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# **School Discipline in Florida**

## **Discipline Practices Leave Many Children Behind**

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**Florida Advisory Committee to the  
United States Commission on Civil Rights**

**December 2010**

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## Letter of Transmittal

Florida Advisory Committee to the  
U.S. Commission on Civil Rights

Martin Dannenfelser  
*Staff Director*

The Florida Advisory Committee (Committee) submits this report, *School Discipline in Florida: Discipline Practices Leave Many Children Behind*, as part of its responsibility to study pressing civil rights issues in the State and report on its findings. The report of the Committee was unanimously adopted by a vote of 13 yes, 0 no, and no abstentions.

In 2009 the Florida Advisory Committee decided to examine equal educational opportunities for minority children with respect to their possible disproportionate placement into alternative education programs. ‘School-to-prison pipeline’ is the term used to describe the theoretical pathway from school to prison, which may be facilitated by failures within the school system. Inadequate interventions and failed policies place students from vulnerable populations at greater risk of incarceration. Exclusionary discipline and ineffective instruction are school-based risk factors that contribute to school dropout. In turn, dropping out of school puts a student at greater risk for court-involvement. Sixty-eight percent of incarcerated adults did not finish high school. Seventy-five percent of youth in adult prisons have not finished the 10<sup>th</sup> grade.

For too many minority school-age children, particularly in large urban areas, there is a pre-ordained path to prison. This becomes manifest after children enter school and are disproportionately placed in alternative education programs. The social isolation and placement of minority children in these programs may lead to a disproportionately high percentage of minority drop-outs, which in turn leads to a high likelihood of being incarcerated.

Schools are society’s last refuge for rescuing children-at-risk before criminal behavior becomes a pattern of life. Though youths in this country ages 15–19 comprise just 7 percent of the population, they are 21 percent of all arrests. Tragically, school discipline policies may be fueling future criminal behavior, disproportionately so for children of color. Strict policies often engender suspension, expulsion, or out-of-school programs that do not have the necessary support services. These practices in turn engender feelings of alienation and estrangement that make it difficult for students to succeed in school and life.

There are children who make adults angry, and then there are children who make adults afraid. School discipline policies should not confuse the two groups, and children who simply make adults angry should not be treated similarly to children who make adults afraid.

Respectfully,  
Dr. Elena Flom, *Chair*  
Florida State Advisory Committee

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**Contents**

Introduction 1

Background 3

Duval County Public School District faces many challenges 5

    One in three African American students lives below the poverty level 5

    Of the 104 elementary schools, 17 schools have student populations that are greater than 90 Percent African American 6

    Family structure plays an important role in academic success 7

    In Duval County Schools, on average, African American students are not succeeding 8

Current school discipline measures in the Duval County Public School District are not effective for many African American students 9

    Duval County School’s code of student conduct is written at a college graduate reading level 9

    African Americans received significantly more disciplinary consequences at every level than their white peers 10

    African American students placed in alternative education programs in Duval County are in highly segregated settings 12

    Efforts by Duval County Schools have shown promise in reducing the overall number of suspensions and referrals to alternative educational programs 12

Solicited experts from generally acknowledged the existence of a pathway from school to prison for many students of color 15

    Opinions concerning punitive school discipline policies, poor school climate, lack of behavioral instruction, and ineffective academic instruction as school failings that are fueling the pathway from school to prison 15

    Opinions emphasized the need for community collaboration to address the school-to-prison trend 18

    Florida Board of Education and Duval County school officials emphasized efforts toward meeting the needs of all students 19

Duval County Public School District similar to other school districts with respect to racial disparities in discipline 23

Concluding Observation 25

Findings	26
Recommendation	27
Appendix I—Duval County Public School District Comments	28

**Tables and Figures**

Table 1: Comparison of per pupil expenditures, percentage of white and black Students, and integration Dissimilarity Index between Duval County Schools and Atlanta Public School District, Charlotte-Mecklenburg County School District; Chattanooga-Hamilton County School District; and Louisville-Jefferson County School District	23
Figure 1: Comparison of discipline rates between African American students and white students	10
Figure 2: The widening racial disparity in discipline despite reductions in out-of-school suspensions	11
Figure 3: Racial demographic comparisons and alternative settings at three selected schools	13
Figure 4: Discipline office referrals for DCPS and four comparison school districts	24
Figure 5: Comparing over-representation of discipline for African American students across districts	25

## Introduction

The United States Commission on Civil Rights (Commission) has for its mission the study of issues relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin. Such directives include examining equal education opportunities.

In 1977, the Commission released its first study on equal education opportunity, *Reviewing A Decade of School Desegregation: 1966-1975*. The Commission reported on its nationwide survey of school district superintendents and concluded that desegregation efforts between 1966 and 1975 had been effective in achieving sweeping reductions in the isolation of racial and ethnic minorities within numerous school districts. Moreover, major desegregation actions had been accomplished with minimal disruption of the educational process.

In the 1990s, the Commission followed with a 5-series report on equal education opportunity. The first report in the series, *Equal Educational Opportunity Project Series (1995)*, discussed national trends in education generally and evaluated the history, performance, and activities of the U.S. Department of Education. The second report in the series, *Equal Educational Opportunities and Nondiscrimination for Students with Disabilities (1997)*, discussed educational opportunities for students classified as having learning disabilities. The third report, *Equal Education Opportunity and Nondiscrimination for Students with Limited English Proficiency (1997)*, examined educational opportunities afforded students with limited English proficiency and the development and implementation of educational programs appropriate for such students. The fourth volume in the series, *Equal Educational Opportunity and Nondiscrimination for Minority Students: Federal Enforcement of Title VI in Ability Grouping Practices (1999)*, analyzed the educational opportunities offered to minority students as they relate to mainstreaming, tracking, and instructional grouping practices. The last report, *Equal Educational Opportunity and Nondiscrimination for Native American Children (1999)*, reported on educational opportunities for children attending schools on Indian reservations.

As part of the Commission, state advisory committees are constituted in each of the 50 states and the District of Columbia. These committees are charged with the responsibility to examine and report on civil rights issues in their states that are within the Commission's jurisdiction and report publicly on their findings and recommendations. In 2007, the Florida Advisory Committee released a study on the achievement gap between African American and white students. The Committee reported that the combination of poverty and segregation significantly affect minority student academic achievement.<sup>1</sup>

In 2009 the Florida Advisory Committee decided to examine equal educational opportunities for minority children with respect to their possible disproportionate placement into alternative education programs. There is an expressed concern that for too many minority school-age children, particularly in large urban areas, there is a pre-ordained path to prison. This becomes manifest after children enter school and are disproportionately placed in alternative education programs. The social isolation and placement of minority children in these programs may lead to a disproportionately high percentage of minority drop-outs, which in turn leads to a high likelihood of being incarcerated.

The Children's Defense Fund calls this phenomenon the "Cradle to Prison Pipeline." As Connie Curry and Julia Cass report in *America's Cradle to Prison Pipeline*, "countless children, especially poor children of color already are in the pipeline to prison before taking a single step or uttering a single word, and many youth in juvenile justice facilities never were in the pipeline to college or success. They were not de-railed from the right track, they never got on it."<sup>2</sup>

Many minority poor children in America enter the world with multiple strikes already against them. Without pre-natal care, many have low birth weights. A large percentage of minority children in urban areas are born to single, teen mothers who are poor and poorly educated. At crucial points in their

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<sup>1</sup> See, report of Florida Advisory Committee to the United States Commission on Civil Rights, "School Segregation and Academic Achievement in Florida," November 2007.

<sup>2</sup> *America's Cradle to Prison Pipeline*, A Report of the Children's Defense Fund, February 2008, p. 99.



development, from birth through adulthood, more risks and disadvantages accumulate that make successful transition to productive adulthood less likely. These include the lack of access to health care; child abuse and neglect; lack of quality early childhood education; educational disadvantages resulting from failing schools; zero tolerance school discipline policies; the arrest and criminalization of children at younger and younger ages for behaviors once handled by schools and community institutions; neighborhoods saturated with drugs and violence; racial and economic disparities in child and youth serving systems; and too few alternatives to the streets after school and in summer months.

The purpose of this study was to explore in a bi-partisan manner the theorized connection from school to prison among a high percentage of urban minority children. The Jacksonville City/Duval County Public School District in Florida was selected as the urban school district for study in the state, and is examined individually as well as in contrast with four similarly sized urban school districts in the South: Atlanta, GA (Atlanta Public School District); Charlotte, NC (Charlotte-Mecklenburg County School District); Chattanooga, TN (Hamilton County School District); and Louisville, KY (Jefferson County School District).

Duval County Public Schools system is located in northeastern Florida. It is the fifth largest school district in the state and the fifteenth largest in the country. The governments of Jacksonville and Duval County are consolidated, and Jacksonville is the largest city in the state in terms of geographic size. During 2008-2009, the system enrolled 123,200 students. The county has 160 regular attendance schools, 7 charter schools, 3 alternative schools, 3 special needs schools, and 12 juvenile justice programs.

## Background

There seems to exist a potential pathway from school to prison for many children of color, which may be facilitated by failures within the school system. Inadequate interventions and failed policies may place students from vulnerable populations—particularly children of color, at greater future risk of incarceration. For example, the use of exclusionary discipline (e.g., suspensions, alternative schools, expulsions) is a school-based risk factor that is associated with school dropout. Students of color are disproportionately affected by exclusionary discipline practices. African American students are 2.6 times more likely to receive out-of-school suspension than their white peers. In turn, dropping out of school puts students at greater risk for court-involvement.

During 2003-2004, African Americans dropped out of school at 2.2 times the rate of white students.<sup>3</sup> Seventy-five percent of youth in adult prisons have not finished the tenth grade and sixty-eight percent of incarcerated adults did not finish high school. In addition to exclusionary discipline, the increasing uses of zero-tolerance policies are associated with greater risk of court-involvement. Zero tolerance policies refer to policies that require a predetermined punishment regardless of extenuating circumstances or contextual concerns. Since the mid-1990s there has been a trend toward more severe consequences for student discipline code violations. These policies have heralded a “get-tough” era of school discipline, which has led to increased suspensions, expulsions, and alternative school placements. The introduction and widening use of these policies was based on public concerns regarding perceived safety threats within the school setting. Evidence suggests zero-tolerance policies are not effective for increasing school safety and may actually contribute to conditions that undermine school and community safety by: (a) creating a negative school climate, (b) increasing dropout rates and school failure, and (c) alienating and isolating students who are in the most need of school interventions.<sup>4</sup>

Over the last decade a shift in interest away from reactive, punishment-oriented school disciplinary practices toward proactive, prevention-oriented school disciplinary practices has been evident. There are several reasons for this shift in interest. A growing body of research provides evidence that policies emphasizing punishment (e.g. reprimands, extra tasks, detentions, suspensions) are associated with (a) increased antisocial behaviors (e.g. aggression, vandalism, truancy), (b) increased coercive interactions between students and adults, (c) decreased academic performance, and (d) increased dropout rates.<sup>5</sup>

As educators are well aware, antisocial behaviors do not develop in isolation. Home and community factors contribute to students’ problem behaviors. Inconsistent or strongly aversive parental disciplinary practices, lack of monitoring, antisocial peer-networks, and lack of pro-social engagement in the community are positively associated with antisocial behaviors.<sup>6</sup> The combination of home, community, and school factors makes the goal of preventing or effectively addressing antisocial youth behaviors complex and challenging.

