

Legislating Tolerance:

**Addressing the School-to-Prison Pipeline through the
Reauthorization of the Elementary and Secondary
Education Act (or No Child Left Behind Act) and State
Legislation**

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Who Are We?

- **Advancement Project**

- Advancement Project is a national racial-justice non-profit committed to working with community based organizations. The Opportunity to Learn program works toward equal opportunity for all youth and an end to the school-to-prison pipeline.

- **NAACP LDF**

- Through advocacy and litigation, LDF focuses on issues of education, voter protection, economic justice and criminal justice. LDF pursues racial justice to move our nation toward a society that fulfills the promise of equality for all Americans.

What is the School-to-Prison Pipeline?

- The “School-to-Prison Pipeline” is shorthand for the cocktail of policies that combine to push students out of school, away from opportunity, onto the streets, and – too often – into the juvenile or adult criminal justice system.

The Pipeline's Feeder Policies

- **Harsh Zero Tolerance Discipline:**
 - Over the past two decades, school districts (and state legislatures) around the country have instituted overly harsh discipline policies that punish youth severely for minor misbehavior.

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- **The Over-policing of Schools:**
 - During that same period, more and more schools have posted police officers in the hallway, installed closed circuit video cameras and metal detectors, and placed youth on lockdown during the school-day.

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 - During that same period, more and more schools have posted police officers in the hallway, installed closed circuit video cameras and metal detectors, and placed youth on lockdown during the school-day.
- **High Stakes Testing:**
 - While discipline becomes more punitive, districts, states, and the federal government have ratcheted up pressure on schools and youth through the use of high stakes tests.

The Pipeline – Circa 2010

- **Outrageous Zero Tolerance Policies:**
 - In February, 2010, a 12-year-old in New York City was arrested for doodling on her desk
 - In November, 2009 a group of 25 students in a Chicago school were rounded up and arrested for getting into a food-fight in the cafeteria
 - In October, 2009 a six-year old Cub Scout in Delaware was suspended for 45 days for bringing a camping utensil into school
 - In November 2008, a 12-year old was arrested in school in Stuart, Florida. His crime? “Passing Gas.”

The Pipeline – Circa 2010

- **Schools Morphing into Prisons:**
 - In 2005, 68% of students between 12 and 15 reported the presence of a police or security officer in school
 - In Texas alone, 163 school districts have their own police departments
 - The New York City Police Department has more officers than the D.C., Boston, and Las Vegas *citywide* police departments.
 - Between 1999 and 2006 the percentage of schools using video surveillance cameras rose from 19% to 43%

The Pipeline – Circa 2010

- **More Suspensions, Expulsions, and Arrests:**
 - In Pennsylvania, the number of school-based arrests almost tripled between 1999-00 and 2006-07 from 4,563 to 12,918.
 - In Florida, 69% of the state's 21,289 arrests and referrals in 2007-08 were for misdemeanors
 - In Chicago, between 2001-02 and 2007-08 the number of out-of-school suspensions quadrupled from 23,942 to 93,312
 - The increase in long-term (4-10 days) suspensions was even more dramatic from 5,468 to 25,140.
 - In Texas in 2007-08, more than 128,000 students were pushed out of school and into alternative schools (called "Disciplinary Alternative Education Programs")

The Pipeline – Circa 2010

- **Growing Racial Disparities:**
 - In Colorado in 2007-08, a Black student was more than twice as likely to be referred to law enforcement than a White student.
 - In the same year in Texas, there were more than five times more suspensions per Black student than there were for White students.
 - In Ohio, the pattern is the same, during the same year, Black students were nearly five-and-a-half times more likely to be suspended out of school than White students.
 - In Connecticut in 2006-07, Latino students were nearly three times more likely to be suspended than their White classmates.
 - In Texas in 2007-08, more than 128,000 students were pushed out of school and into alternative schools (called “Disciplinary Alternative Education Programs”)

Intertwined Histories

- **Zero Tolerance**

- Gun Free Schools Act in response to a “school-safety” crisis
- Imported strategies from criminal justice: zero tolerance, three strikes, broken windows
- Politically appealing “get tough” on disruptive and dangerous youth narrative
- Sees students as a mob to be controlled rather than individuals to be supported

- **High Stakes Testing**

- “A Nation at Risk” identifies an “achievement crisis”
- Imported strategies from corporate America: measure, identify and eliminate low achievers
- Politically appealing “get tough” on failing schools narrative
- Sees students as a mob to be measured and assessed rather than individuals to be taught and mentored

