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Potential effects of the U.S. Departments of Education and Justice recently released school discipline guidance package on law enforcement



Preface

On January 8, 2014, the U.S. Department of Education (ED), in collaboration with the U.S. Department of Justice (DOJ), released a school discipline guidance package¹ to assist public elementary and secondary schools in meeting their obligations under federal law to administer student discipline without discriminating on the basis of race, color, or national origin, as well as in building and maintaining positive school climates and effective discipline policies. The guidance package consists of four components:

1. The “Dear Colleague” guidance letter on civil rights and discipline explains federal non-discrimination requirements under Title IV and Title VI² of the Civil Rights Act of 1964.

2. Guiding Principles is a resource document that describes three key principles and related action steps for policymakers, district officials, school leaders, and stakeholders to consider as they work to improve school climate and school discipline.
3. The “Directory of Federal School Climate and Discipline Resources” indexes federal technical assistance and other resources.
4. The “Compendium of School Discipline Laws and Regulations for the 50 States, Washington, D.C., and Puerto Rico” compares laws across states and jurisdictions.

¹ The school discipline guidance package can be found at ED’s website at www.ed.gov/school-discipline.

² The DOJ enforces Title VI with respect to schools, law enforcement agencies, and other recipients of federal financial assistance from the DOJ. The DOJ’s Office for Civil Rights (OCR) at the Office of Justice Programs (OJP) is the principal DOJ office that enforces Title VI through its administrative process. See “Title IV Enforcement,” http://www.ojp.usdoj.gov/about/ocr/pdfs/OCR_TitleVI.pdf.

“This guidance will promote fair and effective disciplinary practices that will make schools safe, supportive and inclusive for all students. By ensuring federal civil rights protections, offering alternatives to exclusionary discipline and providing useful information to school resource officers, we can keep America’s young people safe and on the right path.”

— Eric Holder,
U.S. Department of Justice

About this BOLO

The U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office) presents the BOLO series, supporting the publication and dissemination of experiences and implications discovered during ongoing research in the field, with the goal of regularly communicating these resources to the law enforcement community at large. “Be on the lookout” for these field-driven, evidence-based resources that will help illuminate the nature, function, context, costs, and benefits of community policing innovations. For questions about this specific report and technical assistance activities underway, contact Cynthia Pappas, senior social science analyst, COPS Office at 202-514-8252.

Guidance for schools to end exclusionary discipline practices

While incidents of school violence have decreased overall, too many schools are still struggling to create positive, safe environments. Schools can improve safety by making sure that climates are welcoming and that responses to misbehavior are fair, nondiscriminatory, and effective. The guidance package provides resources for creating such climates, which are essential for boosting student academic success and closing achievement gaps.

A significant number of students are removed from class each year—even for minor infractions of school rules—because of exclusionary discipline practices, which disproportionately impact students of color and students with disabilities:

- African-American students without disabilities are more than three times as likely as their White peers without disabilities to be expelled or suspended.³
- Although students who receive special education services represent 12 percent of students in the country, they make up 23 percent of students receiving a school-related arrest.⁴

3 The Civil Rights Data Collection (CRDC) is a mandatory data collection authorized under Title VI, Title IX, and Section 504, the regulations implementing those statutes, and the U.S. Department of Education Organization Act, 20 U.S.C. § 3413. Since 1968, the CRDC (formerly the Elementary and Secondary School Survey) has collected data on key education and civil rights issues in the nation’s public schools. Additional information and publicly available data from the CRDC can be found at <http://ocrdata.ed.gov>.

4 “Civil Rights Data Collection,” <http://ocrdata.ed.gov>.

- A longitudinal study of nearly 1 million students in one state found that nearly six in 10 public school students studied were suspended or expelled at least once over a six-year period during their 7th to 12th-grade years; 15 percent of those students were disciplined 11 or more separate times.⁵

These exclusionary discipline practices place students at risk for experiencing a number of correlated educational, economic, and social problems, including school avoidance, increased likelihood of dropping out, and involvement with the juvenile justice system. The increasing use of disciplinary sanctions such as in-school and out-of-school suspensions, expulsions, or referrals to law enforcement authorities creates the potential for significant, negative educational and long-term outcomes and can contribute to what has been termed the “school to prison pipeline.”

Action steps to inform school administrators, school staff, and law enforcement officers

The guidance package provides action steps to inform school administrators, school staff, and law enforcement officers about the efforts schools should take to improve school climate, to implement effective alternatives to suspensions and expulsions, and to reduce disproportionality in discipline practice. It is important to recognize that any arrests or referrals to law enforcement can have negative collateral consequences for students, and students of color and students with disabilities may experience disproportionate contact with law enforcement and the justice system.