Despite challenges, the school provides an ideal place to formulate plans or organize efforts addressing anti-social behaviors. Schools provide consistent schedules, adult role models, and individualized services that provide a “safety-net” for students’ health, social, and family needs.<sup>7</sup> Yet, many schools struggle to address problem behaviors effectively.

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<sup>3</sup> U.S. Department of Education, *NCES Digest of Education Statistics 2003-2004*, at Table 103 (2007)

<sup>4</sup> Scott, T.M., & Barrett, S.B. (2004). Using staff and student time engaged in disciplinary procedures to evaluate the impact of school-wide PBS. *Journal of Positive Behavior Interventions*, 6, 21-27

<sup>5</sup> Scott, T., Gagnon, J. C., & Nelson, C. M. (2008). School-wide systems of positive behavior support: A framework for reducing school crime and violence. *Journal of Behavior Analysis of Offender and Victim - Treatment and Prevention*, 1, 259-272.

<sup>6</sup> Sugai, G., & Horner, R.H. (1999). Discipline and behavioral support: Practices, pitfalls, & promises. *Effective School Practices*, 14, 10 – 22.

<sup>7</sup> Sugai, G., & Horner, R. H. (2009). Defining and describing school-wide positive behavior support. In W. Sailor, G. Dunlap, G. Sugai, & R. Horner (Eds.). *Handbook of Positive Behavior Support*, (pp. 307-326), New York, NY: Springer.

## The Nation's Tragic Educational Dilemma: "A School – to – Prison Pathway"

**Disparate Discipline Practices ⇒ Isolated Alternative School Placement ⇒ School Dropout ⇒ Incarceration**



'Get-Tough' discipline policies result in greater numbers of students excluded from the learning environment. When youth become alienated or excluded from the potentially positive force of school, the risk of criminal behaviors increases and the pipeline to prison is facilitated. Trying to make schools safer, through exclusion and punishment, results in greater risk for both the excluded youth and for the larger society which must bear the human cost of increased criminality and the monetary cost of larger prison populations.

The challenge for educators is to implement policies that not only make schools safer but also address the needs of all students including those who display antisocial behaviors. School-wide positive behavior support is a promising systematic approach for improving academic performance, increasing school safety, decreasing problem behavior, and establishing positive school cultures.

School-wide positive behavior support is based on sound educational philosophy and validated educational principles.<sup>8</sup> Defining features of school-wide positive behavior support include:

- (a) explicit teaching of appropriate school behaviors,
- (b) adequate time for students to practice appropriate school behaviors,
- (c) progress assessment and program decisions based on data collected about student behavior,
- (d) appropriate interventions validated by research,
- (e) student progress is systematically monitored, and
- (f) collaborative cooperation between school staff, families, and community members.

School-wide positive behavior support is a three-tiered framework of support that provides a continuum of interventions based upon behavioral needs. The primary tier applies to all students and is designed to prevent behavioral problems. The secondary tier provides group support for students who are unresponsive to interventions in the primary tier. The tertiary tier provides focused support for students who need more intensive individualized planning. At each tier a proactive-instructional approach to student behavior is fostered.<sup>9</sup> Although a wide range of negative consequences are applied to problem behaviors, consequences are administered in order to instruct the student rather than punish or exclude.

Beyond the disciplinary focus, central to any successful behavioral model must be a focus on effective academic instruction. Students who have failed to acquire essential reading, writing, or math skills should receive targeted and efficient remediation. Effective reading intervention is particularly important because reading provides the means for all academic pursuit. Interventions that provide students' needed foundational academic skills are essential elements to any successful plan. Without needed foundational academic skills, students may be marginalized and alienated within academic settings, despite proactive, positive policies.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

## Duval County Public Schools face many challenges

African Americans in the Duval County School System experience poverty at a higher rate than other racial or ethnic groups. There is a high rate of segregation in many schools within the district. Although progress has been made, African American students are performing below expectations in the Duval County School System.

### *1. One in three African American students lives below the poverty level*

According to the U.S. Census, the percentage of African American children (34 percent) living below the poverty line in Duval County was 1.5 times the national average for African American children (24 percent) and almost twice the percentage for all children living below the poverty line (18 percent) in Duval County. The association between poverty and poor educational outcomes for children is well documented. In response, Congress has funded programs such as Head Start and Title 1 in order to obviate the impacts of poverty (GAO). Over a third of all schools in the district, 64 of 180, are Title I schools.

Families experiencing poverty lack the financial resources necessary to meet basic needs such as food and shelter. The United States Census Bureau sets income thresholds that vary by family size, composition, and the age of the head of household. When a family's pre-tax income falls below the poverty threshold, all members of the household are considered to be living in poverty. The 2008 poverty threshold for a family of three, one adult and two related children was \$17,346. For a family of four, two adults and two related children, the threshold was \$21,834.<sup>10</sup>

*One out of every 3 African American children in Duval County live in poverty.*

*This is 1.5 times the national poverty rate for African American children.*

The effect of poverty on academic achievement begins in infancy and continues into adolescence. Babies born into poverty are at greater risk of being premature or having low birth weight. Children who were premature or low birth weight as infants score lower than their peers on math and reading achievement measures. Another risk for children living in poverty is lead exposure, which poses serious health risks particularly for children less than five years of age. Researchers have found blood levels of lead in young children living in poverty to be significantly higher than non-poor children. African American children aged one to five who live in large urban areas have the highest blood levels of lead – nearly three times the level for the population mean for children this age. Early exposure to lead is associated with lower scores on intelligence and academic achievement measures.

Children living in poverty tend to have lower IQs at age five, and they tend to lag behind peers at all ages. Children whose families experience long-term financial difficulties are more likely to fail a grade. Poverty continues to play a role in educational outcomes into adolescence. At age 16, poverty remains a predictor of academic failure, and poor educational outcomes are associated with poverty in adults.

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<sup>10</sup> U. S. Census, 2008 Population Survey.

***2. Of the 104 elementary schools in Duval County, 17 schools have student populations that are greater than 90 percent African American***

Duval County Public School System had 130,395 students enrolled in 2009 with 54,424 (42 percent) white students and 75,971(58 percent) minority students. The district has the 8<sup>th</sup> largest percentage of minority students in the state. Of the 75,971 minority students, 56,040 were African American. The white and African American populations are essentially equal with 42 percent and 43 percent respectively. Yet, 17 elementary schools are over 90 percent African American. On average, 85percent of the students from those 17 schools were classified as economically disadvantaged.

Fifty-six years ago the United States Supreme Court ruled separate education according to race was “inherently unequal.” After *Brown v. The Board of Education* in 1954, it took nearly 10 years before the country began to move seriously in the direction of desegregation.<sup>11</sup> Beginning with the Civil Rights Act of 1964 and continuing into the mid- 1980s, desegregation increased significantly. During that time, the percentage of African Americans in extremely segregated schools, i.e., more than 90 percent minority, decreased from 64 percent to 32 percent.

Due to court rulings against race-based attendance policies and lagging public support for sustained desegregation efforts, the onward transition to a fully integrated school system using voluntary plans has stalled.<sup>12</sup> Over 70 percent of African Americans and Latino students attend schools that are over 50 percent minority. Only 12 percent of white students attend schools that are over 50 percent minority. Whereas, 40 percent of white students attend schools that are 90 to 100 percent white.

*50 Years after Brown public schools remain de facto segregated.  
Over 70 percent of African Americans and Latino students attend schools  
that are over 50 percent minority. In contrast, more than 40 percent of white  
students attend schools that are 90 to 100 percent white.*

Education and sociology researchers have been investigating the impact of segregation/desegregation for several decades. There is evidence that African American students achieve higher levels of education, experience more successful employment, and have higher levels of self-employment when exposed to racially balanced schooling. There is also evidence that employers are more likely to hire African American graduates of integrated schools. Attending racially integrated schools is likely to benefit both white and minority students by providing opportunities for social interaction.

There is, however, some disagreement on the impact or the necessity of desegregation. Some researchers have asserted the gains achieved by minority students in desegregated settings are minimal and short lived. Others state that the burden of desegregation unfairly falls on minority students, as those students typically travel away from home schools to more racially balanced schools and experience the inconvenience of long commutes.

Another problem noted by researchers is that apparently integrated schools may have a level of secondary segregation by way of academic tracking or disproportionate suspensions for minority students. The practice of academic tracking limits students to lower level academic classes and may explain the often inconsistent results researchers have found when assessing the impact of desegregation on minority test scores. There is evidence that more segregated schools use school suspensions to discipline minority students at a disproportionate rate.

<sup>11</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483, 495 (1954).

<sup>12</sup> See inter alia, *Parents Involved in Community Schools v. Seattle School District No. 1*.

### ***3. Family structure plays an important role in academic success***

Family environment is increasingly advanced as a significant factor beyond the control of the school system that affects the educational achievement of children. There is evidence that family characteristics and activities—such as marital status, teenage pregnancy, family size, income, nutrition, parenting, nurturing—have important effects on the intellectual development of children and infants, and this carries over to performance in school. This evidence puts forward a compelling case for taking family policy seriously. Families matter—to individuals, communities, and society as whole. In the past three decades, family life has undergone dramatic transformation. Some of the factors accounting for this transformation include the entry of mothers into the labor force, the rising rates of cohabitation, out-of-wedlock childbearing, and an increase in divorce.<sup>13</sup>

Some education research suggests that contemporary education programs fail because they assume a model of intellectual development that does not seem to be viable. Traditional compensatory education programs fail, not because intellectual capacity is inherited, but because intellectual capacity is influenced by family factors that exert their greatest influence during early childhood, and because it is very difficult to change a child's intelligence aptitude once he or she reaches school age.