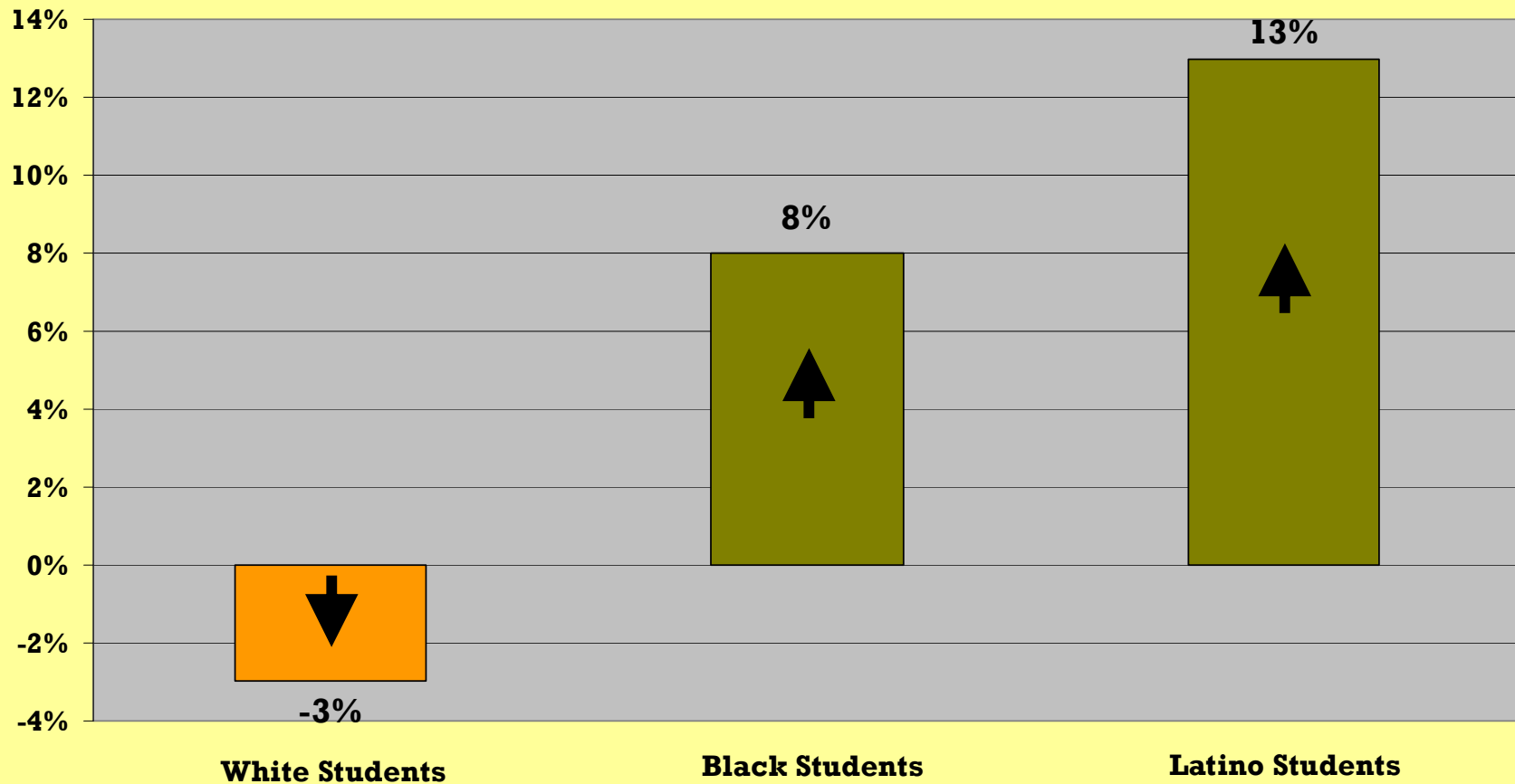
Intertwined Realities

- **High Stakes Testing Leads to Harsh Discipline:**
 - Students who are bored and stifled by test-prep are more likely to “act out”
 - Teachers who are under pressure to increase scores and alienated from their work are more likely to “take it out” on youth through discipline
 - Schools have an incentive to suspend or expel low performing youth so that their scores will not bring the school down
 - Because both policies devalue the relationships between youth, teachers, and schools they fuel alienation and mistrust in favor of punishment and control

