



# Avoiding Criminalization in School Discipline: Law Enforcement

## Human Rights Goal

In order to best meet the developmental needs of young people, schools shall be safe and supportive places to learn where teachers and students have training and support to prevent and resolve conflicts in positive ways. In order to guarantee students' rights to education and dignity, schools must avoid any disciplinary policies or practices that criminalize young people.<sup>1</sup>

No law enforcement personnel should be stationed in schools, and local police should not be assigned to patrol schools. Law enforcement entering schools shall be avoided whenever possible and shall be prohibited for incidents that shall be considered school discipline matters. The arrest or detention of a student shall be used only as a measure of last resort<sup>2</sup>, and law enforcement should not come into schools for the purpose of arresting or questioning students about a non-school related incident.

Any law enforcement personnel that come into contact with schools shall be trained in youth development and to respond to the special needs of young persons and shall use, to the maximum extent possible, techniques to de-escalate conflict, minimize the involvement of law enforcement and refer matters to be dealt with by school personnel.<sup>3</sup>

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1 THE RIYADH GUIDELINES, *supra* note 96 at ¶ 5.

2 U.N. Convention on the Rights of the Child art. 37.

3 THE RIYADH GUIDELINES, *supra* note 96 at ¶ 58.

# Recommended Language

## A.

### Definitions

1. Law Enforcement (prohibited from being stationed in schools) – Includes sworn police officers (and unsworn if they are School Resource Officers), sheriff’s deputies, parole and probation officers, tribal officers, truancy officers, ICE officers or other immigration officials, armed security guards and any other law enforcement personnel who fit any of the criteria below:
  - a. Have the power to arrest, detain, interrogate, question, fine or ticket students on municipal code, juvenile, criminal or immigration related matters, and/or have the power to punish youth for violations of probation or parole;
  - b. Carry any type of weapon, including but not limited to a firearm, baton, Taser, rubber bullets, bean bags, and/or mace/pepper/OC spray, and/or carry handcuffs or other forms of restraint;
  - c. Report to, are certified by, or receive training from a police department, including personnel who can report students to a gang database or other police databases.
2. School Resource Officers (SROs) – Any safety officers permanently assigned to work in a school or set of schools. Currently, in some localities, they are sworn or certified law enforcement officers employed by city police departments, whereas in other localities they make up an independent school police department and are employed directly by the school district.<sup>4</sup>
3. Security officers or security guards – Non-sworn personnel—either armed or unarmed—and hired or sub-contracted with individual schools or school districts to patrol in or around campuses.
4. Police Officers – Armed, sworn or certified law enforcement officers employed by city and/or school police departments. Police officers may be assigned to patrol schools, rotated in and out of schools as part of their regular duties, assigned to patrol the area around a school or nearby public transportation stops, or summoned in cases of emergency.<sup>5</sup>
5. Community Intervention Workers – Community members trained as peace-builders working in schools, around schools and/or in the larger community.

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<sup>4</sup> See generally CATHERINE Y. KIM & I. INDIA GERONIMO, AM. CIVIL LIBERTIES UNION, POLICING IN SCHOOLS: DEVELOPING A GOVERNANCE DOCUMENT FOR SCHOOL RESOURCE OFFICERS IN K-12 SCHOOLS (2009), available at [http://www.aclu.org/pdfs/racialjustice/whitepaper\\_policinginschools.pdf](http://www.aclu.org/pdfs/racialjustice/whitepaper_policinginschools.pdf); JASON LANGBERG ET AL., ADVOCATES FOR CHILDREN’S SERVS., LAW ENFORCEMENT OFFICERS IN WAKE COUNTY PUBLIC SCHOOLS: THE HUMAN, EDUCATIONAL, AND FINANCIAL COSTS (2011), available at [http://www.legalaidnc.org/public/ACS/IssueBrief\\_Feb-11\\_SROs\\_Rev.pdf](http://www.legalaidnc.org/public/ACS/IssueBrief_Feb-11_SROs_Rev.pdf).

