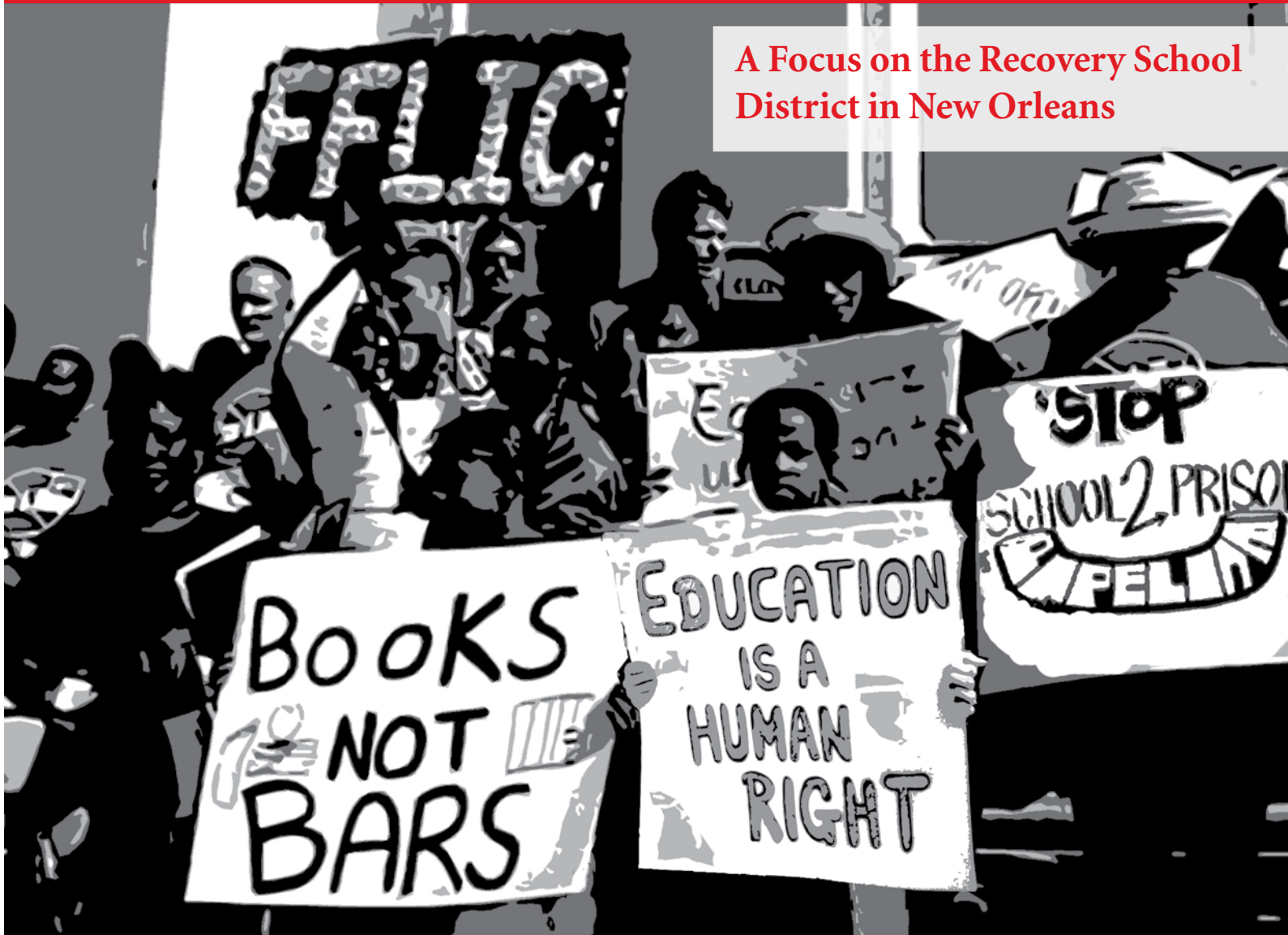


Pushed Out

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A Focus on the Recovery School
District in New Orleans



SPRING 2010

FFLIC

Families and Friends of Louisiana's
Incarcerated Children

NESRI NATIONAL ECONOMIC AND
SOCIAL RIGHTS INITIATIVE

Pushed Out

Harsh Discipline in Louisiana Schools Denies the Right to Education *A Focus on the Recovery School District in New Orleans*

By Elizabeth Sullivan and Damekia Morgan

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ABOUT FFLIC

Families and Friends of Louisiana's Incarcerated Children (FFLIC) is a statewide membership-based organization that fights for a better life for all of Louisiana's youth, especially those involved in or targeted by the juvenile justice system. As mothers and fathers, grandparents, siblings, cousins, aunts, uncles and allies we believe in and implement a model of organizing that is people and community centered, and is explicitly anti-racist. We engage in education, community building, and leadership development.

The goal of FFLIC's Stopping the School to Prison Pipeline (STPP) Campaign is to create safe schools for all of New Orleans' and Louisiana's children by keeping kids off the streets, out of the juvenile justice system and in school where they belong. FFLIC's STPP campaign has identified and is now challenging the policies that are pushing our children out of school and hastening their entry into the juvenile--and eventually the criminal--justice system. FFLIC's STPP campaign is dedicated to fighting the historical inequalities, concentrated poverty, racial disparities in discipline, and segregated education that are leading to pushout. We want to ensure that every child who enrolls in school graduates with a high school diploma and lives up to their fullest potential. Our Campaigns are designed to personally and politically transform individuals, families, and communities into even more powerful and loving forces so that together we can transform currently oppressive systems and institutions into ones that uphold justice for our families.

Contact FFLIC: 504-522-5437, www.fflic.org

ABOUT NESRI

The National Economic and Social Rights Initiative (NESRI) works with community organizations and social movements to advance the principle that fundamental human needs, such as education, housing and health care, are basic human rights. Towards this end, NESRI works with organizers, policy advocates and legal organizations to incorporate a human rights perspective into their work and build human rights advocacy models tailored for the United States.

NESRI's Human Right to Education Program works with advocates and organizers to promote policy change in public education using human rights standards and strategies. Human rights offer a framework for transforming our public schools based on internationally recognized standards of equity, accountability, dignity, and community participation. We believe the language and values of human rights are powerful tools for mobilizing and uniting communities to hold governments accountable for guaranteeing the right to education. The Education Program generates human rights documentation, analysis, advocacy, public education materials, and training workshops.

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EXECUTIVE SUMMARY



“The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just, and designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his full potential.”

Preamble, Article 8, Louisiana State Constitution

After a disaster of the magnitude of Hurricane Katrina, protecting the right to a quality education for all students regardless of race or income becomes an indispensable part of the path to recovery for the children of the City of New Orleans. Every child has a human right to learn in a safe and supportive school environment that protects human dignity.¹ Yet a constant drumbeat of harmful and punitive approaches to discipline in New Orleans, including excessive suspensions, expulsions and school arrests, effectively denies these rights for thousands of young people, in particular children of color and children in poor communities. New Orleans’ human rights crisis in education reflects a broader crisis in Louisiana and across the nation, often referred to as school “pushout.”

In the face of this crisis, human rights declarations and treaties written with U.S. leadership, like the Universal Declaration of Human Rights, call on schools to adopt more constructive approaches to discipline and ensure that students and parents have the right to participate in developing and implementing education policies.² Schools must eliminate all forms of discrimination in the use of discipline policies and ensure that all children receive a quality education and are treated with dignity regardless of their race, gender, socioeconomic background, disability or other status.³

Research has shown that models, such as school-wide positive behavior support, restorative practices and conflict resolution, can protect students’ right to education by reducing violence and conflict in

schools, improving learning, helping students develop good social relationships, and involving students, parents and communities in finding the solutions.⁴ These approaches provide educators with the tools to address the underlying causes of misbehavior and meet students’ needs.

Discipline and Pushout in Louisiana

In Louisiana over 86,000 students are suspended out of school and over 7,000 are expelled each year.⁵ State laws and local school district policies rely on these punitive practices to respond to minor instances of disruption and conflict ranging from fighting to disrespecting school staff to “willful disobedience.”⁶ Suspensions and expulsions for these vague and subjective offenses are applied unevenly by schools, targeting students of color, students from poor communities and students with disabilities at higher rates.⁷ For example, Louisiana schools are more than twice as likely to suspend African American students as white students.⁸ Schools also increasingly involve security guards and police in disciplinary matters, resulting in arrests for problems once dealt with by educators.

“I advocated for a Jefferson Parish student who had been out of school for three weeks awaiting an expulsion hearing. After speaking with him it became clear to me how inappropriate it was for this student to be out of school, especially since he wanted to be in school. He was expelled because of the “3 strikes and you are out rule.” He had been suspended once for willful disobedience – bouncing a basketball when he was told to stop; a second time for a uniform violation – his shirt was too small so he could not keep it tucked in his pants; and a third time for selling candy at school. It was upon the third suspension that he was recommended for expulsion.”

- Bridgette Butler, Juvenile Justice Project of Louisiana, Youth Advocate

These harsh discipline and safety policies contribute to a range of factors that push young people out of school and down a pipeline to dropout, unemployment and prison. National research compiled by the American Psychological Association has found that rather than deter misbehavior, suspensions and expulsions are linked to an increased likelihood of future behavior problems, academic difficulty, detachment from school and dropping out.⁹ In Louisiana, only 65.9% of students graduate from high school in four years, and nearly 16,000 middle and high school students dropout each year.¹⁰

New Orleans After Hurricane Katrina

In 2005, after Hurricane Katrina devastated the City of New Orleans and dispersed public school children and their families across the country, state policy-makers swooped in, dismantling and replacing the public school system with a patchwork of state-run public schools, locally run public schools and charter schools. Today, 57% of public school students in New Orleans attend charter schools.¹¹ The other 43% attend traditional public schools. This new fragmented system continues to punish and exclude low-income students of color. In the state-run Recovery School District in New Orleans, suspensions in traditional, district-run public schools are among the highest in the state.¹²

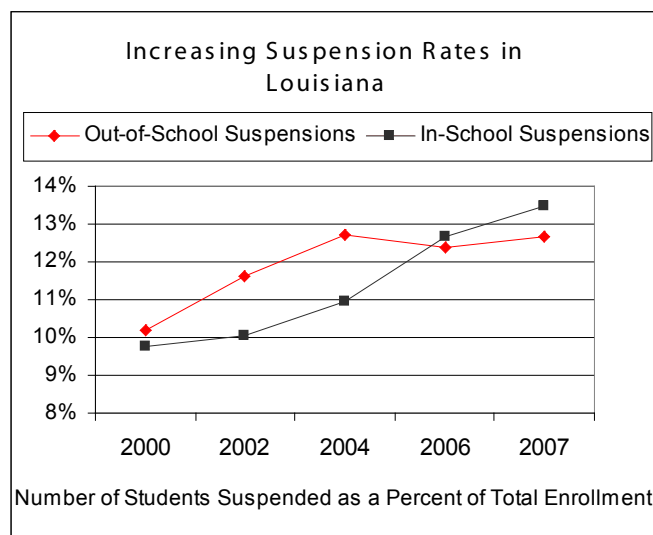
Discipline rates in charter schools are more difficult to determine due to a lack of transparency and inconsistency in data.¹³ But available information shows that charter schools are excluding and pushing out students with special needs and behavioral challenges through admissions processes, transfers and inappropriate expulsions.¹⁴ Neither traditional public schools nor charter schools are protecting children from pushout. Furthermore, with most public schools in New Orleans run by the State or by charter companies (many from outside of Louisiana), New Orleans youth, parents and communities are denied their right to participate in decisions affecting their schools.¹⁵

Summary of Findings

Pushed Out examines current policies and practices in New Orleans and Louisiana public schools that impact school climate, discipline and educational outcomes for students. The report analyzes suspension and expulsion data from the Louisiana Department of Education from the 2007-2008 school year, the most recent data available from the state. The report also analyzes data obtained from the Recovery School District (RSD) in New Orleans and the Orleans Parish Juvenile Court. To document the perspectives of students and parents, FFLIC and NESRI also conducted surveys¹⁶ of 95 middle and high school students attending public schools in the Recovery School District in the 2008-2009 school year, and interviewed parents and advocates about their experiences with schools in Louisiana. The data reveal a human rights crisis in Louisiana schools.

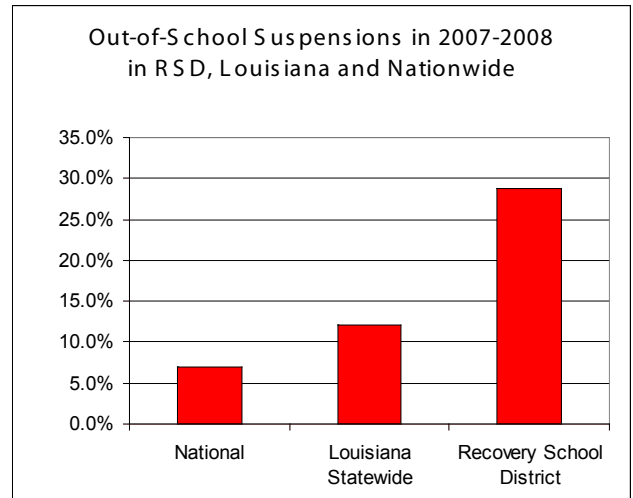
Suspensions

In Louisiana, already higher-than-average suspension rates have been on the rise over the past decade as state and local zero-tolerance policies have imposed harsh punishments for minor misbehavior. The total number of students suspended out of school at least once per year increased from 75,601 (9.7% of students) in 2000-2001, to 86,120 (12.1% of students) in 2007-2008.¹⁷ This is almost twice the national rate of 6.9%.¹⁸ In-school suspensions also increased from 72,473 (9.3%) in 2000-2001, to 91,649 (12.9%) in 2007-2008.



In the state-run Recovery School District in New Orleans, 1 out of every 4 students in district-run public schools is suspended out of school at least once each year, more than twice the statewide rate and four times the national rate.

Source: Louisiana State Department of Education, District Composite Report 2007-2008.



In New Orleans after Hurricane Katrina, suspensions in the Recovery School District (RSD) skyrocketed and have remained extremely high:

- In RSD district-run public schools, 3,537 students, or 1 in 4 students, were suspended out of school at least once in 2007-2008 (approximately 28.8% of students).¹⁹ This is more than twice the statewide rate in Louisiana and over four times the national rate.²⁰
- In the RSD, students are suspended for 1 to 5 days, and many receive multiple suspensions. In the 2008-2009 school year, when including multiple suspensions received by the same students, there were a total of 6,702 out-of-school suspensions issued in RSD district-run public schools with a total student population of 12,871.²¹ ***This breaks down to an average of 186 out-of-school suspensions each week from just 33 RSD public schools.***²²

Our survey findings demonstrate that these suspensions have devastating consequences for youth. Among the RSD students surveyed for this report, 60% had been suspended.²³ Of those students:

- Only 8% had been suspended once in the past three years, while 28% had been suspended 2 to 3 times, and 37% had been suspended 4 or more times.

- Over 70% said at least one of their suspensions was for minor misbehavior, including 42% for disruptive or disrespectful behavior, 16% for having clothing or items prohibited by school rules, and 12% merely for being late to class or school.
- Over 37% of students said they fell behind in school after their suspension, and 25% said they felt less motivated to learn after returning to school.