The Pipeline – Circa 2010

Out-of-School Suspensions per Student Nationwide 2002 to 2006

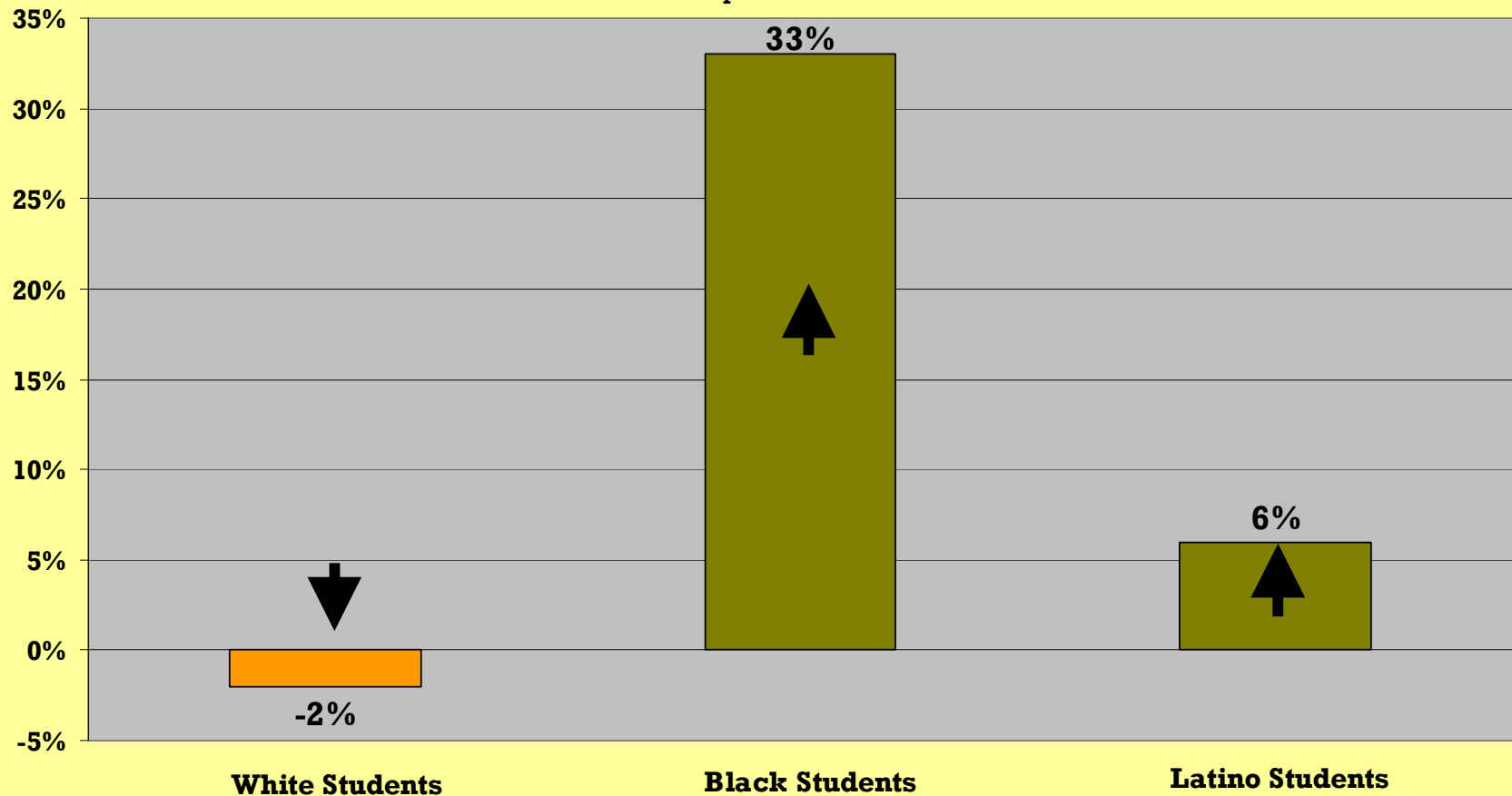
Source: U.S. Department of Education



The Pipeline – Circa 2010

Expulsions per Student Nationwide 2002 to 2006

Source: U.S. Department of Education



Pushing Back

- **Community Pushback on Zero Tolerance**

- **Denver**

- **Process:** After eight years of organizing and building power, Padres y Jovenes convinced the district to sit down with them to begin the process of writing a new, progressive discipline code
- **Policy:** The new code prohibits schools from arresting or suspending youth for minor offenses; institutes a progressive discipline ladder emphasizing appropriate interventions; mandates attention to racial disparities; and provides for restorative justice programs across the district.

Pushing Back

- **Community Pushback on Zero Tolerance**

- **Florida**

- **Process:** Nearly a decade of organizing and mobilizing by the NAACP of Florida led to a state sponsored “zero-tolerance summit” which in turn led to legislative recommendations that eventually led to a new law.
- **Policy:** The new law instructs that students should not be arrested or expelled for minor offenses; it advocates the use of alternatives to exclusionary discipline such as restorative justice and PBIS; and it requires that the circumstances of each offense be considered before discipline is instituted.

Pushing Back

- **Some Other Positive State Legislative Changes**

- **Connecticut (2007)**

- **Process:** A group of legal and community advocates lobbied the state legislature for a statutory solution.
- **Policy:** The bill that severely limits the use of out-of-school suspensions statewide (but it has not been fully implemented).

- **Texas (2009)**

- **Process:** Advocates pushed for a statutory change to ease up on the state's zero-tolerance policy
- **Policy:** The law grants school administrators more discretion when meting out discipline.

- **Georgia (Current)**

- **Process:** A legislator angered by the overcriminalization of youth in the state has drafted a bill that is moving quickly through the legislature.
- **Policy:** The bill would require a hearing before sending any youth to court. It would also give administrators more discretion before imposing discipline.

- **Delaware (Current)**

- **Process:** The legislature appointed a task-force to examine the state's discipline policies and make recommendations for legislative and policy changes.
- **Policy:** The task-force has made a series of comprehensive recommendations including reducing suspensions, arresting fewer students, and giving administrators more discretion.

Proven & Promising Approaches

- **Positive Behavioral Interventions and Supports (PBIS)**
 - Used in over 9,000 schools nationwide
 - Tiered intervention model
 - Adaptable framework
 - Proven to:
 - reduce disciplinary referrals,
 - support improved academic outcomes,
 - improve staff perceptions of safety and morale

