

Suggested Practices For School Administrators Regarding Law Enforcement and Student Disciplinary Issues

August, 2006

INTRODUCTION

Over the past decade, Georgia's schools have faced a daunting challenge as they seek to ensure the safety of students and staff in an era of intense public concern over the school safety in light of events such as those which occurred in Columbine, Colorado. Faced with public pressure to take every possible step to ensure safe and orderly school environments, many school systems in Georgia, and across the nation, have adopted more punitive disciplinary practices providing for sanctions against students for any action that might be interpreted as a threat to school safety.

At the same time, the desire to avoid perceived legal liability and possible accusations of discriminatory or unfair actions against students has led many systems to develop rigid disciplinary codes with prescriptive penalties for student misbehavior without regard to individual circumstances.

These trends have led to widespread adoption of what is often referred to as "Zero Tolerance" policies which, in some instances, have led to unintended consequences. Although appropriate in certain circumstances, bringing a firearm to school for example, it appears that in some of Georgia's school districts these policies have led to the arrest of significant numbers of youth for extremely minor legal infractions at schools. While difficult to quantify, many juvenile judges and juvenile court workers believe that today they are handling far more school related cases for behavior that was once handled through school disciplinary actions.

National research has also clearly demonstrated that zero tolerance has led to a dramatic increase in long term suspensions/expulsions, a phenomenon which likely contributes greatly to school drop out rates. And, when the arrest of a student is accompanied by a long term school suspension or expulsion, the ability of the juvenile court system to positively impact a youth's behavior is severely restricted. However, if the student is assigned to an alternative school, there is more opportunity for successful intervention by the juvenile court and/or the juvenile justice system.

School systems' rightfully focus on providing a safe and orderly learning environment, thus maintaining order and discipline in the classroom. Similarly, law enforcement officials are committed to eliminating the threat of serious violence in the school setting and on school property.

Child welfare and juvenile justice professionals, however, seek to both provide for public safety while simultaneously seeking to foster positive behavior and values among individual youth under their supervision. In practice, this means that juvenile justice and child welfare workers are often seeking to restore or maintain a youth in

school whose past and current behavior might very well contribute to school disciplinary problems. This does not, however, have to be the case.

Many of Georgia's youth-serving agencies, including the Children and Youth Coordinating Council, are seeking to reduce the frequency of such inappropriate arrests and other negative consequences of "zero tolerance" policies through the dissemination of suggested strategies and practices.

MANDATORY REPORTING REQUIREMENTS

Under current Georgia law, the following are all crimes specified in OCGA § 20-2-1184 that **MUST** be reported to the school system superintendent, the police and the district attorney :

- I. Child Abuse (OCGA § 19-7-5)
- II. Aggravated assault if a firearm is involved (OCGA § 16-5-21)
- III. Aggravated battery (OCGA § 16-5-24)
- IV. Sexual offenses (OCGA § 16-6-1 through § 16-6-24)
- V. Carrying deadly weapons to or at public gatherings (OCGA § 16-11-127)
- VI. Carrying weapons within school safety zones, at school functions, or on school property (OCGA § 16-11-127.1)
- VII. Possession of a pistol or revolver by a person under the age of 18 years (OCGA § 16-11-132)
- VIII. Possession, purchase, and other activities regarding marijuana and other controlled substances (OCGA § 16-13-30)

In all other instances law enforcement may be notified at the discretion of school authorities.

SUGGESTED STRATEGIES

A. Firm, clear, fair student codes of conduct and disciplinary policies which:

1. Evaluate each instance of misbehavior on an individual basis rather than mandate specific responses to broad categories of behavior
2. Outside of incidents which require law enforcement notification under Georgia law, consider intent of students when evaluating violations of school rules and possible law enforcement referrals

3. Outside of incidents which require law enforcement notification under Georgia law, consider the past disciplinary history of students in making disciplinary decisions
4. Outside of incidents which require law enforcement notification under Georgia law, consider self defense as a mitigating consideration when handling fighting incidents
5. Consider cognitive and developmental differences between different age groups and student populations, as defined under Georgia law

B. Utilize a progressive disciplinary continuum within the school setting, which might include:

1. Conflict resolution classes
2. In-school suspension
3. Counseling
4. School-based probation officers
5. Saturday school
6. Law enforcement citation system

C. Develop local protocols between schools, law enforcement and the court which:

(a) clearly delineate law enforcement's role in the schools,

(b) defines the respective chains of command for law enforcement and school officials; and

(c) discourages the arrest of students for common school misbehavior while ensuring appropriate reaction to serious criminal behavior.