In support of this research on the importance of family structure in achieving educational success, whole family approaches have been advanced. The purpose of a whole family approach is to change the family environment by promoting those characteristics that improve children's intellectual functioning, as in being raised by two parents with adequate income and good parenting skills. Intervention studies suggest that the preschool period may be a particularly profitable time for investing in a child's education.<sup>14</sup>

*Before they reach the age of 18, a majority of all U.S. children are likely to spend at least a significant portion of their childhoods in a one-parent home.*

Regardless of social policy that occurs outside the school system, schools are expected to teach children regardless of the family environment from which they come. In recent decades, the proportion of children living in single-parent homes has nearly doubled. Before they reach the age of 18, a majority of all U.S. children are likely to spend at least a significant portion of their childhoods in a one-parent home. Some research posits that a child's ability to adapt to classroom routines appears to be influenced by his or her parents' marital status.

At least one report notes that three- and four-year-old children growing up with their own married parents (or in an "intact" family) are three times less likely than those in any other family structure to experience emotional or behavioral problems such as attention deficit disorder. Similarly, some research suggests that children living with their own married parents have fewer behavioral problems compared to children whose parents are living together but not married. In addition, according to some research, the ability of children to perform in basic subject areas and at their grade level is weaker for those children not living with their own married parents. This research suggests that a lack of income or other resources explains some, but not all, of the worst outcomes experienced by children from non-married parent families.<sup>15</sup>

<sup>13</sup> Theodora Ooms, foreword, *Family Policy Matters: How Policymaking Affects Families and What Professionals Can Do*, by Karen Bogenschneider, Lawrence Earlbaum Associates, Madison, WI 2002.

<sup>14</sup> See inter alia, David Armor, *Family Policy and Academic Achievement*, Chapter 6, *One Percent for the Kids, New Policies, Brighter Futures for America's Children*, by Isabel V. Sawhill, The Brookings Institution, 2003.

<sup>15</sup> Center for Marriage and Families, "Family Structure and Children's Educational Outcomes," Research Brief No. 1, November 2005.

#### ***4. In Duval County Schools, on average, African American students are not succeeding***

According to data from state assessments for 2008, 58 percent of African American students in Duval County were below grade level in reading and 55 percent were below grade level in math. There was little improvement in 2009. Only 8 percent of African American high school students who took an Advanced Placement (AP) exam passed, which is the 3<sup>rd</sup> lowest percentage in the state, lower than all urban districts, and half the state average of 19 percent. The non-promotion rate for African American students is 56 percent while the non-promotion rate for white students is 32 percent. More than twice as many African American students drop out of school compared to white students.<sup>16</sup>

Approximately 69 percent of Duval County Schools made Annual Yearly Progress (AYP) which was similar to the state average of 72 percent. On the other hand, only 1 of the 17 elementary schools that had over 90 percent African American students made AYP. The one school among the group that did make AYP stood out as a positive example of improvements that are possible. Rutledge H. Pearson Elementary School had a population of 98 percent African American students with 88 percent economically disadvantaged. Reading and math scores improved by double digits, the students met their writing proficiency goals, and the school made AYP.<sup>17</sup>

*AP Exam Results for African American Students in Duval County:*

*Only 8 percent passed,*

*Lowest score of any urban district in Florida, and  
half the state average for African American students.*

*Only two counties in Florida had lower scores.*

In 2008, Duval County Public Schools employed 8,715 teachers, with a student-to-teacher ratio of 15.9:1. The average teacher salary was \$47,087 which is slightly higher than the state average of \$46,938. The average years of teaching experience are similar for teachers in Duval County (11.86 yrs) compared to teachers in the state (12.73 yrs). Additionally, approximately 32 percent of all Duval County teachers have their Master's degree or higher which is below the state average of 39 percent. The instructional staff is 27 percent African American which is lower than the proportion of African American students by 15 percent, but is higher than the state average of 14 percent. On average, Duval County spends \$8,414 per student, which is lower than the state average of \$9,854.<sup>18</sup>

<sup>16</sup> Florida State Board of Education, 2008.

<sup>17</sup> 2008-2009 NCLB School District and State Public Accountability Report, Florida Board of Education.

<sup>18</sup> Florida State Board of Education, 2008.

## **Current school discipline measures in the Duval County Public School District are not effective for many African American students**

The discipline policies of the Duval County Public School District (DCPS) are set out in the Code of Student Conduct at college-level readability, providing a significant barrier to understanding for parents and students. African American students receive disproportionately more office discipline referrals, out-of-school suspensions, placements into alternative settings, expulsions, and arrests. DCPS's alternative educational programs place African American students in highly segregated settings. Efforts by DCPS have shown promise in reducing the overall number of suspensions and referrals to alternative educational programs, but fail to impact disproportionality.

### ***1. Duval County School's code of student conduct is written at a college graduate reading level***

The purpose of Duval County's Code of Student Conduct as outlined in the introduction is to ensure that "good order and discipline" are maintained so that effective instruction can occur and so that "students and school personnel can work cooperatively toward mutually recognized and accepted goals." In the introduction, the policy states that it is the responsibility of students and parents to know the rules of the Code and directs parents to sign four documents. The Code of Student Conduct Acknowledgment Form states that it is the student's responsibility to learn what the rules and consequences are for students' behavior and directs the student to take the form home to share with their parents or guardian. Several factors may make it difficult for students and their parents to be able to carry out this stated responsibility.

Documents that are intended for the general population should be clearly stated and in a plain language free from educational jargon and legalistic terminology. Adult high school graduates read, on average, at a 7<sup>th</sup> grade level.<sup>19</sup> Guidelines for documents that need to be read by the general population suggest no more than an 8<sup>th</sup> grade reading level. The reading level of the Code of Conduct for Duval County Schools is at the 16.6 reading level, according to the Flesch-Kincaid Readability Test.<sup>20</sup>

Another element that impedes understanding of the Code of Student Conduct is the use of legalistic language. A considerable number of students and adults would find such language confusing. For instance, terms such as "pursuant" and "in lieu of" are words used in legal documents, and they may impede meaning for many parents and students. For example, on page 21 of the Code of Student Conduct, it reads: "The above-referenced code infraction shall be applicable in accordance with the jurisdiction of the School Board as defined on page 1 of the *Code of Student Conduct*."

As building trust is essential when working with minority students and their families, certain pronouncements concerning parental compliance in the *Code of Student Conduct* may be received by parents as confrontational and impede a cooperative relationship between the parent and the school. For example, on page 46 of the Code of Student Conduct, the following statement is made concerning parental consequences:

If it is determined that the parent is the cause of the chronic tardiness or early check out without an acceptable excuse, then a referral shall be made to the State Attorney's Office. For the purpose of this policy, tardiness and early check out without an acceptable excuse are seen as violations of 1003.21, F. S. (compulsory attendance).

The student offenses are organized in four levels according to severity. Disciplinary actions are delineated according to the level of severity of student behavior. The behavior violations are separated from the consequences of those violations which require much more effort to understand the relationship between behaviors and consequences. The four primary consequences for serious or chronic behavior

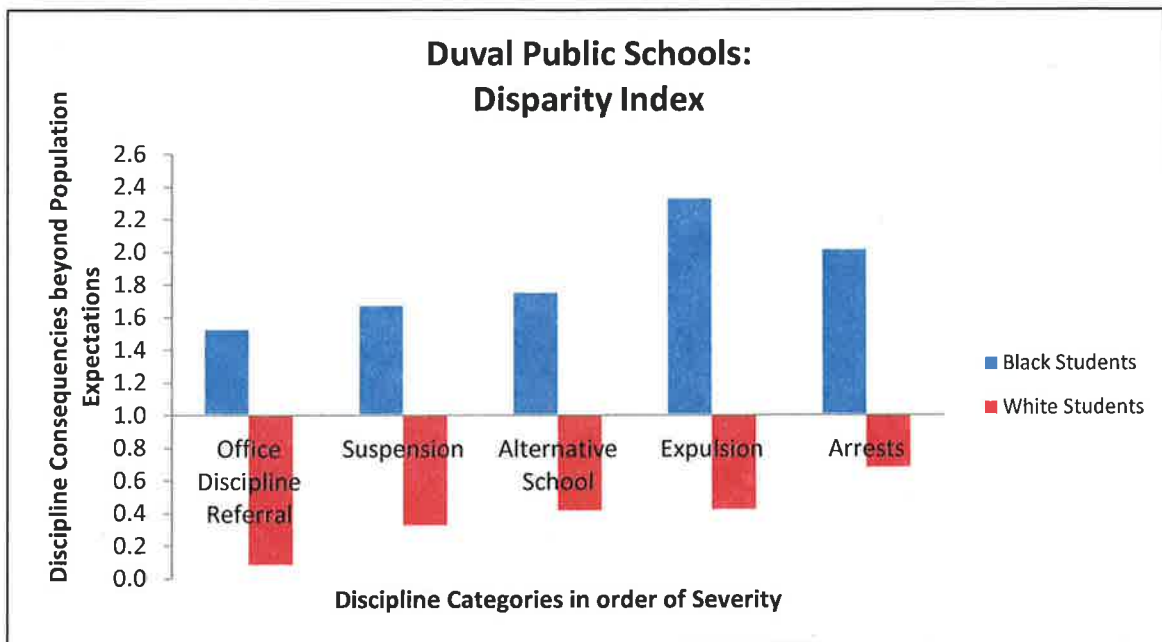
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<sup>19</sup> 2003 National Assessment of Adult Literacy.

<sup>20</sup> This number refers to the number of years of education one might need to be able to understand the material. A 16.6 grade level indicates that 16.6 years of education (i.e., a college degree or beyond) may be needed to understand the Code of Student Conduct. The introduction states that it is the students' and parents' responsibility to know the rules and consequences within the Code. The readability levels suggest that this expectation is unrealistic.



Figure 1: Comparison of discipline rates between African American students and white students



Source: Florida Advisory Committee from Duval Public School District data.

Note: A value of 1 represents no disparity; values greater than 1 indicate over-representation, values less than 1 indicate under-representation.

offenses are (a) in-school suspension, (b) out-of-school suspension, (c) alternative education placement, and (d) expulsion. The state of Florida provides guidelines for school suspensions and expulsions. Suspension is defined as the temporary removal of a student from the regular school program for a period not to exceed 10 days. Expulsion is defined as the removal of the right and obligation of a student to attend the public school for a term not to exceed the remainder of the school year and one additional year of attendance.