<sup>5</sup> *Id.*

Intervention workers can replace the traditional role of security officers or police on or around school campuses. In schools they may be paid staff or volunteers. In the community they often have a “license to operate” or agreement with local leaders to work in the community. Intervention workers have trusted and deep relationships with local communities and both recognized and underground leaders. These trusted relationships are at the root of their effectiveness in identifying, resolving and preventing conflict, violence and crime. Their work includes mentoring youth, preventing and addressing bullying, preventing and resolving conflicts and connecting people to needed services. The role of community intervention workers includes:<sup>6</sup>

- a. Mentoring youth, particularly those youths who most often witness, are victims of and/or cause violence;
- b. Preventing and addressing bullying and providing rumor control;
- c. Preventing and resolving conflicts between youth, groups of youth and/or neighborhoods (gangs); preventing retaliation; and coordinating mediation, conflict resolution and restorative/transformational justice;
- d. Helping youth to avoid and/or leave neighborhoods and providing safe passage to and from school; and
- e. Connecting people to needed services.

## **B.**

**Districts and schools must End the Regular Presence of Law Enforcement in Schools by removing any law enforcement personnel that are assigned to be present on a regular basis in and around<sup>7</sup> a school or set of schools during regular school hours and any school-run activities in the building.**

1. This would prohibit a regular presence, such as being stationed full or part-time in a school or set of schools, making daily or weekly visits, or the inclusion of a school in an officer’s regular beat.
2. This includes School Resource Officers (SROs), police, security officers and any other law enforcement personnel<sup>8</sup> that meet the criteria listed above.

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<sup>6</sup> Youth Justice Coalition, Welcome Home L.A. From the Cell Block to the Corner Block, <http://www.youth4justice.org/wp-content/uploads/2012/12/2012WelcomeHomeLA.pdf>. Use of the word neighborhoods refers to gangs, but is less criminalizing in that not all alleged gangs and the vast majority of people affiliated with them are not involved in crimes.

<sup>7</sup> For the purposes of these recommendations, “in and around” is meant to encapsulate the criminalization by law enforcement that specifically targets students while they are coming in and out of school.

<sup>8</sup> Law enforcement includes sworn officers (and unsworn if they are armed security), municipal police officers, school police officers, school resource officers (SROs), sheriff’s deputies, parole and probation officers, tribal officers, truancy officers, ICE officers or other immigration officials and armed security guards.



**States, districts and schools shall adopt safety and discipline policies that emphasize ways of maintaining safety that minimize the involvement of law enforcement to the greatest extent possible, and identify steps for ending the need for law enforcement in schools.**

1. Such policies must be preventive and positive, not reactive and punitive, and they must rely on proven approaches for creating positive school climates (See Section 3.1.a. of the DSC Model Code), with the goal of building relationships with students and getting to the root of problems in the school and surrounding community.
2. States, districts and schools should shift resources away from practices and staffing that criminalize students, and invest in positive approaches and school staff funded through the core education budget<sup>9</sup> including:
  - a. Employing staff<sup>10</sup> trained to ensure safe and positive school climates, such as community intervention workers, peace-builders, transformative or restorative justice coordinators, behavior interventionists, school aides, counselors and other support staff<sup>11</sup> who can:
    - i. Help prevent and address safety concerns and conflict;
    - ii. Monitor school entrances and ensure a welcoming environment;
    - iii. Respond to the root causes of behavior;
    - iv. Prevent and intervene to stop intergroup and interethnic tension;
    - v. Provide opportunities for “safe surrender” of weapons brought to school for self-defense;
    - vi. Address students’ needs; and
    - vii. Work with stakeholders to create a school safety plan, including a plan for evacuation should the need arise, and ensure all staff are trained to carry out the plan.
  - b. Ongoing training and support for all school staff in positive approaches to school climate and discipline, including:
    - i. Trauma-informed practice;
    - ii. Child and adolescent development and psychology;

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<sup>9</sup> Whether these roles are school-based staff or employed by community-based organizations or government institutions, they must be funded through a district’s core education budget and considered a permanent part of the school community.