These local protocols should:

1. Refrain from law enforcement referrals for very young children except in extreme, clearly dangerous situations.
2. Consider separate philosophies and policies/procedures for school resource officers in Middle and High Schools
3. Within local policies, validate the right of school administrators to utilize discretion in making disciplinary decisions

4. Within local policies, validate the right of law enforcement officials to utilize discretion in making arrest decisions
5. Provide for discretion and appropriately proportional responses to individual incidents within local policies
6. Address the specific issue of fighting and the circumstances appropriate for law enforcement to be notified

D. Provide initial and continued training:

1. For law enforcement on model practices in middle and high schools
2. For school officials on legal responsibilities and liability issues focusing on what is actually required of schools in this area and clarifying liability risks

E. Development of a positive school climate with:

1. Pro-active leadership
2. Trust and support
3. Ongoing communication with the community on school safety issues rather than panic responses to specific incidents

OTHER ISSUES

A. Variation In local policies and practices:

Both school system and law enforcement practices vary enormously among systems and individual schools. Thus, some school resource officers act as unofficial mentors, working to build positive relationships with students and resolving disciplinary problems as much as possible outside of the legal process. Others view their role in purely law enforcement terms. Similarly, some school systems consciously handle cases on an individual basis, while others have rigid policies calling for law enforcement intervention in any case that could be construed as a crime.

Although practices should vary considerably between different age groups, there should be consistency from school to school within local systems.

B. Vague and conflicting laws and regulations such as:

1. Disruption of Public School - Passed in 1994, OCGA § 20-2-81 makes it “unlawful for any person to disrupt or interfere with the operation of any school.” No definition of “disruption” is provided and this code section is interpreted in

widely varying ways. Some schools rarely charge youth with this offense, while other frequently apply this law to typical adolescent behavior.

It is recommended that the provisions of this law be applied only to significant instances of disruption, such as intentionally setting off a fire alarm.

2. Mandatory Notification of Law Enforcement - Several different code sections address legal action by schools in specific circumstances. OCGA § 20-2-1184 requires the notification of law enforcement of offenses such as aggravated assault, aggravated battery, sexual offenses, possession of weapons and drug possession. However, some systems appear to have interpreted this code to require law enforcement action for simple battery and other misdemeanors. Of course, officials should have the discretion to involve law enforcement in any circumstance in which safety is at risk.

It is also suggested that policy refrain from interpreting disorderly behavior in the most stringent possible manner and use law enforcement referrals in accordance with locally established protocols in affray situations. In most instances, for example, two 9 year olds fighting in the hall would probably not require law enforcement involvement. Two 16 year olds engaged in a full blown fist fight, however, might very well require law enforcement intervention.

CONCLUSION AND RECOMMENDATIONS

For the past few years, the Children and Youth Coordinating Council (CYCC) has worked to facilitate better working relationships between youth-serving agencies at the local level through the development and implementation of local working agreements or protocols through it's Interagency System Coordination Project. These protocols are primarily between the Department of Family and Children Services and the Department of Juvenile Justice and focus on the population of youth they share.

CYCC now seeks to encourage the development of similar protocols between local school systems, juvenile courts and law enforcement agencies to address school-based behavior among youth, public safety and juvenile court procedures. The discussion, and eventual development, of local agreements will clarify individual agency roles and responsibilities, thereby preventing conflict and misunderstanding in times of crisis, while providing equal and fair treatment to all youth.

School systems, juvenile courts or law enforcement agencies interested in this process may contact Suzanne Luker, Interagency Program Manager for CYCC, to discuss local issues and needs. CYCC has designated funding specifically for this project that includes training materials, meeting space and technical assistance.