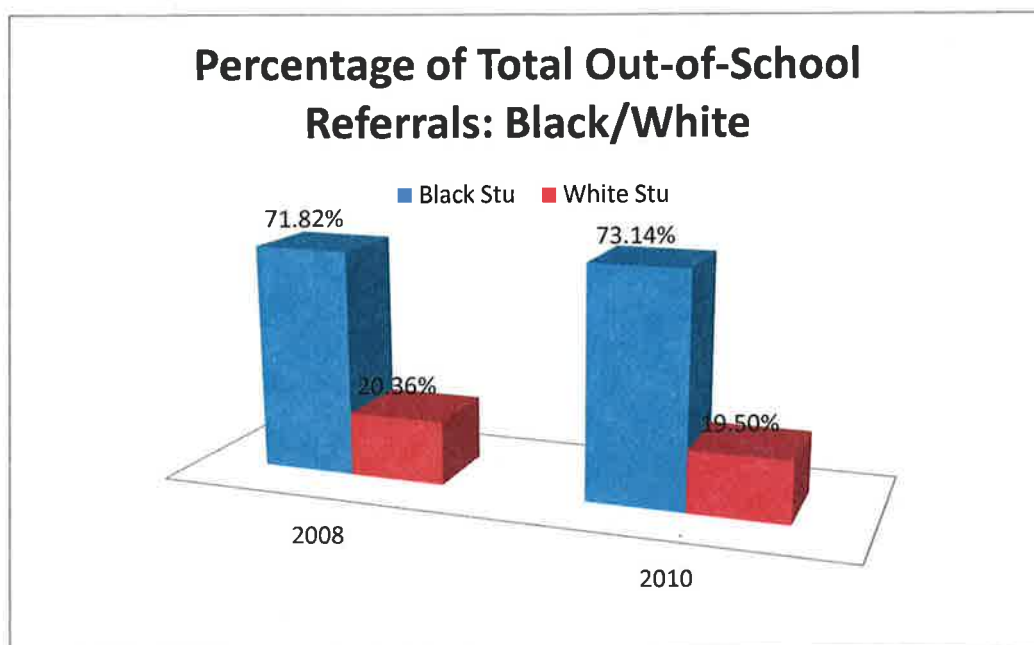
Zero tolerance offenses receive the most severe consequences including possible expulsion. Students may receive expulsion with or without services, or be referred to an alternative school. A new zero tolerance reform law was enacted in June 2009. The new law encourages schools to use alternatives to expulsion and to take into consideration the circumstances of the student's actions before administering a punishment.<sup>21</sup> It is unclear if the Duval County School District has rewritten their Code of Student Conduct since the new law was enacted.

**2. African Americans received significantly more disciplinary consequences at every level than their white peers**

African American students are disproportionately represented in office discipline referrals, out-of-school suspensions, placement into alternative settings, and expulsions according to data from 2008-2009. African American students received disciplinary referrals at a rate of 202 percent of the total enrollment of African American students compared to white students who received disciplinary referrals at a rate of 80 percent of the total enrollment of white students. Although statistically equal in population, 72 percent of students receiving out-of-school suspensions are African American, compared to 20 percent of students receiving out-of-school suspensions are white.

<sup>21</sup> S. 1540 (Fla. 2009) available at [http://law.flrules.org/files/Ch\\_2009-053.pdf](http://law.flrules.org/files/Ch_2009-053.pdf) (last visited July 19, 2010).

Figure 2: The widening racial disparity in discipline despite reductions in out-of-school suspensions



Source: Florida Advisory Committee from Duval Public School District data.

African American students make up 76 percent of the alternative school population compared with 18 percent of white students enrolled in alternative schools. During 2008/2009, nine students were expelled from the Duval County School District; all of the expelled students were African American.<sup>22</sup>

African American students' discipline data were compared with white students' discipline data using a disparity index formula (proportion of disciplinary action/ proportion of student population). A value of 1 represents no disparity; values greater than 1 indicate over-representation, values less than 1 indicate under-representation. African American students were overrepresented in every category, with a range of disparity from 1.5 to 2.3. White students were under-represented in every category, with a range of 0.32 to 0.67. The discipline data suggest that as the disciplinary consequences become more severe, the disproportionality increased for African American students. (See Figure 1.)

During the 1<sup>st</sup> three quarters of 2009-2010, the DCPS system has made efforts to reduce the level of referrals for alternative school placement, School Environmental Safety Incident Reporting System (SESIR) incidents (those that must be reported to the State of Florida), and out-of-school suspensions through a series of programs and interventions. Enrollment in alternative schools was reduced by 20 percent (demographic data not available). The incidence report tally for SESIR was reduced by 21 percent (demographic data not available).

The system reduced the number of cumulative student days of suspensions by 58 percent in the 1<sup>st</sup> three quarters of 2009-2010.<sup>23</sup> Out-of-school suspensions of African American students were reduced by 57 percent from 23,322 to 10,054. Out-of-school suspensions of white students were reduced by 60 percent from 6,634 to 2,680.<sup>24</sup>

<sup>22</sup> Data provided by Duval County Public School, 2008-09 school year. All nine students were expelled under the state mandated Zero Tolerance Policy for bringing a gun to school according to Dana Kriznar, Executive Director Alternative Education and Behavioral Support Services, telephone interview, Patsy Nomvete, Apr. 15, 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights, hereafter cited as Kriznar interview.

<sup>23</sup> Suspension data from this report do not include the 6,273 students who accepted services during their out-of-school suspension through the ATOSS program; therefore the suspension numbers may an undercount.

<sup>24</sup> Suspension Comparison Through the First Three Quarters: 2008-09/2009-10 (Draft)

Despite significant reductions in the number of out-of-school suspensions, disproportionality in African American suspensions increased slightly and disparity between African American students and White students widened slightly. African American students were 72 percent of the out-of-school suspended population in 2009 and 73 percent of the out-of-school suspended population in 2010. White students were 20 percent of the out-of-school suspended population in 2009 and 19.5 percent of the out-of-school suspended population in 2010. (See Figure 2.)

### ***3. African American students placed in alternative education programs in Duval County are in highly segregated settings***

Duval County has two alternative day schools designed for students who have committed serious offenses or who have committed multiple lesser offenses. Mattie V. Rutherford Alternative School is located at 1514 Hubbard St., Jacksonville, FL 32206 and serves students in grades 6, 7, and 8. During 2008-2009, 127 students were enrolled with a demographic make-up of 70 percent African American students and 26 percent white students.<sup>25</sup> Grand Park Career Center is an alternative day school located at 2335 West 18th St., Jacksonville, FL 32209 and serves students from high school as well as middle school who have committed more serious offenses. During 2008-2009, 168 students were enrolled with a demographic make-up of 83 percent African American and 14 percent white students.<sup>26</sup>

The Marine Science Center is a voluntary alternative educational program that provides a vocational training in commercial fishing for students who are either behind in school or had dropped out and decided to return. The school day is divided between commercial fishing and academic study. The students have the opportunity to get their standard high school diploma or a GED and upon completion of the program will receive a commercial fishing certificate. During 2008-2009, 38 students were enrolled with a demographic make-up of 90 percent White students and no African American students. In 2009, the Duval County School Board voted to suspend bus service to the Marine Science Center Vocational program in order to save money.<sup>27</sup> Lack of transportation will likely impede the participation of African American students since most do not live in close proximity to the Marine Science Center. Figure 3 provides an illustration of the level of segregation within the DCPS alternative programs.

### ***4. Efforts by Duval County Schools have shown promise in reducing the overall number of suspensions and referrals to alternative educational programs***

Alternative to Out-of-School Suspension Program (ATOSS) is a program to provide students, who have received out-of-school suspensions, with educational and social services. The program was developed and implemented through a collaborative effort with *Jacksonville Journey*. The student must be recommended for the program by the principal. The program was implemented in five centers and included faith-based, community, and DCPS sites: (1) Peterson Academies of Technology, 7450 Wilson Blvd, Jacksonville; (2) Southside Middle School, 2948 Knights Lane E. Jacksonville; (3) Bridge of Northeast Florida, 1824 Pearl Street, Jacksonville; (4) St. Paul Missionary Baptist Church, 3738 Winton Drive Jacksonville; and (5) Boys and Girls Club, 820 Seagate Ave., Jacksonville. This program is credited with reducing the number of out-of-school suspensions; however, the students who take part in ATOSS have been suspended from the school system and are receiving services in an alternative location. Considering this a reduction in out-of-school suspensions may not accurately characterize the program.

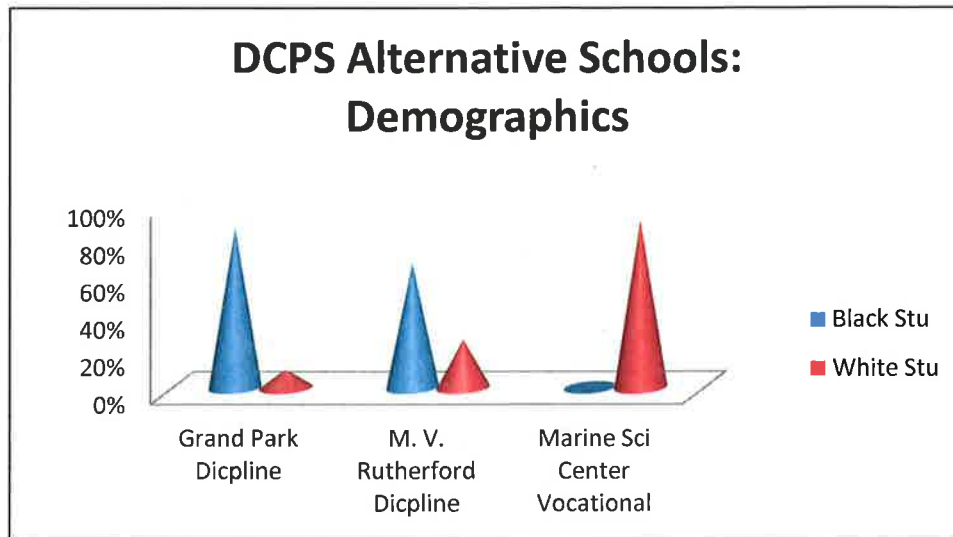
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<sup>25</sup> 2008-2009 NCLB School District and State Public Accountability Report, Florida Board of Education.

<sup>26</sup> Ibid.

<sup>27</sup> DCPS Website [http://www.duvalschools.org/static/ourschools/downloads/Transportation\\_Changes.pdf](http://www.duvalschools.org/static/ourschools/downloads/Transportation_Changes.pdf) (last accessed May 19, 2010).

**Figure 3: Racial demographic comparisons and alternative settings at three selected schools**



Source: Florida Advisory Committee from NCLB School District and Florida State Public Accountability Report.

DCPS initiated the program *Foundations Safe and Civil Schools Program* from Randy Sprick six years ago. The philosophical basis for the program as stated on the company's website<sup>28</sup> is that (a) All students must be treated with dignity and respect; (b) Students should be taught the skills and behaviors necessary for success; (c) Motivation and responsibility should be encouraged through positive interactions and building relationships with students; and (d) Student misbehavior represents a teaching opportunity. This program provides sound elements, yet it does not appear to have had a significant impact on the amount of exclusionary discipline.