<sup>10</sup> These staff should be protected by all applicable labor laws, including overtime pay where applicable, and should not be expected to perform these duties outside of their paid hours.

<sup>11</sup> Each school must determine what their needs are in terms of supportive school staff, which may include both guidance counselors and therapeutic counselors, social workers, therapists, psychologists, substance abuse counselors, and other mental health professionals. All of these roles are meant to address the root causes of issues impacting students and the larger school climate.

- iii. Comprehensive youth development practices and programming;
  - iv. Conflict resolution and peer mediation;
  - v. De-escalation techniques;
  - vi. Violence prevention and intervention;
  - vii. Intergroup and interethnic conflict, intervention and truce-building strategies;
  - viii. Bias-based and sexual harassment and sexual violence;
  - ix. Working with youth with disabilities or physical, emotional, or mental conditions;
  - x. Working with LGBTQ and gender non-conforming youth;
  - xi. Cultural competencies (including understanding and addressing racism, sexism, homophobia, transphobia, ableism, adultism/ageism, and other implicit and explicit biases);
  - xii. The impacts of arrest, court, detention, incarceration and/or deportation on youth life chances;
  - xiii. Effective strategies for building safe schools without relying on suppression;
  - xiv. Restorative and transformative justice practices;
  - xv. School-Wide Positive Behavioral Interventions and Supports; and/or
  - xvi. Other positive approaches to school climate and discipline being used in the district.
- c. Promoting youth and parent leadership within the school through leadership councils that have an integral role in creating, implementing, monitoring and evaluating safe and supportive school climates. This may include serving as restorative justice facilitators in the school, ensuring there are trainings for all parents, students and community members to fully understand how positive alternatives are being implemented and who is responsible for different aspects of maintaining a positive school climate, and monitoring any agreements with law enforcement (detailed below).
- d. Developing district-level structures, such as a Student and Teacher Supportive Services Department, that will:
- i. Coordinate support staff, including counselors, social workers, nurses, dropout prevention coordinators, community intervention workers, peacebuilders, behavior interventionists, parent coordinators and others, who are working to promote safe and

positive school environments and address the root causes of problems; and

- ii. Monitor implementation and provide support and coaching for schools that are struggling to implement these practices.
- e. Intentional recruiting of Black and Latino administrators, teachers, school safety and support staff trained in the positive approaches above to ensure that school staff reflect the communities in which they are working.

**D.**

**Districts and schools must limit the rare cases when law enforcement can be called into schools and recognize the principal as the primary authority responsible for school climate and safety.<sup>12</sup>**

1. Absent a “real and immediate”<sup>13</sup> threat of serious physical injury to a student, teacher, or other member of the school community, school discipline issues must be handled by school personnel and not by SROs, police, security officers or other law enforcement. School administrators shall have final responsibility and jurisdiction over the building, the grounds and all members of the school community.<sup>14</sup>

**E.**

**All school districts shall adopt a publicly accessible Memorandum of Understanding (MOU) between schools and local police departments (including tribal controlled schools) that limits the role of any law enforcement personnel who come in to contact with schools, including by:**

1. Prohibiting the regular presence of law enforcement in schools (as detailed in section B above).
2. Identifying incidents for which the school shall not call the police, and if called, the police will not respond,<sup>15</sup> including but not limited to the following behaviors:
  - a. Disorderly conduct;
  - b. Trespassing or loitering;
  - c. Insubordination/defiance;
  - d. Profanity, verbal abuse and/or harassment;

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<sup>12</sup> Police in Schools Are Not the Answer to School Shootings (2018). Available at: <http://dignityinschools.org/resources/police-in-schools-are-not-the-answer-to-school-shootings/>.

<sup>13</sup> A “real and immediate” threat occurs when an individual “has sustained or is immediately in danger of sustaining some direct injury’ as the result of the...conduct and the injury or threat of injury must...not [be] ‘conjectural’ or ‘hypothetical.’” City of Los Angeles v. Lyons, 461 U.S. 95, 102 (1983).

