with students – all instruction is virtual. In 2011-12, students participated in the online program either from home or, in limited numbers, at one of four sites located at community-based organizations in Wake County. The sites were not staffed by WCPSS employees. Instead, the WCPSS paid community sites solely to provide computer access and supervision for up to 10 students at each site at a given time. While in SCORE, students were not able to participate in group work, hands-on learning, or physical activity. They did not get to experience the important socialization and exposure to positive peer and staff relationships that comes with attending school. There were no honors, advanced placement, or elective classes. Students in the program were not allowed to participate in extracurricular activities, nor were they provided with free transportation or free or reduced-price lunch, causing one to wonder what happens to the state and federal monies allocated to the WCPSS for these students’ transportation and food.

Despite the numerous flaws with SCORE, the WCPSS has been placing increasing numbers of students in the program. In 2011-12, the enrollment increased to 390 students, a 34% increase from the 2010-11 enrollment of 292 students. Enrolled students were overwhelmingly male (78%), with high school students comprising the majority of the student population (72%). Notably, the high-risk population of ninth grade students represented the largest individual cohort of students (31%). No aggregated information was made available regarding the race or ethnicity of participating students, despite requests from the authors.

Table 6: SCORE Enrollment by grade (2011-12)

<table>
<thead>
<tr>
<th>Grade</th>
<th># of Students Enrolled</th>
<th>% of Total Enrolled</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>24</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>40</td>
<td>10</td>
</tr>
<tr>
<td>8</td>
<td>46</td>
<td>12</td>
</tr>
<tr>
<td>9</td>
<td>119</td>
<td>31</td>
</tr>
<tr>
<td>10</td>
<td>73</td>
<td>19</td>
</tr>
<tr>
<td>11</td>
<td>63</td>
<td>16</td>
</tr>
<tr>
<td>12</td>
<td>25</td>
<td>6</td>
</tr>
</tbody>
</table>

The increase in placements is incredibly troubling in light of the fact that outcomes for students who participate in the program have been consistently low over the course of the program’s first two years. In both 2010-11 and 2011-12, less than half of middle school EOG tests received passing marks. The majority of middle school students in SCORE received grades of D or F in their courses during 2011-12. As was the case with middle school students, high school students in SCORE have consistently performed poorly on EOC exams over the last two years. Algebra I proved to be particular difficult for students in the online program during 2011-12. Among ninth, tenth, and eleventh grade students who took the Algebra I EOC exam that year, a mere 35% of students received passing marks.
Table 7: Educational outcomes in SCORE (2010-12)\textsuperscript{107}

<table>
<thead>
<tr>
<th>School Year</th>
<th>EOG Exam Passage Rate</th>
<th>EOC Exam Passage Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>44.5</td>
<td>41.7</td>
</tr>
<tr>
<td>2011-12</td>
<td>43.6</td>
<td>57.8</td>
</tr>
</tbody>
</table>

Notably, the WCPSS does not report students who participate in SCORE as being suspended, thereby enabling the district to keep its suspension numbers low and retain funds provided for the students. However, these “non-suspended” students are not being provided with an education that comports with the North Carolina Department of Public Instruction’s quality indicators and standards for an appropriate Alternative Learning Program (ALP). For example, SCORE does not offer any of the following services that ALPs are supposed to provide:

- In-person (i.e., physically present) teachers;
- Opportunities for students “to learn and/or participate in arts, health and physical education, life skills, character education, and other non-core content areas”;
- Mechanisms for addressing students’ “personal, social, emotional, behavioral, career development and essential learning” needs;
- “[D]ifferentiated instruction…provided to accommodate student learning styles, multiple intelligence, and emotional intelligence”;
- “[O]pportunities for individual and group delivery systems in addition to direct and indirect methods of instruction”;
- Identification and consideration of “personal/social and other life skills for personalized planning, instructional delivery, and support services for all students along with utilization of the student’s PEP”;
- Regular access to guidance counselors, school psychologists, or school nurses; and
- Related services, such as counseling, conflict resolution instruction, and character education.\textsuperscript{108}

What is worse, SCORE embodies the following characteristics that the North Carolina Department of Public Instruction (NCDPI) has specifically identified as contributing to \textit{ineffective} alternative programs:

- Doing online classes at home is not meeting I.E.’s needs for many reasons. First of all, in a practical sense, completing classes online has not worked because of technology issues. Since I.E was supposed to start classes three weeks ago, he has only been able to sign on successfully a couple of times due to computer issues. The home is not an environment conducive to learning. An internet connection is available in only one room in the home, which does not have a working space for I.E. In addition, I.E.’s three-year-old twin sisters are home all day, causing a major distraction. The home is chaotic, as there is much traffic flow in and out of the home, which makes it especially difficult for I.E. to concentrate as he has a diagnosis of ADHD. Due to his diagnosis, independent learning is a challenge for I.E., as he requires hands-on learning and needs more accessibility and interaction with teachers. Because of the difficulties I.E. faces with online learning, I am concerned that he will become too frustrated to complete his work and will consequently fail to graduate...Being cooped up in his home is interfering with his mental well-being. I.E. has been showing signs of depression, often sleeping in late and not having the motivation he typically has...I am truly concerned that because of the barriers I have outlined, I.E. will not be able to finish his high school degree requirements through the online program.”

- Letter from the therapist of a 17-year-old student in SCORE
Alternative Education

- “[C]hoice’ is not a factor in the assignment of students.” Instead, SCORE is the only option available for students without disabilities who are recommended for long-term suspension.

- The “program is punitive by the deprivation of or lack of access to needed resources.” Students in SCORE, who arguably have the greatest need for behavioral interventions and therapeutic supports, receive few resources outside of virtual curriculum instruction.

- The program is “non-responsive to the needs of the students.” In SCORE, the sole means of service delivery is via computer, putting those students who are kinesthetic and interactive learners at a severe disadvantage, and precluding students who are capable of honors or advanced placement (AP) courses from having access to those classes.

- The “programs are ‘hidden’ without sufficient guidance, review, or support.” As discussed above, no publicly available data is maintained about the performance of students in SCORE and the program has never been formally evaluated.

- “[S]tudent assignments are made based on inconsistent and inequitable decisions.” Students are assigned to SCORE not based on need, but based on subjective disciplinary decisions by administrators and by default, given the lack of continuum of alternative education in the WCPSS.

The WCPSS is one of very few districts in the state that do not provide a physical site for suspended to students to continue their education. This was an issue that was specifically flagged in 2010 by evaluators of the WCPSS’ alternative education program. The evaluators’ number one recommendation was to address the district’s need to create better programming for suspended students:

Alternative settings should also be created for students with severe problem behaviors who do not qualify for special education services and for students who are serving long-term suspensions. Currently, the SCORE program is available for long-term suspended middle and high school students to continue their education in an online learning environment. The district should also explore how it handles long-term suspended students and whether a separate alternative setting could be created to serve these students.

Yet, three years later, the district has taken no steps to expand alternative school options for non-disabled students who are suspended from school. Worse yet, the WCPSS has never even evaluated the

N.E was a 13-year-old 8th grader who was long-term suspended for inadvertently taking a sip of alcohol at the bus stop from what he believed was a bottle of Pepsi. His mother did not have transportation to take him to a supervised SCORE site, and so he was forced to attend school via a laptop at home each day. His mother worked third shift, and so had to sleep during the day in order to be able to function at her job. Accordingly, 13-year-old N.E. was virtually unsupervised in attending online classes. Prior to being placed in SCORE, N.E. received lunchtime remediation and tutoring in order to help him keep up in his classes. These supports were taken away when he was placed in SCORE. Unsurprisingly, he performed abysmally in SCORE and, when he transitioned back to school at the semester, he continued to struggle significantly because he was so far behind his peers academically. After returning to school, he was soon failing all his classes and, within a few months, was again long-term suspended.
Alternative Education

SCORE program in the three years it has existed. Instead, the district has pumped increasing amounts of resources into a completely unstudied program that, based on the data and information described above, is wholly ineffective in providing appropriate educational supports for at-risk students. In 2011-12, the district spent $839,921.63 implementing the SCORE program. The bulk of the expenses ($767,036.63) were dedicated to hiring virtual teachers and paying community sites. In total, the WCPSS paid community agencies over $61,000 to simply provide computer access and basic supervision for students in 2011-12. Students enrolled at the physical sites were not provided with transportation to or from the sites and economically disadvantaged students were not provided with free and reduced-price lunch, again causing one to wonder what happens to the state and federal monies allocated for these students’ transportation and lunch. A retired administrator was paid $55,385.00 to oversee the SCORE program.

Finally, one of the biggest issues with the SCORE program is the troubling lack of transparency on the district’s part in publicly reporting annual data. Since students are not considered suspended while in SCORE, testing and demographics data for participating students are reported for each SCORE student’s base school, with no available mechanism for publicly monitoring data specifically for SCORE students. The data outlined above was obtained only after extensive public records requests and subsequent data analyses. Given the fact that SCORE served almost 400 students during 2011-12 – i.e. almost as many students as were served in Longview, River Oaks, and Mount Vernon combined – it is crucial that the district take steps to evaluate and enforce accountability in SCORE as an alternative education setting for students.

Conclusion

Overall, the WCPSS relies too heavily on the use of punitive alternatives rather than on therapeutic, needs-based alternatives. In 2011-12, the district allotted 1,030 seats in punitive programs, such as ISS/ALCs, Infinity, and SCORE, while only providing for 823 seats in non-disciplinary alternatives such as PATHS and the alternative schools (see Table 8). The district’s current focus on these subpar disciplinary placements is completely at odds with research-based best practices for alternative education, and is completely contrary to its own 2010 evaluation. If the WCPSS is truly invested in improving the success of all students, a crucial first step will be to improve its ability to prevent and intervene in students’ academic and behavioral struggles at the traditional school level so as to avoid issues spiraling out of control (see the Prevention and Intervention section of this report). Second, a full evaluation of its existing alternative programs, along with increased transparency in publishing enrollment, demographics, and achievement data relevant to its disciplinary placements, is needed to ensure accountability for programs that are increasingly relied upon to serve WCPSS students. Finally, in any future efforts to improve its alternative education programs for students, it will be crucial that the district rely on research-based tools, many of which are described below, that have been proven to lead to the creation of safe and fair schools.
Table 8: Alternative setting seat allotments (2011-12)

<table>
<thead>
<tr>
<th>Non-Disciplinary Alternatives</th>
<th>Purely Disciplinary Alternatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>PATHS 119</td>
<td>ISS/ALC 120</td>
</tr>
<tr>
<td>Bridges 121</td>
<td>SCORE 122</td>
</tr>
<tr>
<td>Mount Vernon 123</td>
<td>Infinity 124</td>
</tr>
<tr>
<td>River Oaks 125</td>
<td></td>
</tr>
<tr>
<td>Longview 126</td>
<td></td>
</tr>
<tr>
<td>Mary Phillips 127</td>
<td></td>
</tr>
</tbody>
</table>
| **Total**                     | **823**                          | **Total** | **1,030**

Qualities of Safe and Fair Schools: Alternative Education

1) Offer an adequate number of high-quality, non-disciplinary alternative school options
2) Offer safe, supervised, structured, therapeutic environments for students who are short- and long-term suspended
3) Develop objective, well-publicized criteria for referrals to alternative programs, and train all WCPSS staff in the criteria
4) Actively involve parents in referring students to alternative environments, implementing holistic supports for the students, and monitoring student progress in the alternative settings
5) Collect and publish data on alternatives, including the following information about students in the programs:
   a) Base school
   b) Reason(s) for referral
   c) Grade
   d) Age
   e) Gender
   f) Race
   g) Socioeconomic status
   h) Disability status
   i) English language learning status
   j) EOG or EOC exam scores (before, during, and after placement)
   k) Classroom grades (before, during, and after placement)
6) Regularly evaluate the effectiveness of alternative education schools and programs and make necessary adjustments


31 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).

32 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).

33 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).

34 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).

35 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).


38 Records Request from WCPSS: Alternative Schools 1 (Nov. 16, 2012)(On file with Author).


42 Records Request from WCPSS: Alternative Schools 1 (Nov. 16, 2012)(On file with Author).


50 Records Request from WCPSS: Suspension (Nov. 16, 2012)(on file with Author).

51 Records Request from WCPSS: Suspension (Nov. 16, 2012)(on file with Author).


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Records Request from WCPSS: SCORE (Jan. 21, 2013); Records Request from Michael Evans, WCPSS Chief Communications Officer (July 28, 2011).


119 Records Request from WCPSS: Bridges/PATHS (Nov. 21, 2012)(On file with Author).


Introduction

Over the last several decades, the use of out-of-school suspension as a disciplinary intervention tool has increased dramatically.\(^1\) This increase has occurred despite the fact that there is no evidence to suggest that out-of-school suspension and expulsion make schools safer,\(^2\) improve student behavior,\(^3\) effectively deter misbehavior,\(^4\) or benefit non-suspended students academically.\(^5\) Suspension and expulsion do, however, fail to address the causes of misbehavior,\(^6\) prevent students from receiving needed treatment at school,\(^7\) eliminate school as a protective factor (e.g., healthy adult bonds) against crime and violence,\(^8\) and leave students with more unsupervised time.\(^9\) Additionally, there is substantial evidence that suspension and expulsion are associated with an increased risk of:

- **Negative educational outcomes** (see Appendix A),\(^10\) including less time for learning,\(^11\) grade retention,\(^12\) poor academic performance,\(^13\) failing to graduate on time or dropping out,\(^14\) and less satisfactory school climates;\(^15\)
- **Negative emotional and psychological outcomes**,\(^16\) including feelings of distrust,\(^17\) alienation,\(^18\) rejection,\(^19\) and a self-fulfilling belief that the student is incapable of abiding by the school’s social and behavioral codes;\(^20\) and
- **Negative behavioral outcomes**, including smoking and substance abuse,\(^21\) socialization with deviant peers,\(^22\) gang involvement,\(^23\) and subsequent suspensions.\(^24\)

Finally, removing students from school can inhibit their preparation to become participants in a self-governing democracy.\(^25\)

Despite the wealth of evidence showing exclusionary discipline to be ineffective and unnecessarily harmful, the Wake County Public School System (WCPSS) continues to exclude students from school at alarming rates. This section examines the WCPSS’ use of exclusionary discipline in the context of in-school suspensions, bus suspensions, and out of school suspensions by providing data analysis and real life examples.
Finally, this section analyzes the district’s lack of therapeutic and positive alternatives to suspensions, examining existing programs and describing successful models in other districts.

In-School Suspensions

In-school suspension (ISS), or some version of what is known as ISS, can be a valuable tool in reducing out-of-school suspensions and providing individualized academic and therapeutic attention. However, WCPSS schools generally do not use ISS properly. According to a handout from WCPSS staff to the Alternative Strategies Subcommittee of the Economically Disadvantaged Student Performance Task Force, ISS has “limited academic engagement” and “may or may not specifically address behavioral issues.”