Teams within the school train in positive behavior management techniques and in the use of data for assessment and decision making. District level teams visit schools to provide feedback on implementation. The staff development component, CHAMPS, is designed to train the staff in positive behavioral management. Approximately 2,313 teachers have been trained in the programs.<sup>29</sup> Behavior programs are more successful when implemented school-wide. A school-wide approach establishes an environment conducive to the instruction of pro-social behaviors across all school settings and including all students and staff.<sup>30</sup> It is not clear whether the initiatives using *Foundations Safe and Civil Schools Program*/CHAMPS have been implemented as comprehensive school-wide efforts.

Students Option for Success Program (SOS) is a program that provides behavioral support for elementary, middle, and high school students who have committed multiple behavioral offenses. The program provides an alternative to being assigned to a disciplinary alternative school. The program is voluntary and requires parental involvement. The Code of Student Conduct indicates that if the parent refuses to participate or does not complete the SOS program, the student will be referred for placement in an Alternative Education Program. Evening programs are designed to engage parents and provide a valuable intervention if the parent is able to attend. The Code of Student Conduct indicates that if the parent "refuses" to attend, the student will be referred to an alternative educational placement. Characterizing a parent's non-ability to attend evening session as a refusal may not state the situation accurately; Families with lower socio-economic means may find it difficult to attend because of job

<sup>28</sup> Foundations Safe and Civil Schools Program <http://www.safeandcivilschools.com/index.php>.

<sup>29</sup> Email correspondence from Dana Kriznar.

<sup>30</sup> Sugai, G., & Horner, R. H. (2009). Defining and describing school-wide positive behavior support. In W. Sailor, G. Dunlap, G. Sugai, & R. Horner (Eds.). *Handbook of Positive Behavior Support*, (pp. 307-326), New York, NY: Springer.

conflicts (multiple jobs are common), transportation problems, or other family related issues (single-parent home). This program may not provide the flexibility needed for many at-risk students and their families. No demographic data was provided for this program.

Night-time Substance Use Prevention Counseling Education Program is a voluntary program and available to students who have committed alcohol or drug violations against the Code of Student Conduct. As with the above mentioned program, the Code of Student Conduct indicates that if the parent refuses to participate or does not complete the program, the student will be referred for placement in an Alternative Education Program. Because the sessions are in the evenings, as with the SOS program, students from lower socio-economic background may not be able take advantage of the program. Since 34 percent of African American students in Duval County live below the poverty line, these students may disproportionately be placed in alternative educational settings if their family situation limits participation in evening programs. This program may not provide the flexibility needed for many at-risk students and their families. The committee did not receive participant demographic data for this program.

Seven schools or programs are provided by interagency agreement for students in the juvenile justice system. They include the following: (1) Duval Detention Center (2) Duval Halfway House, (3) Gateway Community Services, (4) Hubbard House, (5) Impact Halfway House, (6) Jacksonville Marine Institute, (7) Jacksonville Youth Center, (8) PACE Center for Girls, (9) Pre-Trial Detention Center, (10) Tiger S.H.O.P., (11) Youth Crisis Center, and (12) Youth Development Programs. No educational data was available for these programs.

Rutledge H. Pearson Elementary is an example of what is possible when collaborative, research-validated principles are implemented with a child-centered focus. The school is 98 percent African American and 88 percent economically disadvantaged students. Students performing below grade level expectations decreased by double digits for both reading and math between 2007 and 2008. There were no out-of-school suspensions during the 2008/2009 or 2009/2010 school years<sup>31</sup>. The school is implementing sound educational and behavioral principles while addressing the needs of students who are at-risk for school failure, disproportionate exclusionary discipline, and court-involvement.<sup>32</sup>

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<sup>31</sup> Suspension Comparison Through the First Three Quarters, 2008-09/2009-10, Duval County Public Schools, Draft.

<sup>32</sup> Debbie Crotty, Principal, Ruthledge H. Pearson Elementary School, telephone interview, Patsy Nomvete, May 24, 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights, hereafter cited as Crotty interview.

**Solicited experts generally acknowledged the existence of a pathway from school to prison for many students of color**

The Committee interviewed a variety of people inside and outside of the State of Florida about the existence of a school-to-prison pipeline. Those interviewed included people from community organization, faith-based initiatives, and education reform advocates as well as officials with the justice system, Head Start, Duval County Public Schools, and the Florida Board of Education. There was general agreement that a school-to-prison pipeline exists in major urban areas, although there was some diversity of views concerning the level of responsibility school systems should shoulder for that pipeline. Some opinions focused attention on elements of school failing such as punitive school discipline policies, poor school climate, lack of behavioral instruction, and ineffective academic instruction. Others emphasized the need for community collaboration to address the school-to-prison pipeline. Florida and Duval County school officials emphasized positive efforts toward reducing exclusionary discipline, improving school climate and addressing the needs of the “whole child.”

***1. Opinions concerning punitive school discipline policies, poor school climate, lack of behavioral instruction, and ineffective academic instruction as school failings that are fueling the pathway from school to prison***

Robert Brown, Jr., president, CEO of the *Boys Home Association* of Jacksonville. The association provides therapeutic services for girls and boys in the foster care system and provides licensing for all foster homes in Duval County. Mr. Brown shared his experiences:

Concerning the question of whether a “school-to-prison pipeline” exists, yes I do believe it exists. My opinion comes from experiences encountered right here in my neighborhood while dealing with middle schools and high schools. I’ve lived in this same neighborhood (Arlington) in Duval County since I was 5 years old. ..Watching the number of in-school and out- of-school suspensions, experienced by middle and high school African-American students, I would say the system is not working...Kicking the student out of school is not addressing their educational or behavioral needs. They don’t try to hook them and try to keep them in school. In my opinion, there is no “outside-of-the-box thinking.”<sup>33</sup>

Benetta Standly, director Northeast Region American Civil Liberties Union of Florida, spoke to the interaction of race and poverty concerning the school-to-prison pipeline at a brief in Atlanta, GA:

I really, truly feel our public school systems are failing our most vulnerable children. What is going on in our school system has worsened. Our children are being criminalized. As a nation, we are creating a permanent underclass. Public schools are becoming more punitive environments and less educational....Sixty percent of people in prison are of a racial or ethnic minority. One in 20 black males in their 20s is in prison on any given day.... When you put that all in context, a child with a parent incarcerated is much more likely to be incarcerated.... Race and poverty are major factors in feeding the school to prison pipeline. ...What we feel at the ACLU is that kids need additional services and support services, not isolation and punishment. Often, children are misdiagnosed in the public school system with behavioral issues, and then funneled out...discipline problems were resolved through parent, teacher, and school administrator... Now, it is being addressed through suspensions, expulsions and arrests.<sup>34</sup>

<sup>33</sup> Robert Brown, Jr., CEO/Boys Home Association, Jacksonville FL, telephone interview, Patsy Nomvete, Apr. 8, 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights, hereafter cited as Brown interview.

<sup>34</sup> Benetta Standly, Director Northeast Region ACLU of Florida, from the briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, Jan. 22, 2010.

Malcom Ratchford, vice-president for the Georgia Head Start Association and Head Start Interim Director for DeKalb and Rockdale Counties (Georgia) commented on the inherited problems students in urban areas experience and the need for continuing social supports as they move through all levels of the school system:

A new study recently published as the National Head Start Impact Study..... You will find that the Find that the outcomes and results indicate that Head Start offers gains to low income children ..... that unfortunately diminish after the first grade... gains were achieved in language and literacy, vocabulary, mathematics and even social and emotional ..... So while in Head Start ... children with the highest risk, the highest risk for being juvenile delinquents, for having early teenage pregnancy, for being dropouts, for not graduating.... Achieve cognitive and social emotional gains to reduce or eliminate these risks..... But what happens is these gains are lost.... Whether it be a public school system or private system, somewhere teachers give up....We are all human. When you have a challenging child... we do naturally tend to shy away from that child. Their peers reject them so they are prevented from gaining the critical social skills. The key skills you must have to avoid challenging behaviors are social skills.... they have social skills as indicated in the National Head Start Impact Study 2010 when they first enter kindergarten and some into the first grade.... We are talking about low income children with the highest risk factors, they had the emotional and social skills to be successful when they entered public school. Somehow this success diminishes... their family dynamics and circumstances didn't change much by the time they entered kindergarten.... But the support network changes. From Head Start to the public schools somehow the support network is not the same... I heard a statement that was made by the last panelist regarding children.... The panelist stated that, "children drop out before birth"..... That statement is troubling. It is a perception. The same perception and expectation..... leads us to the path where we are today. We know that children are wired with the capacity to be resilient, meaning regardless of the adverse effects they may have experienced within their families, like incarceration of parents, substance abuse, or instability to name a few.... If they are given support along with their families and communities at all levels of their education, those high risks factors will diminish. So what we have to change are our support systems.... Once you fix this part, we will begin to see differences in terms of academic achievement.<sup>35</sup>

Hilary Creay, Circuit Director, director of the state's Guardian Ad Litem Program, in the 4<sup>th</sup> Circuit expressed concern for children in the foster care system:

I think for some of our children, there is a school-to-prison pipeline; we are in denial but it does exist. Although minority boys are affected more than others, but the number of girls being incarcerated is increasing. The schools, churches, political leaders, and the community need to understand that children who enter the child welfare system do so because they lack proper parenting and essential social supports. They have been physically abused or grossly neglected. Many times they are isolated and alone. Violence commonly occurs in their homes and neighborhoods and there is no one to ensure that the children get a good education. In many ways urban areas have become a wasteland for the children growing up there. Often there is no focus on education in the family; the children don't have computers or books, and many experience hunger.

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<sup>35</sup> Malcom Ratchford, Vice President Georgia Head Start Association and Head Start Director for DeKalb and Rockdale Counties (Georgia) from the briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, Jan. 22, 2010.

The Guardian ad Litem Program provides advocates for foster children who are also involved with the courts.. These students face even more challenges, such as loss of their parents, siblings, homes, neighborhoods, and friends. They change schools frequently, and are usually at least one grade level behind and are more likely to be medicated and have mental health issues. As a result of their experiences, they become angry, despairing and hopeless. They fail to develop the proper life skills necessary for self sufficiency and employment and some develop serious mental health issues.

All of us who are involved with these children, especially our schools need to understand what kind of lives the children lead. We need to avoid becoming numb to the circumstances and challenges these children face. Foster children often have behavioral issues and they act out sometimes. The schools need to understand what life is like for these children who have been separated from all things familiar.