<sup>14</sup> RESOLUTION 118B, supra note 52 at 16-17.

<sup>15</sup> See sample policies in Philadelphia and Los Angeles available at: [https://docs.wixstatic.com/ugd/10497b\\_f7d-8280b96464077a7fb1da49c4f85f0.pdf](https://docs.wixstatic.com/ugd/10497b_f7d-8280b96464077a7fb1da49c4f85f0.pdf); and <http://www.fixschooldiscipline.org/wp-content/uploads/2014/10/LASPD-Arrest-and-Citation-Reform-Policy-8-15-14.pdf>

- e. Vandalism and/or graffiti;
- f. Failure to wear or correctly wear school uniform or follow policies regarding clothing;
- g. Inappropriate use of electronics like cell phones
- h. Possession of a prohibited item that does not violate the penal code;
- i. Being late, cutting class, absenteeism or truancy;
- j. Fighting that does not involve a deadly weapon or immediate threat to other students;
- k. Perceived drunkenness or intoxication;
- l. Participation in protests, demonstrations or other political activities;
- m. Possession of markers, pens, black books or other items that are alleged "graffiti tools;"
- n. Possession of drugs or alcohol for personal use<sup>16</sup>;
- o. Possession of a tool or object that could be taken to be, but is not intended as a weapon or dangerous instrument—such as a nail clipper or file, small pen knife, butter knife or other eating utensils, toy gun or other imitation weapon, pepper spray, box cutters, multi-finger rings or other fashion accessories, tools used for sports or crafts, etc.;
- p. Possession of a weapon for self-defense purposes, especially for travel to and from school such as pepper spray or electroshock weapons; and
- q. Alleged or witnessed promoting or claiming of a neighborhood<sup>17</sup> or crew/gang (including verbally, through graffiti, through clothing or hand signs).
- r. Although municipal and state penal codes may allow for arrest, fines and other court involvement for the behaviors listed above, such actions undermine positive school climate, student attendance and achievement. Further, municipal and state penal codes often contain clear provisions that encourage community diversion by law enforcement officers. School personnel, in partnership with community diversion organizations – not police – must develop positive behavioral interventions and supports to address typical adolescent behavior.

3. Ensuring that any SROs, police or security officers that are called into a school are not involved in school discipline issues. They shall be responsible

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<sup>16</sup> Where state laws prohibit school staff from processing or disposing of drugs, that a designated school staff person would be able to gather the drugs for later disposal by a law enforcement official.

<sup>17</sup> YOUTH JUSTICE COALITION, WELCOME HOME L.A. FROM THE CELL BLOCK TO THE CORNER BLOCK, <http://www.youth-justice.org/wp-content/uploads/2012/12/2012WelcomeHomeLA.pdf>. Use of the word neighborhoods refers to gangs, but is less criminalizing in that not all alleged gangs and the vast majority of people affiliated with them are not involved in crimes.

only for responding to serious criminal law matters where there is a real and immediate threat<sup>18</sup> of serious physical injury or where it is mandated by law that such offenses be referred to the criminal justice system.

- a. SROs, police, security guards, probation officers and other law enforcement personnel who witness school discipline issues as described above in D.1 and E.2 shall locate school personnel (including when available intervention workers) to respond to the situation. In the case of fighting, they may de-escalate the situation using conflict resolution techniques that are age appropriate and leverage existing positive relationships with those involved, and must then refer the incident to school personnel (see Section 3.1 for a model policy on fighting).
4. Setting strict limits on what law enforcement personnel can and cannot do when they are called to schools to respond to serious criminal matters, including but not limited to:
- a. Requiring notifying the school before entering school property;
  - b. Requiring that school officials immediately contact a student's parents or guardians when law enforcement is called, and whenever possible, before law enforcement is called;
  - c. Requiring caregiver notification before interrogating or questioning of students and eliminating the ability of law enforcement to question or interrogate students in schools without a parent or guardian present, and allow adequate time for parents or guardians to arrive;
  - d. Prohibiting law enforcement from approaching, interrogating, questioning, fining, ticketing, responding to warrants, or arresting students on school grounds for non-school related incidents;
  - e. Where a law enforcement official is going to detain or arrest a young person, making all reasonable attempts to do so outside the view of other youth and school staff;
  - f. Eliminating the ability of law enforcement (including probation or parole officers) to listen to the questioning or interrogation of students by others (such as school officials), or accessing documents pertaining to the student;
  - g. Ensuring that students are made aware of their rights and have an opportunity for consultation with counsel (See Appendix II of the DSC Model Code) and/or another trusted adult selected by the student prior to any interrogation by the police.