In April 2010, the WCPSS conducted an audit of in-school suspension (ISS) programs. The audit was not published, but it was provided to members of the Alternative Strategies Subcommittee. The audit found the following:

- “WCPSS…does not have an underlying philosophy or set of procedures guiding ISS operation.”
- “WCPSS does not centrally collect, store, or analyze ISS data[.]”
- “Limited academic and behavioral interventions are included in the program to sustain long term change.”
- “[T]here is a significant variation in the implementation and characteristics of the program at the various schools. Consequently, we could not identify any measures with which to gauge the effectiveness or efficiency of the program and its impact on student behavior.”
- “Due to the incomplete data records and the lack of consistency in the maintenance of program participation data it is not possible to effectively determine if the program is cost effective.”
- “As a result of not having a district-wide program goal, it is impossible to develop appropriate program services or adequate performance measures.”

Suspensions “may create, enhance, or accelerate negative mental health outcomes for youth by creating increases in student alienation, anxiety, rejection, and breaking healthy adult bonds.” - American Psychological Association

“[S]uspension and expulsion may exacerbate academic deterioration, and when students are provided with no immediate educational alternative, student alienation, delinquency, crime, and substance abuse may ensue.” - American Academy of Pediatrics

“[T]he student success we need to see in our schools will remain unattainable if millions of students continue to miss classroom time because of suspensions...They should be used as a last resort to preserve the safety of students and staff...Suspensions are also a predictor of a student’s risk of dropping out...The number of students missing instructional time highlights an urgent need to significantly decrease, if not eliminate, the use of out-of-school suspensions. The practice has been shown through research to adversely impact student learning and undermine students’ growth in the classroom...School board members should lead the charge to reduce, if not eliminate, the practice of out-of-school suspensions and instead push comprehensive strategies for preventing the removal of students from school for disciplinary reasons.” - National School Boards Association
- “Good educational practice would dictate that ISS should be viewed as a serious consequence. Even though class assignments are provided, a student is removed from the learning environment. The student is not receiving teacher instruction and often the assignments are not of equal quality compared to what they would have received if they were in the classroom...As a result, students are missing valuable instructional time while assigned to ISS though no guidance has been provided to school administration as to why, when, and for how long students should be removed from the classroom.”
- “[T]he timely collection of appropriate academic assignments is problematic...None of the programs include formal academic instruction or tutoring in the ISS day...As a result of work not being received in a timely manner, the ISS coordinator often has to spend a great deal of time each morning tracking down teachers to find assignments. Furthermore, since assignments are not ready first thing in the morning, students do not always have things to work on when they arrive. Some of the assignments received from the teachers are of poor quality and not representative of what the student are missing in class, thus, students are not prepared when returning to class or the student is spending time doing busy work. In other cases students do not have enough work which results in the ISS coordinator having to find things for the student to do.”
- “The lack of specific provisions in the program design regarding behavior modification caused there to be wide variability in the behavior improvement aspect of the program’s implementation ... There is a limited formal opportunity to engage the student in behavioral change.”

Following the report, the WCPSS attempted to convert, largely without success, some ISS programs into Alternative Learning Centers (“ALC”) (see the Alternative Education section of this report for more information about ALC). Many schools continued to have ISS either instead of or addition to ALC during 2011-12. The authors requested from the WCPSS disaggregated data about ISS from 2011-12. The attorney for the district replied as follows:

WCPSS is not in possession of responsive records. The Public Records Act does not ‘require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist.’...While WCPSS does maintain records containing responsive information with regard to in-school suspensions for individual students, those are confidential student records not subject to disclosure under the Public Records Act.

Counsel for the WCPSS refused to provide the authors with redacted ISS data. The WCPSS’ attorney used the law as an obstacle to withhold valuable information – aggregated and redacted data is fully permissible under the law – and to prevent transparency, accountability, and cooperation. Additionally, the attorney’s reply implies that the WCPSS did not aggregate ISS data or conduct any type of evaluation of ISS in 2011-12.

However, the authors did obtain, from the North Carolina Department of Public Instruction (NCDPI), data that shows 11,686 in-school suspensions in the WCPSS lasting a total of 16,386 school days during 2011-12. Unfortunately, the data may not be complete (i.e., there may even more in-school suspensions) because the WCPSS may not have reported all incidents of ISS and some of the incidents may have been redacted by the NCDPI to maintain
confidentiality. The data reveal that 21 students were given ISS for more than a week at a time, including three students who were put into ISS for more than three consecutive weeks. The data also show that Black students received 55.8% of the in-school suspensions, even though they were only 24.7% of the student population. Finally, the data show that many schools gave out more than 300 in-school suspensions (see Table 1).

Table 1: Schools with more than 300 recorded in-school suspensions (2011-12)

<table>
<thead>
<tr>
<th>School</th>
<th>In-School Suspensions</th>
<th>School</th>
<th>In-School Suspensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broughton High</td>
<td>1,209</td>
<td>Fuquay-Varina Middle</td>
<td>430</td>
</tr>
<tr>
<td>Dillard Drive Middle</td>
<td>992</td>
<td>Holly Grove Middle</td>
<td>367</td>
</tr>
<tr>
<td>Apex Middle</td>
<td>629</td>
<td>Heritage Middle</td>
<td>360</td>
</tr>
<tr>
<td>Daniels Middle</td>
<td>604</td>
<td>East Wake Middle</td>
<td>349</td>
</tr>
<tr>
<td>Ligon Middle</td>
<td>582</td>
<td>Holly Springs High</td>
<td>345</td>
</tr>
<tr>
<td>Martin Middle</td>
<td>501</td>
<td>East Millbrook Middle</td>
<td>335</td>
</tr>
<tr>
<td>Durant Road Middle</td>
<td>487</td>
<td>North Garner Middle</td>
<td>316</td>
</tr>
<tr>
<td>Garner High</td>
<td>466</td>
<td>Carnage Middle</td>
<td>311</td>
</tr>
</tbody>
</table>

Bus Suspensions

Some WCPSS school administrators give out bus suspensions, which prevent students who have no alternative means of transportation from attending school. Thus, bus suspensions are effectively short-term suspensions for some students. There is very little guidance in Board Policy and public information about bus suspensions.

During 2010-11, the WCPSS reported 900 bus suspensions. Zebulon Elementary and Forestville Road Elementary both gave out more than one bus suspension for every 10 students at the school. The authors requested from the WCPSS disaggregated data about bus suspensions during 2011-12; however, the attorney for the district provided the same response as he did to the request for in-school suspension data (see above).

Out-of-School Suspensions

Students in the WCPSS are suspended out of school either on short-term or long-term bases. Short-term suspension is defined in WCPSS Board Policy as “removal from school for a period of ten (10) school days or less” and long-term suspension is defined as “a suspension for a period of time in excess of 10 school days.” Although the rates of short- and long-term suspension remain high in the district, they have been declining steadily over the past four school years. From 2007-08 to 2011-12, short-term suspensions decreased by 23.6% and long-term suspensions decreased by 47.7% (see Charts 1 and 2). During 2011-12, the short-term suspension rate declined by 19.8% and the long-term suspension rate declined by 31.8% from the previous school year.
Though this decreasing trend in suspensions is an important step in the right direction, the numbers do not paint a complete picture, and there is still much work to be done in order to stop the influx of students into the school-to-prison pipeline as a result of excessive suspensions. First and foremost, the district still suspends far too many students. Despite the mounting research on the negative impacts of suspension and the increased attention to school discipline in recent years, the district gave out 14,223 short-term suspensions and 403 long-term suspensions during 2011-12. On average, one suspension was given for every 10 WCPSS students. The suspensions were given to 8,420 students. On average, one out of every 17 WCPSS students was suspended at least once. These rates rise dramatically when looking specifically at middle and high school students. Approximately one suspension was given for every six middle and high school students, and, on average, one out of every nine middle and high school students was suspended at least once.
In addition to suspending too many students overall, some of the key issues that contribute most significantly to the WCPSS’ school-to-prison pipeline are: (1) overreliance on the use of out-of-school suspension to address minor misbehavior; (2) overuse of unnecessarily lengthy and harmful long-term suspensions; and (3) uneven imposition of out-of-school suspensions, both across schools and with a disproportionate impact on males, students with disabilities, minority students, and economically disadvantaged students. Each issue is discussed in greater detail below.

Out-of-School Suspensions for Minor Misbehavior

The district continues to suspend students for minor misbehavior that could be better dealt with through alternative means of behavior management. Like all other school districts in North Carolina, the WCPSS has a Student Code of Conduct (“the Code”) that details rules students must follow and the disciplinary consequences for violations of those rules. The WCPSS Code of Conduct contains 41 rules that are divided into five levels based on severity of offense and punishment.42 Pursuant to the Code, “Level I rule violations should generally result in in-school interventions in lieu of out-of-school suspensions.”43 However, during 2011-12, the WCPSS issued 3,517 out-of-school suspensions for Level I offenses (see Table 2).44 Notably, the most common Level I offense for which out-of-school suspension was utilized was “School/Class Attendance,” despite the explicit directive in Board Policy that “Out of school suspension should be used as a last resort as a consequence for violation of [the School/Class Attendance] rule.”45

<table>
<thead>
<tr>
<th>Offense</th>
<th>Suspensions</th>
<th>Offense</th>
<th>Suspensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>School/Class Attendance</td>
<td>1,222</td>
<td>Tobacco</td>
<td>51</td>
</tr>
<tr>
<td>Noncompliance*</td>
<td>1,125</td>
<td>Inappropriate Dress</td>
<td>42</td>
</tr>
<tr>
<td>Disrespect</td>
<td>437</td>
<td>Trespassing</td>
<td>36</td>
</tr>
<tr>
<td>Inappropriate Language</td>
<td>339</td>
<td>Misconduct on School Vehicle</td>
<td>23</td>
</tr>
<tr>
<td>Electronic Devices</td>
<td>242</td>
<td>Gambling</td>
<td>0</td>
</tr>
</tbody>
</table>

* One long-term suspension was given for non-compliance.

Exceptions to the presumption that Level I infractions should result in in-school interventions are: a) the student refuses to participate in the in-school interventions; b) the student engages in persistent violations of a Level I rule; or c) there are other aggravating circumstances.47 If these exceptions apply, principals may impose a short-term suspension that shall not exceed two school days.48 However, there is no oversight or review of whether principals are giving short-term suspensions for Level I offenses only when one or more of the three narrow exceptions apply. Moreover, principals are not required to identify the exceptions in writing. Finally, there is no way to monitor whether principals are adhering to the two-day
maximum in imposing out-of-school suspensions for Level I offenses. Therefore, it is impossible to determine whether schools are properly complying with restrictions on out-of-school suspensions for Level I offenses.

Data also show that unnecessarily harsh suspensions are often imposed for Level II offenses under the Code. According to Board Policy, out-of-school suspensions for Level II violations are to be limited to five school days, with discretion given to principals to impose a long-term suspension based upon aggravating factors regarding the severity of the violation or safety concerns.\(^{49}\) Despite the presumption that Level II offenses should trigger short-term suspensions, 86 long-term suspensions were issued for Level II offenses during 2011-12 (see Table 3).\(^{50}\) The number of suspensions lasting six to 10 school days for Level II offenses is unknown, but key in determining whether Board Policy is being followed.

Table 3: Long-term suspensions for level II offenses during 2011-12\(^{51}\)

<table>
<thead>
<tr>
<th>Offense</th>
<th>Long-Term Suspensions</th>
<th>Offense</th>
<th>Long-Term Suspensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Aggression/Fighting</td>
<td>48</td>
<td>Fire Setting/Incendiary Material</td>
<td>2</td>
</tr>
<tr>
<td>Threat/False Threat</td>
<td>10</td>
<td>Indecent Exposure/Sexual Behavior</td>
<td>2</td>
</tr>
<tr>
<td>Class/Activity Disturbance</td>
<td>7</td>
<td>Sexual Harassment</td>
<td>2</td>
</tr>
<tr>
<td>Theft</td>
<td>5</td>
<td>Extortion</td>
<td>1</td>
</tr>
<tr>
<td>Property Damage</td>
<td>3</td>
<td>False Fire Alarm</td>
<td>1</td>
</tr>
<tr>
<td>Aiding and Abetting</td>
<td>2</td>
<td>School Disturbance</td>
<td>1</td>
</tr>
<tr>
<td>Failure to Report Firearm</td>
<td>2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Finally, across offense levels, the majority of suspensions in the district were given for relatively minor misbehavior and/or behavior that could have been better addressed through restorative justice, rehabilitation, or treatment (see Table 4). More than half of all short-term suspensions were given for “physical aggression/fighting” (4,469), “class/activity disturbance” (2,224), and “school/class attendance” (1,222).\(^{52}\) Half of the long-term suspensions were for “narcotics, alcoholic beverages, controlled substances, chemicals, and drug paraphernalia” (201).\(^{53}\)

Table 4: Most common offenses resulting in short-term suspension during 2011-12\(^{54}\)

<table>
<thead>
<tr>
<th>Offense</th>
<th>Number of Suspensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical aggression/fighting</td>
<td>4,469</td>
</tr>
<tr>
<td>Class/activity disturbance</td>
<td>2,224</td>
</tr>
<tr>
<td>School/class attendance</td>
<td>1,222</td>
</tr>
<tr>
<td>Non-compliance</td>
<td>1,124</td>
</tr>
<tr>
<td>Alcohol, drugs, and paraphernalia</td>
<td>780</td>
</tr>
<tr>
<td>Theft</td>
<td>569</td>
</tr>
<tr>
<td>Threat/false threat</td>
<td>472</td>
</tr>
<tr>
<td>Disrespect</td>
<td>437</td>
</tr>
<tr>
<td>Weapons/dangerous instruments/substances</td>
<td>352</td>
</tr>
<tr>
<td>Inappropriate language</td>
<td>339</td>
</tr>
</tbody>
</table>
As noted above, recent data indicate that the WCPSS’ long-term suspension numbers have decreased in recent years, with 403 total long-term suspensions reported for the district in 2011-12 – down from 577 in 2010-11. However, in isolation, these numbers paint an incomplete picture of long-term suspensions in the district. Compared to other districts across the state, the WCPSS long-term suspends its students at an extremely high rate. Among the 115 school districts in North Carolina, the WCPSS still had the 8th highest rate of long-term suspension in 2011-12. The WCPSS’ rate of long-term suspension was significantly higher than the next five large districts in North Carolina – it was 3.0 times higher than Charlotte-Mecklenburg; 9.5 times higher than Guilford; 4.3 times higher than Forsyth; 15.8 times higher than Cumberland; and 1.8 times higher than Union. Garner High School alone gave out 40 long-term suspensions, which was more than all of Guilford County Schools and Forsyth County Schools, the third and fourth largest districts in the state, combined.

In addition to giving out too many long-term suspensions, the district also gave out suspensions that were unnecessarily long. Data obtained from NCDPI reveal that, in 2011-12, there were at least 73 suspensions that lasted more than half of the school year (i.e., more than 90 school days), including 12 at Garner High School and 10 at Enloe High School. In 2010-11, the average length of short-term suspensions was 2.9 school days and the average length of long-term suspensions was 43 school days – nearly one-fourth of the school year. The authors requested records from the WCPSS containing data on the average lengths of short- and long-term suspensions. However, counsel for the WCPSS replied that no such records exist; thus, it is reasonable to assume that the district has not bothered to aggregate and analyze suspension length data for 2011-12.