Expulsions

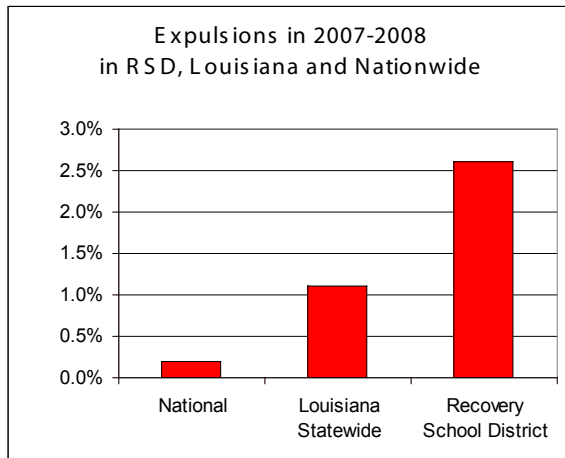
Expulsions in Louisiana have also increased over the past decade. The total number of students expelled in a single school year increased from 5,894 (0.8% of students) in 2000-2001 to 7,432 (1.1% of students) in 2007-2008.²⁴ This is five times the national rate of 0.2%.²⁵

In the RSD, expulsion rates are extremely high when compared to other districts in Louisiana and to national rates:

- In the 2007-2008 school year, 323 students (2.6%) were expelled from RSD schools, almost twice the statewide rate, and ten times the national rate.²⁶
- While 323 students were ultimately expelled from the RSD, nearly three times as many, 808

students total, were recommended for expulsion by school principals.²⁷ When recommended for expulsion, students are removed from their school pending an expulsion hearing, sometimes missing days, weeks or even months of school before their hearing is held. The following year in 2008-2009, 1,016 students were recommended for expulsion in the RSD and 396 expulsions were upheld.²⁸

When we compare districts across the state of Louisiana, we find that school districts with a larger percentage of African American students and students in poverty utilize more punitive and exclusionary discipline practices and have higher rates of suspension and expulsion.³² Less affluent school districts also usually have fewer preventive disciplinary systems in place and fewer resources for providing counseling and conflict resolution.³³



- In RSD public schools, where 98% of students are African American and 79% of students are low-income (eligible for free lunch), 28.8% of students were suspended out of school in 2007-2008.³⁴
- In St. Tammany Parish, where only 18.5% of students are African American and only 42.3% are low-income, a mere 8% of students were suspended out of school. In St. Charles Parish, where only 36.4% of students are African American and 45.1% are low-income, only 4.1% of students were suspended out of school.³⁵

Among the RSD students surveyed for this report, 40% had been recommended for expulsion.²⁹ Of those students:

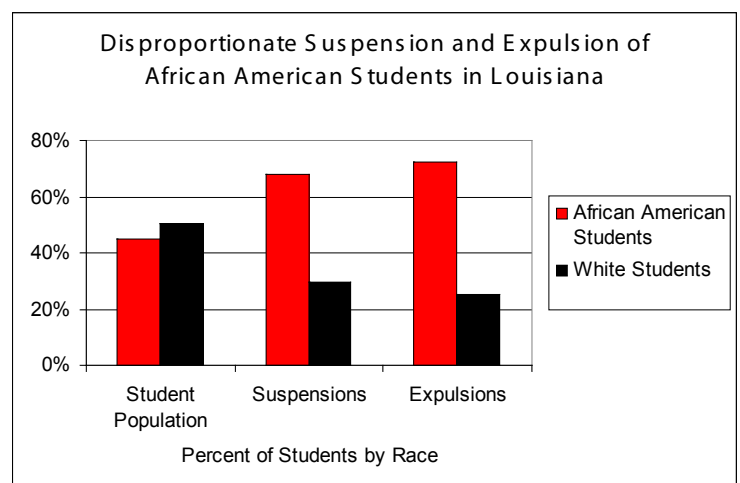
- Over 68% were sent to an alternative school and 21% to a juvenile facility following their expulsion hearing.
- Only 5% reported receiving any counseling or mediation during their expulsion.

Yet even within the mostly white, affluent districts that have lower rates of suspension overall, African American students are still suspended at higher rates than their white peers.

- In St. Tammany Parish, schools are 2.8 times more likely to suspend African American students than white students. In St. Charles Parish, schools are 2.6 times more likely to

Disproportionate Punishment of Students of Color

In schools throughout Louisiana, punitive and exclusionary discipline practices disproportionately target students of color and students in poor communities. Statewide, African American students make up 44.9% of the student population, but 68.2% of suspensions and 72.5% of expulsions.³⁰ Schools are 2.6 times as likely to suspend, and 3.2 times as likely to expel, African American students as white students.³¹



suspend African American students than white students.³⁶

Research has shown that higher rates of suspension and expulsion among African American students are not the result of African American students engaging in higher levels of disruptive behavior.³⁷ African American students are more likely to be punished for subjective offenses such as “disrespect, excessive noise and loitering,” all of which are dependent on the judgment of a teacher or administrator, while white students are more likely to be punished for concrete infractions such as “smoking, leaving without permission, and vandalism.”³⁸ Furthermore, schools impose more severe punishments on African American students than white students for the same infractions.³⁹

Policing and Criminalization

Before Hurricane Katrina in 2004-2005, the Orleans Parish School Board spent approximately 3 million dollars on security with a student population of about 65,000.⁴⁰ After the storm in 2006-2007, before many families had even returned to New Orleans, the Recovery School District (RSD) spent 20 million dollars on security with a student population of only about 9,500 in RSD direct-run schools.⁴¹ Put another way, Orleans Parish School Board spent about \$46 per student for security in the 2004-2005 school year, while the Recovery School District spent over \$2,100 per student in 2006-2007, creating an extreme prison-like environment in schools.

By the 2008-2009 school year, the RSD had cut spending on security to 8.7 million dollars with a student population of about 12,700 in RSD direct-run schools.⁴² Even though the district has cut its security spending by more than half, the RSD still spent \$690 per student on security in 2008-2009 – approximately 15 times as much as OPSB’s pre-Katrina spending per student.⁴³

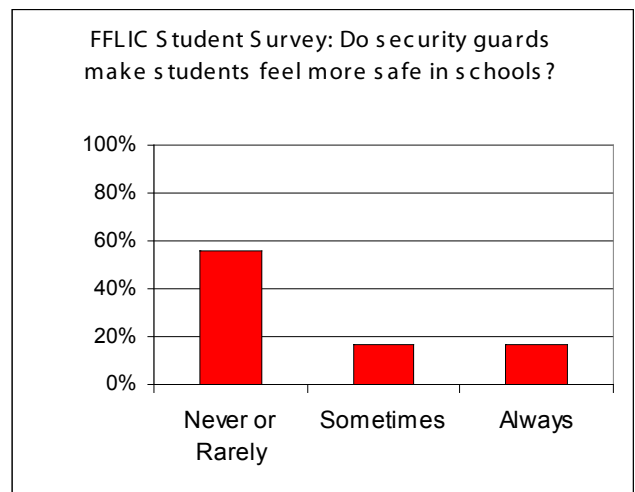
Before Hurricane Katrina, the Orleans Parish School Board spent about \$46 per student for school security. In 2006-2007, RSD spent \$2,100 per student on security. In the 2008-2009 school year, the RSD direct-run schools spent \$690 per student – 15 times the pre-Katrina spending on school security.

Source: Ralph Adamo, “NOLA’s Failed Education Experiment.” August 15, 2007. Recovery School District, FY 2009 Operating Budget, June 18, 2008. Paula Devlin, Security guards laid off from Recovery School District, The Times-Picayune, May 28, 2009.

As a result, a criminalizing environment remains in schools. Today RSD has about 77 School Resource Officers in just 29 RSD public non-charter elementary and high schools and 4 alternative schools.⁴⁴ New Orleans Police Officers also intervene in school disciplinary matters and school-related arrests are common for even non-criminal activity. Based on a sample of data from the Orleans Parish Juvenile Court, from September 2007 to January 14, 2009, there were 492 school related arrests at 54 public and charter schools.⁴⁵

Among students surveyed for this report, when asked about the impact of heavy security presence on learning and the school environment:

- Over 56% of students said that security guards never or rarely make students feel more safe in schools, while 17% said they sometimes make



students feel more safe, and only 17% said they always make students feel more safe.

- More than 62% of students said that security guards and police officers never, rarely or only sometimes treat students with respect.

Charter Schools and Pushout

According to limited data available from the state, suspension and expulsion rates in charter schools in New Orleans appear to be lower than in RSD's traditional public schools. In the 30 charter schools operated by the RSD, for example, 16.5% of students were suspended out of school in the 2007-2008 school year, compared to 28.8% in RSD public schools.⁴⁶ Data on expulsions is not reported consistently.⁴⁷

Preliminary research on charter schools, supported by the experiences of advocates and parents, suggests that part of the reason for fewer suspensions in charter schools may be that students with behavioral problems are excluded or pushed out in other ways. Reports from parents, educators and even RSD officials demonstrate that charter schools are forcing children out because of their behavior by suggesting that parents transfer their children to traditional public schools rather than accept a suspension or expulsion on their records.⁴⁸ In other cases, charter school principals themselves have revealed that data published by the Louisiana State Department of Education has vastly underreported the number of expulsions in charter schools, as well as in some traditional public schools, in the RSD.⁴⁹

Charter schools are also excluding and pushing out students with special needs. Special education students, for example, make up about 12% of the student population in traditional public schools in New Orleans, compared to only 8% in the charter schools.⁵⁰ Many charter schools do not provide special education services and discourage parents from enrolling their children.⁵¹

Recommendations

As the negative impacts of zero-tolerance discipline and pushout are being felt in communities across the country, growing numbers of schools and districts are adopting positive, alternative approaches to discipline. In this report we highlight two of these alternative approaches: school-wide Positive Behavior Support approaches and restorative practices. Both approaches include: preventive strategies to create positive school climates, training for teachers in classroom management and conflict resolution techniques, and interventions that serve as alternatives to removal and suspension. The implementation of these positive models in schools across the country has led to up to 50% reductions in suspensions, as well as increases in academic performance and teacher satisfaction.⁵²

In Louisiana, recent state legislation and several district-level discipline codes, including the Recovery School District's Student Code of Conduct adopted in 2008, have already incorporated positive behavior supports into discipline policies. But many schools are not adequately implementing these models, and lack the resources, technical assistance and support to do so effectively. Moreover, zero-tolerance policies sit side-by-side with these new approaches undermining their efficacy. State and local policy-makers must repeal these zero-tolerance policies, ensure that schools have access to needed resources, and create accountability measures to monitor the effectiveness of positive approaches.

Pushed Out makes several recommendations for state and local policy-makers. Key recommendations include:

- The State Legislature should pass legislation to reverse zero-tolerance policies and reduce out-of-school suspensions and expulsions, including by deleting vague infractions/offenses, such as "willful disobedience," from the state statute's list of infractions that can result in suspensions, and reducing the total number of days a student can be suspended.

- The Board of Elementary and Secondary Education, State Superintendent and local school districts should implement preventive and positive approaches to discipline and best practices for the use of law enforcement in schools.
- The State Legislature and Department of Education should ensure that schools have the necessary resources to fully implement positive approaches to discipline by increasing the Minimum Foundation Program funding annually and identifying additional funding streams for public education.
- The Board of Elementary and Secondary Education and State Superintendent should hire or contract a compliance officer for the implementation of Positive Behavior Support approaches.
- The State Legislature and Department of Education should return New Orleans schools to a locally controlled school board and put in place appropriate mechanisms to ensure transparency in and local accountability over charter schools.

“By advocating and organizing to stop children from being pushed out of school, we are not advocating for chaotic or disruptive classrooms or to weaken discipline laws. Rather, we are fighting to strengthen state and local laws to actually address student behavior, instead of simply responding to infractions. Our goal is to make sure that all schools use positive behavior support strategies that prevent disruption, reduce conflict and improve academic outcomes while decreasing the number of suspensions and expulsions and reducing the amount of time a child is out of school without educational services.

Our commitment to support children who are being pushed out of school unjustly is based on both quantitative and qualitative information, including stories from parents, teachers, and behavior specialists who see the devastating impact of pushout everyday and know that there are better ways to address student behavior. Most important of all, our commitment is based on the human rights and moral obligations to educate all children at all times.”

- Damekia Morgan, Families and Friends of Louisiana’s Incarcerated Children

ENDNOTES

¹ Universal Declaration of Human Rights, Article 26, adopted by UN General Assembly in 1948. Eleanor Roosevelt was the U.S. representative to the United Nations Human Rights Commission and a lead drafter of the UDHR. Convention on the Rights of the Child (CRC), Articles 28 and 29, entry into force September 2, 1990, <http://www2.ohchr.org/english/law/pdf/crc.pdf>. The CRC has been ratified by 193 countries. The United States (U.S.) has signed but not ratified the CRC.

² Id. United Nations Committee on the Rights of the Child, General Comment 1, The Aims of Education, CRC/GC/2001/1, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2001.1.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2001.1.En?OpenDocument).

³ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), entry into force January 4 1969, <http://www2.ohchr.org/english/law/pdf/cerd.pdf>. The U.S. signed and ratified CERD in 1994, which means that the U.S. is bound by law to the treaty.

⁴ Russell Skiba et al., Are Zero Tolerance Policies Effective in the Schools?

An Evidentiary Review and Recommendations, American Psychological Association (APA) Zero Tolerance Task Force, 2006, <http://www.apa.org/pubs/journals/releases/ZTTFReportBODRevisions5-15.pdf>.

⁵ Louisiana Department of Education, District Composite Reports 2007-2008, <http://www.doe.state.la.us/lde/pair/1613.aspx>. (Available for download in excel file.) The total number of students enrolled in Louisiana schools was 681,038.

⁶ Louisiana Revised Statute RS 17:416, 2009, <http://www.legis.state.la.us/lss/lss.asp?doc=81024>.

⁷ U.S. Department of Education, Office of Civil Rights Data Collection 2006, http://ocrdata.ed.gov/Projections_2006.aspx.

⁸ Id.

⁹ Skiba et al., APA Report, 2006.

¹⁰ Louisiana Department of Education, 2007-2008 Louisiana State Education Progress Report, <http://www.doe.state.la.us/lde/uploads/14235.pdf>.

¹¹ National Alliance for Public Charter Schools, Top 10 Charter Communities

by Market Share, Fourth Annual Edition, October 2009, http://www.publiccharters.org/files/publications/MarketShare_P4.pdf.

¹² Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 33 RSD direct-run, non-charter schools in the 2007-2008 school year.)

¹³ Sarah Carr, "Students expelled from RSD charter schools disappear in state records," *The Times-Picayune*, February 09, 2009, http://www.nola.com/news/index.ssf/2009/02/students_expelled_from_rsd_cha.html.

¹⁴ PBS News Hour, "New Orleans Charter Schools Produce Mixed Results," PBS, May 6, 2009. http://www.pbs.org/newshour/bb/education/jan-june09/nolacharter_05-06.html.

¹⁵ Bill Quigley, "Part I: New Orleans's Children Fighting for the Right to Learn," *Truthout Report*, August 2007, <http://www.truthout.org/article/bill-quigley-part-i-new-orleanss-children-fighting-right-learn>.

¹⁶ The surveys were not gathered from a representative sample of New Orleans public school students, but rather from students that were more likely to have been involved in disciplinary incidents in the past. Therefore, one third of the surveys were collected from an Alternative School where students are sent during the term of a disciplinary removal. Those students had been previously suspended and/or expelled from RSD middle schools. Information on the breakdown of survey respondents is provided on page 4. In some cases, survey responses do not add up to 100% because some students left individual responses blank. Regarding suspensions, some answers add up to more than 100% because students listed multiple answers for different suspensions.

¹⁷ Louisiana Department of Education, Education Progress Reports and District Composite Reports 2000-2001 through 2007-2008. During the same period, the total number of students enrolled in Louisiana schools decreased from 741,533 to 681,038.

¹⁸ Office of Civil Rights Data Collection 2006.

¹⁹ Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 33 RSD direct-run, non-charter schools in the 2007-2008 school year, <http://www.doe.state.la.us/lde/pair/1613.aspx>.) Suspension rates are based on total enrollment in schools reported as of February 2008.

²⁰ Office of Civil Rights Data Collection 2006.

²¹ Data obtained from the Recovery School District, RSD District-Run Schools, 2008-2009.

²² *Id.* Calculation based on a school year of 36 weeks.

²³ The following findings are based on the results of 95 surveys collected by FFLIC from middle and high school students in 15 RSD public schools. Numbers and percentages do not add up to 100% for all survey questions because some respondents left individual questions blank. Regarding suspensions, some answers add up to more than 100% because students listed multiple answers for different suspensions.

²⁴ Louisiana State Department of Education, Education Progress Reports and District Composite Reports 2000-2001 through 2007-2008.

²⁵ Office of Civil Rights Data Collection, 2006.

²⁶ Data obtained from the Recovery School District, Recommended Expulsions/Upheld Expulsions/Transferred Expulsions, 2007-2008.

²⁷ *Id.*

²⁸ Data obtained from the Recovery School District, RSD District-Run Schools, 2008-2009.

²⁹ The following findings are based on the results of 95 surveys collected by FFLIC from middle and high school students in 15 RSD public schools.

³⁰ Agenda for Children, 2009 KIDS COUNT Data Book on Louisiana's Children, 2009, <http://www.agendaforchildren.org/2009databook/>

[louisianakidscount2009.pdf](http://www.louisianakidscount2009.pdf).

³¹ *Id.*

³² Louisiana Department of Education, District Composite Reports, 2007-2008.