When the students are disciplined, up to and including suspensions ... it does little to help the children whose lives have been turned upside down. Lack of documentation sometimes results in failure to properly identify the problem behaviors. This lack of documentation makes it difficult to identify and provide resources to children to help them deal with their anger, anxiety, and depression before they enter the pipeline. .

When a student is moved from placement to placement, the quality of the school districts varies. There's a wide range of quality of schools. Some are more responsive to students' needs than others.<sup>36</sup>

Derrick Schofield, assistant commissioner for the Department of Corrections in neighboring Georgia, offered the following view on the need for a more individualized approach to discipline:

It is my belief that it is the choices made by individuals that have kept the pipelines flowing with a steady stream of our young people transitioning from school to incarceration. In my opinion, there are about five things that I see as a practitioner in corrections, as a father ... and just as a person. It is the choices we force our children to make, our failure to focus on the real issue which is our children, the zero tolerance policies in the schools, the lack of tolerance for individualism, and a one size fits all approach to problems. ... I look back 40-some years ... and we are still talking about the same things.... We know all kids don't learn the same or at the same pace. ... The lack of positive progress is often ... misconstrued to be resistance and often dealt with in a negative manner. Negative reinforcement ... is not as effective as it used to be.

What we have learned in the prison system is addressing the behavior of the individuals is often more effective than implementing a cookie cutter approach to stopping problems.... 2.3 million adults or one in every 100 Americans was under some kind of confinement. ... 3.5 million adults, 1 in 31, are under some form of correctional supervision. ... Again, I am not an expert, but I do understand people and I understand if a person's basic needs are not met and we don't engage people as individuals by showing respect for their needs, we are fighting a difficult battle which will only get worse. The treatment of our children in an educational environment must and should reflect a learning environment that fosters teamwork, cooperation, and respect for others. We can't allow implementation of policies to turn schools into prisons. Some controls and

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<sup>36</sup> Hilary Creay, Circuit Director, *State of Florida Gaurdian Ad Litem Program, 4<sup>th</sup> Circuit*, telephone interview, Patsy Nomvete, Apr. 8, 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights, hereafter cited as Creay interview.



security measures are necessary, but what's the message that we are really sending when we are beginning to put police precincts in schools? If you create an environment that models a secure facility, what results are we expecting?

An inmate once told me, if you treat me like a convict, I'm going to act like a convict. That message is real clear, and that's the same message we may be sending when we create those schools that are secure where we put police precincts in there, when we see folks, see police officers walking in the schools that look like soldiers. What are we trying to say? What message are we trying to send? Is this a learning environment or is this a prison environment? In our prisons we deal with people we know are convicted of crimes. We don't have officers that are armed inside those facilities. At our most secure facility, in the Georgia diagnostic facility, on an average shift we supervise 2,000 offenders with approximately 50 officers, but that's because we have learned over the years ...how to manage behavior and how to address concerns without going to the cookie cutter approach. I challenge, and I am part of that challenge where we have to bring the same kind of respect, the same kind of look as how we manage our children. Often we say, that's our most available asset, our children are the future, so let's invest in them.<sup>37</sup>

## ***2. Opinions emphasized the need for community collaboration to address the school-to-prison trend***

Mr. Doug Tuthill, president of the K-12 scholarship organization Step Up for Students, shared his views:

Our organization, *Step Up for Students*, helps families on free and reduced lunch access Florida Tax Credit (FTC) scholarships. ... Our mission is to provide low-income families with an equal opportunity to match their children with the schools that best meet their needs. We don't care if these are public, private or virtual schools. Eighty percent of our scholarship schools are faith-based schools. ...

A school-to-prison pipeline does exist in our community. I'm not blaming the public schools. There are just not enough schooling options for these students and as a consequence they often end up on a track that leads to academic failure and at times prison. These students need more diverse learning options so they can find the school environment that best meets their needs. Our one-size-fits-all system doesn't work; it is failing many students.

In our organization, we find large numbers of African-American mothers putting their boys into faith-based schools. When I talk with mothers about their school choices; it is not so much about the academics as it is about changing the trajectory of their child's life. Their decisions often involve peer influences, safety issues, and increasing disciplinary problems at their neighborhood public school.

In Florida public schools cannot help that they are large and part of large school district bureaucracies. Large institutions can be alienating. An African-American mother with a seventh or eighth-grade education can feel intimidated and excluded from a large public school or school district. Private faith-based schools are often smaller, more community-

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<sup>37</sup> Derrick Schofield, assistant commissioner, Georgia Department of Corrections, from the briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, Jan. 22, 2010.

based and have more flexibility. This is not to say that private faith-based schools are antithetical or hostile to public schools. More and more the public-versus-private school dichotomy is breaking down. Public school systems are increasingly reaching out to, and at times contracting with, churches to get help. President Obama's emphasis on expanding charter schools that are privately owned and publicly funded is another example of a public-private partnership that is increasingly making the public-private school debate moot.

I was in Florida schools when our schools were desegregated. Because it was not politically possible to bus white students into black neighborhoods, the African-American students were bused out of their neighborhoods and to the white schools and the African-American schools were closed. These closures wiped out an important part of the social infrastructure in many African-American communities. Our scholarships are helping black and Hispanic communities rebuild their schools and thereby rebuild some of their lost social infrastructure.<sup>38</sup>

Neil Shorthouse, president of Communities in Schools, calls on schools to develop authentic relationships with parents and community:

Schools cannot succeed apart from the community. They are a community institution. Schools were given birth by the community to educate the children, but they were never designed to be in and of themselves efficacious for this whole enterprise. They have to involve the community and people of good will, particularly parents in the education of children. So we find that where we are able to work with school districts who really value input from the community and build support around those children who are unsuccessful, districts who are willing to pay a very steep price, and it is a steep price to get parents involved, and that's more than just sending something home in the child's lunchbox or announcing on a website that there's going to be a parent meeting. That means really going after them, which means that you really have got to see them as customers, parents as customers and children as customers. No business is successful at the customer level if they only make one foray into the effort to reach their customers. So when schools pay the price with high quality teachers, high quality in community engagement programs, sharing the responsibility for kids, not owning it exclusively, when they are willing to do that, we will have far fewer kids ending up in our alternative schools.<sup>39</sup>

### ***3. Florida Board of Education and Duval County school officials emphasized efforts toward meeting the needs of all students***

Dana, Kriznar, Executive Director Alternative Education and Behavioral Support Services expressed the following views concerning a school-to-prison pipeline in Duval County Public Schools:

There are so many social factors that impact student behavior and decision-making, that I think it is probably unfair to characterize one institution as the direct pipeline for African American males to jail. Other factors such as poverty, parenting teens, single parent homes, and the structure of the family all have an impact on our children. Unfortunately, some of these factors disproportionately affect the African-American community.

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<sup>38</sup> Mr. Doug Tuthill, President *Step Up for Students*, telephone interview, Patsy Nomvete, April, 7 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights, hereafter cited as Tuthill interview.

<sup>39</sup> Mr. Neil Shorthouse of *Communities in Schools* from the briefing before the Georgia Advisory Committee to the US Commission on Civil Rights, January 22, 2010.

We know that there are a disproportionate number of African American youth suspended, expelled and in alternative school settings and we recognize that this is a problem. We monitor our discipline data at both the county and school level on a regular basis and have been working on strategies to eliminate the existing gap through various programs and practices.

We have made a number of improvements over the past few years. One program we initiated around 6 years ago is *Foundations Safe and Civil Schools Program* from Randy Sprick in Eugene, Oregon. The program trains teams that include teachers, administrators and guidance counselors to use research-based practices to improve school climate and safety. Discipline data are disaggregated to identify trends and problem areas; then the school teams decide on changes that need to take place to address those problems. Those changes are evaluated to see if they had the intended affect, and revisions to the plan are made. School Foundation plans are in process throughout the school year. As part of the program, a district-level team visits schools to see how the program implementation is going, provide feedback to the school-based team, and suggestions for next steps. The program was implemented first in middle schools. There is also a staff development component called CHAMPS that works in conjunction with Foundations that trains staff in positive behavior management techniques. We encourage all of our new teachers to attend CHAMPS training, and other teachers are also encouraged to attend as part of the observation feedback and professional improvement process. The implementation of Foundations and CHAMPS has had a substantial impact on the number of suspensions and overall incident referrals, particularly in our secondary schools.

The teen court program is a new program we have implemented this year as a pilot program in lieu of juvenile court. The intervention is a joint endeavor by the State Attorney's Office, Jacksonville Sherriff's Office and Duval County Public Schools. Although there is adult oversight, the students serve as the lawyers, the jury, and the judge. The verdicts of the court are binding and include restorative justice practices and community service. Students who elect to participate in the process and follow through on the prescribed tasks are left with an arrest-free record.

Another voluntary program we offer in conjunction with the Jacksonville Sherriff's Office is called "Safe Students in Schools" which provides mentoring to students identified through a set of criteria including previous arrest record and disciplinary incidents in school. On a monthly basis, the School Resource Officers in each of our secondary school receive a list of students to work with, counsel and mentor throughout the month.

We have also worked to develop a program with Jacksonville Journey, a city-wide initiative to reduce violent crime in Duval County. This program, called Alternatives to Truancy and Out of School Suspension (ATOSS), is aimed at giving students a safe place to learn and receive services in lieu of suspension. Located in five centers geographical distributed throughout the city, students receive educational services from a certified teacher, have access to a licensed social worker, and are counted present in school. In addition, students who elect to use the program do not have a suspension on their disciplinary record.

A number of our high schools are implementing Challenge Day, which is a day-long program that uses exercises, trust-building activities, and discussions to help teachers and students confront issues such as bullying, prejudice, and violence within the lives of our

children. Other schools are engaged in SPIRIT, which is a longer social-emotional learning experience in which student leaders and educators work together to build a plan to confront some of these same issues.

The discipline statistics are important, but they don't tell the whole story. For instance, in the 2008 -2009 school year there were nine students expelled from the Duval County system and all were African American. But in each instance, the students were expelled for bringing a gun to school. In addition, seven of the nine students were expelled with continuing educational services, which means that they continued to attend school in an alternative setting. In addition, this year we have had a remarkable reduction in out of school suspensions, particularly at the secondary level.<sup>40</sup>

Bambi Lockman, chief of the Bureau of Exceptional Education and Student Services for the Florida Department of Education, noted positive trends concerning suspensions in the state, as well as improvements for students with disabilities. She relates the existence of a school-to prison pipeline to a lack of community and parental involvement:

Several districts in Florida no longer use out-of-school suspensions/expulsions, instead they suspend to an alternative setting so the student can remain in an environment focused on academics and improving behavior. Alternative settings include those developed by districts as well as those developed as charter schools.