Not only are long-term suspensions in the WCPSS exceedingly long, they are also often inconsistently and inequitably applied. Though Board Policy defines a suspension as any exclusion lasting longer than 10 school days, in the experience of the authors, nearly all recommendations for long-term suspension are recommendations for suspensions lasting the remainder of the school year. Arbitrary recommendations such as this can lead to incredibly inequitable results. For example: Student A and Student B commit the exact same offense and both are recommended for long-term suspension for the remainder of the school year. However, Student A committed her offense on the second day of school and was subsequently recommended for a suspension that would last the remainder of the 2012-13 school year. Student B committed her offense on the second day of school and was subsequently recommended for a suspension that would last the remainder of the 2012-13 school year. T.S. was a Black, low-income, 15-year-old freshman who was involved in an altercation with several other students that caused a disturbance at the buses after school. T.S. did not initiate the fight, nor was anyone seriously injured. Nonetheless, T.S. was long-term suspended from September 2012 until the end of the 2012-13 school year – nine months.
Suspension

Student B committed her offense on the 132nd day of school. Student A will be suspended for 179 school days while Student B will be suspended for 48 school days.

Another major inequity arises in the case of a student who commits an offense in the last quarter of a school year. Under WCPSS Board Policy, long-term suspensions that span two school years (i.e., for the remainder of the currently school year and for the first semester of the following school year) are allowed if the offense occurs during the final quarter of the school year. In this situation, a student who is long-term suspended for quarter of one school year and half of the next school year is likely to fail two years in row, an enormously unfair and damaging consequence for a child. Additionally, a student who commits an offense the day before the beginning of the last quarter of the school year can be suspended for up to 46 school days, whereas a student who commits the exact same offense on the first day of the last quarter of the school year can be suspended for up to 135 school days.

Finally, the number of recommendations for long-term suspension in WCPSS is significantly higher than the actual number of long-term suspensions. During 2011-12, there were 1,973 recommendations for long-term suspension, but only 403 actual long-term suspensions. Recommendations for long-term suspension may not become actual long-term suspensions for a variety of reasons, including:

- The student dropped out of school, withdrew from school, or was incarcerated within 10 school days of being suspended;
- The suspension was overturned during the appeal process;
- The student’s Individualized Education Program (IEP) Team determined that the student’s misbehavior was a manifestation of her disability.

However, the most common reason that long-term suspensions were reduced to short-term suspensions was most likely the enrollment of the student in an alternative education program. Pursuant to a state statute passed in 2011, students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. In effect, the new law forced the WCPSS to reduce its number of long-term suspensions. Now, in the WCPSS, a student who is recommended for long-term suspension by a principal, and then enrolls in and successfully completes an alternative program, is no longer counted as long-term suspended.

In 2011-12, approximately 475 students were enrolled in either the Infinity program or the Second Chance Online Resource for Education (SCORE) program. As described in the Alternatives Education section of this report, these placements operated as part-time, computer-
based programs with extremely low academic outcomes for students in 2011-12. Likewise, an unknown number of students were also placed on Home/Hospital as a result of long-term suspension, receiving between two and 10 hours of instruction each week, but were not counted as suspended from school. Accordingly, while the number of students reported as being long-term suspended from their base school was 403 (including one 365-day suspension), in reality the number of students who were removed from school as a result of long-term suspension was actually closer to 900 and possibly even approaching as high of 1000 in light of SCORE, Infinity, and Home/Hospital placements (see the Alternative Education section of this report more information about these placements).

**Arbitrary and Disproportionate Imposition of Suspensions**

A final issue that is central to the harm caused by the WCPSS’ overreliance on out-of-school suspensions is the uneven manner in which suspensions are imposed on students. Some schools utilize suspensions with alarming regularity while other schools rarely suspend students, raising major concerns regarding the arbitrary nature with which suspensions are imposed. Additionally, male students, students with disabilities, poor students, and Black students are disproportionately suspended as compared to their peers.

**School Disparities**

Of the 14,626 suspensions issued in 2011-12, elementary school students, middle school students, and high school students received 13.6%, 38.3%, and 48.1% of the suspensions, respectively; although, because there are more high school students than middle school students, the rate of suspension in middle schools and the rate of suspension in high schools were nearly identical. Among the 8,420 students suspended at least once, 15.9% were in elementary school, 37.4% were in middle school, and 46.7% were in high school. Thankfully, WCPSS Board Policy prohibits long-term suspensions of elementary school students, unless narrow exceptions apply. There were no long-term suspensions given to elementary school students during 2011-12.

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**Chart 3: School disparities (2011-12)**

- **% of Suspensions**
  - High, 48.1%
  - Middle, 38.3%
  - Elem., 13.6%

**Chart 4: School disparities (2011-12)**

- **% of Suspended Students**
  - High, 46.7%
  - Middle, 37.4%
  - Elem., 15.9%
Across elementary, middle, and high schools, the rates of suspension varied greatly, with some schools suspending students at much higher rates than comparable schools in the district. Walnut Creek had the highest rate of short-term suspension among elementary schools. Daniels had, by far, the highest rate of short-term suspension among middle schools. East Wake School of Integrated Technology had, by far, the highest rate of short-term suspension among high schools. Heritage High School and Garner High School had the highest rates of long-term suspension in the WCPSS. However, two alternative schools – River Oaks Middle School and Longview School – had the highest rates of suspension in the WCPSS. River Oaks gave out over 3.5 short-term suspensions for every one student at the school. Longview gave out over 2.8 short-term suspensions for every one student at the school. Both schools had a long-term suspension rate that was more than two and a half times greater than any other school in the WCPSS.72

Table 5: Schools with the highest rates of short-term suspension (per 100 students) during 2011-12 (excluding alternative schools)73

<table>
<thead>
<tr>
<th>Elementary School</th>
<th>Rate</th>
<th>Middle School</th>
<th>Rate</th>
<th>High School</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walnut Creek</td>
<td>12.23</td>
<td>Daniels</td>
<td>45.62</td>
<td>E. Wake-Int. Tech.</td>
<td>50.47</td>
</tr>
<tr>
<td>Knightdale</td>
<td>11.30</td>
<td>E. Garner</td>
<td>30.43</td>
<td>E. Wake-Eng. Syst.</td>
<td>33.60</td>
</tr>
<tr>
<td>Hunter</td>
<td>9.89</td>
<td>Carroll</td>
<td>28.63</td>
<td>Knightdale</td>
<td>29.76</td>
</tr>
<tr>
<td>Carver</td>
<td>9.09</td>
<td>E. Wake</td>
<td>27.67</td>
<td>Southeast Raleigh</td>
<td>28.31</td>
</tr>
<tr>
<td>Lincoln Heights</td>
<td>8.44</td>
<td>E. Millbrook</td>
<td>26.34</td>
<td>Athens Dr.</td>
<td>26.33</td>
</tr>
<tr>
<td>Joyner</td>
<td>8.39</td>
<td>N. Garner</td>
<td>26.22</td>
<td>Heritage</td>
<td>23.54</td>
</tr>
<tr>
<td>Timber Dr.</td>
<td>7.74</td>
<td>Fuquay-Varina</td>
<td>26.11</td>
<td>E. Wake-Health Sci.</td>
<td>21.28</td>
</tr>
<tr>
<td>Lockhart</td>
<td>7.25</td>
<td>W. Millbrook</td>
<td>25.41</td>
<td>Enloe</td>
<td>20.61</td>
</tr>
<tr>
<td>E. Garner</td>
<td>6.76</td>
<td>Reedy Creek</td>
<td>23.49</td>
<td>Broughton</td>
<td>20.31</td>
</tr>
<tr>
<td>Partnership</td>
<td>6.47</td>
<td>Dillard Dr.</td>
<td>22.36</td>
<td>E. Wake-Arts</td>
<td>18.68</td>
</tr>
</tbody>
</table>

Table 6: High schools with the highest rates of long-term suspension (per 100 students) during 2011-12 (excluding alternative schools)74

<table>
<thead>
<tr>
<th>School</th>
<th>Rate</th>
<th>School</th>
<th>Rate</th>
<th>School</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage</td>
<td>1.80</td>
<td>E. Wake-Eng. Syst.</td>
<td>1.33</td>
<td>Enloe</td>
<td>0.95</td>
</tr>
<tr>
<td>Garner</td>
<td>1.73</td>
<td>Sanderson</td>
<td>1.14</td>
<td>Wakefield</td>
<td>0.81</td>
</tr>
<tr>
<td>E. Wake-Int. Tech.</td>
<td>1.56</td>
<td>E. Wake-Arts</td>
<td>1.05</td>
<td>Middle Creek</td>
<td>0.81</td>
</tr>
<tr>
<td>Southeast Raleigh</td>
<td>1.45</td>
<td>Knightdale</td>
<td>1.05</td>
<td>E. Wake-Health Sci.</td>
<td>0.80</td>
</tr>
</tbody>
</table>

Table 7: Suspension rates in alternative schools (per 100 students) during 2011-1275

<table>
<thead>
<tr>
<th>School</th>
<th>Short-Term Suspension Rate</th>
<th>Long-Term Suspension Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>River Oaks (Middle)</td>
<td>351.22</td>
<td>4.88</td>
</tr>
<tr>
<td>Longview (Middle and High)</td>
<td>282.41</td>
<td>4.63</td>
</tr>
<tr>
<td>Mount Vernon (Middle)</td>
<td>70.21</td>
<td>0.00</td>
</tr>
<tr>
<td>Mary Phillips (High)</td>
<td>16.96</td>
<td>0.00</td>
</tr>
</tbody>
</table>
### Table 8: Schools with the most short-term suspensions during 2011-12 (excluding alternative schools)\(^76\)

<table>
<thead>
<tr>
<th>Elementary Schools</th>
<th>Short-Term Suspensions</th>
<th>Middle Schools</th>
<th>Short-Term Suspensions</th>
<th>High Schools</th>
<th>Short-Term Suspensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walnut Creek</td>
<td>109</td>
<td>Daniels</td>
<td>526</td>
<td>Enloe</td>
<td>542</td>
</tr>
<tr>
<td>Knightdale</td>
<td>79</td>
<td>E. Garner</td>
<td>395</td>
<td>Athens Drive</td>
<td>520</td>
</tr>
<tr>
<td>Hunter</td>
<td>69</td>
<td>E. Millbrook</td>
<td>319</td>
<td>Knightdale</td>
<td>511</td>
</tr>
<tr>
<td>Joyner</td>
<td>58</td>
<td>Dillard Drive</td>
<td>275</td>
<td>SE Raleigh</td>
<td>487</td>
</tr>
<tr>
<td>Millbrook</td>
<td>51</td>
<td>E. Wake</td>
<td>269</td>
<td>Broughton</td>
<td>439</td>
</tr>
<tr>
<td>Timber Drive</td>
<td>49</td>
<td>N. Garner</td>
<td>258</td>
<td>Garner</td>
<td>405</td>
</tr>
<tr>
<td>Fox Road</td>
<td>47</td>
<td>W. Millbrook</td>
<td>250</td>
<td>Sanderson</td>
<td>358</td>
</tr>
<tr>
<td>Leesville Road</td>
<td>47</td>
<td>Fuquay-Varina</td>
<td>241</td>
<td>Leesville Road</td>
<td>336</td>
</tr>
<tr>
<td>Lockhart</td>
<td>47</td>
<td>Reedy Creek</td>
<td>237</td>
<td>Wakefield</td>
<td>336</td>
</tr>
<tr>
<td>Lincoln Heights</td>
<td>40</td>
<td>Carroll</td>
<td>199</td>
<td>Heritage</td>
<td>314</td>
</tr>
</tbody>
</table>

### Table 9: High schools with the most long-term suspensions (LTS) during 2011-12 (excluding alternative schools)\(^77\)

<table>
<thead>
<tr>
<th>School</th>
<th>LTS</th>
<th>School</th>
<th>LTS</th>
<th>School</th>
<th>LTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garner</td>
<td>40</td>
<td>Wakefield</td>
<td>20</td>
<td>Leesville Road</td>
<td>13</td>
</tr>
<tr>
<td>Enloe</td>
<td>25</td>
<td>Millbrook</td>
<td>20</td>
<td>Fuquay-Varina</td>
<td>13</td>
</tr>
<tr>
<td>Southeast Raleigh</td>
<td>25</td>
<td>Knightdale</td>
<td>18</td>
<td>Athens Drive</td>
<td>9</td>
</tr>
<tr>
<td>Heritage</td>
<td>24</td>
<td>Middle Creek</td>
<td>15</td>
<td>Holly Springs</td>
<td>9</td>
</tr>
<tr>
<td>Sanderson</td>
<td>23</td>
<td>Broughton</td>
<td>13</td>
<td>Wake Forest-Rolesville</td>
<td>7</td>
</tr>
</tbody>
</table>

The long-term suspension data above does not reflect students who were recommended for long-term suspension by a principal and then not included as long-term suspended in the data because the student participated in an alternative education program. In other words, a school may have reduced its number of long-term suspensions, but the principal may have still recommended the same number of or more students for long-term suspension. For example, during 2009-10, Garner High School long-term suspended 79 students.\(^78\) The data shows that during 2011-12, Garner long-term suspended 40 students.\(^79\) At first glance, it would appear that Garner cut its long-term suspensions nearly in half over a three-year period. While that may technically be true, it is not the whole story. During 2011-12, Garner referred 47 students to I and at least 21 Garner students participated in SCORE (an online alternative program); three Garner students participated in Infinity (a computer-based alternative computer); and even more Garner students may have been recommended for long-term suspension and then were not counted as long-term suspension for some of the reasons listed above (e.g., they dropped or the suspension was overturned in the appeal process).\(^80\) Ultimately, the WCPSS does not collect sufficient data to conduct a thorough analysis of suspensions.
Table 10: Schools with the most students “referred” to SCORE during 2011-12

<table>
<thead>
<tr>
<th>School</th>
<th>“Referrals”</th>
<th>School</th>
<th>“Referrals”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garner High</td>
<td>47</td>
<td>Holly Springs High</td>
<td>19</td>
</tr>
<tr>
<td>Knightdale High</td>
<td>24</td>
<td>Enloe High</td>
<td>18</td>
</tr>
<tr>
<td>Millbrook High</td>
<td>23</td>
<td>Broughton High</td>
<td>15</td>
</tr>
<tr>
<td>E. Wake High (All)</td>
<td>22</td>
<td>Middle Creek High</td>
<td>15</td>
</tr>
<tr>
<td>Heritage High</td>
<td>22</td>
<td>Cary High</td>
<td>13</td>
</tr>
<tr>
<td>Southeast Raleigh High</td>
<td>22</td>
<td>Dillard Drive Middle</td>
<td>10</td>
</tr>
<tr>
<td>Sanderson High</td>
<td>21</td>
<td>Fuquay-Varina High</td>
<td>10</td>
</tr>
</tbody>
</table>

Gender Disparities

During 2011-12, male students were 51.1% of the total student population in the WCPSS, but received 73.2% of suspensions and were 71.1% of suspended students. Disparate suspension rates for male students have been decreasing very slightly. During 2010-11, male students were 51.0% of the total student population, but received 72.2% of suspensions and were 69.9% of suspended students. During 2009-10, male students were 50.9% of the total student population, but received 72.4% of suspensions and were 69.6% of suspended students.

