

National Office
99 Hudson Street, Suite 1600
New York, NY 10013

T 212.965.2200
F 212.226.7592

www.naacpldf.org



Washington, D.C. Office
1444 Eye Street, NW, 10th Floor
Washington, D.C. 20005

T 202.682.1300
F 202.682.1312

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

January 5th, 2013

Via Email: policyideas@ovp.eop.gov

Vice President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20501

RE: Preserving School Safety in the Wake of the Sandy Hook Tragedy

Vice President Biden:

The tragic killing of 26 children and adults in Newtown, Connecticut, last December has gripped the nation. The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) joins you and President Obama in grieving with the families, colleagues, friends, and neighbors of those killed in the shootings at Sandy Hook Elementary School. We agree with President Obama’s admonition to end the gun violence that hurts so many, and we applaud your appointment to lead the effort to devise concrete solutions to such senseless loss of life. We submit the following proposal with the hope that, through deliberate steps from Congress and the Executive branch, we can reduce the possibility that gun violence will affect another school community.

Sadly, this is not the first time that policymakers have been called upon to act in response to such tragedy in a school community. In response to previous incidents, they worked quickly to craft rules and programs that were designed to prevent harm, especially gun violence, from impacting students and the educators and staff that serve them. Unfortunately, some of these well-intentioned policies have had unintended consequences that hurt the children they were designed to protect.

For example, in the aftermath of the tragic shootings at Columbine High School in 1999, some school districts began expanding the “zero tolerance” disciplinary policies that were adopted earlier in the decade.¹ “Zero tolerance” policies were initially designed as a means to preempt school-based violence and limit the presence of illegal drugs. As their name suggests, these

¹ See generally, Russell Skiba et al., Are Zero Tolerance Policies Effective in the Schools? A Report by the American Psychological Association Task Force (2006).

policies mandated harsh punishments for those who brought guns or drugs to school campuses; students found in possession of such contraband were to be suspended or expelled automatically. These policies were controversial enough as designed. Unfortunately, reaction to the Columbine tragedy and others led school districts to extend these policies and others to also address non-violent incidents and routine infractions of school discipline codes.

Today, it is now commonplace for students to be suspended or expelled for the most mundane, age-appropriate missteps. This is especially true in urban schools, typically predominated by students of color and those from low-income homes. As Edward Ward, a recent Chicago public high school graduate, testified at a U.S. Senate Judiciary Subcommittee hearing last month, students at his school were routinely suspended out-of-school for multiple days simply for failing to wear their school identification badges.² Our school discipline rates have skyrocketed as a result. The most recent data collected through the Civil Rights Data Collection (CRDC) by the U.S. Department of Education's Office for Civil Rights indicates that the rates of suspension and expulsion are at all-time highs, double the rates for the previous generation of students.³

Moreover, many of these same schools, in the name of maintaining school safety, have deployed increasing numbers of school-based security guards and police officers. But rather than being allowed to focus on preventing and responding to actual crimes, it is commonplace for these personnel to be called upon to ticket or even arrest students for misbehavior that was, a generation ago, handled within the classroom.⁴ In 2009, Texas school police issued a \$364 citation to a fourteen-year-old student with Asperger's Syndrome for cursing in the classroom.⁵ In 2005, a Florida kindergartener was handcuffed and held in a police cruiser after throwing a temper tantrum at school.⁶ The same treatment befell a first grader in Georgia last year.⁷ Simply stated, too many schools are misusing security guards and police officers, and others have struggled to find the proper balance between when the role of educators ends and when the role of police officers begins.

The overreliance on zero tolerance policies and the rampant misuse of security and police personnel are harming our students and schools. The American Psychological Association, Council of State Governments, and the Centers for Disease Control and Prevention have all found that out-of-school punishments predict grade retention, school dropout, and involvement

² *Ending the School to Prison Pipeline: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. 2 (statement of Edward Ward).

³ Johanna Wald and Daniel Losen, *Defining and Redirecting a School-to-Prison Pipeline*, in *New Directions for Youth Development* (no. 99; *Deconstructing the School-to-Prison Pipeline*), 9-15 (2003) (Wald & Losen, eds.).