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<sup>18</sup> A "real and immediate" threat occurs when an individual "has sustained or is immediately in danger of sustaining some direct injury" as the result of the...conduct and the injury or threat of injury must...not [be] 'conjectural' or 'hypothetical.'" City of Los Angeles v. Lyons, 461 U.S. 95, 102 (1983).



- h. Ensuring that students who are also parents or guardians must have an immediate opportunity to ensure their children are in the custody of a trusted caregiver and have the opportunity to arrange for their children's care for the duration of the time in custody.
5. Protecting students', parents' and school staff's right to film police activities.
6. Ensuring that if the police remove a student from school, that there is a follow up process for when that student returns to school that addresses the root cause of the situation and a plan put into place that will support the success of that student.
7. Requiring that all law enforcement personnel who come in to contact with schools receive training to ensure they are responding appropriately to youth, including at least 105 hours of training before being assigned to respond to schools and at least 10 hours of annual professional development. Decisions on the training requirements and specific training curriculum of SROs, police and other law enforcement personnel working in or around schools shall be developed in consultation with students, parents or guardians, teachers, school administrators and other stakeholders. Trainings shall cover the following topics:
  - a. Trauma-informed practice;
  - b. Child and adolescent development and psychology;
  - c. Youth development skills and competencies;
  - d. Conflict resolution and peer mediation;
  - e. De-escalation techniques;
  - f. Violence prevention and intervention;
  - g. Intergroup and interethnic conflict, intervention and truce-building strategies;
  - h. Bias-based and sexual harassment and sexual violence;
  - i. Working with youth with disabilities or physical, emotional, or mental conditions;
  - j. Working with LGBTQ and gender non-conforming youth;
  - k. Cultural competencies (including understanding and addressing racism, sexism, homophobia, transphobia, ableism, adultism/ageism, and other implicit and explicit biases);
  - l. The impacts of arrest, court, detention, incarceration and/or deportation on youth life chances;
  - m. Effective strategies for building safe schools without relying on

- suppression.
- n. Restorative and transformative justice practices;
  - o. School-Wide Positive Behavioral Interventions and Supports; and
  - p. Other positive approaches to school climate and discipline being used in the district.
8. Developing an explanatory guide and presentation on how school administrators and SROs, police, security officers or other law enforcement will respond to particular behaviors and the consequences that students face.
9. Ensuring community monitoring, oversight and access to data on law enforcement contact with schools, including:
- a. Equipping parent and youth councils to monitor law enforcement that come into schools, including through having timely access to data on arrests and referrals to law enforcement disaggregated by student subgroup, holding regular joint meetings with the police department and school district to ensure the MOU is being followed, and potentially acting as a liaison between the police, school staff and any students they are interacting with.
  - b. Publishing all the above restrictions on law enforcement in the school or district code of conduct so that parents and students are made aware of what police can and cannot do in their schools.
  - c. Collecting and reporting data on all police interactions with students, including calls to police for services, referrals to law enforcement, school-based arrests, tickets and summonses, disaggregated by student subgroup. The data should be made publicly available and accessible, including through posting data on school districts' websites and translating data reports into all the languages represented in the school community.