I believe a school-to prison pipeline does exist where there is a lack of community and parental involvement. Typically, there are not adequate transition supports for students reentering the school system from Juvenile Justice programs. Without effective transition planning and parental and community participation, students tend to return to an environment with preexisting challenges which ultimately impact their ability to succeed.

Programs providing quality transition planning include support personnel, to serve as a liaison to assist with the students' reintegration into their natural environment. In Florida, all districts have an identified transition contact who supports students' reentry to school, assists with transferring and receiving records, and provides information to other districts on local school options for returning students. Transition planning addresses academic and behavioral needs and focuses on individualized post school outcomes. Additionally, a collaborative interagency process is facilitated in order to address community based mental health needs.

Students with disabilities are more likely to become incarcerated than students without disabilities. Progress has been made with the drop-out rate of students in special education. The risk ratio for dropping out of school in this population has decreased from 12.2 (2005-2006) to 7.7 (2008-2009) in Duval County. The solution to the problems of the "school-to-prison pipeline" includes early intervention, transition resources, and community and interagency partnerships. There must be a continuum of services in order to ensure effective outcomes.

Debbie Crotty, principal of Rutledge H. Pearson Elementary School, which has over 90 percent African American students and a high rate of poverty, shared the philosophical underpinnings and the practical steps that have produced a positive learning environment for her students:

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<sup>40</sup> Kriznar interview.

Four years ago I was assigned to Rutledge H. Pearson Elementary. I had the opportunity to restructure my staff. I looked for people who care about the students. We individualize the program for every student in the school. We look at the whole child including the child's knowledge, meta-cognition, experience, attitude and perception. Our children are so smart; it is often their attitude or behavior that impacts their ability to learn. When there is a problem, I meet with our behavior interventionist; we get in touch with the parent immediately. The school acts as a community; the problem of one child is a problem for us all. We all work together to find the cause of problem. We don't believe in out-of-school suspension. If the children are out of school we don't know what they are getting into. In-school suspension is used just until the behavior is changed, then we get the student back into the classroom. Our parental involvement has improved. When a child is having behavioral difficulties, the parent must come in. If that isn't possible, we do what it takes to communicate with the parent even it means going to the home. Programs we use to address student needs include the 2<sup>nd</sup> Step-Up (an anti-bullying program) and Foundations/Champs. The most important thing is that we love and care for our students.<sup>41</sup>

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<sup>41</sup> Ms. Debbie Crotty, principal, Rutledge H. Pearson Elementary School, telephone interview, Patsy Nomvete, April, 7 2010, record of interview on file with the Southern Regional Office, U.S. Commission on Civil Rights.

**Duval County Public School District similar to other school districts with respect to racial disparities in discipline**

To further understand the existence of a possible pathway leading from schools to prison for children of color in the Jacksonville schools, the school environment in the Duval County/Jacksonville school district was contrasted with four similarly sized urban school districts in the South: Atlanta, GA (Atlanta Public School District); Charlotte, NC (Charlotte-Mecklenburg County School District); Chattanooga, TN (Hamilton County School District); and Louisville, KY (Jefferson County School District). The Duval County Public School District (DCPS) is similar to the other selected four school districts in terms of integration, the proportion of the student body that is African American, and school spending.

Similar to the four comparison school districts, the Duval County Public School District (DCPS) has a moderately high level of segregation in its elementary schools. DCPS had an integration dissimilarity index of 50, which indicated that the district while more integrated than the other four districts was still somewhat segregated. The racial composition of the student body also was similar between DCPS and the comparison school districts. In all five school districts, except for the Atlanta School system, the proportion of African American students ranged between about 35 percent and 45 percent. However, DCPS did stand out in terms of per-pupil funding, spending \$8,414 per child, which was similar to Charlotte but much lower than Atlanta and Louisville. Duval County had approximately equal numbers of African American students and White students.

**Table 1: Comparison of per pupil expenditures, percentage of white and black Students, and integration Dissimilarity Index between Duval County Schools and Atlanta Public School District, Charlotte-Mecklenburg County School District; Chattanooga-Hamilton County School District; and Louisville-Jefferson County School District**

<b>Urban School Districts across the Southeast (2008-2009)<sup>42</sup></b>	<b>Per Pupil Expenditure</b>	<b>percent White Students</b>	<b>percent Black Students</b>	<b>DI Index</b>
Atlanta Public Schools	11,803	10	83	94
Charlotte-Mecklenburg County Schools (C-MCS)	8,570	41	34	78
Hamilton County Schools/Chattanooga (HCS)	9,334	63	35	65
Jefferson Public Schools/Louisville	12,107	51	33	59
Duval County Public Schools/Jacksonville (DCPS),	8,414	42	43	50

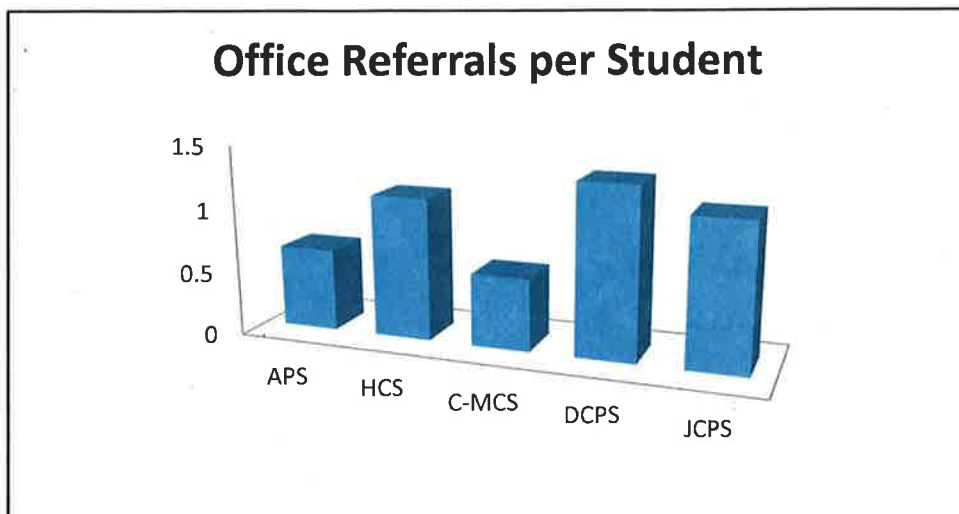
Source: Florida Advisory Committee

In addition to a similarity among the five school districts in integration patterns and student populations, the rate of discipline action taken by the Duval County Public School was also found similar to that of other selected school districts. This suggests that the Duval County School District is not alone in grappling with the problem of a potential pathway from school to prison for many children of color.

Although DCPS had the highest number of office discipline referrals per student among the five compared school districts, in general office referral rates were similar for the five school districts. The overall number of office discipline referrals per student was calculated for each district to determine the

<sup>42</sup> U.S. Census, 2008; School Districts.

**Figure 4: Discipline office referrals for DCPS and four comparison school districts**



Source: Florida Advisory Committee.

Note: Atlanta Public Schools (APS), Duval County Public Schools/Jacksonville (DCPS), Jefferson Public Schools/Louisville (JCPS), Hamilton County Schools/Chattanooga (HCS), and Charlotte-Mecklenburg County Schools (C-MCS)

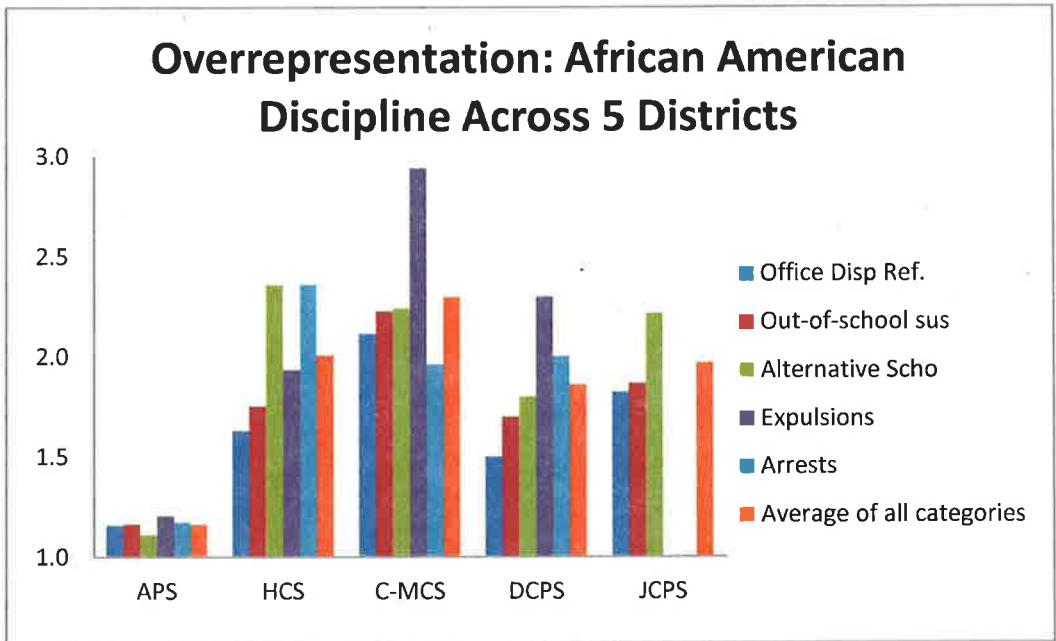
frequency students from each district are being disciplined. The Duval County Public School district had the highest number of office discipline referrals per student when compared with the other four selected school districts.<sup>43</sup> DCPS averaged about 1.5 discipline referrals per student, which was similar to Louisville (JCPS) and Chattanooga (HCS). In contrast, neither Charlotte (C-MS) nor Atlanta (APS) averaged even one referral per student. (See Figure 4.)

All five selected school districts had an overrepresentation of African American students in disciplinary events. Among the five examined school districts, three had higher rates of overrepresentation than Duval County though the rates were essentially similar. As with office referrals, the Atlanta public schools with a very high percentage of African Americans did not exhibit much of a trend toward overrepresentation of African Americans.

Contrasting the five categories of discipline across school districts: (i) office referrals, (ii) out of school suspension, (iii) alternative school placement, (iv) expulsion, and (v) arrest, the pattern of discipline disparity against African Americans in DCPS again was similar to Louisville (JCPS) and Chattanooga (HCS) and Charlotte (C-MS). Atlanta (APS) alone was substantially lower in comparison to the examined school districts, and it seems likely that its sharply higher proportion of African American students may be the reason for this discrepancy.