⁴ Catherine Y. Kim, *Policing School Discipline*, 77 *Brook. L. Rev.* 1, 26-27 (2012), available at <http://ssrn.com/abstract=2037579>.

⁵ Advancement Project, *Test, Punish, and Pushout* 15 (2010).

⁶ NAACP Legal Defense and Educational Fund, Inc., *Dismantling the School-to-Prison Pipeline*, 14 (2005), available at http://www.naacpldf.org/files/publications/Dismantling_the_School_to_Prison_Pipeline.pdf.

⁷ Jeff Martin and Jeri Clausing, *Police Handcuff Georgia Kindergartener for Tantrum*, Assoc. Press (April 19, 2012).

in the juvenile and criminal justice systems.⁸ Furthermore, research shows that a first-time arrest doubles the odds a student will drop out of high school; a first court appearance quadruples these odds.⁹

And, notably, these policies are not making schools any safer. Both zero tolerance policies and incorrect use of security guards and police officers in schools have been shown to be ineffective, and in many cases, counterproductive. For example, zero tolerance policies have not resulted in improved school safety, and increased rates of exclusionary discipline result in *decreased* academic performance for schools.¹⁰ Using police to address school disorder does not reduce problem behavior in schools.¹¹ Instead, relying on police to address student behavior can foster a highly restrictive, distrustful environment that diminishes students' views of teachers' authority and makes it more difficult to maintain school safety, order and academic achievement.¹²

We must ensure that the policies adopted in response to the Sandy Hook tragedy benefit from the lessons we have learned since Columbine. Abundant evidence suggests that the best way to preempt school violence and improve the quality of a learning environment is to foster positive relationships within the school community and cultivate trust between the community and staff at the school.¹³ Proposals from the National Rifle Association and others, which suggest providing lethal weapons to adults and adding additional law enforcement presence in every school, defy common sense, ignore decades of research, and would impede serious efforts to ensure our children's safety. Instead, we urge you to propose policies that would support the development of a vibrant and positive school culture that supports academic and socio-emotional student growth.

To that end, we submit the following suggestions for your consideration:

1. Avoid calls to place more police or armed personnel in schools.

We must state our resolute opposition to arming school teachers or principals and dramatically increasing the presence of school-based police officers. Given the unintended consequences of current school law enforcement personnel, some of whom lack the training necessary to

⁸ See, Skiba, *supra* note 1; Tony Fabelo et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (2011); Centers for Disease Control, *Health Risk Behaviors among Adolescents Who Do and Do Not Attend School – United States, 1992*, 43 *Morbidity and Mortality Weekly Report*, 129 (Mar. 4, 1994).

⁹ Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 *Justice Quarterly* 462, 473-477 (2006).

¹⁰ See Skiba, *supra* note 1.

¹¹ Philip J. Cook, Denise C. Gottfredson & Chongmin Na, *School Crime Control and Prevention*, 39 *Crime & Just.* 313, 372 (2010).

¹² See Kim, *supra* note 4 at 26; Matthew J. Meyer and Peter E. Leone, *A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools*, 22 *Education and Treatment of Children* 333, 352 (1999).

¹³ Dewey G. Cornell et al, *A Call for More Effective Prevention of Violence* (2012), *available at* <http://curry.virginia.edu/articles/sandyhookshooting>.

positively interact with youth, we cannot risk the terrifying, fatal mistakes that are made possible if policymakers act upon such unproven proposals. Indeed, until efforts to curb the misuse of school policing become the norm, their presence is potentially harmful. We believe that additional funds aimed at improving school safety as a result of your initiative should be used to hire counselors, social workers, and mental health providers for schools. The approach implemented in Clayton County, Georgia (described below in recommendation three) provides an excellent case study.

2. Implement meaningful parameters for federal funding of school policing.

As described above, security guards and police officers in schools are too often improperly deployed. Most of these personnel have limited training and are inexperienced in dealing with young people. And their improper use in schools can have negative effects on student academic and social growth. Recipients of Community Oriented Policing Service (COPS) “Secure our Schools” funds – a grant program of the U.S. Department of Justice and the primary federal funding source for placement of police in schools – should be required to provide training to security personnel that prepares them to respond to student behavior with developmentally appropriate methods. Likewise, recipients of these funds should be required to develop systems that limit students’ contact with the juvenile justice system.