³³ Open Society Institute-Baltimore, Putting Kids Out of School: What's Causing High Suspension Rates and Why They Are Detrimental to Students, Schools, and Communities, September 2008, http://www.soros.org/initiatives/baltimore/articles_publications/articles/suspension_20080123/whitepaper2_20080919.pdf.

³⁴ Louisiana Department of Education, District Composite Reports, 2007-2008.

³⁵ Louisiana Department of Education, District Composite Reports. 2007-2008.

³⁶ Agenda for Children, 2009.

³⁷ Open Society Institute-Baltimore, September 2008.

³⁸ *Id.*

³⁹ Russell Skiba et al., "Discipline is Always Teaching: Effective Alternatives to Zero Tolerance in Indiana's Schools," *Indiana Youth Services Association, Education Policy Briefs*, Vol. 2 (3), 2004. Pedro Noguera, "Preventing and Producing Violence: A Critical Analysis of Responses to School Violence," *Harvard Educational Review*, 65 (2), 1995.

⁴⁰ Ralph Adamo, "NOLA's Failed Education Experiment." August 15, 2007, http://www.soros.org/resources/multimedia/katrina/projects/PublicEducation/story_FailedExperiment.php.

⁴¹ *Id.*

⁴² Recovery School District, FY 2009 Operating Budget, June 18, 2008, http://www.rsdl.net/Libraries/Budget_Finance/FY_2009-_RSD_OPERATING_BUDGET.sflb.ashx.

⁴³ Spending per student was calculated by dividing 8.7 million by the total student population in RSD direct-run schools (12,700 students).

⁴⁴ Paula Devlin, Security guards laid off from Recovery School District, *The Times-Picayune*, May 28, 2009, http://www.nola.com/news/index.ssf/2009/05/security_guards_laid_off_from.html.

⁴⁵ Data obtained from the Orleans Parish Juvenile Court, 2007-2009.

⁴⁶ Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 30 RSD charter schools in the 2007-2008 school year, <http://www.doe.state.la.us/lde/pair/1613.aspx>.)

⁴⁷ PBS News Hour, New Orleans Charter Schools Produce Mixed Results, PBS, May 6, 2009. http://www.pbs.org/newshour/bb/education/jan-june09/nolacharter_05-06.html.

⁴⁸ Sarah Carr, "Students expelled from RSD charter schools disappear in state records," *The Times-Picayune*, February 09, 2009, http://www.nola.com/news/index.ssf/2009/02/students_expelled_from_rsd_cha.html.

⁴⁹ *Id.*

⁵⁰ Louisiana State Department of Education, District Composite Reports, 2007-2008.

⁵¹ PBS News Hour, May 6, 2009.

⁵² Illinois Positive Behavior Interventions & Supports Network, 2006-07 Progress Report. <http://www.pbisillinois.org/>; Florida's Positive Behavior Support Project Annual Report 2007-2008; <http://flpbs.fmhi.usf.edu/index.asp>; Sharon Lewis, Ed., "Improving School Climate: Findings from Schools Implementing Restorative Practices," *International Institute for Restorative Practices*, May 19, 2009. <http://www.iirp.org/pdf/IIRP-Improving-School-Climate.pdf>.

1. INTRODUCTION



The preamble to Article 8 of the Louisiana State Constitution,⁵³ which requires the legislature to establish and maintain a public school system, declares:

“The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just, and designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his full potential.”

Preamble, Article 8, Louisiana State Constitution

This vision for education is deeply valued in American society and is also recognized as a fundamental human right in international treaties and declarations, including the Universal Declaration of Human Rights and Convention on the Rights of the Child.⁵⁴ Like the Louisiana Constitution, these human rights treaties and declarations, developed with U.S. leadership, insist that local, state and federal governments provide all children with an education aimed at “the development of the child’s personality, talents and mental and physical abilities to their fullest potential.”⁵⁵ As part of meeting this responsibility, schools must create learning environments that protect the dignity of every child. In particular, the Convention on the Rights of the Child states that school discipline must be “administered in a manner consistent with the child’s human dignity.”⁵⁶

Yet in Louisiana and throughout the nation, harsh and excessive discipline and safety policies contribute to an educational crisis in our country where 1.3 million young people dropout of school each year⁵⁷ and millions more receive a substandard education. Children are pushed out of school and into unemployment, poverty and the juvenile and criminal justice system. Referred to as the “school to prison pipeline” by growing numbers of parents, youth, advocates and educators around the country, these policies and practices threaten our children, our families and our communities, and violate fundamental human rights to education and dignity.

A National Perspective on Pushout

A range of factors push students out of school and contribute to the school to prison pipeline. Schools lack adequate resources to support teachers and students, and allow a culture of low expectations and bias against youth of color and poor youth to undermine educational outcomes.⁵⁸ Children with special needs, including students with disabilities, students that speak English as a second language, children in foster care and homeless youth do not receive the resources they need and are entitled to by law. A focus on high-stakes testing narrows the curriculum and gives schools the incentive to push out students who do not perform well on tests.⁵⁹ At the same time, unjust and excessive suspensions and expulsions deny students access to education and ignore their academic, social and emotional needs.⁶⁰ The presence of police and security guards in schools create prison-like environments that psychologically orient youth towards prison and lead

“In most cases expulsions are a way to hide a school’s failure to address the educational needs of students. Our current education system is flawed by design as it focuses far too much on high stakes testing to measure academic success. As a result, schools are compelled to expel and push out “problem” students in an effort to meet state-wide performance standards.

Whenever a student misses a day in school, no matter what the reason is, he or she misses out on valuable lessons and instructional time. Many schools lack the resources to build in supportive services to help catch these students up when they return to school. Educators need to think more critically about alternative discipline strategies that can ensure that students remain in school.”

- Thena Robinson, Southern Poverty Law Center, Attorney

to school arrests for behavior that used to be dealt with by educators.⁶¹

The national trend towards implementing harsh, punitive discipline and safety policies began in 1994 with the passage of the federal Gun Free Schools Act, which required “zero-tolerance” suspension or expulsion for offenses such as having a weapon or committing serious acts of violence in schools.⁶² Over time, as states and school districts implemented their own policies, they expanded the scope of zero-tolerance to include harsh punishment for far less serious misbehavior, including classroom disruptions, fights, dress code violations and even being late to school.⁶³ Nationally in 2006, more than 3.3 million students were suspended out of school and 102,000 were expelled, a 9% increase in suspensions and a 5% increase in expulsions since 2000.⁶⁴ Studies have shown that the most serious infractions, such as drugs or weapons possession, generally account for less than 5% of suspensions.⁶⁵

Proponents of zero-tolerance cite the imperative to make schools safe and reduce violence and misbehavior in schools. Yet studies have found that punitive, zero-tolerance approaches to discipline are ineffective for preventing or reducing misbehavior. On the contrary, they can even reinforce and lead to future misbehavior,⁶⁶ putting students at greater risk of failing their classes, being retained in grade, becoming truant, dropping out of school and becoming involved with the juvenile and criminal justice systems.⁶⁷

Over the past decade, school districts have also increased the number of school resource officers, police officers, metal detectors, and security cameras in schools.

Between 1999 and 2007, the percent of students across the country reporting regular police or security presence in their schools increased from 54% to 69%.⁶⁸ Police personnel are patrolling school hallways, handcuffing, arresting, and referring students to the juvenile justice system for relatively minor infractions, such as petty school fights or disobeying staff, all problems formerly handled by teachers and principals directly.⁶⁹ The imposition of criminal penalties for these non-criminal behaviors both violates basic human rights principles and is counter to proven strategies for reducing at-risk behavior. As shown by the American Psychological Association study, classroom management techniques, gang prevention programs, mediation, and conflict resolution are more effective for reducing violence and disciplinary incidents.⁷⁰

Punitive policies and practices affect all young people, but disproportionately target children of color and children in poor communities. For example, nationally in 2006, African American students made up 17.1% of the overall student population, but 37.4% of students suspended out of school.⁷¹ Studies have also found that schools punish African American students more severely than white students for the same infractions.⁷²

There is a strong link between harsh discipline, dropout and incarceration. Students with multiple suspensions are three times more likely to drop out by 10th grade than students who have not been suspended.⁷³ Youth who drop out of high school are three times more likely to be incarcerated in their lifetimes.⁷⁴ Roughly 56% of African American youth in the juvenile justice system report a prior school suspension.⁷⁵ Dropout carries a heavy individual and societal cost. For example, leading

What is the School to Prison Pipeline?

Families and Friends of Louisiana’s Incarcerated Children (FFLIC)

FFLIC defines the school to prison pipeline as the systematic and institutional approach to depriving poor people of color (in Louisiana this applies primarily to African Americans) a right to an equitable and quality education; the deliberate approach to using poor people of color to fill the Prison Industrial Complex; and continued intentional efforts to make poor people of color feel inferior to what is deemed the superior race. This is done by pushing kids out of school through unjust suspensions and expulsions, high-stakes testing, the lack of consistently available educational resources, denial of special education services, lowered expectations, zero-tolerance, and mentally preparing kids for prison by creating prison-like environments in the schools through the overuse of police and security guards.

economists have estimated that increasing high school graduation rates would decrease violent crime by 20%, and property crime by 10%.⁷⁶

A Human Rights Framework for Education and Discipline

Human rights standards recognized in international treaties provide a framework for assessing the intent and impact of educational policies and holding our school systems accountable. The discipline policies and practices that contribute to the school to prison pipeline and its devastating impacts on children are fundamentally at odds with basic human rights to education and dignity. The Convention on the Rights of the Child, an important human rights treaty adopted widely throughout the world, recognizes that discipline should be part of the educational process, developing the social skills of students, encouraging learning, increasing attendance and engagement in school, and protecting the dignity and safety of students.⁷⁷ With these intended positive effects in mind, the Convention on the Rights of the Child calls on school systems to:

- *Ensure each child's right to education* - Schools must work to keep all students in school, avoiding punishments that disrupt the learning process or deny access to education, and providing services and resources to meet students needs;
- *Promote the full development of the child* – Schools should use discipline to help students learn positive behavior skills, resolve conflicts in a non-violent manner, and create good social relationships to help them develop mentally, socially and emotionally;
- *Ensure the dignity of students* – Schools must use discipline policies and practices that protect children from harm or humiliation, create a safe and humane environment, avoid punishment for behavior that does not cause serious harm to the child or others, and avoid arrest and criminalization;
- *Ensure freedom from discrimination and the equitable distribution of resources* - Schools must take active steps to eliminate the disproportionate impact of discipline

policies on youth of color by ensuring that adequate resources are assigned to schools and appropriate training provided for staff to eliminate bias; and

- *Create mechanisms for students and parents to participate* - Schools should include students and parents in decision-making to develop and implement discipline policies, and involve students and parents directly in the disciplinary process through peer counseling, mediation and other participatory approaches.

This report calls on the State of Louisiana and New Orleans school districts to adopt policies and practices that meet these human rights criteria in order to create positive school environments, improve education and keep children in school.

Methodology

Pushed Out documents and analyzes discipline and safety policies in Louisiana and New Orleans public schools that contribute to pushout and the school to prison pipeline. The report analyzes quantitative data on suspension, expulsion and arrest rates in New Orleans and the state of Louisiana, as well as qualitative research obtained from surveys and interviews of students and parents in New Orleans public schools.

Data on Suspensions and Expulsions

The report examines quantitative suspension and expulsion data obtained from the Recovery School District, the Louisiana State Department of Education, and the U.S. Department of Education. Data obtained from the Recovery School District provides information on the total number of suspensions and expulsions issued in schools, including multiple suspensions or expulsions for the same students. This data is useful for capturing the total number of disciplinary actions taken by a school and approximate number of school days lost to removals, but cannot be used to determine rates of suspension or expulsion.

By contrast, data from the Louisiana State Department of Education and the U.S. Department of Education provide the number of students who were suspended or expelled. This data does not capture multiple

suspensions or expulsions for the same students, but provides the unduplicated rate of suspension and expulsion which can be compared across schools, districts and states. In this report, the suspension and expulsion rates in New Orleans for 2007-2008 were calculated by taking the total number of students excluded and dividing by the total number of students enrolled in the district as of February 2008.

Documenting Student and Parent Experiences

The report also analyzes the findings of surveys of 95 middle and high school students in the Recovery School District about their opinions of school climate and safety, and their experiences with suspension, expulsion and arrest. The survey was drafted by FFLIC and NESRI based on input gathered from Louisiana public school parents and students at community workshops. The surveys were collected by FFLIC

staff and parent volunteers outside of schools and at community meetings.

The surveys were not gathered from a representative sample of New Orleans public school students, but rather from students that were more likely to have been involved in disciplinary incidents in the past. Therefore, one third of the surveys were collected from an Alternative School where students are sent during the term of a disciplinary removal. Those students had been previously suspended and/or expelled from RSD middle schools. Information on the breakdown of survey respondents is provided below. In addition, the detailed stories of 4 students from New Orleans and other districts in Louisiana were documented through parent interviews about their children’s disciplinary and educational history.

Breakdown of Survey Respondents			
	Number of Schools Represented	Number of Students Respondents	Percent of Student Respondents
School Type			
High Schools (9-12 th grade)	6	31	32.6%
K-8 Elementary/Middle Schools (K-8 th grade)	8	25	30.5%
Alternative School (6-8 th grade)	1	39	36.8%
Age*			
11-12 year olds		4	4.2%
13-14 year olds		41	43.2%
15-16 year olds		34	35.8%
17-19 year olds		11	11.6%
Sex*			
Male		55	57.9%
Female		38	40%
Race*			
African American		91	96%
Latino		--	--
Asian American		1	1%
Native American		--	--
White		1	1%
*Numbers and percentages do not add up to 100% because some respondents left answers blank for demographic questions.			

2. THE STATE OF EDUCATION IN LOUISIANA AND NEW ORLEANS



In 2007-2008, over 2,400 7th and 8th graders, and over 13,500 high school students dropped out of school in Louisiana. The dropout rate for African American students is almost twice as high as the rate for white students.

Source: Louisiana Department of Education, 2007-2008 Louisiana State Education Progress Report.

For decades, public schools in Louisiana, especially those schools serving predominantly poor children and children of color, have failed to provide a high quality education for students. In 2007, over 30% of 4th graders and over 42% of 8th graders statewide scored below basic levels of proficiency in English Language Arts and Math.⁷⁸ In 2007, according to the State Department of Education, only 65.9% of students that entered ninth grade in 2003 went on to graduate from high school, significantly less than the national average of 74.7%.⁷⁹ African American graduation rates are even lower. An independent study of graduation rates from around the country conducted by Editorial Projects in Education found that in 2006, only half of African American students in Louisiana (51%) graduated from high school in four years, compared to almost two thirds of white students (69%).⁸⁰ This disparity in graduation rates has long-term consequences for communities of color. In Louisiana, people with high school diplomas earn approximately \$7,000 more than those without a diploma, and almost half of working age people in Louisiana without a diploma are unemployed, compared to less than a third of those with a high school diploma.⁸¹

Many factors contribute to poor educational outcomes in Louisiana, including lack of adequate funding, negative school climates and harsh discipline policies that together deny access to education, ignore students'

needs and push young people out of school. Louisiana ranks 25th in the nation on per-pupil spending and 46th on the percent of state taxable resources allocated to education.⁸² Teacher salaries in Louisiana, which are key to attracting and retaining highly qualified teachers, rank 43rd in the nation.⁸³ Louisiana spends \$8,402 a year to educate a child in public school,⁸⁴ but \$105,928 a year to incarcerate a child in a juvenile correctional facility.⁸⁵ This state investment in punitive approaches towards youth translates into school practices as well. In 2006-2007, there were 331,070 suspensions and 8,537 expulsions given in Louisiana public schools, including multiple removals for the same students,⁸⁶ resulting in hundreds of thousands of lost school days. During the current school year, in the eight month period from August 2009 to March 2010, 1,776 public school students in New Orleans (attending RSD and OPSB charter and non-charter schools) were processed through the Municipal Courts.⁸⁷

Dismantling New Orleans Schools After Katrina

In New Orleans public schools, the ongoing educational crisis became even more severe in 2005 when Hurricane

Louisiana ranks 25th in the nation on per-pupil spending and 46th in the nation on the percent of state taxable resources allocated to education. While Louisiana spends \$8,402 a year to educate one child in public school, the state spends \$105,928 a year to incarcerate one child in a juvenile correctional facility.

Source: Louisiana State Highlights 2010, Quality Counts 2010, Education Week. Agenda for Children, Louisiana Kids Count 2009. House Committee on Appropriations, FY 10-11 Executive Budget Review, Youth Services, March 10, 2010.