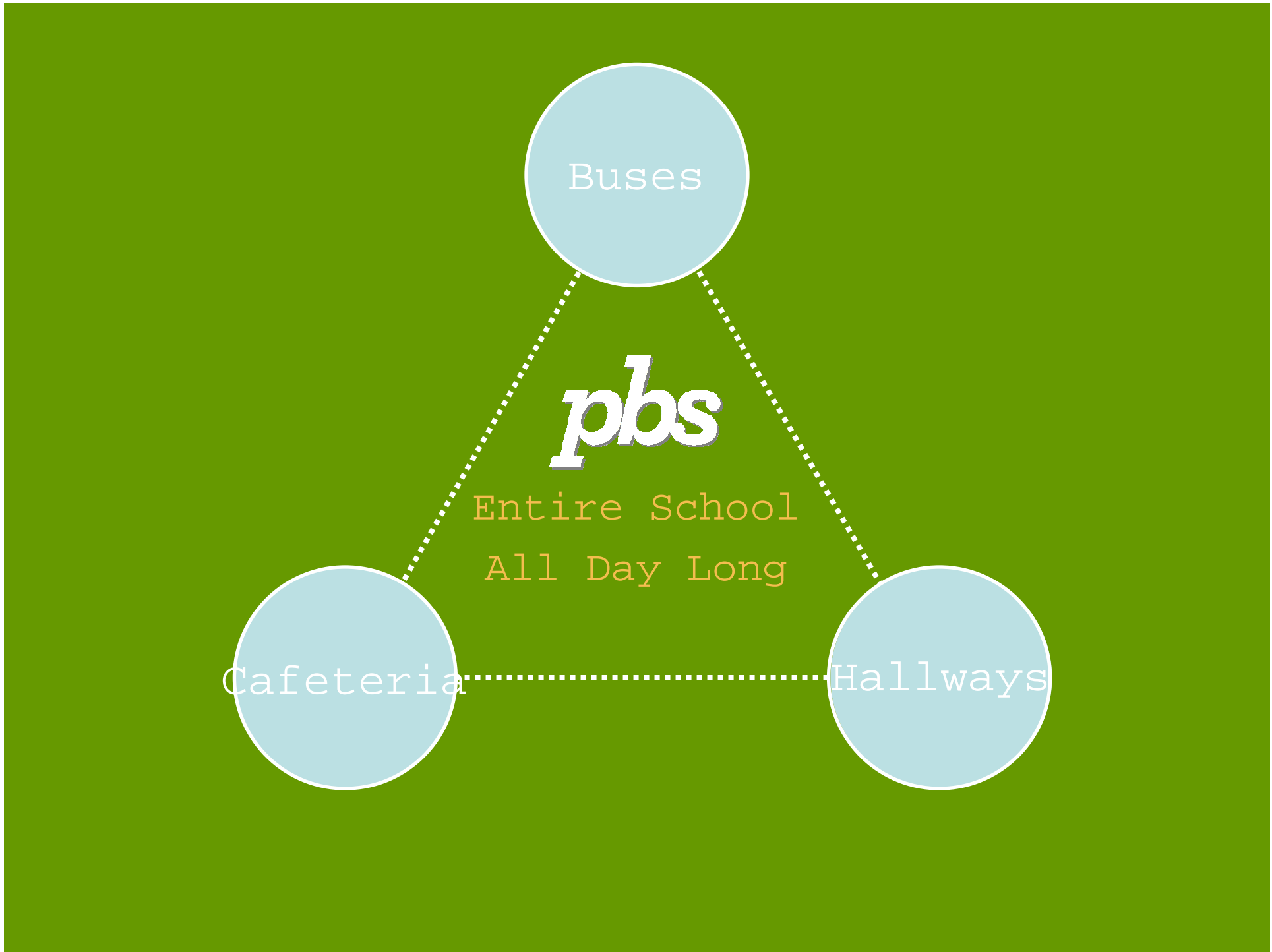
Buses

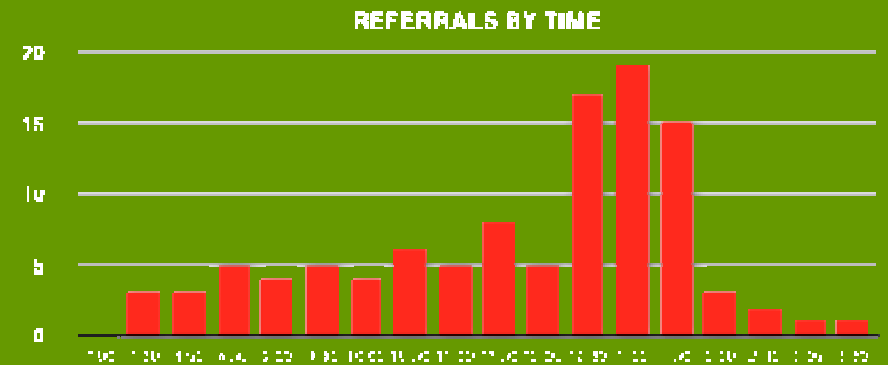
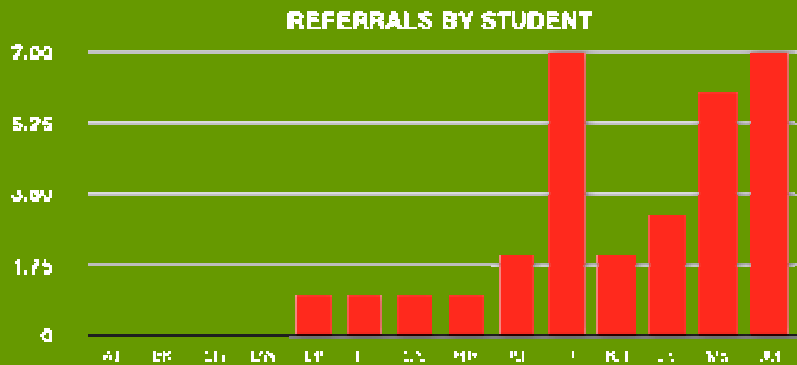
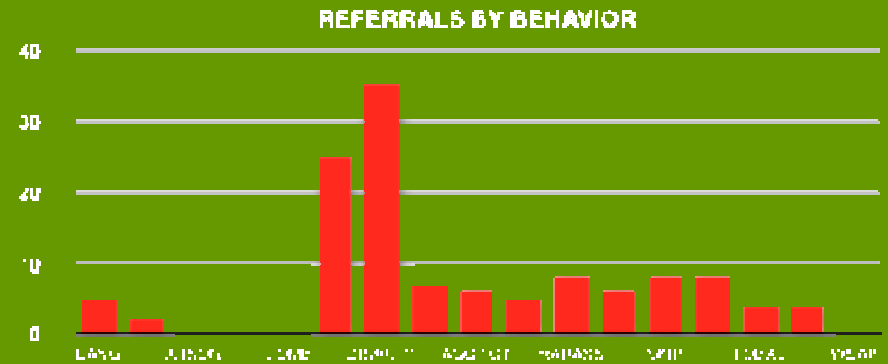
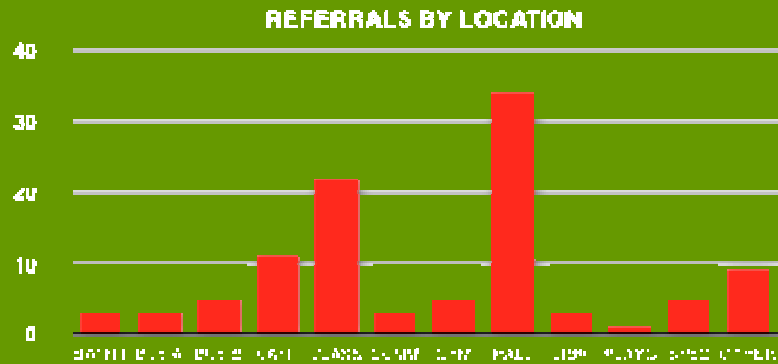
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Entire School