Chart 5: Disparate suspensions of male students (2009-10 to 2011-12)

Racial Disparities

During 2011-12, Black students had, by far, the highest short-term suspension rate at 23.6 short-term suspensions per 100 Black students, followed by American Indian (13.5), Hispanic (10.1), Multi-Racial (9.3), White (3.7), and Asian (1.2) students. Black students were 6.4 times more likely than White students to receive a suspension. Black students were 24.7% of the total
student population, but received 60.2% of suspensions and were 55.9% of students who received at least one suspension. Thirteen percent of Black students were suspended at least once, compared to 2.5% of White students. Black male students were 12.2% of the total student population, but were 37.7% of students who received at least one suspension.88

Chart 6: Racial disparities in short-term suspension

Chart 7: Racial and gender disparities in long-term suspension
Disability Disparities

During 2011-12, students with disabilities were 12.6% of the student population, but were 31.5% of suspended students. Disparate suspension rates for students with disabilities have been increasingly slightly in recent years in the WCPSS. During 2010-11, students with disabilities were 12.7% of the student population, but were 31.3% of suspended students. During 2009-10, students with disabilities were 12.7% of the student population, but 29.9% of suspended students.
Race and Disability Disparities

While 5.7% of the total student population was suspended at least once during 2011-12, 22.9% of Black students with disabilities, 13.3% of Hispanic students with disabilities, and 11.7% of multi-racial students with disabilities were suspended at least once.94
Socioeconomic Disparities

Economically disadvantaged students (i.e., students receiving free or reduced price lunch) made up 33.3% of the total student population during 2011-12, but were 63.3% of suspended students. The percentage of students receiving free or reduced price lunch at a given school was correlated with suspension rates. In general, the more high-poverty a school was, the higher its rates of suspension (see Appendix B).

Alternatives to Suspension

Rather than simply excluding students and further exacerbating behavioral issues, schools should address the underlying causes of misbehavior and improve school climate through alternatives to suspension, such as restorative justice, counseling, drug treatment, community services, restitution, and other evidence-based measures. While the WCPSS has implemented a couple of alternatives to suspension, it has done so in a very small-scale, piecemeal, uncoordinated manner. The following sections examine existing programs in the district, highlight gaps in services, and provide examples of successful models in other districts.

Restorative Justice

Unlike the theory of punitive discipline, which champions deterrence and the idea that “problem” students should be extracted from the school community through suspension or expulsion, the theory of restorative justice emphasizes that misbehavior causes harms that require repair. When students misbehave in the school setting, they cause harm not only to others, but also to themselves – harms that must proactively be addressed, along with their underlying causes. Schools that incorporate restorative justice will respond to a student’s misbehavior by: 1) identifying and taking steps to repair harm; 2) involving all stakeholders; and 3) transforming the traditional relationship between students and school administrations in addressing misbehavior. “The goal of restorative justice is to bring together those most affected by [an act of misbehavior] – the offender, the victim, and community members – in a non-adversarial process to encourage offender accountability and meet the needs of the victims to repair the harms resulting from the [act].”

L.D. was a five-year-old preschool student with severe autism who was suspended on multiple occasions during 2012-13 for one or two days at a time for “non-compliance” or “physical aggression.” Even though these behaviors were directly related to his disability and, as a severely disabled five-year-old, were completely out of his control, the school nonetheless continued to use out-of-school suspension as a tool for dealing with behaviors related to his autism.
While they go by various names, the procedures that are utilized by schools with restorative justice programs are all marked by an emphasis on dialogue and communication as tools for healing and growth. One example is a “Family-Group Conference,” whereby the offender, the victim, and family and friends are gathered to discuss the incident and the best means of holding the offender accountable. This process not only develops a support structure for the offending student, but also serves to address the concerns of the victim – a notable failing of systems based on punitive discipline. This secure setting for dialogue can be expanded to include school administrators, social service personnel, and interested members of the community (as in “Circle Sentencing”), or reduced to a moderated dialogue between offender and victim (as in “Victim-Offender Mediation”).

For example in Oakland, California, a total of 21 schools have adopted restorative justice programs in lieu of “zero tolerance” policies that promote suspension and expulsion. Professional facilitators enable students to develop meaningful reparations in response to prior incidents of misbehavior, rather than just outright banning students from school. These facilitators also gather students in “talking circles,” where their conversations lead to a buildup of empathy for one another (and, presumably, a consequential decrease in misbehavior). The increased emphasis on restorative justice correlated with a reduction in the district’s overall suspension rate, from 12% in 2011 to 8% in 2012. Oakland has been expanding the program over the course of a six-year period, to the point where eight of the participating schools’ programs now include a full-time coordinator.

Similarly, in Denver, Colorado, restorative justice programs have been on the rise as suspension and expulsion rates have been steadily decreasing. Several years ago, the Denver school district rewrote its school code, and since last year the district has been zeroing-out zero-tolerance policies and heavy police presences in the schools, while increasing the prominence of restorative justice practices. Denver Superintendent Tom Boasberg recently reported that expulsions have fallen by two-thirds over just two years, and out-of-school suspensions are on track to be half of what they were three years ago. He commented, “[O]ur schools feel safer.” Boasberg attributes these statistics to restorative justice. “It’s not, ‘You did something wrong, go home for five days and watch television.’ It’s, ‘What did you do wrong? Who did you harm? How are you going to make them whole, and what are you learning from this?’”

Campbell Law School has a Juvenile Mediation Clinic that has provided highly effective restorative justice services for the WCPSS since 2009. Most cases that the Clinic handles involve a conflict that is either likely to lead or has led to a physical altercation. In most cases where the conflict is brewing, a suspension has not yet occurred,
but is likely to occur if the conflict is not resolved through mediation. In cases where the physical altercation has already occurred and the students have been suspended, Clinic staff meet with students on their first day returning back to school. The Clinic considers a mediation to be successful if “the referred parties came together for a face to face meeting and resolve their differences to their own satisfaction and to the satisfaction of the school.” In 2011-12, the Clinic handled 60 cases, 86% of which resulted in a successful mediation. In 2012-13, the Clinic handled 67 cases, with an 88% success rate. Most of the 67 cases were referred from North Garner Middle, East Garner Middle, East Millbrook Middle, Moore Square Middle, and Garner High. Ligon Middle and Broughton High also participated sparingly.113

A small number of WCPSS schools also have their own peer mediation programs.114 However, the WCPSS does not have any district-wide, coordinated restorative justice efforts.

Community Service

A small number of WCPSS schools have community service or service-learning programs,115 but the WCPSS does not have a system-wide community service initiative and community service is not used as an alternative to suspension.

Substance Abuse Treatment

Possession and use of drugs and alcohol is a growing issue in the WCPSS, with half of the total long-term suspensions in the district resulting from drug or alcohol offenses.116 Yet, the district does not have a comprehensive drug prevention program. It does have, however, the Alternative Counseling Education (ACE) program, an alternative to long-term suspension program for students who violate the WCPSS drug policy and are recommended for long-term suspension.117 The program must be offered to students who: (1) violate the policy for the first time; and (2) only possessed, used, or were under the influence. The program is not available for “repeat offenders” or when distribution is involved.118 During 2011-12, students who accepted the offer of ACE attended substance abuse treatment classes at one of 10 pre-approved private providers or at an outside vendor with pre-approval. The WCPSS did not provide the services “in house.” If the student accepted the offer and successfully completed a treatment program, her suspension was reduced to a five-day short-term suspension.119

Though treatment is a much more effective response than just suspending students, there were many problems with the program in practice. First, parents were not provided with sufficient information about vendors. Even though parents were required to sign up with a vendor by the fourth day of the suspension, they were only provided with the name, address, and phone number of vendors.120 Parents were not provided with any information about how much the programs cost, what types of insurance the vendors accepted, the schedule for sessions at
each vendor, or whether the vendors had bilingual staff. It would be simple for the WCPSS to give parents a chart containing such information; instead, each parent of a student offered ACE must individually call the providers.

Second, not all eligible students are actually able to take advantage of the alternative program. ACE costs $400 for families. Most of the vendors had a sliding scale and/or accepted insurance, but the program was still prohibitively expensive for very low-income families without insurance.\textsuperscript{121} Furthermore, the program is a tremendous burden on parents. A parent or guardian was required to attend treatment classes with the student for a total of at least 12 hours. Most providers held ACE classes during evening. So, students with parents who could not attend the sessions because they worked or were responsible for other children during evenings were effectively denied the ability to participate, if they could not “identify a responsible adult 21 years or older who may be a substitute for the parent/guardian.”\textsuperscript{122}

Third, many students who enroll in ACE do not actually have addiction or substance abuse issues. Instead, they may have only used alcohol or marijuana once, or they may have never used drugs or alcohol but were caught holding an illegal substance at school, but go to ACE anyway in order to avoid being long-term suspended. Under these circumstances, the program becomes a waste of time and resources.

The authors recently interviewed ACE vendors via phone. One vendor reported that the program is “going downhill” because of a number of changes, including:

- Participating students will no longer be drug tested;
- The minimum number of “treatment” hours is being reduced from 12 to nine;
- Parents will no longer be required to participate; and
- Initial comprehensive assessments will no longer be required; instead of an hour-long interview, students will simply fill out scantrons.\textsuperscript{123}

The same vendor also said that one ACE vendor, Southlight Pathways, has entered into a contract with the WCPSS to go into schools and offer free services to students starting in 2013-14. The vendor commented that this change is “going to be a big joke” and will put other providers out of business.\textsuperscript{124}
Conclusion

Out-of-school suspensions in the WCPSS have declined over the past few years; however, three primary issues remain. First, too many students are still being suspended out-of-school. Second, too many students, who perhaps in the past would have been suspended, are still being pushed out of their regular classrooms and into inadequate alternative classrooms (e.g., ISS and ALCs) and programs (e.g., SCORE and Home/Hospital) but not being counted as suspended. Third, teachers and administrators are being told to reduce suspensions but not being given the necessary tools to ensure that schools remain orderly and that students continue receive quality instruction and support (e.g., resources for prevention, interventions, and alternatives to suspension). The ultimate goal should not be merely making suspension data look better, but rather ensuring safe and fair schools.

Qualities of Safe and Fair Schools: Suspension

1) Ample, high-quality alternatives to suspension are readily available and utilized, including:
   a) Restorative justice
   b) Restitution
   c) Community service
   d) Saturday school
   e) Substance abuse treatment
   f) Mandatory counseling
2) Out-of-school suspensions are prohibited for minor misbehavior
3) Suspensions for off-campus misconduct are limited to incidents that involve direct and immediate threats to the safety of students at school
4) The length of long-term suspension is limited to a length shorter than the remainder of the school year, unless aggravating circumstances, provided in writing, exist that warrant suspension for the remainder of the semester
5) Annual data about in-school suspension, bus suspensions, short-term suspensions, and long-term suspensions is collected and published, and include data disaggregated by:
   a) School
   b) Age
   c) Grade
   d) Gender
   e) Race
   f) Socio-economic status
   g) Disability status
   h) English language learner status
6) Alternatives to suspension are evaluated at least bi-annually

Examples of the Use of Best Practices in Other School Districts

In 2008, largely in response to pressure from Open Society Institute-Baltimore and other advocacy organizations, the Baltimore City Public Schools adopted a new code of conduct.125 The new code contains detailed suggestions for promoting positive relationships and prevention and intervention strategies.126 Further, it states: “When principals and school staff respond to
student misbehavior, they are expected to take into account the age, health, decision-making ability and disability or special education status of the student; the appropriateness of the student’s academic placement; the student’s prior conduct and record of behavior; the student’s willingness to repair the harm; the seriousness of the offense and the degree of harm caused; and the impact of the incident on the school community.” Additionally, it requires that short-term suspensions lasting six to 10 school days must be approved by the system’s CEO, and that long-term suspensions (“extended suspension”) last no longer than 45 school days. The code has a detailed matrix that includes interventions and responses for every prohibited behavior. Administrators are required to use the lowest level of intervention and response first. As a result of the new code suspension rates decreased and graduation rates increased dramatically.

In June 2012, largely as a result of pressure from Voices of Youth in Chicago Education, the Chicago Board of Education approved a revised Code of Conduct. Changes included:

- Adding a “Students and Parents/Guardians Rights and Responsibilities” section;
- Simplifying language in the policy to increase transparency; and
- Clarifying expectations for staff and principals by emphasizing steps that must be taken to guide students to positive behavior and providing step-by-step guidance for administrators responding to inappropriate behavior with more clarity and better organization.

In August 2012, largely as a result of pressure from the Philadelphia Student Union and Youth United for Change, the Philadelphia School Reform Commission passed a new code of conduct that prohibits out-of-school suspensions for minor infractions, such as disrupting class, using profanity, skipping class, and violating the dress code. Out-of-school suspensions are now only to be given out as a “last resort and only when in-school interventions and consequences are insufficient.”

In April 2013, largely as a result of pressure from Citizen Action of New York, the Alliance for Quality Education, and others, school board members in Buffalo, New York passed a new discipline code that will:

- Focus on proven prevention and intervention strategies, such as Positive Behavioral Interventions and Supports, referrals to support staff, and alternatives to suspension, such as conflict resolution and restorative justice (for example, before being suspended for a behavior such as “minor fighting,” under the new Code, the school will intervene with the students involved and use a restorative justice process to get at the root of the problem);
- More clearly define the misbehaviors that violate the Code and the consequences attached to them, with an emphasis on eliminating suspensions for minor misbehaviors (for example, under the new Code, students cannot be suspended for a minor disruption on the bus, dress code violations, and running around in the hallways);
- Contain easy to follow due process charts and timelines so that students, parents, and families know their rights and can advocate for themselves when facing unfair discipline;
- Require mandatory staff training on the Code’s contents; and
- Contain requirements for annual data collection and public review.
In May 2013, largely as a result of pressure from the Labor/Community Strategy Center and others, the Los Angeles Unified School District school board eliminated out-of-school suspensions for “willful defiance” and directed schools to use alternative disciplinary practices instead.\textsuperscript{135}

In July 2013, the Southern Poverty Law Center and Mobile County Public Schools reached an agreement to resolve a lawsuit. The agreement ends suspensions for minor infractions, such as uniform violations and excessive talking, and establishes a formal training program on short- and long-term suspensions for school administrators and staff.\textsuperscript{136}
APPENDIX A: SUSPENSIONS AND ACHIEVEMENT (2011-12)

Elementary School

Elementary School

Middle School

Middle School
Does not include alternative schools
APPENDIX B: SUSPENSION AND SOCIO-ECONOMIC SEGREGATION (2011-12)

Elementary Schools

R² = 0.34232

Middle Schools

R² = 0.52196
High Schools

Suspension Rate (Per 100)

% of Students at School Receiving Free and Reduced Price Lunch

$R^2 = 0.56533$

Does not include alternative schools
1 Daniel J. Losen & Russell J. Skiba, Southern Poverty Law Center, Suspended Education: Urban Middle Schools in Crisis 2 (2010).


