December 10, 2012

Honorable Dick Durbin  
Chairman, Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights  
224 Dirksen Senate Office Building  
Washington, DC 20510

Honorable Lindsey Graham  
Ranking Member, Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: Hearing on the School to Prison Pipeline

Dear Senators Durbin and Graham:

On behalf of the members of the National Association of School Psychologists (NASP), thank you for the opportunity to submit written testimony regarding ending the school-to-prison pipeline. NASP represents over 25,000 school psychologists who work with students, families, educators, and administrators to support the academic achievement, positive behavior, and mental wellness of all students. NASP believes that all students learn best in inclusive environments that combine high quality, evidence based instruction and effective school-wide discipline practices.

Expansion of Zero Tolerance Policies

In 1994, The Gun Free Schools Act was signed into law, and was re-authorized as part of the No Child left Behind Act in 2001. This act mandated zero tolerance policies and mandatory suspension/expulsion for students bringing weapons to school. However, many state and local jurisdictions have applied zero tolerance policies to a wide range of behavioral infractions ranging from fighting, disruptions in the classrooms, to the minor and often subjective infraction of disrespect or general disruptive behavior. Further, some schools and districts often apply suspensions and expulsions to minor behavior infractions that occur both in and out of school (Skiba, 2002).

These policies have increased the number of students removed from school for discipline infractions and may have increased student contact with law enforcement (Skiba, 2012). Additionally, these school discipline practices are often employed with no support provided to the student before punitive measures are utilized nor upon their return to school. Schools and school districts have strayed away from the original intent of the law, resulting in the unintended consequence of students being pushed out of school without considering the unique needs of every student in the learning environment. Requiring schools to enact zero tolerance policies according to the original intent of the law as opposed to is expanded use, is the first step in addressing the school to prison pipeline.
Negative Consequences of Zero Tolerance
Ineffective schoolwide discipline policies and practices like zero tolerance do not address school safety or improve student behavior, and are based on the false belief that removing particular students from school will benefit other students and the overall school climate. However, zero tolerance policies have a negative effect on school climate, do not make students and teachers feel safer in school, and are associated with increased student drop out and involvement in the criminal justice system. Specifically, school suspension is a moderate to strong predictor of school dropout (Balfanz, 2003) and increases the likelihood of the student being involved in the juvenile justice system (Fabelo, T.; Thompson, D., Plotkin, M., Carmichael, D., Marchbanks, M., and Booth, E, 2011). There has been great effort to increase the rate of students who graduate from high school and enter the workforce or go to college. Greater attention is being given to promoting positive student behavior through interpersonal skill instruction, clearer and more consistently applied behavioral expectations, and early intervention efforts for students at risk for school failure as a result of social, emotional or behavioral problems. We urge you to work with state and federal education departments to ensure that discipline policies are designed to keep students in school, not push them out.

Disproportional Application of Punitive Discipline
The disproportionate rate that suspension and expulsion are used with racial minority students and students with disabilities is alarming. A wide body of research documents the disproportionate application of disciplinary measures such as suspension and expulsion among certain ethnic groups, particularly African American students (Losen & Skiba, 2010; Children’s Defense Fund, 2004). Further, students with disabilities, particularly those with emotional and behavioral disorders, are suspended at rates disproportional to their representation in the population (APA, 2008; Leone, Mayer, Malmgren, & Meisel, 2000). Given that students with behavioral and/or emotional disabilities often demonstrate behaviors that require sustained access to intervention, the continuation of zero tolerance policies in schools is detrimental to this population (Krezmien, Leone & Achilles, 2006). Students with disabilities who are expelled under zero tolerance laws essentially receive no, or a lesser education, as the law allows for schools to deny their reinstatement (McWilliams & Fancher, 2010).

The American Bar Association took the position that zero-tolerance policies should be discontinued in schools due to the fact that administrators were using these polices to keep difficult students out of school, and therefore, denying them an education (Henault, 2001). Educators have a responsibility to provide every child with a free and appropriate public education. We should not tolerate the continued exclusion of minority and disabled students from our public school system.

Unnecessarily Burdening the Juvenile Justice System
Schools have a responsibility to keep students safe, yet far too often students are removed from the classroom and placed into the juvenile justice system for behaviors that could and should be addressed in the school environment. Across the country, judges cite being overwhelmed by cases of basic student misconduct that should have been handled by the school. Skiba (2012) notes Pennsylvania reported that the number of referrals to the juvenile justice system had tripled over the past seven years. Additionally, judges have noted that frequently, these court cases have involved minor infractions or involved students whose behavior was likely related to their disability.

An analysis of several case studies reveals the case of “Tony”, a student with emotional and behavioral disabilities who was arrested 18 times over the course of two schools years for minor behaviors that included speaking out of turn and moving around in class (Browne, 2003). “Tony” deserves proper behavioral support at school, not an arrest record for these behaviors. In Florida, a 14 year old student with disabilities was arrested for stealing $2 dollars and was held in an adult jail for six weeks, even though this was his first offense. In Chicago, numerous students (aged 11-15) were arrested and held overnight for a food fight (Skiba, 2012). Our students deserve better than this. Schools can do a better job of keeping students in school and our
of the juvenile justice system by implementing effective school wide discipline policies and practices that focus on prevention and intervention.