Katrina devastated the city and the school system, closing all but a handful of the 120 New Orleans public schools. As of 2009, the number of public school students in New Orleans has reached 78% of pre-Katrina enrollment,⁸⁸ but the structure and conditions of New Orleans schools has changed dramatically. The public schools are controlled by a patchwork of state and local, charter and non-charter organizations. Within this fragmented system, the use of harsh, zero-tolerance approaches to discipline and security has increased, and thousands of students have been pushed out of school.

Before Hurricane Katrina, most public schools in New Orleans were in the New Orleans Public School District and were governed by the Orleans Parish School Board (OPSB), a seven member board elected every four years. Even before the storm, the State Legislature had been debating steps to reorganize the school district and take power away from the Orleans Parish School Board, which had suffered from mismanagement and a failure to address the chronic problems facing New Orleans public schools.⁸⁹

In 2003, the Louisiana State Legislature created the Recovery School District (RSD), a state-run district established to take control of public schools that did not meet minimum performance standards and were labeled as “failing.”⁹⁰ A School Performance Score (SPS) was established to determine if a school was eligible for takeover based on a combination of student test scores and the school’s dropout and attendance rates. Initially, if a school received an SPS of less than 45 it was eligible for transfer to the RSD. The minimum SPS score was raised to 60 in 2004. By 2004, only 5 of the 120 New Orleans public schools had been transferred to the RSD. Despite the fact that most schools were meeting the minimum SPS standards, in July 2004, the State Legislature took further district-wide steps, stripping the Orleans Parish School Board of power over budgetary decisions and the hiring and firing of staff, transferring unprecedented authority to the district superintendent.⁹¹

In the aftermath of Hurricane Katrina, federal, state and local supporters of charter schools immediately took steps to begin shifting the composition of schools in New Orleans. In fall 2005, the state took drastic

actions, essentially dismantling the New Orleans Public School system, firing all teachers and staff, and creating a new, reorganized system focused largely on the creation of charter schools. In September 2005, the US Department of Education pledged \$20.9 million to support charter school development in New Orleans, without any similar pledge to support traditional public schools.⁹² In October 2005, the Governor waived state laws that required faculty and parent approval to convert a regular public school to a charter school, paving the way for schools to become charters while most of the city’s families were still dispersed across the country.⁹³

In November 2005, the Louisiana State Legislature passed Act 35, expanding the definition of “failing” schools that could be transferred to state control and resulting in the transfer of almost all New Orleans public schools to the Recovery School District.⁹⁴ First, any school with an SPS “below the state average” became eligible for takeover, and second, the legislation expanded the state’s authority to take over the entire school district. While the legislation applied to schools and districts statewide, it was clearly targeted at New Orleans. A district was only considered eligible for takeover if it had more than 30 schools with an SPS “below the state average,” or if at least 50 percent of students attend schools that fail to meet the minimum SPS score. New Orleans was the only district in the state that met this specific requirement, and the state placed no cap on how many schools it could turn into charter schools.⁹⁵

As a result of this law, over 100 New Orleans public schools were transferred to the RSD under the control of a Superintendent appointed by the Louisiana State Board of Elementary and Secondary Education. Only a small number of schools had above average SPS scores and remained under the control of the Orleans Parish School Board (OPSB). Immediately OPSB converted 12 of its remaining schools to charters.⁹⁶ Initially, the RSD only granted a handful of schools charters and opened most of the schools it controlled as traditional public schools, but over time, more and more schools under the control of the RSD have also become charters.

A Continuing Educational Crisis in New Orleans

As a result, today there are multiple school systems in New Orleans which include both traditional public schools and charter schools. As of the 2009-2010 school year, the Recovery School District (RSD) has 29 directly run and operated public schools and 4 alternative schools, and oversees 30 charter schools.⁹⁷ The Orleans Parish School Board (OPSB) still runs five public schools and oversees 11 charter schools.⁹⁸ In addition, nine charter schools are run by the Algiers Charter Schools Association, an independent network created for charter schools in the Algiers neighborhood of New Orleans. Schools within the Algiers Association have been granted their charters by either OPSB (2 schools) or RSD (7 schools), but are managed by the Association (other charter schools in New Orleans are managed by individual boards). Finally, there are two independent charter schools granted directly by the Louisiana State Board of Elementary and Secondary Education.⁹⁹

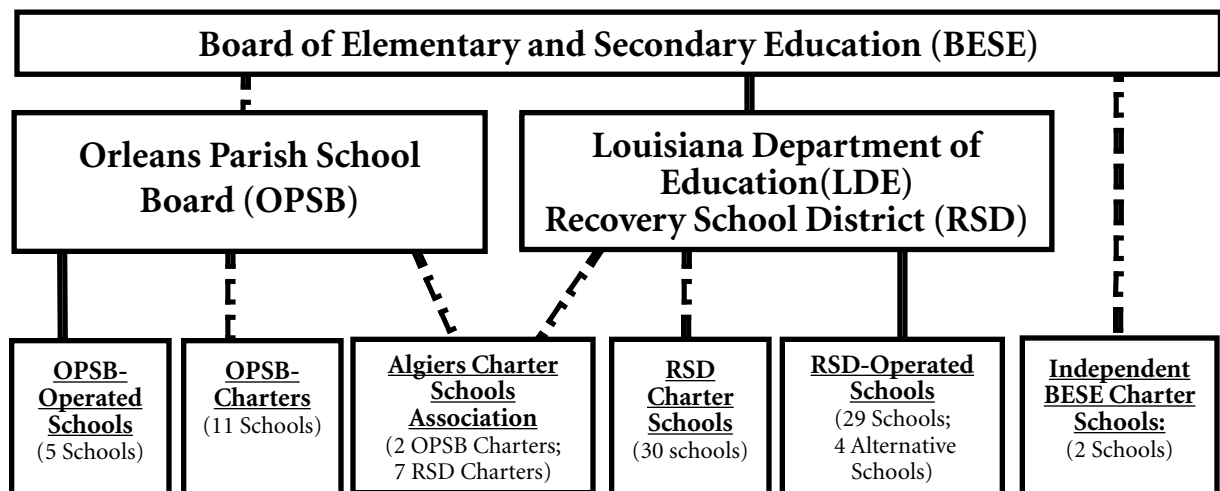
Since Hurricane Katrina, an unprecedented number of charter schools have been established in New Orleans. Approximately 57% of public school students now attend charter schools, the largest percentage of any district in the country; nationally, only about 5%

of public school students attend charter schools.¹⁰⁰ Charter schools receive public funding, but are run either by a non-profit board or a for-profit company hired by a non-profit board, with the ability to raise additional private funds.

Charters differ from other public schools in terms of the standards enforced on the schools. For example, charter schools in New Orleans are given wide autonomy on issues of curriculum and staffing, and are held accountable only to performance standards. While much of the focus and attention of reform efforts in New Orleans has been on creating charters as a solution to poor educational outcomes, the sharp increase in the number of charter schools has not eliminated the problems experienced by students in the city's schools. Thousands of children are still left behind in both traditional public schools and charter schools because of negative school climates, a continued lack of adequate resources, a focus on teaching to the test, and harsh zero-tolerance discipline policies.¹⁰¹

In the 2007-2008 school year in New Orleans, including all OPSB and RSD public and charter schools, only 36% of 8th grade students met or exceeded basic proficiency in English Language Arts and Math, the same as pre-Katrina numbers.¹⁰² Many school buildings in New Orleans have not been rebuilt, leaving students in

Chart of New Orleans Public Schools 2009-2010



modular classrooms or cramming multiple schools together into the same buildings, contributing to unwelcoming and crowded school environments.

Due to the wholesale firing of experienced teachers following the storm, approximately two thirds of teachers and school administrators within both charter and non-charter schools come from outside of New Orleans, many without teaching degrees, with very little administrative experience, and no clear understanding of the culture of the community, students and families they purport to serve.¹⁰³ In RSD schools, both charter and non-charter, 47% of all teachers were entering the classroom for the first time in 2007. According to a study by Tulane University's Cowen Institute, 60% of the teachers in the RSD non-charter schools were first-time teachers.¹⁰⁴

In both the RSD public schools and the various charter school systems in New Orleans, parents and communities have been cut out of the decision-making

process for their schools. The RSD is governed by the state Board of Elementary and Secondary Education (BESE) and by a Superintendent appointed by the state, effectively denying New Orleans communities local control over their schools. In 2009, the Louisiana Legislature and Governor Jindal reaffirmed the steps taken immediately following Hurricane Katrina, passing Act 278 to allow BESE to convert existing public schools into charters without requiring the approval of the community, including faculty, staff or parents.¹⁰⁵ Charter school boards are not elected by parents or community members, and are often made up of board members that are from outside of New Orleans.¹⁰⁶ This lack of accountability and community participation within the various New Orleans school systems contributes to the pushout crisis.¹⁰⁷

Health and Housing After Hurricane Katrina

Students in New Orleans public schools also continue to face health challenges and housing instability since Hurricane Katrina. In January 2010, there were an estimated 12,000 homeless New Orleans residents, many of them families with children, double the number before Hurricane Katrina.¹ Among residents still living in FEMA-supported housing, 44% of adults and 10% of children do not have health insurance.² In 2006, 42% of the students displaced by Hurricane Katrina had respiratory problems that might be linked to formaldehyde in FEMA trailers, and more than half had mental-health problems.³ In a 2009 article in *The Journal of the American Academy of Child & Adolescent Psychiatry*, researchers found that 9.3% children in hurricane-affected areas have a “serious emotional disturbance ... that is directly attributable” to the storm.⁴

Housing instability and mental health disorders have a significant impact on education and on behavior in schools.⁵ Since Hurricane Katrina, the New Orleans school systems have not taken the necessary steps through counseling and supportive services to meet the needs of students affected by the storm, contributing to the pushout crisis in schools.

Source: (1) Injustice Index, Louisiana Justice Institute, January 2010. Tiffany M Gardner, No Shelter From the Storm, NESRI, April 2008. (2) Robin Rudowitz, Health Care In New Orleans Before And After Hurricane Katrina, Health Affairs, August 2006, <http://content.healthaffairs.org/cgi/content/full/hlthaff.25.w393v1/DC1>. (3) Mary Carmichael, “Katrina’s Kids,” Newsweek, October 15, 2009, <http://www.newsweek.com/id/217751>. (4) Id. (5) Mary Wagner and Renée Cameto, The Characteristics, Experiences, and Outcomes of Youth with Emotional Disturbances, The National Longitudinal Transition Study (NLTS), National Center on Secondary Education and Transition, August 2004.

3. HARSH AND EXCESSIVE SUSPENSIONS AND EXPULSIONS

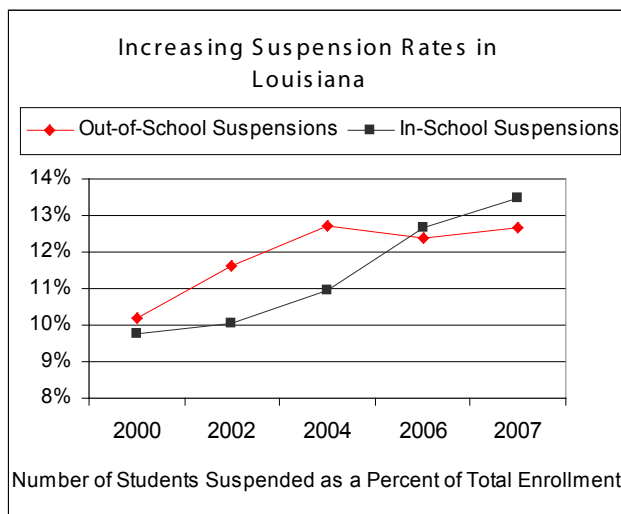


A key factor contributing to the pushout crisis in both New Orleans and Louisiana more broadly is the unjust and excessive use of suspensions and expulsions that ignore the root causes of disruption and violence, deny students access to education, and fail to improve school climate or behavior.¹⁰⁸ Human rights standards require that school discipline avoid these punitive measures and encourage the use of preventive and proactive approaches that protect access to education and build social and behavioral skills needed for positive learning environments. No child should ever be deprived of their human right to education because of discipline.

Suspensions

In Louisiana in 2007-2008, 86,120 students were suspended out of school and 91,649 were suspended in school at least once during the school year. The percent of students suspended out of school increased from 9.7% in 2000-2001, to 12.1% in 2007-2008.¹⁰⁹ This is almost twice the national rate of 6.9%. In-school suspensions also increased. The percent of students suspended in school at least once per year increased from 9.3% in 2000-2001 to 12.9% in 2007-2008.

Louisiana's school discipline laws have contributed to this growing tide of suspensions. Under state law,



Human Rights Standards Demand Discipline with Dignity

Harsh discipline policies in schools that unfairly punish students, undermine their sense of dignity and threaten their education, are fundamentally at odds with basic human rights principles.

The UN Convention on the Rights of the Child states that governments “shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity.” The UN Guidelines on the Prevention of Juvenile Delinquency discourage “harsh disciplinary measures” and state that “schools should promote policies that are fair and just.”

Source: Convention on the Rights of the Child, Article 28. UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted and proclaimed by General Assembly Resolution 45/112 of December 14, 1990.

school principals may suspend students out of school for a wide range of minor misbehavior, including “willful disobedience,” disrespecting school staff, using “unchaste or profane language,” fighting, disturbing the school or habitually violating a school rule.¹¹⁰ Students can also be suspended for leaving the school premises without permission, leaving class or detention without permission, or being habitually tardy or absent.

Detailed data is not made available by the state or school districts regarding how often the same students are suspended, but the data show that many students receive multiple suspensions during the same school year. For example, in the 2006-2007 school year, 85,478 students were suspended out of school and 83,642 students were suspended in school, but when multiple suspensions for the same students are included, there was a total of 331,070 suspensions.¹¹¹ Therefore, many students suffered at least two suspensions during the school year.

These high rates of suspensions for what is often

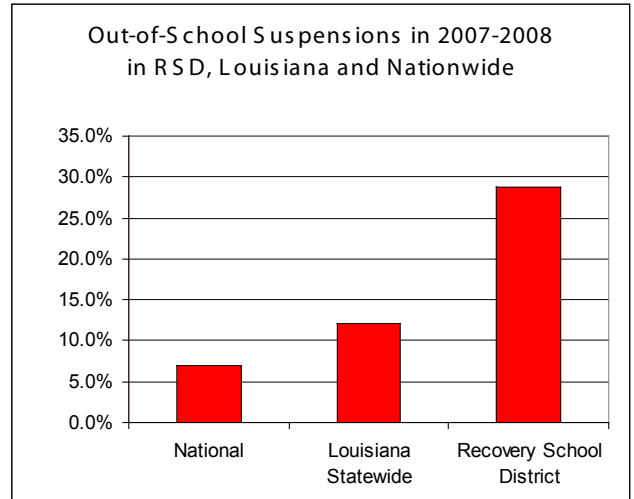
minor misbehavior leads to hundreds of thousands of lost school days. There is no data on how many of the 331,070 suspensions were for one day or multiple days, but *even if the average length of suspension was only two days, this would result in over half a million lost days of school each year.* During out-of-school suspensions, state law calls on school districts to provide students with alternative education programs, but grants waivers to any school district that claims financial hardship.¹¹² In practice, many school districts, including New Orleans, do not provide alternative education during out-of-school suspension. When students are suspended, schools may deny credit for any school work missed that is not satisfactorily completed. During in-school suspension, students are removed from their normal classroom setting, but remain under supervision within the school. Schools may provide students with credit for work performed during in-school suspension, but are not required to do so.

Suspensions in Recovery School District Public Schools

In New Orleans, suspension rates vary by school system. The state-run Recovery School District (RSD) direct-run public schools have among the highest rates of suspension in the state. In the RSD in the 2007-2008 school year, there were 33 traditional public schools (non-charter). In these RSD public schools, 3,537 students, or 1 in 4 students were suspended out of school at least once during the school year (28.8%).¹¹³ This is more than twice the statewide rate in Louisiana and four times the national rate.