7 American Acad. of Pediatrics Comm. on Sch. Health, Out-of-School Suspension and Expulsion, 112 PEDIATRICS 1206, 1207 (2003) (“Children who are suspended are often from a population that is the least likely to have supervision at home.”).


Linda M. Raffaele Mendez, Predictors of Suspension and Negative School Outcomes: A Longitudinal Investigation, in Deconstructing the School-to-Prison Pipeline 25 (Johanna Wald & Daniel J. Lose eds., 2003).


33 Ken Gattis, N.C. Dep’t. of Pub. Instruction, Presentation to WCPSS Economically Disadvantaged Student Performance Task Force (Oct. 2011).


38 This total includes one 365-day suspension. The WCPSS did not have any expulsions during 2011-12.


Suspension


44 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


46 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


51 Public Records from WCPSS (Dec. 20, 2012)(on file with Author).

52 Public Records from WCPSS (Dec. 20, 2012)(on file with Author).


54 Public Records from WCPSS (Dec. 20, 2012)(on file with Author).


61 Public Records from WCPSS (Sept. 16, 2011)(on file with Author).


64 Records Request from Ann Majestic & WCPSS (June 22, 2012)(On file with Author); Records Request from WCPSS: SCORE (Jan. 21, 2013)(On file with Author).


68 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

69 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


71 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

72 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

73 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

74 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

75 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

76 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).

77 Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


113 Email from Jon Powell, Director Campbell Law Juvenile Mediation Clinic (Aug. 15, 2013) (on file with Author).


116 Public Records from WCPSS (Nov. 16, 2012) (on file with Author).


121 Conversation with ACE Vendors (July 15-16, 2013).

122 WAKE CNTY. PUB. SCH. SYS., TO OUTSIDE VENDORS AND PARENTS/GUARDIANS (Handout that was provided to students in a packet about ACE after they were offered ACE).

123 Conversation with ACE Vendor (July 15, 2013).

124 Conversation with ACE Vendor (July 15, 2013).


The State of the School-to-Prison Pipeline in the WCPSS

Due Process

2013

Advocates for Children’s Services
IV-1 Due Process

Introduction

In 1975, the United States Supreme Court held that “[t]he authority possessed by the State to prescribe and enforce standards of conduct in its schools…must be exercised consistently with constitutional safeguards.” One of those constitutional safeguards is due process. Since students have important interests in receiving the benefits of an education, in having a good reputation, and in not being unfairly or mistakenly denied an education, schools must provide students facing out-of-school suspension with due process. The basic requirements of due process are notice and an opportunity to be heard. Fundamental fairness is the hallmark of due process.

Due process is not only constitutionally required, but also an important element of school safety and fair treatment of students. Inadequate due process can cause a student to feel like the school is out to get her, send an improper message that the state is allowed to act arbitrarily, and cause a student to feel angry and defiant. Alternatively, adequate due process may help:

- Students perceive the discipline process and the larger society as fair and legitimate;
- Cause students to feel empowered and confident;
- Teach students about democracy and respect for the dignity of the individual;
- Reduce recidivism by improving a student’s perception of and compliance with the law and encouraging students to invest in rehabilitation;
- Enhance the possibility that the truth will emerge; and
- Expose bias.

While most of the Wake County Public School System’s (WCPSS) due process policies and procedures comply with minimum legal mandates, the policies unfortunately do not take important additional steps so as to ensure actual and perceived fairness and procedural justice for students.

Due Process in General

Like all other school districts in North Carolina, the WCPSS has a Student Code of Conduct (“the Code”) that details rules students must follow and the disciplinary consequences for violations of those rules. Each district’s code must conform to applicable state and federal laws. The WCPSS Code of Conduct contains 41 rules that are divided into five levels based on severity of offense and consequence.

Many of the rules are broad and vague, thereby not providing students and parents with adequate notice of what behaviors are prohibited. For example, the Code requires students to “exhibit appropriate respect” and have “dress and appearance that are compatible with an effective learning environment.” It also prohibits “sagging pants,” “excessively tight garments,” “delaying the bus schedule,” “any physical or verbal disturbance...which interrupts or interferes with teaching or orderly conduct of class/school activities,” “behavior which is indecent,” and “physical aggression.”

“Under our Constitution, the condition of being a boy does not justify a kangaroo court.” - In re Gault, 387 U.S. 1 (1967)
Moreover, the Code allows too much discretion for off-campus offenses. It applies to any student “whose conduct at any time, place, or cyberspace, on or off campus, has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.” However, in March 2011, a Wake County Superior Court judge ruled that the WCPSS could not suspend a student for a fight at or near a school bus stop. The judge reasoned that “the Board had no jurisdiction to act” and ordered that the suspension be removed from the student’s record.

The code is also problematic with respect to mitigating factors, which are facts or circumstances that lessen the severity or culpability of an act. Basic fairness requires the consideration of all relevant mitigating factors. However, the code does not have an adequate listing of mitigating factors, lacks clarity about whether administrators must consider mitigating factors before suspending a student, and has no mechanism for ensuring that administrators actually do give weight to important mitigating factors prior to determining consequences for misbehavior.

Examples of mitigating factors listed in the Regulations and Procedures (R&P) for Board Policy 6410 are:

- The student’s age/maturity level;
- No recent disciplinary history;
- Being a passive participant or playing a minor role in the offense;
- Making appropriate restitution;
- Reasonably believing the conduct was allowed;
- Acting under strong provocation;
- Aiding in the investigation;
- Making a full and truthful statement admitting guilt at an early stage in the investigation of the offense; and
- Displaying an appropriate attitude and giving respectful cooperation during the investigation and discipline process.

The R&P omits critical mitigating factors that should be central to any determination of whether an out-of-school suspension is appropriate for a particular student’s behavior. Some of those key missing factors include whether the student:

- Has mental health issues;
- Has experienced trauma, such as abuse, neglect, or domestic violence;
- Lives in extreme poverty and the behavior is related to conditions of poverty such as hunger, homelessness, or unmet health needs; or
- Failed to receive behavioral interventions from the school following prior minor misbehavior.
Due Process

Board Policy 6410 states that a principal may determine that an out-of-school consequence is warranted “after considering potential mitigating factors.” However, the R&P for the policy uses more ambiguous language, stating that, when deciding the appropriate consequences for specific student misconduct, principals “should consider possible mitigating and aggravating circumstances.” Unfortunately, there is no requirement that principals include any mention of mitigating factors in discipline records and they are not questioned about whether they considered mitigating factors. Thus, in practice, principals are allowed to disregard what they “should” and arguably must do under Board policy. Without a clear requirement that schools document consideration of these crucial factors, protection against inappropriate out-of-school suspensions when significant mitigating factors exist is, in practice, little more than an empty promise.

Due Process for Short-Term Suspension

A principal may invoke a short-term suspension (i.e., exclusion for up to 10 school days) only after investigating the misconduct, confronting the student with the charges and the basis for the charges, and allowing the student to respond in her own defense and to offer mitigating circumstances. Once a principal decides to invoke a short-term suspension, she must notify the student and parent by the end of the workday on which the suspension was imposed when reasonably possible, but in no event more than two days after the suspension was imposed. The notice must be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice. The notice must also be provided in the parent’s primary language, when the appropriate foreign language resources are readily available, and in English. Finally, the notice must include the reason for the suspension and a description of the alleged conduct upon which the suspension is based. The principal must notify the student and parent that the student has the right to: take textbooks home during the suspension; obtain homework assignments for the duration of the suspension; and take any quarterly, semester, or grading period examinations missed during the suspension period.

Currently, state law does not require a hearing for a short-term suspension. School boards may, however, choose to provide students with more formal and fair appeal processes. For example, students in neighboring Chatham County Public Schools have the right to appeal any short-term disciplinary consequences directly to the superintendent and then, as appropriate, to the Board of Education for review. Through these processes, Chatham County students are given the opportunity to challenge and the superintendent and Board must determine whether: “(1) there was a reasonable basis for determining that the student engaged in the specified misbehavior; (2)…a board policy, school standard or rule was violated; (3)…the consequence for the violation was

The Boston Public Schools Code of Conduct requires hearings for short-term suspensions, unless the parent waives the hearing in writing. At the hearing, the student may call witnesses and a tape recording is made. §§9.2- 9.5

The Dignity in Schools Model Code (the culmination of several years of research and dialogue with students, parents, educators, advocates and researchers) calls for an “exclusion conference” before short-term suspensions. After the conference a neutral decision-maker makes an appealable decision. §3.1.d
reasonable; and (4) procedures required by board policy were followed.”

By contrast, the WCPSS has chosen not provide any form of an appeal for short-term suspensions – even when a student's short-term suspensions add up to more than 10 cumulative school days.45 Thus, schools are allowed to repeatedly short-term students without ever holding a hearing and may do so in order to circumvent the required procedures for long-term suspensions detailed below.

Due Process for Long-Term Suspension

The sections below provide an overview of the long-term suspension process and concerns about fairness at each stage (see Appendix A).

Notice

In the WCPSS, when a principal recommends that a student be long-term suspended (i.e., excluded for more than 10 school days),46 the principal must provide written notice to the parents of the recommendation by certified mail, facsimile, e-mail, or any other written method reasonably designed to achieve actual notice.47 The notice must be provided to the parents by the end of the workday during which the recommendation for long-term is made when reasonably possible, and in no event later than the end of the following workday.48 This notice must contain:

- A description of the incident leading to the recommendation for suspension;
- A description of any mitigating or aggravating factors;
- The rule(s) violated;
- A copy of the due process handbook;
- Notice that the parent has a right to review the student's educational records prior to the hearing;
- A statement of what information will be in the student’s official record;
- A copy of the “Request for Appeal Hearing” form;
- Notice that the parent is allowed to have an attorney or non-attorney advocate represent the student in the hearing process; and
- A statement regarding the procedures for expungement.49

The notice requirements described above are merely the minimal elements required by state law. The WCPSS could make its notices more informative for parents and guardians. For example, the WCPSS does not notify students or parents of the names and contact information for local advocacy resources that are available to assist families facing long-term suspension and expulsion,50 even though the WCPSS has instant access to lawyers at all times. Instead, the WCPSS chooses not to level the playing field. Additionally, the WCPSS does not automatically...
translate long-term suspension and expulsion notices for parents who do not speak English, even if the district is already aware of a parent’s lack of ability to read the notice in English. Instead, parents and guardians must call a number and request that the notice be translated, even though the parent has only five days to submit appeal paperwork.

Alternative Education

Pursuant to a state statute passed in 2011, students who are long-term suspended must be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. In the WCPSS, this responsibility of the superintendent is delegated to a Discipline Review Committee (DRC) comprised of area superintendents and other student services administrators who review the long-term suspension recommendation and decide whether to offer the student alternative education programs. The DRC’s decision is mailed to the parent. If the DRC denies alternative education, the student may appeal the denial to the Board of Education. Acceptance of an offer of alternative education does not preclude a student from appealing the long-term suspension recommendation.

Approval of Long-Term Suspension

Principals do not have the authority to long-term suspend students; only the superintendent has that authority. Accordingly, when a principal recommends a long-term suspension, she can only short-term suspend the student for 10 school days pending approval from the superintendent of the long-term suspension. In the WCPSS, the superintendent’s authority to approve long-term suspensions is delegated to a “review panel.” If a review panel approves the recommendation for long-term suspension and the student or his parent does not request an appeal and/or accepts the offer of an alternative educational program within five school days of receiving notice, a review panel must send written notification that the suspension decision is final.

In the WCPSS, there is no automatic hearing for long-term suspensions. Instead, students must follow the protocol outlined in the following section in order to have an opportunity to respond to allegations against them. Notably, the way Board Policy is written implies that, regardless of an appeal, no long-term suspension will be imposed without a neutral, third-party designee of the superintendent (i.e., a review panel) first reviewing the recommendation and underlying facts in order to determine the appropriateness of the proposed punishment. In fact, this is precisely what the law requires.

In practice, however, this third-party review does not happen in a timely manner in the case of every long-term suspension in the district. According to the Office of Student Due Process, if a student does not formally appeal a long-term suspension recommendation, her suspension will not necessarily be reviewed by a review panel prior to the 11th day of suspension (i.e., when a short-term suspension becomes a long-term suspension). Instead, those recommendations are reviewed by a review panel as time allows following appeal hearings for other students. Consequently, a student could be out of school on a long-term suspension for several weeks before the recommendation is ever actually reviewed and formally approved by the superintendent’s designee.
This practice of having review panels approve non-appealed suspensions is of major concern for multiple reasons. First, the delegation of the superintendent’s authority to rotating panel members completely undercuts the purpose of having a neutral party review all recommendations for long-term suspensions. Since panel members rotate and no single member sees every offense and recommendation in the district, there is no consistent checks and balances system to determine whether punishments are being arbitrarily imposed for the same offense across schools, race, etc.

Of even greater concern is the fact that the district’s practice of postponing reviews of non-appealed long-term suspension recommendations for weeks or even months after a long-term suspension takes effect is illegal. State law does not permit a principal to unilaterally impose a long-term suspension. Instead, a suspension lasting longer than 10 days must be reviewed and approved by the superintendent before it can be imposed (i.e., before the 11th day of the suspension). In the WCPSS, neither the superintendent nor his designees are reviewing each long-term suspension recommendation before the short-term suspension effectively becomes a long-term suspension.

**Appeals**

If a student disagrees with the principal’s recommendation for long-term suspension, she has the right to appeal the recommendation to an informal hearing panel. To do so, she must notify the principal in writing by completing a “Request for Suspension Appeal Hearing” form within five school days after receiving the notice of suspension.

If a hearing is requested, the principal is then supposed to notify the Office of Student Due Process (OSDP), which schedules a hearing. Board Policy requires that a student must be given the opportunity for a hearing before a hearing panel “prior to the imposition of a long-term suspension.” However, the WCPSS does not allow a student recommended for long-term suspension to return to school if the school or OSDP creates unreasonable delays that cause the hearing to take place after the initial 10-day short-term suspension. If there is a delay beyond the 10th of the suspension by the school or OSDP, the student should be counted as long-term suspended. (Note: Following 2010-11, the WCPSS reported 320 long-term suspensions for the year to the North Carolina Department of Public Instruction. However, the WCPSS did not count as long-term suspended students who were recommended for long-term suspension and accepted placement in an alternative program, but were not able to start in the program for more than 10 school days. The WCPSS had to correct the report and made the news for what it called “technically incorrectly characterizing” the suspension data.)

Prior to the hearing, the student has the right to, consistent with student privacy laws and regulations, review any audio or video recordings of the incident and the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses. However, the evidence the school possesses is not automatically provided to parents; instead, parents must request the evidence. Additionally, Board Policy only requires a school to give parents information supporting the suspension; thus, schools are not technically required to provide parents with exculpatory evidence or evidence of mitigating factors. Moreover, schools regularly tell parents that video footage and/or witness statements
Due Process

demonstrate the student’s guilt; however, when parents request to see the footage or statements, they are often told that the footage or statements are no longer available or that they contain images or names of other students, and therefore, cannot be shared. Parents are not told that the alleged evidence can be redacted, if necessary, to preserve other students’ privacy rights.