**F.**

**Districts and schools shall make every effort to avoid involvement of SROs, police or other law enforcement personnel in responding to drug or alcohol use and shall refer students to harm reduction programs, counseling and/or treatment by trained professionals. In cases where students are suspected of distributing or selling drugs, every effort shall be made to respond through positive disciplinary measures<sup>19</sup> and to partner with the justice system to avoid arrests, and if arrests occur, to refer students to alternatives to court, detention, incarceration, probation violation and/or deportation (see DSC Model Code model policy on Drugs and Alcohol).**

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<sup>19</sup> See generally Cristiana Pereira Baptiste, Therapeutic Justice and Peace Circles: A Restorative Opportunity for Youth Drug Users in Conflict with the Law, available at <http://www.iirp.edu/pdf/Nova-Scotia-2011-Presentations/Nova-Scotia-2011-Pereira-Baptista.pdf>.

**G.**

**States, districts and schools must adopt clear limits on tickets, summonses and referrals to the Criminal Justice System. Ticketing, issuance of summonses, and referrals of students to the criminal justice system shall be prohibited for all school disciplinary matters and status offenses (See 3.2 in DSC Model Code on Dismantling Status Offense Laws).**

**H.**

**States, districts and schools must adopt clear limits on searches of students.**

1. SROs, police and all other law enforcement must have probable cause to suspect that the student has committed or is attempting to commit a criminal offense in order to search the student, including the student's outer clothing, possessions, or locker.
2. SROs, police and all other law enforcement shall obtain the permission of the school principal prior to conducting a search of the student.
3. The individual conducting the search shall be the gender the student has requested, and a school official and community intervention worker (if applicable) shall be present at the time of the search.
4. School officials shall not ask law enforcement to be present or participate in a search of a student about a suspected discipline issue, absent a real and immediate threat to the physical safety of a member of the school community.
5. SROs, police and all other law enforcement shall comply with the probable cause requirement even where school officials ordered or requested the search.
6. Probation officers shall not use schools as a place to conduct searches, questioning or pat downs of students unless there is a safety emergency to prevent harm or injury.
7. All searches and pat downs that do take place at school should happen (unless emergency situations make it impossible) outside the view of other youth and school staff in order to maintain privacy and decrease public embarrassment, humiliation and any future stigmatization and discrimination against the student(s) involved.

**I.**

**States, districts and schools must adopt clear limits on "Gang" profiling**

1. Schools and districts shall provide youth suspected of membership or association with crews, gangs or neighborhoods with increased supports, mentoring and resources – including access to intervention workers or peace-builders – recognizing that youth who are involved in or drawn to gangs and the underground economy are most in need of the positive environment and opportunities that schools provide.
2. Students shall not be suspended, expelled or referred to law enforcement for suspected gang-affiliation that is based on:

- a. Minor behaviors, such as dress code violations, for which suspensions, expulsions or referrals to law enforcement are otherwise prohibited (as outlined in Section 3.1.c of the DSC Model Code);
  - b. Racial/ethnic profiling (meaning a student of another race or ethnicity who exhibited the same behavior would not receive the same consequences); or
  - c. Misinterpretation of behavior based on incorrect information.
3. Schools must clearly communicate what kinds of behavior are prohibited related to gang affiliation and ensure that these rules are being implemented fairly and that school staff are not being influenced by racial or ethnic bias as they determine who is in violation of the rules.
  - a. Vague language prohibiting “gang related behavior” or “gang affiliation” or “prohibited group affiliation” is not sufficient.
  - b. Typical behavior that can be incorrectly identified as being gang-related could be using certain hand signs or handshakes, wearing particular clothes or accessories, posts on social media, drawing graffiti, tagging or doodling, or home address/neighborhood.
  - c. Where there is a compelling safety reason for codes of conduct or dress codes to prohibit particular behavior, items of clothing, accessories, colors or logos (See Model Policy 2 on Dress Codes in the DSC Model Code), schools and districts shall take the following steps to avoid incorrectly identifying students as “gang affiliated” based on their clothing:
    - i. Clearly communicate those rules before the start of the school year, or give warning to students and their families before a new policy is being implemented. This allows the students and their families to adequately plan, including for the potential financial burden of purchasing new clothes to replace the prohibited items.
    - ii. Students who are unable to afford the new clothing requirements shall be either provided suitable clothing options from the school, or be connected with resources in the community that can provide options. These resources should be identified before the policy is implemented.
4. SROs, security officers, administrators, teachers or other school staff shall not add students to gang databases, provide information to law enforcement who have authority to add students to a gang database or injunction, and/or search or work with law enforcement to search municipal databases to find information on students.
  - a. All school staff must be made aware of the grave consequences for