All Day Long

Cafeteria

Hallways





PROBLEM

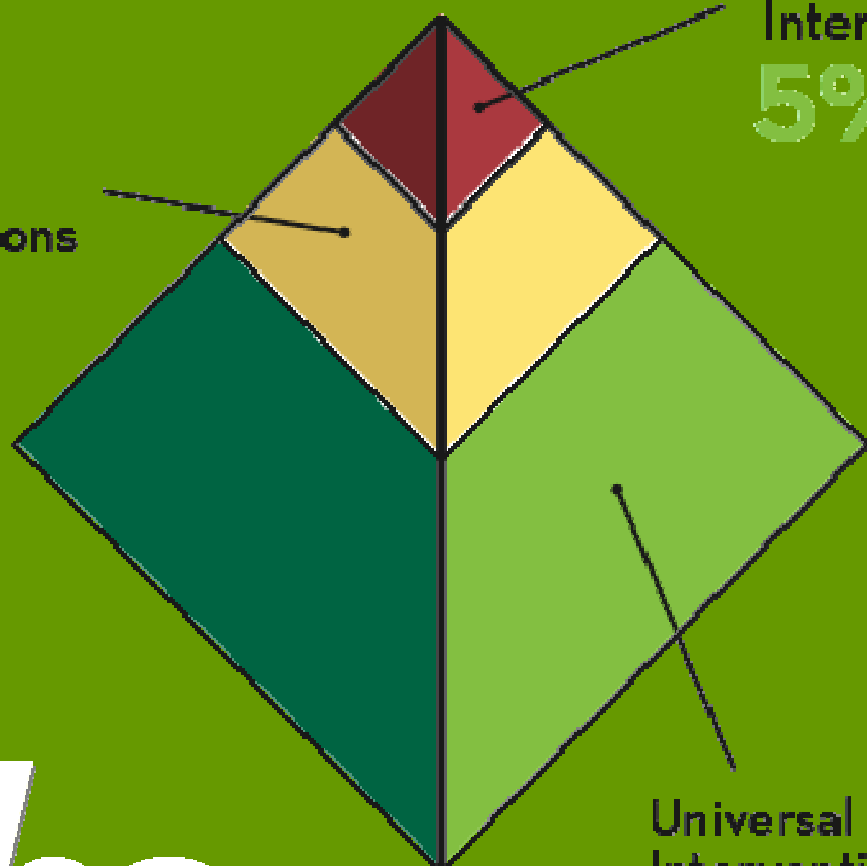
James Jones, Mark Scott and Jennifer Martin are disruptive on the way back from the lunch room to class.

SOLUTION

Implement evidence-based strategies to decrease problem behavior.