At the hearing, the student has a variety of rights; however, the WCPSS’ policies and practices infringe upon those rights. For example:

- Students have a right to be represented by an attorney or non-attorney advocate.
  - HOWEVER, students are not provided with appointed counsel, or even a list of free or low cost advocacy resources, and students cannot bring an attorney and an advocate (e.g., a therapist or social worker).

- Students have a right to be present and accompanied by her parent(s) or guardian(s).
  - HOWEVER, appeal hearings take place during business hours at the WCPSS Central Office in Cary, which has limited public transportation access – making it difficult, and in some cases impossible, for working parents and parents without reliable transportation to attend.

- Students have a right to question witnesses who testify against them (i.e., cross-examination).
  - HOWEVER, schools often prevent meaningful cross-examination of adverse witnesses by simply reading witness statements or retelling a witness’ oral statement. In other words, unreliable hearsay, which would not be allowed in court, is allowed in suspension hearings. The person who was actually the witness and who made the statement is often not present for the student to question her about potential bias, credibility, favorable facts, etc.

- Students have a right to present evidence on their own behalves.
  - HOWEVER, it is often impossible for the parent to arrange for the necessary witnesses. The parent must get written permission from the parent or guardian of a student in order to be able to call that student as a witness. Additionally, because hearings are held during school hours in Cary, the parent must arrange for the student witness to be taken out of school and transported to Central Office. Moreover, parents do not have subpoena power as they would in court, and thus, cannot compel witnesses to appear. For example, if a teacher witnessed an alleged fight and then told a parent that the student being suspended was only defending herself, the parent cannot force the teacher to testify at the hearing.

- Students have a right to have a record made of the hearing and to make their own recording of the hearing.
  - HOWEVER, a record and audio recording of a hearing are not automatically sent to parents. Parents must request the record and recordings. Since parents must request a Board level appeal within five school days following receipt of the hearing decision, it is very difficult or impossible to review a recording of a hearing before deciding whether to appeal to the Board, if the OSDP does not quickly provide the record and recording in a timely manner.
During the course of the hearing, there are several common practices that can be unnecessarily prejudicial against a student. First, every hearing begins with the hearing officer reading the principal’s description of the incident to the hearing panel and then with the student being required to admit or deny each sentence of the description. This practice is akin to a judge reading the prosecutor’s case summary in front of a jury. The school further obtains unfair advantages over a student as it is allowed to present to the panel first and last, thereby benefiting from primacy and recency effects (i.e., people are better able to recall what they hear first and last). Finally, hearing panels can be prejudiced through the course of hearing when, for example, the student has an Individualized Education Program (IEP) and a hearing officer informs the panel that “the student will continue receiving educational services” while suspended. This practice may cause panel members to view the consequences of the long-term suspension less seriously.

Under the law, the hearing panel must be impartial, but in practice, it is not. Members are selected from a list approved by the Superintendent or his designee, and include retired WCPSS administrators, current WCPSS school administrators, and current WCPSS Central Office staff members. Retired administrators are paid $50/hour, with total payment up to $3,200. In other words, the principal or assistant principal is the prosecutor and his co-workers/fellow WCPSS employees are the judge and jury.

After hearing all the evidence, the panel decides – based on majority vote, not unanimity – the outcome of the initial appeal. Specifically, the panel is charged with making two decisions: (1) whether the student is innocent or guilty; and (2) whether the recommend length of suspension is appropriate. All decisions of the panel must be based on “substantial evidence”; however, the standard for determining hearing outcomes is neither defined in Board Policy nor explained to students and parents. Additionally, the standard for evidence that the panel may rely on is unclear and confusing. According to WCPSS Board Policy, “[t]he hearing panel may consider any relevant evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious matters.” State law defines substantial evidence.
**Due Process**

differently: “Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.”

The panel may uphold, modify, or reject the principal's recommendation of long-term suspension or expulsion. The panel must issue a written decision that includes the basis for the decision, notice of what information will be included in the student’s official record, notice of the student’s right to appeal the decision, and appeal procedures. However, the panel’s written decision is not automatically sent to parents; instead, a parent is notified via phone or email and must request a copy of the written decision from the OSDP. The superintendent must adopt the hearing panel’s factual determinations unless it is not supported by substantial evidence in the record.

If the student is not satisfied with the results of the hearing, she can request an appeal to the Board of Education by submitting a “Board Hearing Request” form to the OSDP within five school days of receiving the hearing panel’s decision. The Board must review the appeal within 10 school days of the student requesting a hearing. Neither Board Policy nor the accompanying R&P address the procedures for a Board level hearing. The procedures are only described in a handbook that is mailed to students who have been recommended for long-term suspension or expulsion.

At the hearing, the student has only 15 minutes to present the basis for appeal. The same law firm that represents the Board on a regular basis also represents the principal/school at the hearing. The Board must accept the hearing panel’s factual findings unless they are not supported by “substantial evidence” in the record. A panel of three board members hears the appeal and must render a decision no more than 30 calendar days following receipt of the appeal request. Written notification of the Board’s decision must be sent to the student and principal within five school days of the Board’s final decision. Thus, the process of appealing a long-term suspension or expulsion recommendation to the Board may take over a month. (Note: Students with disabilities are entitled to additional due process protections.)

The authors requested from the WCPSS data about DRC reviews and suspension appeal hearings, including the number requested, the number held, and aggregated data on outcomes. An attorney for the WCPSS replied that no data analysis existed for 2011-12. Therefore, it is reasonable to assume that the WCPSS has not evaluated the meaningfulness of DRC reviews and appeal processes. However, in January 2010, during a time when the WCPSS was more accommodating with data requests, the authors obtained data about appeals for 2008-09, which show that suspension appeals were rare and largely successful.

**Components of the Baltimore City Schools Code of Conduct:**
- List of purposes of the Code
- List of the district’s beliefs that are related to school safety
- Code of Conduct principles
- List of students’ and parents’ rights and responsibilities
- List of school staff’s rights and responsibilities
- Tips for calming conflict
- Suggested skills, strategies, and practices for building positive relationships
- List of intervention strategies with descriptions
- Detailed matrix that lists specific responses for each type of misbehavior
- Glossary of terms
- Bullying, harassment, or intimidation reporting form
Table 1: Appeals in 2008-09

| Total recommendations for long-term suspension, 365-day suspension, or expulsion | 1,543 |
| Number of hearings | 338 |
| Percent of hearings held past the 10th day of suspension because of the school or OSDP | 40.1% |
| Percent of recommendations upheld by hearing panel | 88.5% |
| Number of appeals to considered by the Board of Education | 44 |
| Percent of recommendations upheld or upheld and modified by the Board of Education | 100.0% |

Conclusion

The punitive removal of a student from school, for any length of time, has extremely negative consequences for the student’s academic achievement and emotional well-being (see the Suspension section of this report). As such, it is imperative that the due process provided to students be as robust as possible so as to ensure these harmful punishments are not meted out unnecessarily or unfairly. While the WCPSS policies generally comport with minimum requirements of due process, they unfortunately fall far short of truly promoting procedural justice. The district’s due process policies are focused on compliance with state and federal laws and administrative convenience, rather than what is best for students. As the WCPSS moves forward with efforts to improve school discipline, it is critical that the district focus both on the actual and perceived fairness of suspension processes and utilize the best practices described below.

Qualities of Safe and Fair Schools: Due Process

1) Require written notice to parents any time a student is removed from the classroom, including in-school suspension
   a) In Baltimore, “[p]arents are entitled to written notification any time their children are removed from the classroom or school for disciplinary reasons.”
2) Require principals to consider mitigating factors, and put the consideration in writing
   a) In New York City, mitigating factors must be considered.
3) Provide mechanisms through which parents can appeal short-term suspensions
4) Automatically translate suspension notices for parents who do not speak English
5) Require that the superintendent or a non-rotating designee, review all recommendations for long-term suspension in order to determine the appropriateness and fairness of the proposed punishment
6) Automatically provide hearings for students facing long-term suspension or expulsion, unless the student’s parent waves the hearing in writing
   a) Automatic hearings or conferences occur in Boston, Baltimore, and New York.
7) Require principals to maintain of video footage of incidents that may result in suspension or expulsion, at least until the appeal process is over or it is clear that there will not be an appeal
8) Automatically provide parents who pursue long-term suspension or expulsion appeals with copies of their student’s educational records, including all inculpatory and exculpatory evidence, with redactions if necessary
9) Provide students from low-income families who are facing long-term suspension or expulsion with a free, appointed attorney, or at a minimum, provide them with a list of free and low-cost local advocacy resources
10) Do not provide panel members with a copy of the principal’s written description of the incident and prohibit the hearing officer from reading the written description to panel members.

11) Include students and parents, who sign confidentiality agreements, on hearing panels.
   a) In Denver Public Schools, hearings are conducted by a hearing officer, who may not be a current employee of the school, the District, or the Board of Education.96

12) Require all witnesses to appear and testify in-person, unless narrow exceptions apply (e.g., the witness has been threatened).
   a) In Boston Public Schools, all witnesses presenting testimony must appear in person at the hearing, unless three narrow exceptions apply.97

13) Allow students facing long-term suspension or expulsion to subpoena witnesses
   a) In New York City public schools, students can subpoena witnesses through hearing officers.98

14) Change the school’s evidentiary burden from “substantial evidence” to “clear and convincing evidence” and define the standard in the Code of Conduct.

15) Automatically send parents written findings from hearing panels.

16) Limit the time the Board has to issue an appeal decision to 10 school days.

17) Collect and publish more data about DRC reviews, appeal hearings, and Board appeals, including the number of “cases” at each level and outcomes by race and gender.
APPENDIX A: SUMMARY OF LONG-TERM SUSPENSION APPEAL PROCESS

1. Incident
2. School administrator conducts investigation
3. School administrator sends notice to parent
4. Parent gives school administrator hearing request form
5. DRC sends notice
6. DRC reviews for possible alternative education placement
7. School administrator notifies OSDP
8. OSDP schedules a hearing
9. Hearing
10. OSDP schedules a Board hearing
11. Parent notifies OSDP of appeal to Board
12. Parent notified of hearing outcome
13. Board hearing
14. OSDP notifies parent of Board's decision
15. Parent can appeal to Superior Court
Due Process

2 U.S. Const. amend. XIV.
10 Simone Marie Freeman, Upholding Students’ Due Process Rights: Why Students are in Need of Better Representation at, and Alternatives to, School Suspension Hearings, 45 FAM. CT. REV. 638, 646 (2007).


Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


Public Records from WCPSS (Nov. 16, 2012)(on file with Author).


The State of the School-to-Prison Pipeline in the WCPSS

Security

2013

Advocates for Children’s Services
Introduction

The Wake County Public School System (WCPSS) has a large security apparatus, including: 64 law enforcement officers who patrol schools on a full-time basis; 61 private security officers; nine Security Department staff; and an unknown number of part-time, off-duty law enforcement officers. During 2011-12, the district and local law enforcement agencies spent millions of taxpayer dollars on security personnel and equipment. Yet, limited public information exists about security practices in the WCPSS, including about the training security personnel receive. Security practices in the district have never been thoroughly and independently evaluated and no data is maintained about school-based restraints, searches, interrogations, uses of force, arrests, or adult criminal court referrals. The limited data that are kept show that the number of school-based juvenile delinquency complaints in the WCPSS is increasing, as is the racially disparate impact of the complaints. Additionally, no clear complaint procedures exist for students, parents, and staff to use when security personnel behave inappropriately. Finally, security practices are inconsistent across WCPSS schools.¹

Off-Duty Law Enforcement Officers

The WCPSS pays off-duty law enforcement officers to provide coverage at Board of Education meetings, although the necessity of such coverage is questionable. During 2011-12, the WCPSS paid officers $30/hour to attend Board meetings and hearings for a total of $7,758.30.² By comparison, the WCPSS pays certified substitute teachers $13/hour,³ certified childcare coordinators $25/hour,⁴ new occupational and physical therapists $25.81/hour,⁵ custodians and clerical assistants with 30 years of experience $15.35/hour,⁶ secretaries with 30 years of experience $17.92/hour,⁷ and bus drivers with 30 years of experience $19.25/hour.⁸

WCPSS Security Department

During 2011-12, the WCPSS’ annual security budget was $3.15 million, not including related expenses by local law enforcement agencies.⁹ The WCPSS Security Department had nine employees, including a senior director, senior administrator, and secretary. The rest of the Department staff consisted of five Security Administrators (“SAs”) and one Emergency Management Coordinator (“EMC”). The SAs were stationed at individual schools and assigned to cover regions consisting of elementary, middle, and high schools. The EMC covered the entire district and was stationed at Centennial Middle School.¹⁰

SAs are required to have five or more years of experience in law enforcement, investigations, or other security services.¹¹ They must also have a bachelor’s degree or equivalent vocational/technical training in criminal justice or law enforcement.¹² They are not required to have a college degree. Their primary duties include investigating incidents, providing presentations on school security related topics, providing written security risk assessments of school system sites, and assisting schools with coordinating and executing emergency action drills.¹³ Their duties also include:

- Maintaining “internal intelligence”;
- Developing “suspect pools”;

¹ Security

- Interrogating students and taking written statements;
- Searching students, vehicles, lockers, and facilities;
- Planning, coordinating, and participating in periodic canine searches;
- Photographing seized evidence and turning it over to law enforcement;
- Inspecting surveillance equipment;
- Testing students for drugs and alcohol;
- Preparing reports for and testifying at juvenile court proceedings and suspension hearings;
- Acting as a liaison to local law enforcement; and
- Issuing trespass letters.\(^{14}\)

The WCPSS paid an average of $64,405 for salary and benefits for each SA and the EMC during 2011-12, in addition to over $5,000 for communication devices and over $5,000 for training.\(^{15}\) The WCPSS also provided the funds to equip each SA with:

- A Blackberry, laptop computer, portable printer, and Sprint wireless card;
- A badge, credentials, business cards, and a leather binder;
- Drug test kits, an Alco sensor, a metal detector, and a flashlight;
- A vehicle and fuel card; and
- A safety vest, administrator jacket, rain jacket, and shirts.