youth who are placed on these databases<sup>20</sup>, and the lack of due process protections in place<sup>21</sup>.

- b. For particular students, especially immigrant and undocumented students, students with previous involvement in the criminal justice system, and those who are on parole or probation, being added to a gang database could have life-altering consequences including deportation and long-term incarceration.
5. Parent and youth councils, or other community oversight teams that include parents, students, advocates and social service providers, shall regularly review all instances in which students are accused of “gang-related” behavior or labeled as being “gang-affiliated” by SROs, security officers, teachers or school staff, to ensure that no racial profiling, or other targeting of certain students or groups of students is taking place. These oversight teams will also be made aware of the consequences listed above for students if they are labeled as gang-affiliated in any way, through injunctions, databases, suspension or expulsion, or other records<sup>22</sup>.

## J.

### Complaint Process and Community Oversight

1. Any SROs, police, security officers or other law enforcement personnel that come into contact with schools must be subject to clear and transparent civilian complaint processes that include real methods of accountability and correction. Noting the complex nature of personnel complaints and individual employee privacy rights, local unions should work collaboratively to address these issues and meet the community’s right to information<sup>23</sup>.
  - a. In jurisdictions with independent civilian police review boards, such boards shall also accept complaints against SROs.
  - b. Students, parents or guardians, teachers, administrators and principals must have easy access to a simple and straightforward complaint process which is clearly outlined, and must be notified of any investigation and outcome in a timely matter.
    - i. Every student, parent and guardian in the school system shall be

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20 Youth Justice Coalition-Negative Impact of Gang Injunctions on Youth and Communities. Available at: <http://www.youth4justice.org/wp-content/uploads/2013/07/Negative-Impacts-of-Gang-Injunction.pdf>

21 CalGang Criminal Intelligence System (2015) available at: <https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>

22 Allegations of gang affiliation can have harsh immigration consequences for children, making immigrants ineligible for certain types of immigration relief and increase the likelihood that an immigrant will be detained while their immigration case is pending. Deportation by Any Means Necessary: How Immigration Officials are Labeling Immigrant Youth as Gang Members, Immigrant Legal Resource Center, [https://www.ilrc.org/sites/default/files/resources/deport\\_by\\_any\\_means\\_nec-20180521.pdf](https://www.ilrc.org/sites/default/files/resources/deport_by_any_means_nec-20180521.pdf).

23 See generally ELORA MUKHERJEE, N.Y. CIVIL LIBERTIES UNION & AM. CIVIL LIBERTIES UNION, CRIMINALIZING THE CLASSROOM: THE OVER-POLICING OF NEW YORK CITY SCHOOLS (2007), available at [http://www.nyclu.org/files/publications/nyclu\\_pub\\_criminalizing\\_the\\_classroom.pdf](http://www.nyclu.org/files/publications/nyclu_pub_criminalizing_the_classroom.pdf); UDI OFER ET AL., N.Y. CIVIL LIBERTIES UNION, ANNENBERG INST. FOR SCH. REFORM AT BROWN UNIV. & MAKE THE ROAD N.Y., SAFETY WITH DIGNITY: ALTERNATIVES TO THE OVER-POLICING OF SCHOOLS (2009), available at [http://www.nyclu.org/files/publications/nyclu\\_pub\\_safety\\_with\\_dignity.pdf](http://www.nyclu.org/files/publications/nyclu_pub_safety_with_dignity.pdf).

adequately informed of the complaint procedure.