<sup>43</sup> Data received upon request from Atlanta Public Schools (APS), Duval County Public Schools/Jacksonville (DCPS), Jefferson Public Schools/Louisville, Hamilton County Schools/Chattanooga, and Charlotte-Mecklenburg County Schools for the 2008-2009 school year.

Figure 5: Comparing over-representation of discipline for African American students across districts



Source: Florida Advisory Committee

Note: Disparity Index: A value of 1 represents no disparity; values greater than 1 indicate over-representation. Atlanta Public Schools (APS), Duval County Public Schools/Jacksonville (DCPS), Jefferson Public Schools/Louisville (JCPS), Hamilton County Schools/Chattanooga (HCS), and Charlotte-Mecklenburg County Schools (C-MCS)

### Concluding Observation

Although there are many factors that contribute to problems faced by poor, African American students in urban areas, such as violence, drugs, and children born to teenage mothers, schools are ultimately responsible for educating the students who walk through their doors. An analysis of the disciplinary data and policies by the Florida Committee of the Duval County Public School System supports a conclusion that a pathway to prison exists for many African American students living in Duval County and attending the Duval County Public School system. It also appears that this problem is not isolated to Duval County, but is occurring in other large urban areas throughout the country. The Florida Committee submits its findings and recommendations because it believes that with concerted efforts, schools have the opportunity to intervene and prevent disadvantaged children from following an inevitable path to prison.



## **Findings**

1. Multiple factors beyond the control of school districts, such as poverty, neighborhood environment, and family structure, can affect a student's ability to function within the school system.
2. Students benefit when school, home and community work together.
3. Poverty negatively impacts a student's ability to function adequately in the school system, and poverty disproportionately affects African American children in Duval County.
4. Exclusionary disciplinary policies, to include out-of-school suspension, alternative school placement, and expulsion, contribute to higher risks of school dropout.
5. Dropping out of school is a risk-factor for incarceration.
6. African American students in the Duval County Public Schools receive a disproportionate amount of discipline.
7. As the severity of the disciplinary action increases, the overrepresentation of African American students receiving the harsher discipline increases.
8. The Code of Student Conduct, which outlines violations and consequences of student behavior, is written at a college graduate reading level, beyond the reading ability of most students who are held responsible for its content and beyond the reading ability of most parents.
9. A perceived pathway from school to prison seems to be operating in Duval County for many children of color.
10. Despite the fact that the Duval County Public School system has made promising efforts toward reducing the overall amount of exclusionary discipline, African Americans continue to be significantly overrepresented in the district's exclusionary disciplinary actions.

## Recommendations

1. The Committee recommends that the School Board of the Duval County School District examine the effectiveness of exclusionary and zero-tolerance discipline policies to ensure such policies provide for a safe school environment while not unnecessarily placing children on a pathway to prison.
2. The Committee recommends that Duval County Public Schools build upon current efforts and implement school-wide initiatives, such as positive behavior supports, in place of current punitive policies. Rutledge H. Pearson Elementary School provides an example of what is possible through a comprehensive positive behavioral approach. In addition, integrated school-wide training for teachers, such as CHAMPS, should be implemented in schools throughout the district.
3. The Committee applauds the district's collaborative relationship with the community initiatives, such as the *Jacksonville Journey*, in the development and implementation of the Alternative to Out-of-School Suspension Program (ATOSS) and recommends building upon this and other collaborative efforts that align with the needs of students.
4. The Committee recommends that transportation services be restored to the Marine Science Center Vocational program, the only vocational program without transportation provided as African American students should have access to innovative programs such as the Marine Science Center Vocational program.
5. The committee recommends rewriting the Code of Student Conduct with the following changes: (a) The reading level must be in accord with guidelines set for public documents (6<sup>th</sup> or 7<sup>th</sup> grade level); (b) The legalistic terminology should be replaced by plain language; and (c) a more positive tone should be developed toward students and parents.
6. The Committee recommends that the State of Florida's Department of Education replicate this study in other urban areas of the state to learn to what extent a pathway from school to prison may be operating as well as to examine the possible existence of promising schools and programs that are providing realistic constructive alternatives for children of color.

## Appendix 1 – Response of Duval County Public Schools

### Section -*Introduction* (page 1)

In March 2010, Duval County Public Schools received a letter from Dr. Peter Minarik from the Southern Regional Office for the U.S. Commission on Civil Rights. In the letter, Dr. Minarik stated that the Commission was seeking discipline information from the district. In subsequent telephone conversations with district personnel, Dr. Minarik (and his assistant) indicated that the Commission was conducting a research project that would compare the disciplinary practices of five (5) urban school districts in the Southeast United States. The draft report, however, characterizes Duval County as the subject of the research, and makes only a cursory reference at the end of the document to the other four (4) districts to be included in the research.<sup>44</sup> If similar studies were developed on the other four (4) districts, they should be included with this document. If Florida was the main subject of research for this study, it was not clearly communicated to district personnel.

### Section - Background (page 3)

In this section, the author cites statistics such as out of school suspension, drop-out rates, and expulsions. It is not clear from the text, however, that the author is citing national statistics, rather than those specific to DCPS.

Section 2 - Of the 104 elementary schools, 17 schools have student populations that are greater than 90 percent African American

On page 7, the author cites statistics regarding the ethnicity of our student body and percent enrollment statistics for schools within the district. In paragraph three of the same page, the author refers to court rulings against race-based attendance policies and cites statistics regarding percentages of minority students who attend public schools. Again, it is not clear from the text whether the author is citing national statistics or those specific to DCPS.

Additionally, DCPS has implemented a "School Choice" plan which provides opportunities for all students to choose from a variety of academic and magnet-themed schools at elementary, middle, and high school. More than 30,000 students exercise the option to attend a school other than the attendance area school.

Section 4 -In Duval County Schools, on average African American students are not succeeding Regarding the research on Advanced Placement scores, the report neglects to provide any information regarding minority student AP participation. We are extremely proud of the strides we have made in the number of minority students participating in AP courses throughout the district. AP courses are offered at all of our comprehensive high schools. While the African-American high-school enrollment in DCPS represents 8.6% of the total African-American public high-school enrollment in Florida, 21% (or 3,662 students) of the African-American AP test-takers in Florida were DCPS students. Passing scores for African-Americans in DCPS represent 9.3% (or 498) of passing scores earned by African-American students in public schools in the State of Florida. Therefore, DCPS African-American students are over-represented in Florida both in terms of AP participation and AP passing scores. Enrollment in AP courses, as well as passing scores on AP exams, for African-American students in DCPS increased by

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<sup>44</sup> Commission comment: Five of the six state advisory committees of the Southern Region of the U.S. Commission on Civil Rights engaged in an examination of school discipline. Each state advisory committee examined one school district in its state that included a major urban area. The Florida Advisory Committee selected the school district containing the City of Jacksonville. The Georgia Advisory Committee selected the school district containing the City of Atlanta. The Kentucky Advisory Committee selected the school district containing the City of Louisville. The North Carolina Advisory Committee selected the school district containing the City of Charlotte. The Tennessee Advisory Committee selected the school district containing the City of Chattanooga.

4.3% and 10.2% respectively over the previous school year. A district committee comprised of school-based and district staff meets annually to review and recommend changes to the Student Code of Conduct. The district's Zero Tolerance policy was revised to incorporate the statutory changes referenced in the article. Additionally, district staff provides training to school-based administrators each year to ensure that changes to the Code have been effectively communicated to schools.

~ Current school discipline measures in the Duval County Public School District are not effective for many African American students

Section 2 - African Americans received significantly more disciplinary consequences at every level than their white peers

The author reports out-of-school suspension rates on page 12. Since the 2007-2008 school year, our schools have reduced their out-of-school suspension rate from 60,033 to 23,200, a reduction of more than 60%. In addition, the research reports an expulsion disparity index of 2.3. It would be important to note in this research that expulsion is an option that is rarely used in Duval County. In fact, only two students were expelled without continuing educational services in Duval County last school year. An additional seven students were recommended for expulsion, but those students received continuing services in one of our alternative school settings. We believe creating an index based on so few students appears misleading and/or statistically insignificant.

Section 3 - African American students placed in alternative education programs in Duval County are in highV segregated settings

On page 14, the author refers to one of our vocational alternative schools. The Marine Science Center is one of our Schools of Choice that offers a performance-based diploma. This vocational diploma option is also offered at A. Philip Randolph Career Academies and Frank H. Peterson Career Academies. Both academies offer a wide array of vocational programs with industry certifications and are an option to students throughout the district. Transportation is provided to both of these schools. In addition, all of our comprehensive high schools have incorporated at least one career academy to offer additional choices for our students. Additionally, every school in the district [with the exception of Darnell Cookman middle/high school (a school of the medical arts, which has a prescribed course of study)] has one or more career academies, as well as an acceleration program [Advanced International Certificate of Education (AICE), International Baccalaureate (IB), Early College, or Advanced Placement Honors].

1.

One of our newest approaches to reducing exclusionary processes are our Alternatives to Truancy and Out of School Suspension (ATOSS) centers, which were referenced on page 15 of the Commission's report. The article states that the students participating have been suspended from school. This is incorrect. The students are not considered suspended, are assigned work from their regular classroom teachers, and are counted present in school. In addition to support received from a certified teacher, students receive counseling from a licensed social worker. ATOSS is an option in lieu of suspension, and a suspension does not become part of the student's disciplinary record.

Continuing on page 15, The Foundations of Safe and Civil Schools is cited as having "sound elements;" however, the author goes on to say that "it does not appear to have had a significant impact on the amount of exclusionary discipline." Once again, out-of-school suspensions have been reduced by more than 60% over the past two years. In addition, violations that are considered "serious," as defined by the Statewide School Environmental Safety Incident Report (SESIR), have been reduced by 36%. We believe these reductions are significant.

With regard to secondary school suspensions, the district reduced the number of African American student suspensions by over 15,000, which was more than three (3) times the reduction realized in any other racial/ethnic group. While the district recognizes that there is still much work to be accomplished in this area, we believe the Commission's report should include information regarding the success of several initiatives that have been put into place, particularly within the past two years.

Both of our night-time programs referenced on pages 15 and 16 have a parent/guardian component, as stated in the Commission's report. We are aware that there are parents who have difficulty attending the program during the evening hours. For those parents, we offer the option of another adult or family member attending with the student. We also regularly reschedule classes to accommodate parent/guardian work and school schedules.

On page 16, paragraph 2, the author states that we have seven (7) OJJ facilities. The correct number, as enumerated in the following sentence, is 12. The report also states that no educational data was available for these programs. Please note that no educational data was requested for students in those facilities.