The WCPSS also has security equipment in schools throughout the district. For example, during 2012-13, 169 schools had video camera coverage. WCPSS’ high schools averaged 57 cameras per school, its middle schools averaged 30 cameras per school, and its elementary schools averaged 10 per school. Individual schools may fundraise for additional cameras. The cameras are maintained by the WCPSS Maintenance and Operations Department.\(^{16}\)

Security Officers

Starting in 2006, the WCPSS began outsourcing some of its security practices to AlliedBarton, a private security firm that brought in $1.7 billion in revenue in 2010.\(^{17}\) During 2011-12, the WCPSS paid AlliedBarton $1,334,642 for security officers, bike patrol officers, night patrol officers, and supervisors, as well as alarm monitoring, project coordination, uniforms, gas, and bicycle and vehicle maintenance.\(^{18}\) New officers were paid only $10/hour for their first six months on the job. After six months, security officers were paid only $10.30/hour and bike patrol officers were paid only $11.07/hour. The requirements to become a security officer were generic and did not specify any previous experience or training in security. Instead they required only:

- Minimum of 20/20 correctable vision;
- Good physical condition;
- Good moral character, as evidenced, in part, by “areas of residence/neighborhood”;
- Meaningful work history related to or complimenting the work to be performed for the WCPSS; and
- Education beyond the high school level in a field related to or complimenting the work to be performed for the WCPSS.\(^{19}\)
During 2011-12, the security and bike patrol officers were assigned to elementary, middle, and high schools throughout the district. Three high schools had two officers: East Wake, Enloe, and Southeast Raleigh. The five elementary schools with security guards (i.e., Bugg, Conn, Fuller, Hunter, and Washington) were all located in predominantly lower-income communities of color in Raleigh. Security guard duties included issuing parking citations, performing sweeps of buildings and grounds, and assisting with lunch, carpool, and behavior management. During 2012-13, AlliedBarton deployed 61 security officers to 24 high schools, three middle schools, seven elementary schools, and three administrative sites. AlliedBarton also provided staffing for night patrols and the WCPSS Alarm Monitoring Center.

The practice of having security officers in WCPSS schools has never been evaluated. Yet, in January 2013, WCPSS security staff recommended to the Board of Education placing private security officers in every elementary school. Doing so would have cost the district $835,000 for the remaining three and a half months of 2012-13 and $2.375 million for 2013-14. According to The News & Observer, the proposal “drew heated opposition from both ends of the political spectrum.” At the Board meeting where the proposal was to be voted upon, one parent testified that “we can’t live in fear” and another called the proposal “a reckless, clearly political move.” Ultimately, the recommendation was not approved.

### On-Campus Law Enforcement Officers

The WCPSS Security Department is responsible for the WCPSS School Resource Officer (“SRO”) Program. SROs are certified law enforcement officers who are assigned on a full-time basis to public schools. During 2011-12, 60 SROs were assigned to 29 middle and 23 high schools in the WCPSS. Five high schools had two SROs: East Wake, Garner, Holly Springs, Wakefield, and Wake Tech. There were also five SRO supervisors: three in the Sheriff’s Department, one in the Raleigh Police Department, and one in the Cary Police Department. During 2012-13, the number of SROs stationed in WCPSS schools increased to 64: 23 in high schools, 32 in middle schools, and one in an elementary school. In Wake County, SROs are employed by the Sheriff’s Department and eight local police departments.

### Table 1: SRO employers during 2011-12 and 2012-13

<table>
<thead>
<tr>
<th>Agency</th>
<th>SROs in Schools</th>
<th>Agency</th>
<th>SROs in Schools</th>
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<tbody>
<tr>
<td>Sheriff's Dept.</td>
<td>23</td>
<td>Sheriff's Dept.</td>
<td>25</td>
</tr>
<tr>
<td>Apex Police Dept.</td>
<td>4</td>
<td>Apex Police Dept.</td>
<td>2</td>
</tr>
<tr>
<td>Cary Police Dept.</td>
<td>10</td>
<td>Cary Police Dept.</td>
<td>11</td>
</tr>
<tr>
<td>Fuquay-Varina Police Dept.</td>
<td>1</td>
<td>Fuquay-Varina Police Dept.</td>
<td>1</td>
</tr>
<tr>
<td>Garner Police Dept.</td>
<td>4</td>
<td>Garner Police Dept.</td>
<td>4</td>
</tr>
<tr>
<td>Holly Springs Police Dept.</td>
<td>4</td>
<td>Holly Springs Police Dept.</td>
<td>6</td>
</tr>
<tr>
<td>Knightdale Police Dept.</td>
<td>1</td>
<td>Knightdale Police Dept.</td>
<td>1</td>
</tr>
<tr>
<td>Raleigh Police Dept.</td>
<td>11</td>
<td>Raleigh Police Dept.</td>
<td>12</td>
</tr>
<tr>
<td>Wake Forest Police Dept.</td>
<td>2</td>
<td>Wake Forest Police Dept.</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>60</strong></td>
<td><strong>Total</strong></td>
<td><strong>64</strong></td>
</tr>
</tbody>
</table>
The costs for SROs are shared among the law enforcement agencies and the WCPSS. During 2011-12, the WCPSS paid a portion of 26 SROs’ salaries, for a total of $893,355. The district also paid $2,077 toward cell phone charges for Raleigh Police Department SROs.32

The WCPSS has contracts with each of the law enforcement agencies, as well as a memorandum of understanding ("MOU") that exists among the WCPSS and all of the agencies. The contracts and MOU speak primarily to financial and supervisory arrangements, and do not address training, use of force, data, or accountability.33 Therefore, there are no written requirements or even guidelines about:

- Whether SROs should have training in adolescent development, mental health issues, positive behavior management, working with school staff, cultural competency, etc.;
- When SROs can and cannot use force (e.g., guns, TASERs, pepper spray, handcuffs, etc.) on students;
- What data must be collected (e.g., data on arrests and complaints);
- When SROs can and cannot arrest or file charges against students; or
- How students, parents, and staff should report misconduct by SROs.

Likewise, the WCPSS does not have a Board Policy that addresses the scope of SROs’ authority. In contrast, Chapel Hill-Carrboro City Schools has a policy that requires SROs to divert “minor law enforcement infractions through school disciplinary avenues and parent counseling as opposed to sending the student into the criminal court system” and prohibits SROs from being “utilized as school disciplinarians.”34

Despite millions of taxpayer dollars being spent on SROs each year, the WCPSS SRO Program has never been meaningfully evaluated. In June 2011, the WCPSS Board of Education requested that former Superintendent Tata conduct an evaluation of the SRO Program. Two months later, Russ Smith, the WCPSS Senior Director of Security, presented the results of a “study” of his own program that he created and conducted on his own. Unsurprisingly, the results were positive. The entirety of the “study” consisted of only five, leading, “agree” or “disagree” questions and was administered solely to middle and high school principals and assistant principals. It did not involve students, parents, teachers, support staff, or even SROs themselves. It also did not include any review of best practices in other locales; analyses of data concerning the use of force and school-based arrests and complaints; or information about the “law-related counselor” or “law-related education teacher” duties that SROs are supposed to perform.35

Overall, there is no reliable evidence that SROs make schools safer.36 To the contrary, research conducted in other states has produced evidence showing that SROs can actually have negative impacts on students and schools. For example, studies have shown that the presence of SROs in schools leads to:

- Increased arrests and court referrals for minor misbehavior that should instead be treated as teachable moments by educators;37
- Disruption and damage to the learning environment through the creation of an atmosphere of hostility, suspicion, fear, and control;38
- Negative impacts on student morale; and
- Undermining of the authority of teachers and school administrators.

Off-Campus Law Enforcement Officers

Off-campus law enforcement officers (i.e., non-SROs) are called to school campuses to deal with safety issues. They also go to schools on “official business” to question, interrogate, and arrest students. Some school districts have taken important steps to create a policy that addresses such situations in an effort to ensure that students’ and parents’ rights, as well as the learning environment, are protected. For example, Durham Public Schools has a policy that requires officers, before coming on school grounds, to: first contact school administration; maintain confidentiality; make reasonable attempts to notify parents/guardians before questioning their student; and avoid embarrassing students, disrupting the educational program, and causing students to miss class time.

Chapel Hill-Carrboro City Schools has a policy that prevents law enforcement officials from being “used in conducting administrative investigations, including investigations to determine whether student behavior policies have been violated.” Orange County Schools has a policy that requires principals to be present during interrogations during the school day and to attempt to contact parents/guardians to request their attendance. In the fall of 2012, the WCPSS considered adopting a policy about off-campus law enforcement officers, but it was never brought to the Board for a vote.

School-Based Delinquency Complaints

During the 2011-12 state fiscal year (FY), more than one-third (34.6%) of all delinquency complaints filed in Wake County were school-based. The 763 school-based delinquency complaints – all of which were filed against students age 15 and younger – were a 23.5% increase from the previous year. Black students and male students were disproportionately subject to school-based delinquency complaints. Nearly three-quarters (74.4%) of the school-based delinquency complaints were filed against Black students, even though they made up only about one-quarter (24.4%) of the total WCPSS population. By comparison, White students made up 49.3% of the student population, but received only 17.6% of the complaints. The

A.H. was a WCPSS middle school student with severe disabilities, including ADHD, Oppositional Defiant Disorder, Bipolar Disorder, and an IQ of 60. As a result of his disabilities, he would compulsively “steal” and hoard school supplies, such as paper, pencils, and notebook paper. After numerous suspensions for behavior including “stealing paper from the recycling bin”, the school began to file charges against him during 2011-12. Consequently, he was placed on juvenile court probation.
percentage of the total complaints filed against Black students increased by 11.6 percentage points from the previous year.\textsuperscript{51} Male students received 77.5\% of school-based delinquency complaints,\textsuperscript{52} though they represented only 51.1\% of the student population.\textsuperscript{53} Very young students were also subject to school-based delinquency complaints, with 154 complaints being filed against students age 12 and younger.\textsuperscript{54} A complaint was even filed against a seven-year-old student for simple assault.\textsuperscript{55} Finally, many students became court-involved for minor offenses. There were 16 complaints for “communicating threats,” 89 for “disorderly conduct,” 108 for “larceny-misdemeanor,” 78 for “simple affray,” and 71 for “simple assault.”\textsuperscript{56} Ninety percent of the complaints were for misdemeanors.\textsuperscript{57}

Table 2: WCPSS schools with the most school-based delinquency complaints (FY 2010-11)\textsuperscript{58}

<table>
<thead>
<tr>
<th>School</th>
<th>Complaints</th>
<th>School</th>
<th>Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southeast Raleigh High School</td>
<td>36</td>
<td>Fuquay-Varina Middle School</td>
<td>29</td>
</tr>
<tr>
<td>Longview School</td>
<td>34</td>
<td>Millbrook High School</td>
<td>25</td>
</tr>
<tr>
<td>East Garner Middle School</td>
<td>32</td>
<td>Garner High School</td>
<td>24</td>
</tr>
<tr>
<td>Leesville Road High School</td>
<td>32</td>
<td>Enloe High School</td>
<td>23</td>
</tr>
<tr>
<td>Carroll Middle School</td>
<td>29</td>
<td>Athens Drive High School</td>
<td>18</td>
</tr>
</tbody>
</table>

Once in court, young people miss valuable class time, often falling behind, or further behind, their peers as a result.\textsuperscript{59} The prosecution process can be demeaning and demoralizing, with judges pronouncing youth to be “juvenile delinquents” if they are adjudicated.\textsuperscript{60} Being branded in this way can lead to lasting harm at a time of crucial identity development.\textsuperscript{61} On top of this stigmatization, prosecution and adjudication can trigger school exclusion, lead to academic failure, make a young person ineligible for higher education loans, cause a reduction in future employment opportunities, lead to a family’s eviction from public housing, and imperil a young person’s chances at naturalization.\textsuperscript{62} Nevertheless, neither the WCPSS nor the local law enforcement agencies providing SRO coverage maintain data on school-based delinquency complaints. Instead, the public can only access data by submitting a public records request to the North Carolina Division of Juvenile Justice.
School-Based Criminal Complaints

North Carolina is the only state that treats all 16- and 17-year-olds as adults when they are charged with criminal offenses and then denies them the ability to appeal to return to the juvenile system. Thus, any time a school-based complaint is filed against a WCPSS student age 16 and older, that child goes straight into the adult criminal system. For example, on May 16, 2013, seven Enloe High School students were arrested at school (in addition to being suspended out-of-school) for allegedly participating in a water balloon fight. Five of the students were 16 years old and two of the students were 17 years old. All of the students were charged as adults, jailed with adults, forced to pay bail, and now face prosecution in the adult criminal system.

Youth prosecuted in the adult system must bear lifelong consequences of criminal convictions, even though research shows that most young people grow out of adolescent offending. Furthermore, 16- and 17-year-olds are prosecuted and incarcerated alongside hardened adult criminals. They bear a heightened risk of sexual assault in adult jails and prisons. Finally, research shows that young people prosecuted and incarcerated in the adult system are much more likely to reoffend than are young people processed in the juvenile system.

Despite the serious repercussions that stem from school-based criminal complaints, no data is maintained either by the WCPSS or by law enforcement agencies regarding the number of students age 16 and older who are arrested or charged at school. This is the case despite repeated requests from the authors and community members for information regarding the impact of school policing on this population of students.
Use of Force

SROs in the WCPSS carry a TASER (or “stun gun”) and/or pepper spray. The TASER is shaped like a gun and is loaded with cartridges that shoot two small hooked metal electrodes. When fired, the electrodes hook into the skin or clothing to prevent removal and distribute a charge of about 1200 volts in electrical pulses at a rate of 19 pulses per second.\(^\text{70}\) TASERs have caused hundreds of deaths across the country,\(^\text{71}\) and more than a dozen in North Carolina.\(^\text{72}\) In April 2013, Raleigh police officers killed a man with a TASER.\(^\text{73}\) In November 2011, the North Carolina Court of Appeals ruled that a stun gun can be considered a deadly weapon.\(^\text{74}\) Advocates have been raising concerns about TASERs being used in schools for nearly a decade.\(^\text{75}\) Pepper spray is made from the same chemical that makes chili peppers hot, but at much higher concentrations, combined with water, glycol, and a propellant, such as nitrogen.\(^\text{76}\) Pepper spray may cause nausea; burning pain, inflammation, and blistering; cardiac, respiratory, and neurological problems; and sudden death.\(^\text{77}\)

There is no uniformity with respect to use of force by SROs – each law enforcement agency has its own policy.\(^\text{78}\) Additionally, no data are maintained on the use of force in schools and there is no clear complaint or investigative process for excessive force. Yet, the WCPSS has a long history of TASERs, pepper spray, and excessive force being used in its schools. For example:

- In 2005, a Cary SRO threatened to use a TASER on a student and then arrested the student for profanity.\(^\text{79}\)
- In 2007, a Garner SRO used a TASER on a 16-year-old, Garner High School student.\(^\text{80}\)
- In 2008, a Cary SRO used a TASER on a 15-year-old, Middle Creek High School student (who had Post-Traumatic Stress Disorder) three times after the student did not respond to questioning and reacted to being interrogated and grabbed. The TASER prongs punctured the student’s lungs and he had to be hospitalized for an extended period of time. The Town of Cary and WCPSS agreed to pay the student’s family $12,000 in a lawsuit settlement.\(^\text{81}\)
- In June 2009, an SRO used pepper spray at Dillard Drive Middle School. An ambulance was called to treat affected students.\(^\text{82}\)