- ii. The information on the complaint process as well as complaint forms shall be distributed to every student household in print form at the start of each semester and at parent/teacher nights, posted in the school's front office, in parent resources rooms, in the school library or other common spaces and on the school's website.
  - iii. Any student, parent or guardian, teacher, administrator, or principal shall have the opportunity to submit a complaint in writing, verbally or on-line; the system shall incorporate a mechanism for receiving online complaints.
  - iv. Every version of the procedure—printed, posted and online—shall be available in all languages represented in the student and parent body, and parents or guardians and students may submit the complaint in their preferred language.
  - v. All school staff shall be trained in the complaint process and shall have access to complaint forms in order to answer student and parent or guardian inquiries as needed.
  - vi. The complaint system must be confidential and protect students, parents or guardians, school staff and community members against retaliation.
- c. The complaint system shall provide for a fair, thorough and transparent investigation into the allegations in the complaint. The investigation must involve supervisors from the police department as well as school administrators and/or Department of Education staff.
  - d. The complainant shall be entitled to a written response to his or her complaint within 30 days in their preferred language. Translators shall be made available to help with this reporting as needed.
  - e. The system shall report to the complainant, school administration and the district on both the findings and any discipline or re-training of officers that occurs as a result.
  - f. The SROs', police officers' or other law enforcement personnels' due process rights shall be honored throughout the process, including providing the officer with a copy of the complaint, and providing an opportunity for the officer to defend him- or herself.
  - g. Complainants and officers shall have the right to representation before the system in a process that is fair, safe and whenever possible promotes restorative and transformative justice principles and practices.
  - h. Where serious allegations of wrongdoing are raised, SROs, police or other law enforcement personnel shall be removed from having contact

with students until the investigation is completed. Such matters would include allegations of physical assault, verbal threats of violence, sexual advances or assaults and/or discriminatory language or practice based on race, national origin, ethnicity, language, sex, gender identity, sexual orientation, religion, disability, economic or other status.

- i. Where allegations of abuse or misconduct are substantiated, SROs, police or other law enforcement officers shall be prohibited from contact with schools, and their personnel file must indicate the incident in order to inform other potential sites where youth are present. These officers may be reassigned or receive additional training, where appropriate.
2. A community board that includes parents or guardians, youth advocates, students and social service providers shall regularly review all school-based incidents leading to law enforcement intervention to ensure that no abuse, racial profiling, or other targeting of certain students or groups of students is taking place.

Note: These policy recommendations call for an end to the regular presence of law enforcement in schools. In cases where schools still have regularly stationed law enforcement, we recommend the following steps for reducing their presence as much as possible towards the ultimate goal of creating schools without law enforcement.

## **K.**

### **Steps for districts and schools to reduce their reliance on SROs, police and security officers if they have not yet removed them from a regular presence in schools through implementing the following:**

1. Replacing SROs, police, security officers and other law enforcement personnel stationed in schools with community intervention workers, school aides, counselors, social workers and other support staff to facilitate implementation of positive school wide safety and discipline policies.
2. SROs, police or security officers shall not be responsible for school discipline issues. They shall be responsible only for responding to serious criminal law matters where it is mandated by law that such offenses be referred to the criminal justice system.
3. SROs shall not be employed, trained or supervised by city, town or state police departments. Instead, all SROs shall be employed and supervised by the district, Department of Education and/or school board.
4. The services of SROs, police or security officers must not be used when other interventions and programs, such as School-wide Positive Behavior Interventions and Supports (PBIS), trauma-sensitive training and Restorative Practices are available that aim to address root causes of student behaviors and provide needed services.

5. Schools where more than 3% of students have been arrested or received summonses by SROs shall trigger an immediate audit by the state Department of Education or other body governing the school and the Attorney General's office to investigate the number of charges, the kinds of behavior being charged, the types of students who are being charged, whether charges are being overused in certain schools and by certain school officials, and the use of alternative sanctions that shall not result in criminal records. ■