At the high school level, schools suspend students at even higher rates. More than 1 in 3 high school students (37.7% of students) were suspended out of school at least once. In three of the seven public high schools – Walter L. Cohen, Rabouin, and G.W. Carver – over 45% of students faced out-of-school suspension at least once in a single school year. In the K-8 elementary and middle schools, 24.8% of all students were suspended out of school.¹¹⁴

Like most districts in Louisiana, RSD schools also issue in-school suspensions, during which time students are placed in a different classroom or alternative setting



within their own school, and are supposed to receive instruction. Although some argue that the intent of in-school suspensions is to minimize disruption to a child’s education, several studies of in-school suspension programs have shown that in many cases students receive sub-standard educational services, or no services at all, during these removals.¹¹⁵

Still, most school administrators view in-school suspensions as a less punitive, less disruptive response to misbehavior. RSD public schools use in-school suspensions at a much lower rate than most districts. Approximately 8.2% of RSD public school students received in-school suspensions compared to 12.9% statewide.¹¹⁶ This demonstrates that RSD public schools continue to use the most punitive options for removing students, causing the greatest disruption to students’ education.

Implementation of the New RSD Student Code of Conduct

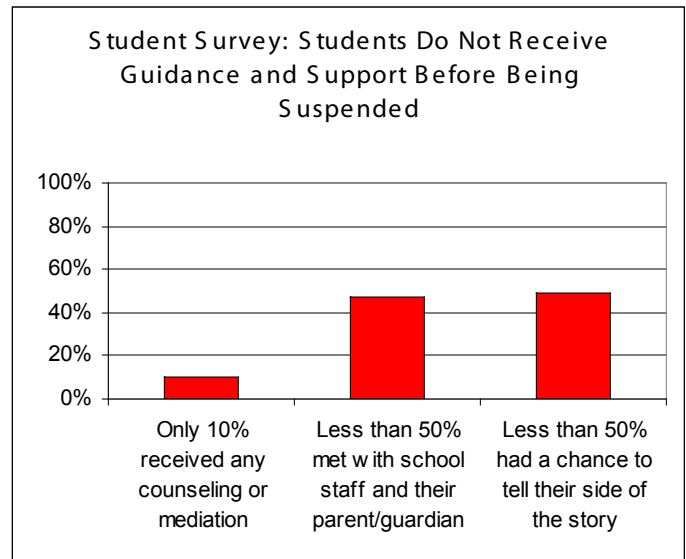
In the Recovery School District in New Orleans prior to 2008, schools imposed out-of-school suspensions for the full range of behaviors described under state law. In February 2008, the RSD adopted a new Student Code of Conduct aimed at reducing suspensions and expulsions and implementing corrective responses.¹¹⁷ Under the new code, Level 1 infractions (which in the past could result in out-of-school suspension), such as disruptive behavior or tardiness, should now trigger more supportive and less severe interventions including conferences with parents, referrals to social workers

or guidance counselors, and in-school suspension. However, repeated instances of these behaviors can still result in suspension.

For Level 2 and 3 Infractions, students will receive mandatory suspensions. Level 2 Infractions include fighting or instigating a fight, smoking, vandalism, making a threat, harassment or bullying, leaving school grounds without permission and “any other infraction that the principal deems to be similar in severity to other Level 2 infractions.”¹¹⁸ This last provision leaves school principals discretion to impose suspensions for a wide range of infractions.

Despite these changes, preliminary data from the 2008-2009 school year shows that out-of-school suspensions remain extremely high in the RSD. In the 2008-2009 school year, there were 12,871 students enrolled in the RSD public schools. In the same school year, there were 6,702 out-of-school suspensions and 1,610 in-school suspensions issued (these numbers include multiple suspensions for the same students).¹¹⁹ This breaks down to *an average of 186 out-of-school suspensions each week from RSD district-run public schools.*¹²⁰

Furthermore, our surveys of 95 students attending RSD direct-run public schools in the 2008-2009 school year, suggest that many of the preventive resources that should be available to students under the code are not in place. Of the students surveyed, 60% had been suspended.¹²¹ Among those students, less than half had a chance to tell their side of the story or to meet with



their parents and school staff prior to the suspension. Only 10.5% received any counseling or mediation.

Excessive Suspensions for Minor Misbehavior

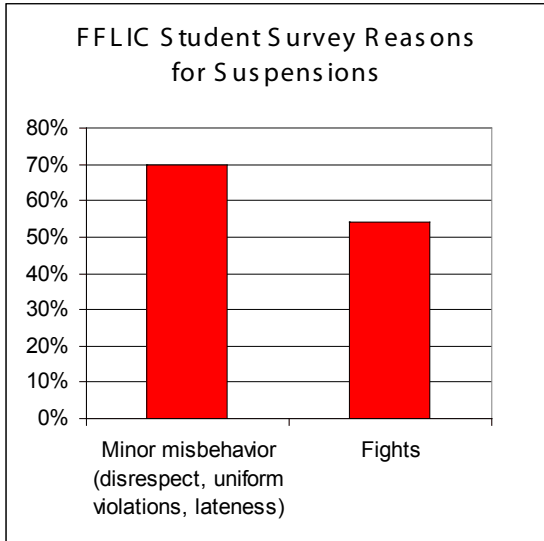
The RSD does not make information available about the types of offenses for which students are being suspended, but our student surveys demonstrate that suspensions are often for minor misbehavior. Over 70% of students said at least one of their suspensions was for minor misbehavior, including disruptive or disrespectful behavior (42%), wearing clothing or carrying items prohibited by school rules (16%) and being late to class or school (12%). Categories like disruptive behavior or willful disobedience are very broad and vague.

“Two middle school students asked why students at their school get suspended for wearing the wrong color undershirt underneath their uniform shirt and for wearing the wrong color socks. They expressed their concerns about being suspended for such minor infractions and then missing school and falling behind.”

- Ashana Bigard, Parent

“Quite often we see children being suspended and/or recommended for expulsion for minor infractions such as disrespect, cursing, uniform violations or being late for class. For children with behavioral disabilities, many of these types of behaviors are disability related, and can be resolved through proper implementation of an individualized behavioral support plan. Once Advocacy becomes involved, we are usually able to have schools implement appropriate behavior plans, resulting in better behavior and fewer disciplinary referrals. It is a shame that students have to enlist the services of an advocate or a lawyer just to protect their right to get appropriate educational services.”

- Melissa Losch, Advocacy Center, Attorney



Approximately 54% of students surveyed said that at least one of their suspensions was for fighting, a common reason given for suspension in districts across the country. Qualitative research has shown that fighting is also a broad and subjective category.¹²² Students can be suspended for behavior ranging from instigating a fight, to shoving another student, to simply being present during a fight without any proof that they were actually involved. In many cases the school does not take into account the circumstances surrounding the fight, the severity of the confrontation or whether or not a student actually started the confrontation. Fighting and aggression among children are often part of normal child development and should be addressed through more constructive and effective methods.¹²³ When students are suspended, action is rarely taken to address the underlying causes of conflict.

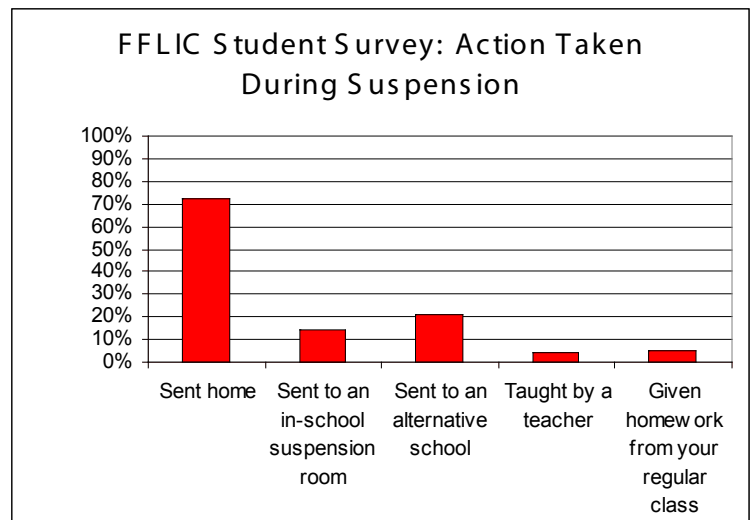
Our student surveys also suggest that many of the students suspended out of RSD schools were suspended multiple times and for potentially long periods of time. Only 8% had been suspended once in the past three years, 28% had been suspended 2 to 3 times, and 37% had been suspended 4 or more times. When asked about the length of their most recent suspension, 14% of students reported suspensions of 1 to 2 days, 39% reported suspensions of 3 days, and 30% reported suspensions of 4 or more days.

Impact on Education

During the period of suspension, many students do not receive access to needed counseling or quality alternative education, and as a result fall behind in their studies or develop feelings of resentment and alienation from school. In the RSD, students can be suspended out of school from 1 to 5 days and receive no alternative educational services during the term of suspension. Of the students we surveyed who had been suspended, 72% were sent home during at least one of their suspensions, only 14% were sent to in-school suspension rooms, and 21% were sent to an alternative school setting. Only 4% reported ever being taught by a regular classroom teacher in an in-school or alternative setting, and only 5% received any homework from their regular classes while on suspension.

Not surprisingly, 37% of students said they fell behind in school after their suspension, and 25% said they felt less motivated to learn after returning to school. Only 40% of students said they received help from school staff to catch up on their work after returning to school, and only 7% reported receiving any kind of counseling or mediation after returning to their school.

Furthermore, when students perceive discipline to be unfair and teachers to be uncaring, they generally feel less connected to and engaged with schools.¹²⁴ Results of our student survey demonstrate that many students in RSD feel they have no voice in disciplinary procedures and believe that their teachers do not value their education. More than 66% of students surveyed



said that students never or rarely help decide discipline procedures, and 50% of students that had been suspended felt the punishment was unfair. Less than 21% of students said that teachers always treat students with respect, and less than 40% said that teachers always work hard to make sure students stay in school.

The Louisiana State Department of Education recognizes the negative impact that suspension can have on students' education. The Louisiana State Education Progress Report for 2007-2008 illustrates the negative relationship between academic performance and suspension rates. Overall statewide, in higher performing schools only 18% of students were suspended in school or out of school, compared to 32% in lower performing schools. In their report the Louisiana Department of Education states: "This inverse relationship between suspension rates and student performance can be attributed to many factors, including the impact of discipline problems on the school climate and on student learning and the loss of instruction that occurs when students are suspended."¹²⁵

Expulsions

Louisiana state law also gives principals and school districts disturbingly wide latitude to expel students for the same range of behaviors that can lead to suspension, from disruptive behavior to fighting.¹²⁶ State law goes further to require that any student who has been suspended three times during the same school year, upon committing the fourth offense, shall be expelled until the beginning of the next regular school year. These automatic expulsions can be triggered by a fourth suspension for the most minor misbehavior, including "willful disobedience" or "disrespecting school staff," which encompass behaviors ranging from speaking during class, to shouting in a hallway, to cursing at a teacher.

In the 2007-2008 school year, the total number of students expelled in Louisiana in a single school year increased from 5,894 (0.8% of students) in 2000-2001 to 7,432 (1.1% of students).¹²⁷ *This is five times the national rate of 0.2%.*¹²⁸

"I recently represented a student in a north Louisiana parish who was being recommended for expulsion for receiving 4 suspensions throughout the school term. The suspensions were for tardiness, calling a teacher "dude," and failure to shave facial hair. The school district tried to defend their recommendation for expulsion by explaining that they had to set a strong line against student misbehavior, and that this particular student repeatedly violated school policies. The district personnel completely disregarded the implications of expelling a student, dumping him out into the community without an education, simply for extremely minor misbehaviors."

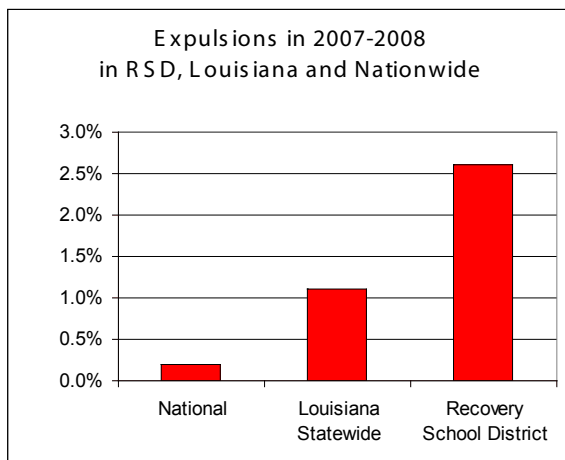
- Eden B. Heilman, Southern Poverty Law Center, Attorney

When students are recommended for expulsion by a school, they are first entitled to a hearing, after which their expulsion will either be upheld or denied. When an expulsion is denied, a student can return to their original school or seek an alternate placement. When an expulsion is upheld, the state is required to provide the student with alternative education. However, school districts can apply for a waiver if they claim economic hardship. If a child is later expelled from an alternative school, the district is no longer required to provide education. That student cannot be admitted to any public school in the state of Louisiana "except upon the review and approval of the school board of the school system to which he seeks admittance."¹²⁹ Students can be expelled for up to 4 semesters, or 2 full school years. In some cases, students enroll in an alternative school established by the state for students that have faced disciplinary removal, but there is no guarantee a student will receive these educational services.

Expulsions in Recovery School District Public Schools

RSD public schools in New Orleans in the 2007-2008 school year, expelled 323 students, or approximately 2.6% of students. This is twice the statewide rate of 1.1% and ten times the national rate of 0.2%.¹³⁰

In addition to the 323 students that schools ultimately expelled, school principals also recommended nearly



three times as many, 808 students, for expulsion, all of whom likely missed school while awaiting hearings.¹³¹ In the following school year, principals recommended 1,016 students for expulsion, but the school board upheld only 396 expulsions.¹³² While awaiting a hearing, students are not allowed to attend school. Data is not provided at the state or district level documenting

the number of days students wait for hearings, but examples gathered from students, parents and attorneys demonstrate that students can wait days, weeks or even months before receiving a hearing.

From 2007 to 2009, the school board denied almost 60% of the recommended expulsions and students returned to their schools after missing an unknown number of days awaiting their hearings.¹³³ In effect, schools are excluding these students from school without due process.

Denial of Education through Excessive Expulsion

The Louisiana Department of Education does not make data available on the reasons for expulsion, but the Recovery School District provided a breakdown by offense of the students who were expelled and assigned to Schwartz Alternative School in 2007-2008. Among those 230 students who were sent to Schwartz,¹³⁴ 47%

A Parent's Story: Expulsion Hearing Process

My son is 14 years old in the 9th grade. He had never been in trouble or caused any problems for me at home or at school before this incident. He is a very intelligent child and his right to an education was violated.

In October 2008, my son was accused of being involved in a "group fight." He was suspended and recommended for expulsion for the incident, and could not return to school until he attended a hearing. As a result, he was out of school for a month until his scheduled hearing. He was found not guilty at the hearing and sent back to the school where he was previously suspended, but not before unjustly missing an entire month of school while waiting for his hearing.

Then in February 2009, my son was expelled from this same school. I was called to be informed that my son had been seen with another student who brought a gun to school. He was implicated and expelled based on allegations of him being involved with the armed student. He was out of school for fourteen days until his hearing. Once again, my son was found not guilty of the charges.

Prior to the first episode, he had never been in trouble, in a fight, suspended or even reprimanded for anything. Once recommended for expulsion, the only right to education that existed for my son was being allowed to make up the work he missed during the month he was suspended from school. Yet, he was given just 3 days to complete work from over 18 days of school work that he missed. One of his teachers was no longer at the school and the substitute gave him make-up work and he received an incomplete in that class.

Since March 2009, my son has been attending a different school that provides a completely different environment for my son and he is excelling and performing to his full scholastic potential. In less than a month his motivation and ambition to do well has improved a great deal.

A Parent's Story: Expulsion for Minor Misbehavior

My son is a sweet child. He likes video games and most sports. He was on the football team at his former high school, and plays basketball at a local park. This child has never caused me any trouble. He has never been arrested or charged with breaking any laws. I don't have to worry about drugs or alcohol. I know all of his friends and they are all good, productive people.

In December 2008, my son was expelled from the Louisiana Public School System. This expulsion means that my child cannot attend any public school in the state of Louisiana. The reason given was "willful disobedience". His infraction was selling candy to another student. I learned about the expulsion when I picked him up from school that day.

The school administrator uses this term "willful disobedience" excessively and covers all infractions that can't be logically categorized. My son has been accused of this behavior several times. Once for bouncing a ball at the wrong time, other times for uniform violations (his shirt was un-tucked), and another time because he went to the restroom prior to class and the teacher declared that he had cut class. I don't understand it! My child has never had a discipline problem. He has never destroyed property or been disrespectful to teachers or students. Why has my son been expelled from school?