Targeted
Group
Interventions
15%

Intensive
Individual
Interventions
5%



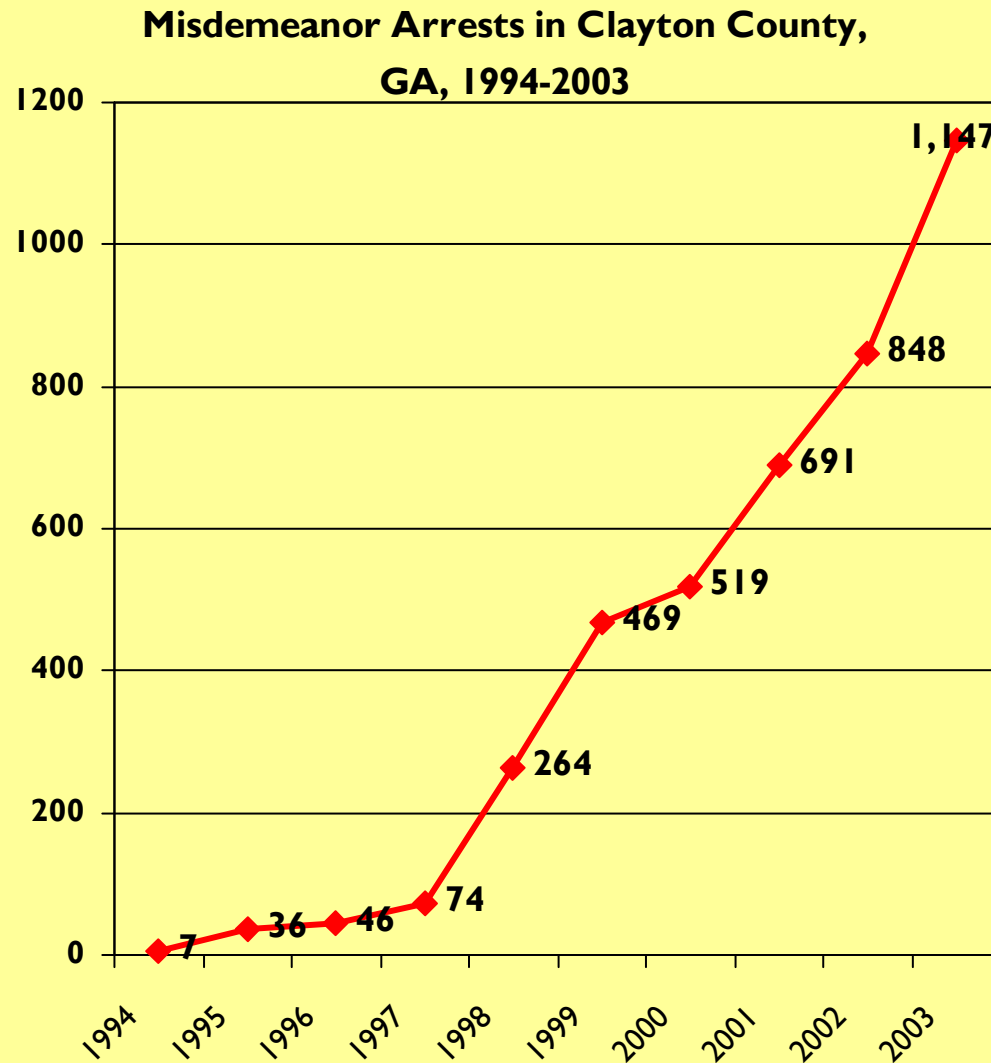
Universal
Interventions
80%

pbs

Proven & Promising Approaches: Positive Behavioral Interventions and Supports

- **Alton Middle School, Alton, IL**
 - Two schools merged to form 3rd largest IL school in 2006
 - Twenty students expelled in first year
 - Since implementing PBIS:
 - Office disciplinary referrals down 32%
 - Out-of-school suspension down 26%
 - “Racial discipline gap” is shrinking
 - Scores improve & achievement gap narrows