3. Support federal grant programs that foster local and/or regional approaches to improve student safety and reduce youth involvement in the justice system.

In Clayton County, Georgia, the juvenile court, alarmed by dramatic increases in misdemeanor referrals from schools, convened leaders from the school district, law enforcement, the mental-health profession, and the greater community to develop a “school offense protocol” in 2004. By drawing a line between safety matters, which would be handled by law enforcement, and discipline matters, which would be managed by the school, Clayton County reduced its court referrals by almost 70 percent and increased its graduation rate by 20 percent. With school resource officers responsible for safety, not discipline, students felt safer, too.

Federal grants should be directed toward creation and implementation of multi-year, comprehensive plans at the local or regional level, like Clayton County’s, aimed at improving safety while reducing rates of exclusionary discipline and the number of young people involved with either the juvenile or criminal justice systems. **The Youth PROMISE Act (H.R. 2721, 112th Congress)** is a strong proposal for accomplishing these goals.

4. Increase support for evidence-based practices that improve relationships and communication within schools and between communities and schools.

Frameworks such as Restorative Justice and Positive Behavior Interventions and Supports (PBIS) provide structures that have helped cultivate better, more positive relationships between staff and students within schools, and reinforced connections between schools and the communities that surround them.¹⁴ A critical element of these frameworks is their ability to

¹⁴ Thousands of schools are already implementing school-wide Positive Behavior Interventions and Supports, an evidence-based approach to discipline shown to reduce disciplinary referrals while supporting

provide opportunities for students with challenges to receive the supports they need and be reintegrated into the school community following a transgression. Federal funds may be directed to support such frameworks through legislative proposals such as the **Positive Behavior for Safe and Effective Schools Act (H.R. 3165, 112th Congress)** and the **Restorative Justice in Schools Act (H.R. 415, 112th Congress)**. Similarly, the **Successful, Safe, and Healthy Students Act (S. 919, 112th Congress)** calls for the collection of school climate data regarding bullying, harassment, and discipline, and targets federal funding for the implementation of evidence-based practices in schools with problematic rates of these indicia.

5. Collect and track school climate data to provide targeted assistance to schools.

School discipline data should be used as a measure of a school's health. A composite of measures, such as student attendance, behavior, and course grades would allow schools and school districts to monitor progress and, where necessary, target supports to address problematic trends. Tracking these indicators would be especially important in schools that have high or racially disparate rates of discipline, or that have otherwise been identified as in need of improvement. Legislation introduced in the 112th Congress, including the aforementioned Successful, Safe, and Healthy Students Act and amendments proposed by Ranking Member George Miller, which would have required persistently low-achieving schools to address high discipline rates, are excellent examples of ways to implement this approach.

* * *

As we work to respond to the Sandy Hook incident, we must be mindful of the lessons we have learned from policy responses to previous tragedy. Instead of continuing to invest in unproven and potentially harmful interventions, we must ensure that all schools have the type of trusting, nurturing, and welcoming environment that Sandy Hook was known for amongst the community's parents, teachers, and students. We urge you to help our nation support these goals and address the challenges of keeping our schools safe in the deliberate manner we have come to expect from your many years of service to this country.

Sincerely,

/s/

Damon T. Hewitt
Director, Education Practice Group

/s/

Matthew Cregor
Assistant Counsel

/s/

Eric Gonzalez
Education Policy Advocate

improvements in achievement, attendance, safety, and staff morale. Education Law Center, School-Wide Positive Behavior Support: A Plan for Pennsylvania (2010), *available at* <http://www.elc-pa.org/pubs/downloads2010/PBSBriefingBook9-8-10.pdf>. Many schools are also experiencing dramatic improvements through implementing restorative justice practices. Restorative practices represent an approach to resolving conflicts and building positive relationships among students and between teachers and students. The premise of restorative practices is that, by creating a greater sense of community in the school, students and staff share a greater sense of responsibility to each other. *See* International Institute for Restorative Practices, *Improving School Climate: Findings from Schools Implementing Restorative Practices* (2009), *available at* <http://www.safersanerschools.org/pdf/IIRP-Improving-School-Climate.pdf>.