After I found out about the expulsion, I requested and attended the meeting with the hearing officer. It was presented, by me and my representatives, that the school had no basis for this expulsion. But the hearing officer upheld the principal's decision. What now? I could not afford to send my son to a private school, nor would I allow him to go to the alternative school. I have spoken to several individuals about the alternative school and no one had anything good to say about it. I believe this is where the school administration sends kids who have behavioral or discipline problems. My son has neither of these problems but I believe that in order to "fit in" at this school, he would become a discipline problem. I cannot allow this to happen.

So now, what do I do? Each day, I drop my oldest son and daughter at school. I return home where my son is still sleeping. He gets up around 10 or 11 a.m. Each day, I see my child slipping more and more into depression. He is listless and unable to focus. He is withdrawn and unable to communicate. Watching him like this breaks my heart. He has faith in me to fix this but I don't know where else to turn. He does not understand why it is he who is being persecuted. I don't understand this either.

were for group fights at school (not categorized as assault/battery) and 5.7% for repeated suspensions or willful disobedience. In addition, 14.3% were for drugs or controlled substances, 17% were for assault/battery, 4.8% were for weapons and 1.7% for burglary or theft.

While categories such as "assault and battery," "controlled substances" and "weapons" may suggest that serious criminal activity was involved, this is often not the case. Well documented cases from around the country demonstrate that in the school setting these categories can encompass a wide range of behavior,

even seemingly minor infractions. For example, in Alabama, an African American high school student was expelled and sent to an alternative school for "drug use" after taking Motrin to relieve menstrual cramps.

Among the RSD students surveyed for this report, 40% of students had been recommended for expulsion. Among those, almost 55% were recommended for expulsion for fighting, 32% for repeated disruptive behavior (including the category of "willful disobedience"), 18% for weapons, including items like box cutters, and 13% for drugs.

Over 68% of students surveyed that were recommended for expulsion were sent to an alternative school and 21% were sent to a juvenile facility. Only two students (or 5%) reported receiving any counseling or mediation during their expulsion. After the expulsion, only 21% of students said they returned to a regular school.

Alternative Schools

In the Recovery School District, like in many districts around the country, when students are expelled they have the option to attend an alternative school specifically for students that principals have suspended long-term or expelled from their regular school. In some cases, these alternative schools can be an effective setting for students facing academic or disciplinary difficulties, provided that they have high quality teachers, engaging curriculum and intensive services tailored to the individual academic, social, emotional and behavioral needs of students.¹³⁵ Unfortunately, in school districts around the country, including in Louisiana, many alternative school programs have become a dumping ground for students that are pushed out of regular schools. These schools are often run more like juvenile detention facilities and students do not receive quality educational services.

In the 2007-2008 school year, there was only one alternative school in the RSD set up to place students removed for disciplinary reasons. Of the students

“Alternative schools are typically utilized as a warehouse for children with disabilities or children with behavior problems. Usually, when children are surrounded by other students with similar behavior problems, they are unable to learn the necessary social and behavioral skills to succeed in a regular school setting; this is likely to result in a revolving door to the alternative school. Placement in an alternative school may also result in more intense and frequent misbehavior for a student who already suffers from behavioral challenges. These schools usually offer very little academic and behavioral supports for students who are the most “at-risk.”

- Eden B. Heilman, Southern Poverty Law Center, Attorney

expelled that year, 230 were sent to Schwarz Alternative School.¹³⁶ In 2008-2009, the Multiple Pathways Network was formed to run Schwartz Academy and three additional alternative schools in the RSD.¹³⁷ The Multiple Pathways Network was created to design and implement improved alternative school settings where the academic and behavioral needs of students are met by providing more individualized curriculum combined with positive behavior supports. Yet, many parents and advocates criticize these alternative schools for being punitive and criminalized environments where students do not receive quality instruction. Rather than providing an environment where students can receive services and interventions to improve their behavior, students at alternative schools are more likely to get in more trouble and become further withdrawn from school.

“Overall, I find students tend to get in more trouble in alternative schools, and the schools do tend to be prison-like. In terms of children with disabilities, I find the alternative schools are not usually well suited to meet their disability related needs.”

- Melissa Losch, Advocacy Center, Attorney

“I feel that the presence of alternative schools for offenses other than drugs, weapons or extreme bodily harm are not necessary. They provide schools with a vehicle to suspend and expel students for relatively minor offenses. This also absolves schools of their responsibility to teach appropriate behavior to students with challenging behavior.”

- Karran Harper Royal, Parent

To improve current alternative schools in the Multiple Pathways Network, and before alternative school programs are expanded further in the RSD and other districts in the state, a study into alternative schools in Louisiana is needed to identify problems and to recommend best practices. Studies in other states demonstrate how easily the creation of multiple

disciplinary alternative schools can have the negative effect of pushing students farther down the path to dropout and prison. For example, research on Disciplinary Alternative Education Programs (DAEPs) in Texas found that many alternative schools use harsh disciplinary methods, offer fewer courses than regular schools, do not have full school days, and do not provide students with classroom instruction from teachers, but rather give them rudimentary worksheets to fill out on their own. In the 2006 Comprehensive Annual Report on Texas Public Schools, the Texas Education Agency reported that disciplinary alternative programs have five times the dropout rate of mainstream programs.¹³⁸

Disproportionate Punishment of Students of Color

Students of color and students from poor communities face the harshest suspensions and expulsions. For example, in Louisiana, African American students make up 44.9% of the student population, but 68.2% of out-of-school suspensions and 72.5% of expulsions.¹³⁹ African American students are 2.6 times more likely to be suspended, and 3.2 times more likely to be expelled than white students.

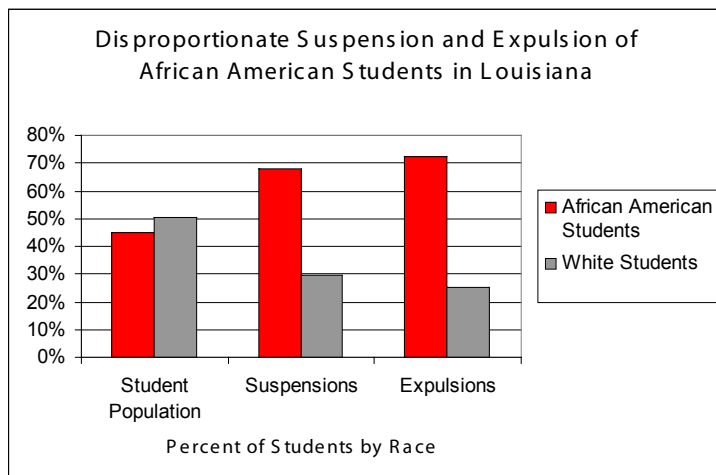
Research has shown that higher rates of suspension and expulsion among African American students are not the result of African American students engaging in higher levels of disruptive behavior than other students.¹⁴⁰ Russell Skiba at the University of Indiana found that African American students are more likely to be punished for offenses such as “disrespect, excessive

noise and loitering,” all of which are dependent on the judgment of a teacher or administrator.¹⁴¹ Furthermore, schools impose more severe punishments on African American students than white students for the same infractions.¹⁴²

The disproportionate punishment of students of color, and students from poor communities, is also in part due to their concentration in schools with fewer supportive resources.¹⁴³ Schools with high suspension rates usually have fewer preventive disciplinary systems in place, fewer resources for providing counseling and conflict resolution, larger class sizes, and lower academic quality ratings.¹⁴⁴

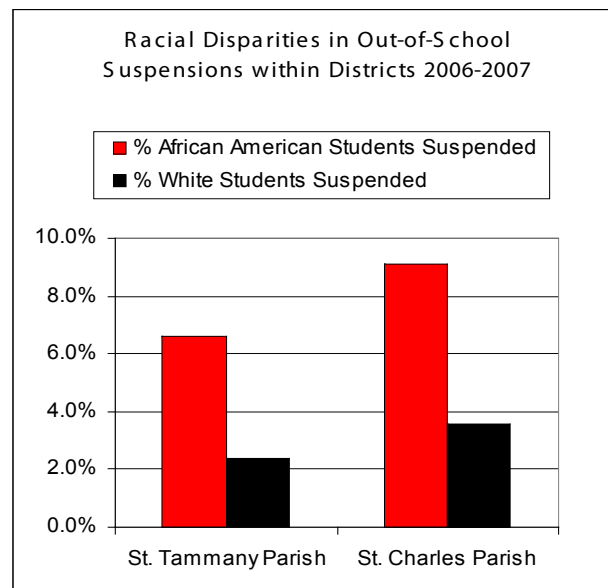
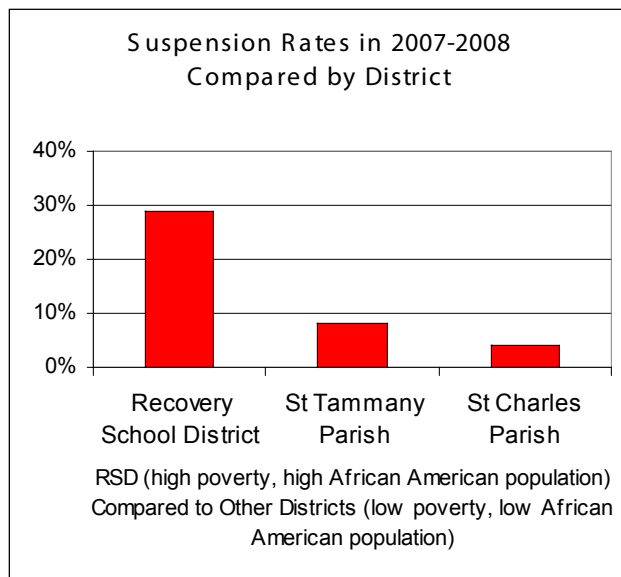
The Recovery School District in New Orleans has one of the highest percentages of African American and low-income students in the state, and has among the highest rates of out-of-school suspension. In RSD public schools, where 98% of students are African American and 79% of students are low-income (eligible for free lunch), principals subject 28.8% of students to out-of-school suspensions.¹⁴⁵

This rate of suspension is significantly higher than in more affluent, predominantly white school districts. In St. Tammany Parish, for example, where only 18.5% of students are African American and only 42.3% are low-income, principals impose out-of-school suspensions on a mere 8% of students. Similarly in St. Charles Parish, where only 36.4% of students are African American and 45.1% are low-income, only 4.1% of students are suspended out of school.¹⁴⁶



When we compare districts across the state of Louisiana, we find that school districts with a larger percentage of African American students have higher rates of suspension and expulsion. The ten school districts in Louisiana with the highest percentage of African American students (75% or more), have an average out-of-school suspension rate of 13.5%, compared to 7.4% in the ten school districts with the lowest percentage of African American students (20% or less).¹⁴⁷

Yet even within the mostly white, affluent districts that have lower rates of suspension overall, we still



see that African American students are suspended at higher rates than their white peers. In St. Tammany Parish, schools are 2.8 times more likely to suspend African American students than white students. In St. Charles Parish, schools are 2.6 times more likely to suspend African American students than white students.¹⁴⁸

These disproportionate rates of exclusion for students of color, and the disparities in resources allocated to

schools serving these communities, are a violation of fundamental human rights standards that prohibit discrimination in both the inputs and outcomes of education. The government must provide equitable funding so that student populations with higher needs receive the necessary resources, and schools and government agencies must take steps to monitor and reduce any discrimination in disciplinary policies and practices.

United Nations Human Rights Body Calls on U.S. School Districts to Limit Suspension and Expulsion

The United States is obligated to guarantee the human right to freedom from discrimination in both the intent and impact of school policies. The U.S. government has ratified the Convention on the Elimination of All Forms of Racial Discrimination, making the treaty U.S. law.

The UN Committee on the Elimination of Racial Discrimination has expressed concern that “racial disparities in suspension, expulsion and arrest rates in schools contribute to...the high drop out rate and the referral to the justice system of students belonging to racial, ethnic or national minorities.” The Committee calls on “school districts to review their ‘zero-tolerance’ school discipline policies, with a view to limiting the imposition of suspension or expulsion to the most serious cases of school misconduct.”

Source: United Nations Committee on the Elimination of Racial Discrimination, Concluding Observations on Periodic Review of the United States, February, 2008.

4. POLICING AND CRIMINALIZATION



The harsh use of suspensions and expulsions is compounded by the heavy presence of security guards and the intervention of police in school disciplinary matters. Before Hurricane Katrina in 2004-2005, the Orleans Parish School Board spent approximately 3 million dollars on security with a student population of 65,000.¹⁴⁹ After the storm in 2006-2007, before many families had even returned to the city, the Recovery School District (RSD) spent approximately 20 million dollars on security with a student population of about 9,500.¹⁵⁰ Put another way, Orleans Parish School Board spent about \$46 per student for security in the 2004-2005 school year, while the Recovery School District spent over \$2,100 per student in 2006-2007. This created an extreme prison-like environment in schools.

By the 2008-2009 school year, the RSD had cut spending on security to 8.7 million dollars with a total student population in RSD direct-run schools of about 12,700.¹⁵¹ Even though the district has cut its security spending by more than half, the RSD still spent \$690 per student on security – approximately 15 times as much as OPSB’s pre-Katrina spending per student.¹⁵² As a result, a criminalizing environment remains in schools. In 2008-2009, the RSD employed 132 School Resource Officers (SROs) managed by the former chief of the New Orleans Police Department.¹⁵³ In the summer before the 2009-2010 school year, due to

budget cuts, the number of SROs was reduced to about 77 security personnel. RSD Superintendent Paul Vallas estimated that in the 2009-2010 school year, there would be between 77 and 87 SROs - about two SROs in each elementary school and five in each four-year high school.¹⁵⁴

This significant allocation of resources towards security in schools is favoring the criminalization of student behavior over an investment in supportive interventions and professional school staff that could better meet the needs of students and create healthy school environments. For example, there is approximately 1 School Resource Officer for every 150 students in RSD-run public schools.¹⁵⁵ By comparison, schools in the state of Louisiana have on average 1 guidance counselor for every 221 students.¹⁵⁶ In our survey of RSD students, when asked if they are able to see a guidance counselor when they need to, almost 39% of students said they never or rarely see a guidance counselor when they need one, 30.5% said they can sometimes see a counselor, and only 24.2% said they can always see a counselor when they need one.

Instead of providing these positive and supportive resources, schools are investing in security personnel and using law enforcement tactics to address school disciplinary matters. In our survey of students, 92% reported that they see School Resource Officers (SROs)

Under Human Rights Standards Schools Must Not Criminalize Children

The UN Convention on the Rights of the Child states that “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” The UN Guidelines on the Prevention of Juvenile Delinquency state that schools “should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others.”

Convention on the Rights of the Child, Article 32. UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted and proclaimed by General Assembly Resolution 45/112 of December 14, 1990.

on a regular basis in their schools, and 65% reported the periodic presence of armed New Orleans police officers that are called-in to their schools. Of those students, 41% said they see two to four SROs in their school on a given day, and 21% said they see 5 or more. Research has shown the heavy presence and involvement of law enforcement in schools contributes to negative school climates and detachment from school and increases the likelihood of dropping out and coming into contact with the juvenile and criminal justice systems.¹⁵⁷

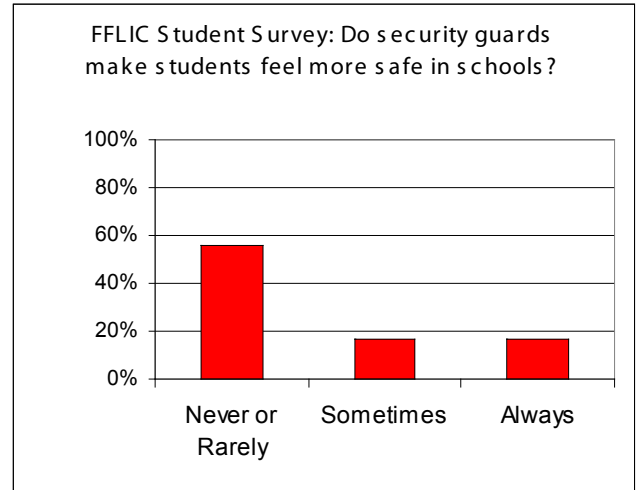
School-Based Arrests

With this heavy security and police presence, school-related arrests for even non-criminal activity become common. Based on data from the Orleans Parish Juvenile Court, from September 7, 2007 to January 14, 2009, there were 492 school-related arrests at 54 public and charter schools.¹⁵⁸ Approximately one quarter of the arrests were for minor offenses that should not involve police intervention in a school setting and in all likelihood should have been dealt with by school staff, including disturbing the peace, trespass (which often involves being on school grounds after the school day ends), truancy and school fights not categorized as Battery or Assault.