For this reason, schools choosing to use school-based law enforcement officers should carefully ensure that law enforcement’s role is focused on protecting the physical safety of the school or preventing criminal conduct and not on routine school disciplinary matters. For the same reasons, schools without campus-based security should avoid involving law enforcement or encouraging the use of law enforcement techniques (such as arrest, citations, ticketing, or court referrals) in routine disciplinary matters.

The guidance package also clarifies that schools’ legal obligations under federal civil rights law to administer student discipline without discriminating on the basis of race,



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⁵ Fabelo et al., *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement* (New York: Council of State Governments Justice Center, 2011) <http://csgjusticecenter.org/youth/breaking-schools-rules-report>.

color, or national origin cover school officials and everyone school officials exercise some control over, whether through contract or other arrangement. This includes school resource officers.

Schools cannot divest themselves of responsibility for the nondiscriminatory administration of school safety measures and student discipline by relying on school resource officers, school district police officers, contract or private security companies, security guards or other contractors, or law enforcement personnel. To the contrary, ED and the DOJ may hold schools accountable for discriminatory actions taken by such parties.⁶

Law enforcement and school administrators working together to ensure safe and supportive school environments

Relationships between schools and law enforcement or juvenile justice agencies should help schools maintain safe environments. For example, these relationships can help schools plan for and respond appropriately to emergencies,⁷ facilitate reentry and transition of students from juvenile justice placements, and reduce criminalization of students. However, these relationships must be designed with particular care to avoid unintended consequences, such as inappropriate student referrals to the justice system, violation of applicable civil rights laws, or information exchanges that violate student privacy rights.

To ensure the proper functioning of any school-based law enforcement program and to avoid negative unintended consequences, schools should provide clear definitions of the school resource officer roles and responsibilities on campus, written documentation of those roles, proper training, and continuous monitoring of the program's activities through regular data collection and evaluation. By focusing school resource officer roles on the critical issue of safety and avoiding inappropriate officer involvement in routine discipline matters, schools have found that they can reduce

students' involvement in the juvenile justice system and improve academic outcomes while improving school safety.⁸

Schools should ensure that school-based law enforcement officers receive rigorous training before the officers begin working on the school campus as well as continuing throughout their work at the school. Wherever possible, such training should be conducted jointly with school administrators and other school staff, including mental health professionals, and should cover topics such as the following:

- How to distinguish between, and respond to, disciplinary infractions appropriately handled by school officials on the one hand and major threats to safety or serious criminal conduct that requires law enforcement involvement on the other
- Strategies for managing student behavior and promoting student development, information detailing the student code of conduct and discipline policy, and information concerning the appropriate role of school-based law enforcement officers in the district and schools
- Basic understanding of childhood and adolescent development, age-appropriate responses, disability issues, conflict resolution and de-escalation techniques, bias-free policing (including implicit or unconscious bias and cultural competence), restorative justice practices, and practices for identifying and referring for services those students exposed to trauma and violence

6 The DOJ also has separate authority to review the conduct of law enforcement agencies, including those that operate in schools, under a variety of federal statutes, including the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and, if the agency receives federal funding, the antidiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964.

7 ED, along with the U.S. Department of Health and Human Services, the U.S. Department of Homeland Security, and the DOJ, recently released guidance for schools on emergency planning. See U.S. Department of Education, Office of Elementary and Secondary Education, Office of Safe and Healthy Students, *Guide for Developing High-Quality School Emergency Operations Plans* (Washington, DC: 2013), http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf.

8 *Guiding Principles: A Resource Guide for Improving School Climate and Discipline* (Washington, DC: U.S. Department of Education, 2014), 3.

- Special considerations related to law enforcement activities in a school setting and student privacy rights and to working with specific groups of students such as those at risk for dropping out of school, suffering trauma, experiencing social exclusion, or causing behavior incidents.
- Negative collateral consequences associated with youth involvement in the juvenile and criminal justice systems and alternative strategies for preventing and reducing such involvement, such as referrals to local programs, including local mental health programs

Schools should also document the roles and responsibilities of school resource officers and security or law enforcement personnel in a written agreement or memorandum of understanding between the school and appropriate law enforcement or related agencies. Those roles and responsibilities should include the following:

- Ensure that school resource officers and other security or law enforcement personnel effectively support school climate and discipline goals by promoting a safe, inclusive, and positive learning environment and by mentoring and otherwise supporting the education of students.
- Provide opportunities and approaches for school resource officers and other security or law enforcement personnel, school personnel, students, and parents to develop a trusting and positive relationship with one another.