Proven & Promising Practices: School Offense Protocols

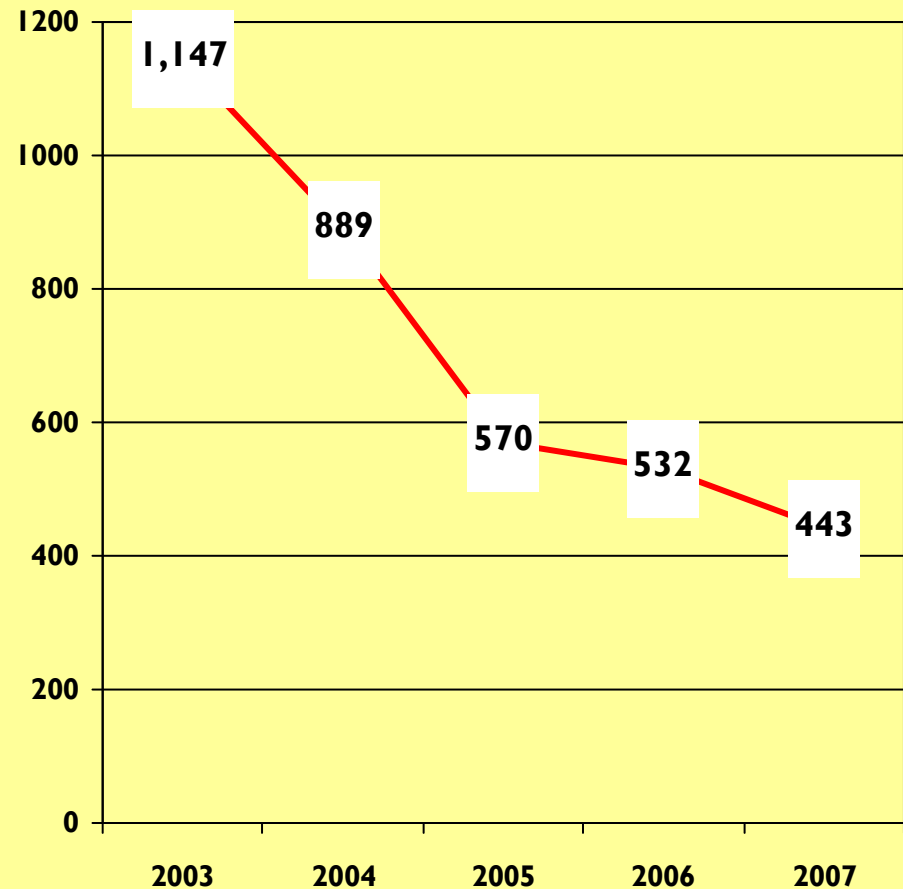


When Clayton County, Georgia, placed cops in their junior and senior high schools in 1997, misdemeanor arrests skyrocketed.

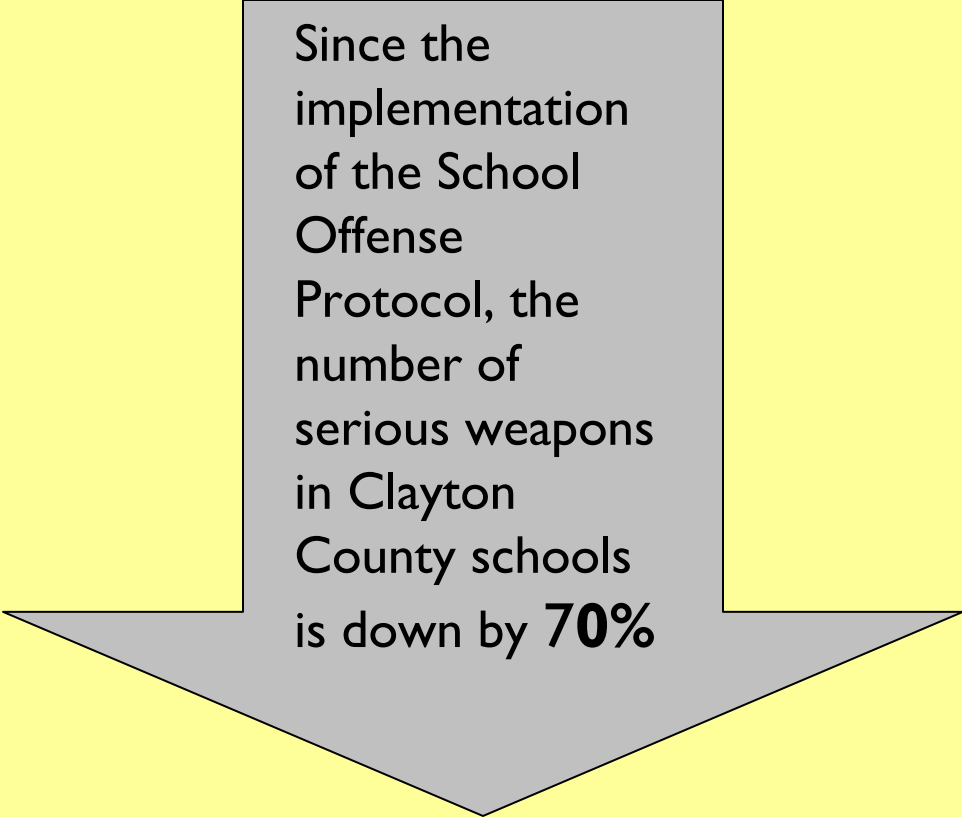
Proven & Promising Practices: School Offense Protocols

Through a collaborative agreement called a “School Offense Protocol,” Clayton County has reduced misdemeanor referrals to court by 59%.

Impact of School Offense Protocol on
Misdemeanor Arrests in Clayton
County



Proven & Promising Practices: School Offense Protocols



Since the implementation of the School Offense Protocol, the number of serious weapons in Clayton County schools is down by **70%**

- According to School Resource Officers (SROs) in Clayton County, the School Offense Protocol has also increased students' trust in them, making it more likely that students will confide in them about genuine safety threats.

Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **What is the ESEA?**
 - Congress's overarching federal education law
 - Provides federal funds in return for states' compliance with federal education requirements
 - Provides discipline-related funding through:
 - Title I
 - Title II (Professional Development)
 - Title IV (Safe and Drug-Free Schools)

**Federal Reform Opportunities:
The Elementary & Secondary Education Act (ESEA)**

- **ESEA's Reauthorization History:**
 - **Passed under Johnson administration**
 - **Reauthorized as No Child Left Behind under the Bush administration**
 - **Each reauthorization presents the opportunity to change federal education requirements**

Federal Reform Opportunities:
The Elementary & Secondary Education Act (ESEA)

- **Current reauthorization efforts:**
 - US Department of Education's A Blueprint for Reform
 - House Committee on Education and Labor hearings and comment period
 - Senate hearings
 - Timeline: this session? Next? 2014?

Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Federal Climate for Discipline Reform:**
 - **Office for Civil Rights:**
 - **Title VI compliance reviews on disciplinary disparities**
 - **Expanded Civil Rights Data Collection:**
 - **Disciplinary alternative school enrollment**
 - **School-based arrests**
 - **Referrals to law enforcement**
 - **Suspensions**
 - **Expulsions**
 - **Corporal punishment**



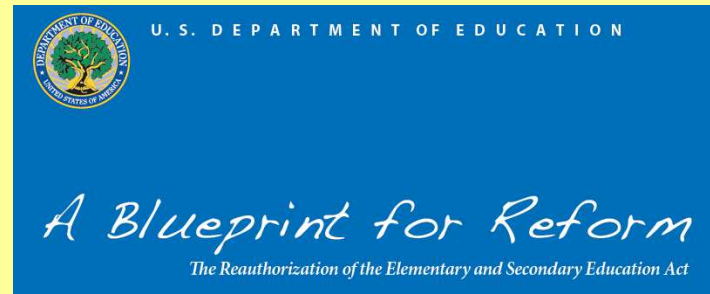
Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Federal Climate for Discipline Reform:**
 - Office of Safe and Drug-Free Schools
 - School Climate Model
 - Publicly Reported, School-level Scoring
 - Considers disciplinary environment as well as:
 - Relationships, respect for diversity, participation
 - Physical & academic environment
 - Emotional & physical safety
 - Substance abuse
 - Wellness



Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Federal Climate for Discipline Reform:**
 - **White House / ED Guidance:**
 - Disciplinary data collection in ED's Blueprint
 - Inclusion of school climate as an invitational priority in the Race to the Top application
 - Mention of PBIS in Race to the Top, the ARRA "Smart List," and State Fiscal Stabilization Fund guidance



**Federal Reform Opportunities:
The Elementary & Secondary Education Act (ESEA)**

- **Federal Climate for Discipline Reform:**

- **Legislation:**

- **Positive Behavior for Safe and Effective Schools Act (H.R. 2597)**
- **Preventing Harmful Restraint and Seclusion Act (H.R. 4247)**
- **Restorative Justice in Schools Act (H.R. 4286)**
- **Healthy Families and Communities Subcommittee hearing: “Corporal Punishment in Schools and Its Effect on Academic Success”**

Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Dignity in Schools Campaign:**

- The Dignity in Schools Campaign (DSC) challenges the systemic problem of pushout in our nation's schools and advocates for the human right of every child to a quality education and to be treated with dignity. The DSC unites policy advocates, parent and student organizers, educators and lawyers in a campaign to promote local and national alternatives to a culture of zero-tolerance, punishment and removal.

- <http://dignityinschools.org>



**Federal Reform Opportunities:
The Elementary & Secondary Education Act (ESEA)**

- **Dignity in Schools Campaign ESEA Working Group Recommendations:**
 - **Improved disciplinary data collection:**
 - **Based on the Civil Rights Data Collection**
 - **With broader information on school climate**
 - **Cross-tabulated by race, gender, special educational status, English learner status, and socioeconomic status (“NCLB subgroups”)**

Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Dignity in Schools Campaign ESEA Working Group Recommendations:**
 - **Accountability and support for school climate improvement:**
 - Incorporate PBSESA (H.R. 2597) into ESEA
 - Encourage the use of approaches to improving school climate in turning around the lowest achieving schools
 - Use high disciplinary rates or disparities to trigger local and state support
 - Measure the effectiveness of schools and principals on a “school climate index” that highlights discipline

**Federal Reform Opportunities:
The Elementary & Secondary Education Act (ESEA)**

- **Dignity in Schools Campaign ESEA Working Group Recommendations:**
 - **Grants for community-based solutions:**
 - **Competitive grant**
 - **Multi-year, comprehensive, local and/or regional plans**
 - **To reduce the use of exclusionary discipline and the number of youth entering the juvenile and criminal justice systems**

Federal Reform Opportunities: The Elementary & Secondary Education Act (ESEA)

- **Dignity in Schools Campaign ESEA Working Group:**
 - **Objectives:**
 - To ensure that local and federal advocacy strategies are mutually reinforcing
 - To centralize the role of grassroots groups/voices and local campaigns around the country in the overall advocacy strategy
 - **Progress:**
 - DSC House Recommendations: 100 over signatures
 - YouTube ESEA videos
 - Working Groups devoted to drafting, federal strategies, and local strategies
 - Email alternatives@dignityinschools.org to get involved

Takeaways: Strategies and Leverage Points

- **Federal:**
 - Work Within Larger ESEA Framework
 - Standalone Legislation
 - Regulatory Language
- **State & Local:**
 - Grassroots Organizing
 - Multi-Stakeholder Committees
 - Judicial Initiatives
 - Legislative Advocacy

Takeaways: Policy Goals

- **Federal:**
 - Data Collection
 - Accountability for School Climate Improvement
 - Funding for Community-Based Initiatives
- **State & Local:**
 - Reduction of Arrests for Minor Crimes
 - Reduction of Exclusionary Discipline (Suspensions, Expulsions, etc.)
 - Alternatives to Suspension and Arrest (Restorative Justice, PBIS, etc.)
 - Attention to Racial Disparities in Discipline and Arrest
 - Increased Discretion for Administrators to Make Reasonable Discipline Decisions

More Information

Advancement Project

Report:

Test, Punish, and Push Out: How Zero Tolerance and High Stakes Testing Funnel Youth into the School to Prison Pipeline

(available at stopschoolstojails.com)

Website:

stopschoolstojails.com

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NAACP-LDF

Report:

Dismantling the School-to-Prison Pipeline (available at naacpldf.org)

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