Of the 95 students we surveyed for this report, 23 had been arrested in school, 15 had appeared in court as a result, and nine ended up in a juvenile facility or alternative school placement as a result of their arrest. Seventeen of those arrests (74%) were for fighting or disruptive behavior, five were for weapons and four were for drugs.

Prison-Like School Environments

Among students surveyed, when asked about the impact of this heavy security presence on learning and the school environment, 56% of students said that security guards never or rarely make students feel more safe in schools, 17% said they sometimes make students feel more safe, and only 17% said they always make students feel more safe. More than 27% of students said that security guards and police officers never or rarely treat students with respect, 35% said they only sometimes treat students with respect, while 35% said they always



treat students with respect.

A 2006 national study exploring perceptions of violence among teachers and students found that “security guards, metal detectors, and surveillance equipment in hallways” can contribute to a climate of anxiety and stress for both teachers and students while doing little to prevent violence.¹⁵⁹

The RSD has legitimate concerns about safety, but does not know how to make schools safe. The RSD has mishandled issues of safety through an over-reliance on harsh punishments and “get tough” security measures, which actually fuel misbehavior and likely increase violence, contrary to the assumptions that underlie zero-tolerance.

5. CHARTER SCHOOLS AND PUSHOUT



Despite federal laws and human rights standards which require transparency and accountability from our schools,¹⁶⁰ accurate information on discipline in charter schools is not easily available. Although charter schools in Louisiana receive public funding, they are exempt from many of the standards and regulations to which other public schools are held.¹⁶¹ Under their charter contracts, some schools have selective admissions criteria, while others have flexibility to transfer or remove students for academic reasons.¹⁶² Charter schools do not have to comply with district-wide codes of conduct, and are not required to follow the same procedures for expulsions.

The current available data, which suggests that discipline rates are lower in charter schools than in the traditional public schools, appear to be distorted by this lack of accountability and transparency. Not only have expulsion rates been drastically underreported by the State, but there is evidence that students with a history of behavioral problems or with other special needs have been excluded or pushed out in inappropriate ways.¹⁶³ These practices are violating fundamental human rights principles and are indicative of the problems that arise when the state weakens accountability and community participation in the oversight of school policies and practices.

Underreported and Distorted Disciplinary Data

Recent investigative reports in New Orleans have found that disciplinary data on expulsions in charter schools is inaccurate. An article in the Times-Picayune in 2009 found that data published by the Louisiana State Department of Education vastly underreported the number of expulsions in charter schools, as well as in some public schools in the RSD.¹⁶⁴ According to state data, from a sample of 19 charter schools in the RSD, only 4 students were expelled in 2007-2008. But according to the principal at Lafayette Academy charter

school, 14 students were expelled from that school alone, although the state data reported that Lafayette Academy had zero expulsions. At Abramson Science and Technology School, the principal said that 11 students were expelled, while the state data reported only 1 expulsion.¹⁶⁵

Regarding suspensions, according to data from the state, in the 30 charter schools created under the Recovery School District in New Orleans, 16.5% of students were suspended out of school in the 2007-2008 school year.¹⁶⁶ This is still higher than the statewide rate of 12.1%, but lower than the 28.8% of students suspended in RSD direct-run public schools. However, as a result of several exclusionary and coercive practices, the real number of students being excluded from charter schools for disciplinary reasons is likely higher than what is reflected in the official data.

The same Times-Picayune article revealed that charter schools are pushing out students by telling parents that they will suspend or expel their children unless they transfer to another public school. Michael Hagen, Deputy Superintendent for the Recovery School District's Office of School Management, was quoted in the article as saying "What sometimes happens is charters are telling the families, 'Either you can withdraw or we can expel you.'" Hagen went on to say that in a few cases where RSD tried to send the student back after some charter schools had inappropriately forced students out, the charter school told the family it would continue suspending the child if he or she returned.¹⁶⁷

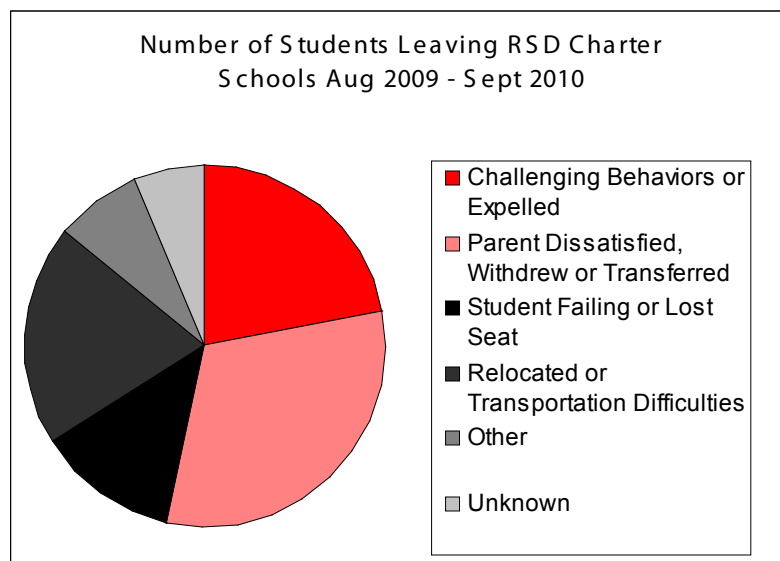
In addition to these informal practices, many charter schools in the RSD have adopted an expulsion policy as part of their charter contract with the state which allows schools to have their own procedures and to hold internal expulsion hearings with their own designated hearing officer. In the RSD-run public schools, a district-wide hearing office, independent of

the individual school, oversees the expulsion process.¹⁶⁸ Charter schools are only required to notify the RSD and give families the option to appeal charter school expulsions through the RSD hearing office.

“I am currently representing a student in New Orleans who has been recommended for expulsion but has not yet been expelled, and he has been out of school now for several weeks. The charter school is claiming that he waived his right to an expulsion hearing because he signed a form several weeks before the incident that led to the expulsion which stated that he was being permitted to stay at school on the condition that if he committed another misbehavior, he would be expelled without the benefit of an expulsion hearing.”

- Eden B. Heilman, Southern Poverty Law Center, Attorney

In the seven month period from August 2009 to February 2010, the RSD collected data on 77 students that left RSD charter schools (including Algiers charter schools with charters from the RSD), and contacted the central RSD district office.¹⁶⁹ Among the reasons given for leaving, 22% reported “challenging behaviors” or expulsion, 31% reported “parent dissatisfied,” “parent voluntarily withdrew students” or “parent requested transfer,” 13% reported that the student was failing or lost their seat, and 19% relocated or had transportation difficulties.



Exclusion of Students with Special Needs

Most charter schools in New Orleans are officially open to any student regardless of their grades, behavior or special needs.¹⁷⁰ However, even in those schools with no official admissions requirements, there are practices that restrict admission and push out students with behavior problems and special needs.

In some cases, parents are deterred from enrolling students because the charter schools are not required to have the specialized staff and services to which students with special needs are entitled. RSD Superintendent Paul Vallas said, in a PBS interview in May 2009, that “Charters are generally much smaller than regular, traditionally run schools. You know, so charters may not have the capacity to have the various special education specialties like the speech therapists, etc. A parent’s going to ask, “Do you have these services?” And if a charter doesn’t have those services, the parent’s going to look for another school.”¹⁷¹

In other cases, charter schools deny enrollment and refer parents of students with special education needs or behavior problems to traditional public schools. Cheryllyn Branche, Principal at Benjamin Banneker Elementary School, a traditional public school in the RSD, said in the same PBS interview, “Parents are seeking places for their children who may have physical handicaps, mental or emotional handicapping conditions, and they’re not being accepted by charters.

I get referrals from specific principals of charter schools. ‘Go to Banneker. Tell Miss Branche I sent you. Go to Banneker.’”¹⁷²

As a result, the traditional public schools enroll more students with special needs and those at-risk for behavior problems. For example, special education students make up about 12% of the student population in traditional public schools in New Orleans, compared to only 8% in the charter schools.¹⁷³ This practice is essentially denying access to students with disabilities in charter schools that receive public funding and should therefore be held to laws protecting the rights of students with

disabilities. At the same time the traditional public schools do not receive adequate training, resources or support to meet the needs of students.¹⁷⁴

“Charter schools have very little or no regulations, like other free market institutions in this country that have failed. The charter school model is a step in the wrong direction, as poor children and children with special needs are kicked out of these schools on a daily basis because of lack of regulations. This free market education experimentation should be criminal, especially since these children have enough burdens on their backs post-Katrina.”

- Ashana Bigard, Parent

As a result of these coercive and exclusionary practices in charter schools, the students with the greatest needs are concentrated in traditional public schools which are not receiving the resources they need to provide those students with the necessary academic, social and emotional support. Without greater accountability and local community participation in the governance and oversight of charter schools, these practices will likely continue. Strong investment in public education and parent and community participation is needed to combat pushout and ensure quality education in all New Orleans schools.



6. POSITIVE APPROACHES TO SCHOOL CLIMATE AND DISCIPLINE



To uphold human rights principles and ensure the best outcomes for students, research has shown that positive approaches to discipline--such as positive behavior support, restorative practices, conflict resolution, mediation, mentoring and the involvement of parents and students in developing discipline policies--can reduce violence and conflict in schools and improve learning.¹⁷⁵ Growing numbers of schools are adopting evidence-based positive approaches to discipline. These approaches create respectful and welcoming environments, respond to misconduct by dealing with the root causes of behavior, and address students' needs.

In this report, we highlight two school-wide approaches--Positive Behavior Support and Restorative Practices--and explore how changes to state laws can be made to shift policies away from punitive, zero-tolerance approaches to discipline and towards these positive and supportive methods.

Positive Behavior Support Approaches

Positive Behavior Support (PBS) is a school-wide approach to supporting positive student behavior in order to prevent and reduce disciplinary incidents and create positive school climates.¹⁷⁶ Thousands of schools across the United States are using PBS, and districts like Los Angeles have adopted comprehensive district-wide PBS policies. When fully implemented, PBS includes:

- Developing school-wide norms, routines and physical arrangements for all members of the school community to create positive school climates;
- Training teachers and staff to use effective classroom management and positive behavior support strategies to teach, model, recognize and reward positive student behavior;
- Providing early, positive interventions for misconduct, such as mentoring programs, staff

support teams or mediation, and implementing appropriate use of consequences;

- Collecting and analyzing disciplinary data to monitor and adjust discipline policies to best meet the needs of teachers and students.

Research from around the country has shown that PBS can reduce disciplinary incidents, improve the school environment and increase academic outcomes for students. In the state of Illinois, there are over 600 schools implementing PBS.¹⁷⁷ In 12 Chicago public schools, for example, the number of students who received six or more disciplinary referrals fell by more than 50% over three years after implementing PBS.¹⁷⁸ At Carpentersville Middle School, after implementing PBS, office disciplinary referrals fell by 64% from 2005 to 2007. During the same period, the number of students that met or exceeded standards for 8th grade tests increased by 12.3% in Reading and 44% in Math.¹⁷⁹ In Florida, a study of 102 schools using PBS found that after one year of implementation office disciplinary referrals fell by an average of 25% and out-of-school suspensions fell by an average of 10%.¹⁸⁰

In 2008, the Recovery School District (RSD) in New Orleans approved a new Student Code of Conduct that was intended to integrate positive behavior supports into a range of constructive responses to misbehavior. While some elements of PBS have been adopted in some schools, such as creating rewards systems for positive behavior, these efforts have been piecemeal and the policy has not been implemented fully or appropriately. Conversations with parents, students and teachers in the RSD reveal that teachers have not been adequately trained in classroom management or positive behavior techniques, and schools have not received the resources and support to utilize early, positive interventions for misconduct. Even the limited rewards systems that have been adopted in some schools focus on rewarding students for positive behavior with school money to purchase items at a school store, rather than more

meaningful approaches to building a culture of positive behavior and respect in the school.

“What schools call Positive Behavior Support is nothing but a reward program based on contingencies. I know what Positive Behavior Support is and what I see in most schools is not Positive Behavior Support [PBS]. I worry that it gives people a false impression of PBS.”

- Karran Harper Royal, Parent

“Some schools in Louisiana are attempting to implement Positive Behavior Support [PBS], but it requires a prolonged effort to change the existing culture of a school over time. PBS is but one research-based program designed to reward students for appropriate behavior. There are many other strategies that a school district may employ to achieve similar outcomes, specifically increased time on task and decreased removals from school. Overall, schools need more training and guidance in how to implement PBS in the classroom.”

- Eden B. Heilman, Southern Poverty Law Center, Attorney

For PBS to be successful in the RSD and other schools across Louisiana, there must be commitment from all members of the school community--teachers, administrators, staff, students and parents--to work together to build a positive school culture. The RSD must provide schools with the staff resources and professional development to effectively carry out positive interventions and monitor the effectiveness of school practices.

Restorative Practices

Growing numbers of school districts around the country are also integrating restorative practices into their disciplinary approaches. Restorative practices is a school-wide approach that uses informal and formal techniques to build a sense of school community and manage conflict by repairing harm and restoring positive relationships.¹⁸¹ Discipline Codes in Chicago

and Denver have incorporated restorative techniques to provide positive disciplinary interventions and alternatives to suspension. When fully implemented restorative practices include:

- Using a classroom teaching method, known as “circles,” to work collaboratively with students to set academic goals, explore the curriculum, and set classroom norms for behavior;
- Training teachers and staff in classroom management and de-escalation techniques that increase communication and provoke student reflection on how their actions impact others; and
- Involving students in facilitated group conversations, such as formal circles and group conferencing techniques, to identify the harm caused by an incident and work together to identify ways to repair the harm done to individuals and the school community.

Research has shown the effectiveness of these practices. For example, West Philadelphia High School in Pennsylvania was known as one of the worst schools in Philadelphia and was on the state’s “Persistently Dangerous Schools” list for six years. But after implementing restorative practices school-wide, the climate has improved dramatically. Suspensions were down by 50%¹⁸² and violent acts and serious incidents were down 52% in the 2007–2008 school year.¹⁸³

The dramatic reduction in the number of violent acts and serious offenses demonstrates that implementing restorative practices actually changed student behavior, and not simply the school’s practices in dealing with difficult behaviors.

In 2006, Chicago Public Schools adopted a new student code of conduct incorporating restorative techniques, and now over 50 high schools in Chicago have restorative peer jury programs. As a result over 1,000 days of suspension were avoided in 2007-2008 by referring students to peer jury programs for violating school rules, thereby keeping them in the learning environment.¹⁸⁴

Reforming State Laws

In Louisiana, like in many states around the country, state legislatures passed laws beginning in the 1990s requiring school districts to create zero-tolerance policies regarding the use of classroom removals, out-of-school suspensions and expulsions. In recent years, as evidence has demonstrated that these zero-tolerance approaches do not improve school discipline and in fact contribute to pushout, states have begun to reform their laws by removing zero-tolerance provisions, limiting the use of out-of-school suspension and expulsion, and mandating or encouraging the use of preventive and supportive strategies for creating positive school climates.¹⁸⁵

In Florida, for example, a zero-tolerance reform law was passed in 2009 requiring that districts rewrite their discipline codes to take the particular circumstances of a student's misconduct into account before issuing punishment. The law encourages schools to use alternatives to expulsion and referral to law enforcement such as restorative justice, and states that discipline policies must apply equally to all races.¹⁸⁶

In Indiana and Alaska, new laws require that parents and communities be involved in developing new discipline policies. In Indiana, state law now requires that schools work with parents to develop a graduated discipline system that uses severe punishments only as a last resort, puts in place alternative discipline methods, and ensures that mental health services are available.¹⁸⁷ In Alaska, new laws mandate that schools involve students, parents, the community, and teachers in developing new behavior standards that will be regularly reviewed and revised. Schools must also develop policies for student conflict resolution and address student mental health and substance abuse concerns.¹⁸⁸

7. RECOMMENDATIONS



Louisiana State Legislature

1. The Louisiana State Legislature should adopt Senate Bill 628, revising statute R.S. 17:416, to reduce the number of suspensions and expulsions and change how schools address student behavior from punitive to positive approaches. The Senate Bill should:

- Mandate that all schools use corrective strategies, such as Positive Behavior Support approaches, which evidence demonstrates is more effective than punitive, zero-tolerance approaches to discipline, and which the Board of Elementary and Secondary Education (BESE) mandates in the Model Master Plan of Legislative Act 1225.
- Reduce the number of children being removed from school for non-violent and subjective behaviors by deleting vague infractions/offenses, such as “willful disobedience” from the state statute’s list of behaviors which can lead to suspension.
- Reduce the total number of days and amount of time a child is out of school away from instruction when suspended or expelled by:
 - Reducing the number of consecutive days a student can be suspended in grades kindergarten through twelve to 3 days or less.
 - Placing a 5 day cap on the total number of days a student can be suspended during one school year in grades kindergarten through five, and a 10 day cap for students in grades six through twelve.
 - Decreasing the time frame for which a student can be expelled from four school semesters to two school semesters.