- Establish procedures, and train school personnel and school volunteers on how to distinguish between disciplinary infractions appropriately handled by school officials versus major threats to school safety or serious school-based criminal conduct that can not be safely and appropriately handled by the school's internal disciplinary procedures, and how to contact law enforcement when warranted.
- Ensure that school personnel understand that they, rather than school resource officers and other security or law enforcement personnel, are responsible for administering routine student discipline and that school staff members should not ask law enforcement officers to respond to student behaviors that can be safely and appropriately handled by school staff under internal school disciplinary procedures.
- Ensure compliance with the Family Educational Rights and Privacy Act (FERPA) if school resource officers or other security or law enforcement personnel are permitted access to personally identifiable information from students' education records, such as disciplinary records.⁹

Finally, schools should use data collection and analysis and continuous monitoring to ensure that the use of school-based law enforcement officers is advancing school safety goals. For example, schools should collect data and monitor the actions that school resource officers and other security or law enforcement personnel take against students to ensure nondiscrimination.



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⁹ These requirements are contained in 34 C.F.R. § 99.31(a)(1) and the criteria set forth in the school’s annual notification of FERPA rights for how to identify school officials who have legitimate educational interests in accessing such records.



“No school can be
a great school—
and ultimately prepare
all students for
success—if it is not
first a safe school.”

— Arne Duncan, Secretary,
U.S. Department of Education

Understanding the role of school resource officers

For school resource officers, their role on campus typically involves three parts: law enforcer, informal counselor, and educator.¹⁰ In their capacity as counselors and educators, school resource officers can and should support positive school climate goals by developing positive relationships with students and staff and by helping to promote a safe, inclusive, and positive learning environment.

As a mentor or problem solver, school resource officers should do the following:

- Refer students to professional services within both the school (e.g., guidance counselors and social workers) and the community (e.g., youth and family service organizations).
- Build relationships with juvenile justice counselors to help connect youth with needed services.
- Develop and expand crime prevention efforts for students.
- Develop and expand community justice initiatives for students.
- Assist in identifying environmental changes that can reduce crime in or around schools.
- Assist in developing school policies that address crime, and recommend procedural changes to implement those policies.

- Provide police feedback on the concerns and fears of local youth.
- Serve as skilled observers, and reinforce positive behaviors.

As a law enforcer, they should do the following:

- Promote safety.
- Handle calls for services.
- Address serious crimes occurring in or around the school (i.e., weapons or drug activities).
- Conduct comprehensive safety and security assessments.
- Develop emergency management and incident response systems based on the National Incident Management System (NIMS) and the four phases of emergency management: mitigation/prevention, preparedness, response, and recovery.
- Implement safety plans or strategies.
- Rehearse incident response plans in coordination with the school administrators through tabletop exercises, drills, and mock evacuations and lockdowns.
- Integrate appropriate security equipment /technology solutions.
- Take action against unauthorized persons on school property.
- Operate security systems (e.g., metal detectors, CCTV, and access points).
- Serve as liaisons between the school and other police agencies and investigative units, when necessary.

¹⁰ “FY2013 COPS Hiring Program School Resource Officer Scholarship Opportunity for NASRO Training,” Fact Sheet (Washington, DC: Office of Community Oriented Policing Services, 2013), http://www.cops.usdoj.gov/pdf/2013_CHP-SRO-FactSheet3_092613.pdf.

Last, as an educator, they should do the following:

- Teach topics related to policing for students, faculty, and parents (i.e., policing as a career, criminal investigation, alcohol and drug awareness, gang and youth violence prevention, stranger awareness, and restorative justice).
- Encourage students to become involved in other police activities.
- Develop educational programs geared toward positive student behavior.
- Collaborate with stakeholder groups (e.g., school administration, students, parents, teachers, board members, and security teams) to address issues surrounding school safety.
- Provide law-related resources to school staff.

Concluding Remarks

Schools must be both safe and supportive for effective teaching and learning to take place. Three key principles can guide efforts to create such productive learning environments. First, work in a deliberate fashion to develop positive and respectful school climates and prevent student misbehavior before it occurs. Second, ensure that clear, appropriate, and consistent expectations and consequences are in place to prevent and address misbehavior. And third, use data and analysis to continuously improve and ensure fairness and equity for all students.

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