\(G.I.\) was a WCPSS high school student with Oppositional Defiant Disorder and ADHD who got into a minor altercation with another student. Afterward, the SRO approached G.I. and began yelling at and harassing him. G.I. continued walking toward the Student Services office because he knew he was in trouble. The SRO continued yelling at G.I., and then grabbed his arm roughly. G.I. has a plate in his left wrist from surgery, and so it hurt badly when he was grabbed. Also, G.I. had a long history of violent physical abuse at the hands of his stepfather, and so he reacts in a fight or flight mode when aggressively approached. He struggled to get away from the SRO, at which point the SRO grabbed him, pulled him to the ground, and fell on top of him. The SRO injured his own wrist as he fell on top of G.I., but subsequently charged G.I. with assault on a government official and took him to jail. G.I. was made to wear an orange jumpsuit, stay in a cell with older men until 10:30pm, and pay a $450 bond. He was also long-term suspended from school.
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- In August 2010, a Cary SRO used a TASER on an eighth grade, West Lake Middle School student. Paramedics came to the school and took the student to the hospital.\textsuperscript{83}
- In September 2010, a Raleigh police officer used pepper spray in a crowded cafeteria at Athens Drive High School. Sixteen students were treated for exposure; four of them were taken to the hospital for respiratory distress.\textsuperscript{84}
- In December 2010, a SRO at Garner High School used a TASER on a ninth grade female student. Emergency medical services were called to inspect the burns left on her skin.\textsuperscript{85}
- During 2011-12, SROs used TASERs on at least two students; one at Garner High School and one at Holly Springs High School.\textsuperscript{86}
- In October 2011, a Leesville Road High School student was pepper sprayed in the face as an SRO attempted to break up a fight at school. At the time the student was pepper sprayed, he was incapacitated as two other students held him on the ground and punched him.\textsuperscript{87}
- In May 2013, a Raleigh police officer used excessive force on a 15-year-old Enloe High School student. The officer grabbed the student, knocked him down, and drove his head into the ground at least twice.\textsuperscript{88} The student had to be treated at a hospital for a cut above his eyebrow, a bruised shoulder, a scrapped knee, and a sore neck and back.\textsuperscript{89}

Searches and Interrogations

Students have a right to be free from unreasonable searches and seizures at school.\textsuperscript{90} Generally, school officials (e.g., teachers and principals) and SROs must have reasonable suspicion to believe a student possesses something illegal or prohibited by school rules, while off-campus law enforcement officers must have probable cause.\textsuperscript{91} If school officials or law enforcement officers do not have reasonable suspicion or probable cause to conduct a search, they can ask a student for consent to do the search anyway. Students have a right to withhold consent. Additionally, students have a constitutional right to freedom from self-incrimination.\textsuperscript{92} If they are in a custodial interrogation (i.e., questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of her freedom of action in any significant way)\textsuperscript{93} with either an SRO or an off-campus law enforcement officer, students must be given Miranda warnings and allowed to remain silent.\textsuperscript{94}

The WCPSS has three primary problems with searches and interrogations of students. First, students are sometimes given disciplinary

\textit{“That's standard procedure for any event such as this. The administration has a right to search a student at any time, for any reason whatsoever. But certainly during events such as this, it's standard procedure that everyone is searched…Uh, it doesn't matter whether there's a suspicion of being a, uh, of having something or not. It's just, uh, the administration's right, uh, for anyone coming on to campus. Um, but it's standard procedure for any time that a violent act, or near violent act, um, on campus, uh, it's standard procedure that when those suspects or individuals are spoken to that they are searched because it is found that, um, individuals that are involved in this type of behavior, uh, it's very possible that they may have something associated with this same type of behavior. So, again, it's the administration's right to go ahead and search, um, at any point.”} – Raleigh Police Dept. SRO in suspension appeal hearing, responding to questions about an illegal search (Oct. 2009)
consequences under Board Policy 6410(C)(11) (“Noncompliance”) for withholding consent or exercising their right to remain silent. In other words, they are suspended, or otherwise punished, for exercising their constitutional rights. Second, neither the WCPSS nor local law enforcement agencies collect data about searches and interrogations of students. Thus, it is impossible to determine whether some law enforcement officers are excessively searching or interrogating students, or whether discriminatory practices are taking place. Third, there are no meaningful consequences for school officials or law enforcement officers who violate students' rights with respect to search and seizure. For example, school officials and law enforcement officers still use the fruits of illegal searches in suspension appeal hearings because the WCPSS does not have an exclusionary rule.

Safety Task Force

In February 2013, Board of Education chairman, Keith Sutton, announced that he was creating a new task force to conduct a comprehensive review of school district safety and security plans, and to come up with recommendations to improve campus safety within 90 to 120 days. Two law enforcement officers – Wake County Sheriff Donnie Harrison and retired Raleigh Police Captain Al White – led the Wake County Board of Education Task Force for Creating Safer Schools in Wake County (“Task Force”). Other members included representatives from private security firms, emergency response volunteers, a retired FBI agent, a local mayor, a middle school principal, a middle school teacher, two advocates, and various local and state government employees. The Task Force did not include any of the following key stakeholders: students; elementary school teachers or principals; high school teachers or principals; school social workers, counselors, and psychologists; SROs; or representatives from Allied Barton. The Task Force met six times between March 14, 2013 and May 23, 2013.

The group addressed four main topic areas: prevention and mitigation; preparedness; response; and recovery. In the end, the Task Force developed 15 recommendations, including that each school should have:

- “Bullying prevention and social and emotional learning programs”;
- “Access to peer mediation and alternative dispute resolution (e.g., restorative justice) programs or services”;
- “Parent engagement initiatives (e.g., parent mentors, trainings, liaisons, etc.)”;
- “A consistent, well-utilized system to connect students and families to effective community-based service providers”;
- “Full-time, highly-trained…staff of therapeutic professionals, including counselors, social workers, psychologists, and nurses”; and
- “[S]upport teams for students who exhibit misbehavior or a propensity for violence”.

Task Force members were told that they could not make recommendations related to school policing, such as training for SROs.

The recommendations were supposed to be shared with the Board on June 28, 2013. However, Task Force co-chair Sheriff Harrison disregarded the recommendations and only shared his personal recommendation that the Board should create a WCPSS police department.
He knowingly misled the Board, media, and public as a district police force was not one of the Task Force’s recommendations and, in fact, the Task Force had been told that recommendations on school policing were outside its scope. Worse yet, Sheriff Harrison admitted that his recommendation was not based on research, best practices, or even thoughtful consideration. He said, “I haven’t looked at [models of school police departments] that closely, it’s just something that I over the years have been thinking about.”

Conclusion

The WCPSS has never conducted a comprehensive evaluation of its security policies and practices. Why have the WCPSS’ multi-million dollar private security guard program and SRO program been allowed to continue year-after-year without any evidence that they are effective, while students and teachers are evaluated at every turn? One reason is a widespread misunderstanding that since the WCPSS does not technically employ the security guards and SROs (AlliedBarton and law enforcement agencies do), then the school system cannot mandate adequate training, limitations, and accountability. In fact, as demonstrated by the examples below, other schools districts have much better board policies and MOUs. The time for all stakeholders – students, parents, teachers, administrators, support staff, Central Office staff, representatives from AlliedBarton and local law enforcement agencies, court counselors and probation officers, prosecutors, public defenders, judges, and advocates – to come together to develop policies and practices that avoid unnecessary court involvement and the use of force while keeping students safe is long past due.

Qualities of Safe and Fair Schools: Security

1) High-quality, on-going, comprehensive training for all security personnel, including training on:
   a) Alternatives to school-based arrests and court referrals
   b) Cultural competency
   c) Positive behavior management
   d) Adolescent development and positive youth development
   e) Disabilities and mental health issues
   f) Safe restraint techniques
   g) Students’ rights

In October 2011, T.S., a WCPSS high school student, cut in line in the cafeteria because he was running late. The assistant principal (AP) told him to get out of line because he was cutting. So, T.S. stepped out of the line, allowed 10 to 15 students to pass, and then got back in the line. The AP again yelled at T.S., telling him that he was cutting and needed to go to the end of the line. T.S. argued with the AP, telling him that he needed to eat and that he had let students go in front of him. The SRO came over and grabbed T.S.’ shoulder. T.S. pulled away from the SRO and told him not to touch him. The SRO again grabbed T.S., and T.S. again pulled away. The SRO then handcuffed T.S. in front of a cafeteria full of students, dragged him out of the cafeteria and to the office, and made him sit in handcuffs in the office for 30-45 minutes until his mother could come pick him up. T.S. was also suspended out-of-school for three school days.
The contents of the memorandum of understanding (MOU) detailed below

2) A detailed MOU between the school system and law enforcement agencies that, at a minimum:
   a) Requires the training detailed above
   b) Limits SRO involvement to delinquent or criminal activity that directly threatens the safety and order of schools
   c) Prohibits the filing of complaints for minor misbehavior (e.g., disorderly conduct)
   d) Prohibits arrests and complaints against students whose misbehavior is a manifestation of their disability
   e) Prohibits SRÖs from carrying guns and TÁSERs on school grounds

3) A clear, well-publicized, unbiased complaint process for students, parents, staff, and others to use to report and seek remedies for security personnel misconduct

4) Comprehensive, publicly available, annual data and information, including, at a minimum, information on:
   a) Schools to which security personnel are assigned
   b) Expenses for security personnel
   c) Employers of security personnel
   d) Weapons carried by security personnel
   e) Searches, interrogations, uses of force, arrests, and court referrals disaggregated by:
      i) Security personnel name
      ii) Date
      iii) Offense
      iv) School
      v) Grade
      vi) Age
      vii) Race
      viii) Gender
      ix) Socioeconomic status
      x) Disability status

Examples of Successful Models in Other Districts

In 2004, in Clayton County, Georgia, an innovative, cooperative agreement was developed between multiple stakeholders in an effort to ensure that misdemeanor delinquent acts (e.g., fighting, disrupting school, disorderly conduct, most obstruction of police, and most criminal trespass) do not result in the filing of a complaint, except in extreme circumstances. Pursuant to the agreement, youth first receive warnings and, after a second offense, are referred to mediation or school conflict training programs. It is not until a student commits a third or subsequent similar offense during the same school year, and the principal conducts a review of the student’s behavior plan, that a complaint for school-based delinquent behavior can be filed. Elementary school students cannot be referred to law enforcement for “misdemeanor delinquent acts” at all. The protocol was implemented after Judge Steven Teske, a juvenile court judge in the county, recognized that referrals to law enforcement had skyrocketed as soon as SROs were stationed at local schools. Judge Teske led a team of stakeholders from the juvenile justice system, law enforcement, the local school system, and social services groups in creating the agreement. The team reviewed data, solicited input, and educated stakeholders on best practices.
The team also created a multidisciplinary panel to assess the needs of students at risk for referral to law enforcement, and to refer the students to services outside of the school, such as family therapy, cognitive behavioral therapy, and wrap-around services. After the implementation of the agreement, rates of misbehavior, dangerous weapons on campus, and school-based court referrals decreased dramatically. Notably, graduation rates increased over the same period of time.\textsuperscript{101}

In Jefferson County, Alabama, Judge Brian Huff led an effort to replicate the protocol from Clayton County.\textsuperscript{102} After implementing the protocol described above, the number of ungovernable, truancy, and runaway petitions, as well as school-related offenses that were filed in Jefferson County Family Court, which handles juvenile matters, dropped by nearly 40%, from 4,000 in 2007 to 2,500 in 2011.\textsuperscript{103}

In 2012, in response to citizen concern regarding police presence and misconduct in schools, the Oakland School Police Department enacted a policy allowing for citizen complaints. Under the policy, citizens have multiple mechanisms for filing complaints, including online, via mail, and in person. Anonymous complaints are permitted. Investigations must be conducted and written reports to complaints generally must be made within 45 days. Complainants can appeal the report to the superintendent, who must investigate the appeal and issue written findings. Complainants may then appeal to the Board of Education, which must also issue written findings. Forms have been created in six languages for the community to report officers behaving inappropriately, to report officers who handled situations exceptionally well, and to make general recommendations. Forms and flyers explaining the process are required to be available in every school in the district. Finally, the Office of the Chief of Police is required to prepare a detailed, semi-annual statistical summary on complaints that is publicly available.\textsuperscript{104}

In 2012, Colorado enacted a new law aimed at ensuring positive youth development in schools. The law:

- Declares that the “involvement of students in the criminal or juvenile justice systems should be avoided when addressing minor

\textbf{On the first day of school in 2011-12, T.W., an African-American student, was standing in line at school waiting to receive his schedule. A White SRO approached T.W. and demanded to know T.W.’s name and whether he attended that school. T.W.’s disabilities caused him to avoid stressful situations. The SRO became enraged and said, “Are you trying to play me in front of your boys?” The SRO grabbed T.W.’s arm. T.W. pulled his arm away. The SRO grabbed T.W.’s arm again, put it behind his back, slammed him up against a window, handcuffed him, took him to the office, and illegally searched him. The SRO then filed charges against T.W. in adult criminal court for obstructing a police investigation. T.W. had to miss school and his mother had to miss work to go to court multiple times before the charges were dismissed. T.W.’s mother filed a grievance with the principal. He responded that the SRO “is an employee of the Raleigh Police department and any requests regarding his actions should be addressed with his superiors.” T.W.’s mother also filed an internal affairs complaint, which, of course, resulted in a finding that the officer had just cause.}
misbehavior that is typical for a student based on his or her developmental stage;  
- Requires every school district to implement “proportionate” discipline that reduces the number of out-of-school suspensions, expulsions, and referrals to law enforcement;  
- Requires districts to implement prevention strategies, restorative justice, peer mediation, counseling, and other approaches designed to minimize student exposure to the juvenile and criminal justice system;  
- Improves the collection of disaggregated data around school-based arrests, tickets, and court referrals; and  
- Enhances the training of SROs.  

In February 2013, the Denver Public Schools and the Denver Police Department entered into a formal intergovernmental agreement in order to address concerns that police were being used to handle minor disciplinary matters. The collaborative agreement makes clear distinctions between disciplinary issues and crimes, and requires SROs to treat them differently. Specifically, SROs are required to first attempt to deescalate situations and arrest or issue citations only in cases when it is absolutely necessary, in accordance with the district’s discipline policy, which explicitly favors restorative practices over law enforcement intervention in dealing with student behavior. Unless absolutely necessary, disciplinary problems are to be left to school district personnel. Additionally, the agreement sets forth due process protections for students and parents in the event of law enforcement interventions at school; requires that SROs meet with community stakeholders each semester; and sets forth training requirements for SROs, recommending topics spanning youth development, conflict resolution, and cultural competency.  

In an effort to limit excessive criminalization of its students, the San Francisco Unified School District (SFUSD) revised their Student and Family Handbook to include a provision aimed at restricting the involvement of police officers in school-based offenses. The provision reads:  

SFUSD recognizes the serious potential consequences for youth of juvenile court involvement and wishes to avoid unnecessary criminalization of our students...Staff members and site administrators shall only request police...
assistance when (1) necessary to protect the physical safety of students and staff; (2) required by law; or (3) appropriate to address criminal behavior of persons other than students. Police involvement should not be requested in a situation that can be safely and appropriately handled by the District’s internal disciplinary procedures.\textsuperscript{107}

Strategies for Youth (SfY) is a national organization that exists “solely for the purpose of improving police/youth interactions, advancing the cause of training public safety officers in the science of child and youth development and mental health, and supporting communities partnering to promote strong police/youth relationships.”\textsuperscript{108} SfY recently conducted a “Policing the Teen Brain in School” training for SROs in the Charlotte-Mecklenburg Schools.\textsuperscript{109}
Security


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