- Ensuring that all students in all school districts receive instruction during in-school and out-of-school suspensions.
- Requiring that students have an expulsion hearing within 5 days and remain in school or receive alternative instruction while awaiting their expulsion hearing.

2. The Louisiana State Legislature should ensure that school districts have the necessary resources to fully implement Positive Behavior Support approaches and hire adequate numbers of counselors and other support staff through the following steps:

- Increase Minimum Foundation Program funding and identify additional funding streams for public education.

3. The Louisiana State Legislature should pass legislation to return New Orleans public schools to local district control through the following steps:

- Vote down the reauthorization of the Recovery School District and pass legislation that would return all state-run schools to their local school district within three years, with a mandate for BESE and the state superintendent to develop a plan to do so by the end of the 2009-2010 school year, with guarantees for transparency, community participation and oversight.

4. The Louisiana State Legislature should create greater transparency and public accountability over charter schools through the following steps:

- Pass legislation that creates a statewide Louisiana Independent Monitoring Office for Charter Schools.

- Amend the state charter school statute to require parent, staff and community approval before non-charter public schools can be converted into charter schools, and require parent, staff and community input into the creation of new charter schools.
- Pass legislation to hold charter schools accountable to the same state laws and regulations as non-charter public schools regarding preventive discipline policies, suspensions and expulsions, due process rights, and special education services.

Board of Elementary and Secondary Education and State Superintendent Statewide Recommendations

1. The Board of Elementary and Secondary Education and State Superintendent should take the following steps statewide to reduce the use of suspensions, expulsions and police involvement in schools, and implement positive approaches to discipline:

- Require that all school district superintendents implement Positive Behavior Support approaches in their respective districts, and develop an accountability system for implementation with direct oversight by the State Department of Education.
- Develop a strategic plan to reduce the number of suspensions, expulsions and school arrests in Louisiana’s schools.
- Collect and make publicly available data on in-school and out-of-school suspensions and expulsions, reasons for being suspended and expelled, students receiving multiple suspensions, the duration of suspensions, school-based arrests, referrals to law enforcement agencies and placement in alternative schools, all at the school and district levels (including the Recovery School District and charter schools statewide), broken down by race, gender, special education status, socioeconomic status, and English proficiency.

- Hire or contract with a compliance officer for the implementation of Positive Behavior Support approaches.
- Effective immediately, the Superintendent, or a representative, of the Louisiana Department of Education should produce a quarterly report updating the Juvenile Justice Implementation Commission on progress as it relates to the BESE Model Master Plan.

Board of Elementary and Secondary Education, State Superintendent and New Orleans School Systems

1. The Board of Elementary and Secondary Education, State Superintendent and all school systems in New Orleans should take the following steps to reduce suspensions, expulsions and police involvement in schools, and implement positive approaches to discipline:

- Educate and bring awareness about the “school to prison pipeline” to all school personnel within all the New Orleans school systems, including through mandated training.
- Ensure that the Model Master Plan, and specifically Positive Behavior Support approaches, is implemented in all New Orleans school systems (charter and non-charter).
- Ensure that all New Orleans school systems (including the Recovery School District) develop and implement a best practice policy for the use of security and law enforcement on school grounds, and connect those school systems to quality training for security personnel on adolescent development, conflict resolution, and professionalism.
- Develop a policy for all New Orleans school systems (including the Recovery School District) regarding the use of security and submit it to the Juvenile Justice Implementation Commission.

2. The Board of Elementary and Secondary Education should take the following steps to return New Orleans public schools to local district control:

- The State Superintendent should recommend the return of all RSD schools to the Orleans Parish School Board, and by the end of the 2009-2010 school year, BESE should develop a written plan with a clear method for returning all RSD schools to the Orleans Parish School Board within 3 years.
- Effective immediately, BESE should hold public board meetings in Orleans Parish at least once per month to discuss matters concerning RSD and the transition to local control until all schools are returned to the Orleans Parish School Board.

3. The Board of Elementary and Secondary Education should take the following steps to increase transparency and accountability in charter schools and ensure public review before additional charter schools are created in New Orleans:

- Effective immediately, place a moratorium on all RSD charter school applications designated for New Orleans for the 2011-2012 school year.
- Establish a policy that any new school applying to be chartered after the moratorium ends shall be authorized as an Orleans Parish School Board charter.
- Require that charter schools be held accountable to the same standards as traditional public schools for discipline and for addressing the needs of special education students, and by the end of the 2009-2010 school year, mandate that every charter school in Orleans Parish (including those under the Orleans Parish School Board, Recovery School District, and Algiers Charter Schools Association) submit a detailed plan to BESE, as it relates to federal law, for implementing special education services.

ENDNOTES

¹ Universal Declaration of Human Rights, Article 26, adopted by UN General Assembly in 1948. Eleanor Roosevelt was the U.S. representative to the United Nations Human Rights Commission and a lead drafter of the UDHR. Convention on the Rights of the Child (CRC), Articles 28 and 29, entry into force September 2, 1990, <http://www2.ohchr.org/english/law/pdf/crc.pdf>. The CRC has been ratified by 193 countries. The United States (U.S.) has signed but not ratified the CRC.

² *Id.* United Nations Committee on the Rights of the Child, General Comment 1, The Aims of Education, CRC/GC/2001/1, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2001.1.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2001.1.En?OpenDocument).

³ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), entry into force January 4 1969, <http://www2.ohchr.org/english/law/pdf/cerd.pdf>. The U.S. signed and ratified CERD in 1994, which means that the U.S. is bound by law to the treaty.

⁴ Russell Skiba et al., Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations, American Psychological Association (APA) Zero Tolerance Task Force, 2006, <http://www.apa.org/pubs/journals/releases/ZTTFReportBODRevisions5-15.pdf>.

⁵ Louisiana Department of Education, District Composite Reports 2007-2008, <http://www.doe.state.la.us/lde/pair/1613.aspx>. (Available for download in excel file.) The total number of students enrolled in Louisiana schools was 681,038.

⁶ Louisiana Revised Statute RS 17:416, 2009, <http://www.legis.state.la.us/lss/lss.asp?doc=81024>.

⁷ U.S. Department of Education, Office of Civil Rights Data Collection 2006, http://ocrdata.ed.gov/Projections_2006.aspx.

⁸ *Id.*

⁹ Skiba et al., APA Report, 2006.

¹⁰ Louisiana Department of Education, 2007-2008 Louisiana State Education Progress Report, <http://www.doe.state.la.us/lde/uploads/14235.pdf>.

¹¹ National Alliance for Public Charter Schools, Top 10 Charter Communities by Market Share, Fourth Annual Edition, October 2009, http://www.publiccharters.org/files/publications/MarketShare_P4.pdf.

¹² Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 33 RSD direct-run, non-charter schools in the 2007-2008 school year.)

¹³ Sarah Carr, "Students expelled from RSD charter schools disappear in state records," *The Times-Picayune*, February 09, 2009, http://www.nola.com/news/index.ssf/2009/02/students_expelled_from_rsd_cha.html.

¹⁴ PBS News Hour, "New Orleans Charter Schools Produce Mixed Results," PBS, May 6, 2009. http://www.pbs.org/newshour/bb/education/jan-june09/nolacharter_05-06.html.

¹⁵ Bill Quigley, "Part I: New Orleans's Children Fighting for the Right to Learn," *Truthout Report*, August 2007, <http://www.truthout.org/article/bill-quigley-part-i-new-orleans-children-fighting-right-learn>.

¹⁶ The surveys were not gathered from a representative sample of New Orleans public school students, but rather from students that were more likely to have been involved in disciplinary incidents in the past. Therefore, one third of the surveys were collected from an Alternative School where students are sent during the term of a disciplinary removal. Those students had been previously suspended and/or expelled from RSD middle schools. Information on the breakdown of survey respondents is provided on page 4. In some cases, survey responses do not add up to 100% because some students left individual responses blank. Regarding suspensions, some answers add up to more than 100% because students listed multiple answers for different suspensions.

¹⁷ Louisiana Department of Education, Education Progress Reports and District Composite Reports 2000-2001 through 2007-2008. During the same period, the total number of students enrolled in Louisiana schools decreased from 741,533 to 681,038.

¹⁸ Office of Civil Rights Data Collection 2006.

¹⁹ Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 33 RSD direct-run, non-charter schools in the 2007-2008 school year, <http://www.doe.state.la.us/lde/pair/1613.aspx>.) Suspension rates are based on total enrollment in schools reported as of February 2008.

²⁰ Office of Civil Rights Data Collection 2006.

²¹ Data obtained from the Recovery School District, RSD District-Run Schools, 2008-2009.

²² *Id.* Calculation based on a school year of 36 weeks.

²³ The following findings are based on the results of 95 surveys collected by FFLIC from middle and high school students in 15 RSD public schools. Numbers and percentages do not add up to 100% for all survey questions because some respondents left individual questions blank.

²⁴ Louisiana State Department of Education, Education Progress Reports and District Composite Reports 2000-2001 through 2007-2008.

²⁵ Office of Civil Rights Data Collection, 2006.

²⁶ Data obtained from the Recovery School District, Recommended Expulsions/Upheld Expulsions/Transferred Expulsions, 2007-2008.

²⁷ *Id.*

²⁸ Data obtained from the Recovery School District, RSD District-Run Schools, 2008-2009.

²⁹ The following findings are based on the results of 95 surveys collected by FFLIC from middle and high school students in 15 RSD public schools.

³⁰ Agenda for Children, 2009 KIDS COUNT Data Book on Louisiana's Children, 2009, <http://www.agendaforchildren.org/2009databook/louisianakidscount2009.pdf>.

³¹ *Id.*

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³⁵ Louisiana Department of Education, District Composite Reports. 2007-2008.

³⁶ Agenda for Children, 2009.

³⁷ Open Society Institute-Baltimore, September 2008.

³⁸ *Id.*

³⁹ Russell Skiba et al., "Discipline is Always Teaching: Effective Alternatives to Zero Tolerance in Indiana's Schools," *Indiana Youth Services Association, Education Policy Briefs*, Vol. 2 (3), 2004. Pedro Noguera, "Preventing and Producing Violence: A Critical Analysis of Responses to School Violence," *Harvard Educational Review*, 65 (2), 1995.

⁴⁰ Ralph Adamo, "NOLA's Failed Education Experiment." August 15, 2007, http://www.soros.org/resources/multimedia/katrina/projects/PublicEducation/story_FailedExperiment.php.

⁴¹ *Id.*

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- ⁴³ Spending per student was calculated by dividing 8.7 million by the total student population in RSD direct-run schools (12,700 students).
- ⁴⁴ Paula Devlin, Security guards laid off from Recovery School District, *The Times-Picayune*, May 28, 2009, http://www.nola.com/news/index.ssf/2009/05/security_guard_laid_off_from.html
- ⁴⁵ Data obtained from the Orleans Parish Juvenile Court, 2007-2009.
- ⁴⁶ Louisiana State Department of Education, District Composite Report 2007-2008. (Based on analysis of Student Participation school level data available for download in excel file compiled for the 30 RSD charter schools in the 2007-2008 school year, <http://www.doe.state.la.us/lde/pair/1613.aspx>.)
- ⁴⁷ PBS News Hour, New Orleans Charter Schools Produce Mixed Results, PBS, May 6, 2009. http://www.pbs.org/newshour/bb/education/jan-june09/nolacharter_05-06.html.
- ⁴⁸ Sarah Carr, "Students expelled from RSD charter schools disappear in state records," *The Times-Picayune*, February 09, 2009, http://www.nola.com/news/index.ssf/2009/02/students_expelled_from_rsd_cha.html.
- ⁴⁹ Id.
- ⁵⁰ Louisiana State Department of Education, District Composite Reports, 2007-2008.
- ⁵¹ PBS News Hour, May 6, 2009.
- ⁵² Illinois Positive Behavior Interventions & Supports Network, 2006-07 Progress Report. <http://www.pbisillinois.org/>; Florida's Positive Behavior Support Project Annual Report 2007-2008; <http://flpbs.fmhi.usf.edu/index.asp>; Sharon Lewis, Ed., "Improving School Climate: Findings from Schools Implementing Restorative Practices," International Institute for Restorative Practices, May 19, 2009. <http://www.iirp.org/pdf/IIRP-Improving-School-Climate.pdf>.
- ⁵³ Louisiana Constitution of 1974, Article VIII, Preamble and Section 1. <http://senate.legis.state.la.us/documents/Constitution/>
- ⁵⁴ Universal Declaration of Human Rights, Article 26, adopted by UN General Assembly in 1948. Convention on the Rights of the Child (CRC), Articles 28 and 29, entry into force September 2, 1990. The CRC has been ratified by 193 countries. The U.S. has signed by not ratified the CRC.
- ⁵⁵ Convention on the Rights of the Child, Articles 29.
- ⁵⁶ Convention on the Rights of the Child, Articles 28.
- ⁵⁷ Alliance for Excellent Education, Understanding High School Graduation Rates in Louisiana, July 2009, http://www.all4ed.org/files/Louisiana_wc.pdf.
- ⁵⁸ Pedro Noguera, "Preventing and Producing Violence: A Critical Analysis of Responses to School Violence," *Harvard Educational Review*, Vol. 65 (2), Summer 1995.
- ⁵⁹ Tammy Johnson, et al., *Racial Profiling and Punishment in US Public Schools: How Zero-Tolerance and High Stakes Testing Subvert Academic Excellence and Racial Equity*. Applied Research Center, October 2001.
- ⁶⁰ Russell Skiba et al., "Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations," *American Psychological Association (APA) Zero Tolerance Task Force*, 2006.
- ⁶¹ Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, 2005.
- ⁶² Id.
- ⁶³ Id. Tammy Johnson et al., 2001.
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- ⁶⁵ Russell Skiba et al., "Discipline is Always Teaching: Effective Alternatives to Zero Tolerance in Indiana's Schools," *Indiana Youth Services Association, Education Policy Briefs*, 2 (3), 2004.
- ⁶⁶ Id.
- ⁶⁷ Russell Skiba et al., *Zero Tolerance Task Force*, 2006.
- ⁶⁸ National Center for Education Statistics, *Indicators of School Crime and Safety 2008*, Table 21.1.
- ⁶⁹ Advancement Project, 2005.
- ⁷⁰ Russell Skiba et al., *Zero Tolerance Task Force*, 2006.
- ⁷¹ U.S. Office for Civil Rights, U.S. Department of Education, 2006 Civil Rights Data Collection.
- ⁷² Russell Skiba et al., 2004.
- ⁷³ M.E. Goertz, et al., "Who drops out of high school and why?: Findings from a national study," *Teachers College Record*, 87, 357-73, www.tcrecord.org/Content.asp?ContentId=688.
- ⁷⁴ Caroline Wolf Harlow, "Education and correctional populations," *Bureau of Justice Statistics*, 2003.
- ⁷⁵ Snyder, Howard N., and Sickmund, Melissa. 2006. *Juvenile Offenders and Victims, 2006 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention
- ⁷⁶ Henry Levin and Clive Belfield, "The Cost and Benefits of An Excellent Education," 2007, http://www.cbcse.org/modules/download_gallery/dl.php?file=35.
- ⁷⁷ CRC, Articles 28 and 29. UN Committee on the Rights of the Child, General Comment 1.
- ⁷⁸ Louisiana State Department of Education, 2007-2008.
- ⁷⁹ Agenda for Children, 2009 KIDS COUNT Data Book on Louisiana's Children, 2009, <http://www.agendaforchildren.org/2009databook/louisianakidscount2009.pdf>
- ⁸⁰ Alliance for Excellent Education, 2009.
- ⁸¹ Id.
- ⁸² Louisiana State Highlights 2010, Quality Counts 2010, Education Week.
- ⁸³ Agenda for Children, Louisiana Kids Count 2009.
- ⁸⁴ Agenda for Children, Louisiana Kids Count 2009.
- ⁸⁵ House Committee on Appropriations, FY 10-11 Executive Budget Review, Youth Services, March 10, 2010.
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NOTES

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