Positive Discipline
Positive Behavior Interventions and Supports (PBIS) is one example of effective schoolwide discipline. Regardless of what it is called, effective discipline practices involve communicating and teaching behavioral expectations and discipline policies universally to staff members and students coupled with consistent application of the policies and availability of supports to those students who need it. Students with mental or behavioral health concerns, who have difficulties in the home, or have severe academic needs require more intensive individualized supports. These students are the most at risk for failing, dropping out, or engaging in criminal activity (e.g., Allensworth & Easton, 2005; Balfanz & Herzog, 2005).

Effective schoolwide discipline involves primary prevention, secondary support, and tertiary supports. Primary prevention includes clearly communicating and teaching behavioral expectations, recognizing and reinforcing positive behaviors, and school wide prevention efforts. Primary prevention also includes character education programs, mentoring programs, school clubs or other opportunities for pro-social involvement, and access to specialized instructional support personnel (e.g., school psychologists, counselors, and social workers. Effective primary prevention results in less time spent on student discipline, and more time spent on teaching and learning.

Students who have patterns of behavior that impede their learning, or the learning of others require more intense and individualized supports to ensure they reach their academic potential, remain in school, and out of the juvenile justice system. The goal of secondary supports is to prevent at-risk behaviors (e.g., frequent classroom disruption, excessive tardiness) from becoming chronic. Tertiary supports, however, provide intensive individualized support for a specific set of behaviors. These students may have many challenges, and effective coordination of services between the school and community is key to ensuring these students remain in school and out of the juvenile justice system.

NASP Recommendations
School safety is a key component of a successful school, and school violence must be addressed. However, the strict, continued use of zero tolerance policies will not address the problem of the school to prison pipeline; it will exacerbate it. One of the most important investments we can make in stopping the school to prison pipeline is providing resources that allow schools to implement schoolwide effective discipline policies and practices. NASP recommends the following to address the school to prison pipeline:

Ensure safe, supportive, conditions for learning. Students need to feel physically and emotionally safe at school. This starts with safe learning environments that promote student well-being, prevent negative behaviors, and engage students in the classroom and broader school community. All students should a) come to school knowing they are safe, welcomed, and respected; b) have a trusting relationship with at least one adult in the building; c) understand clear academic and behavioral expectations; and d) see their role as positive members of the school community.

Shift to More Effective Positive Discipline. Effective schoolwide discipline practices include implementing a multi-tiered problem solving approach that 1) prevents negative behavior, 2) provides supports for students with behavioral difficulties, and 3) allows for a consistent set of discipline policies and procedures to be implemented when the severity of the behavior warrants punitive action. Moving to this kind of approach reduces negative behavior, and ultimately keeps students in the classroom and in school and out of the criminal justice system. Importantly, integrating school safety measures with efforts to improve school climate and academic achievement results in more sustainable and comprehensive approaches to improving student and school outcomes, both of which help break the school to prison pipeline.
**Provide comprehensive and coordinated learning supports to address student social-emotional wellness, positive behavior, and academic achievement.** Learning supports should be comprehensive, integrated, and directly connected to the school context. Well-coordinated supports are provided in an integrated, multi-tiered system of support that connects school-wide prevention and skills building with increasingly intense and individualized interventions for higher risk students groups and individuals.

Effective supports include school-based mental health services, early prevention and intervention services, initiatives to actively engage students and families as well as community partners. Students must feel connected and valued as members of the school community and challenged academically in order to be fully engaged in learning. Disengagement from school increases the risk of failure and school dropout, which in turn places them at risk of criminal behavior. Conversely, interventions that promote students’ bonding to school reduce tobacco, alcohol and drug use; school dropout; and criminal involvement (Catalano et. al., 2004).

**Provide training and support for teachers and other school personnel.** Effective positive school discipline is a schoolwide endeavor; however many educators lack appropriate training on how to prevent and respond to problem behavior. Many teachers report that they do not know how to respond to difficult behaviors, and 30% of teachers who leave the profession due to job dissatisfaction indicate that student discipline problems are the reason for their dissatisfaction.

There are a number of professionals that schools and districts can utilize to provide training and support for dealing with difficult behaviors. For example, school psychologists work with teachers to design and implement academic and behavioral interventions, and interventions using positive behavior supports have been shown to improve academic performance and decrease behavior problems (Luiselli, Putnam, Handler, & Feinberg, 2005; Nelson, Martella, & Marchand-Martella, 2002). Teachers cannot be expected to address all student behavior alone, and it is our responsibility to ensure that teachers and students have access to the supports necessary to ensure that teachers feel empowered to teach and students are ready to learn.

**Ensure access to specialized instructional support personnel.** To accomplish these goals, students need access to specialized instructional support personnel that can support their social, emotional, behavioral, and academic needs and keep students engaged and in the classroom. These professionals (e.g., school psychologists, school counselors, and school social workers), along with teachers and administrators, must play an instrumental role in addressing the school to prison pipeline. Specialized instructional support personnel are adept at collecting and interpreting school-wide data to help identify problem areas and set reasonable goals for improving school climate, school safety, and positive conditions for learning. In addition, these professionals provide individual and group services to at-risk youth, vital consultation to teachers, parents, and administrators, and coordinate with relevant community agencies to ensure that all students have access to the supports they need to remain in school and out of the juvenile justice system.

NASP has a variety of resources related to school safety and effective school discipline. Specifically, we suggest the following documents available on our website:

- A Framework for School-Wide Bullying Prevention and Safety  
  (http://www.nasponline.org/resources/bullying/Bullying_Brief_12.pdf)
- NASP Position Statement Appropriate Behavioral, Social, and Emotional Supports to Meet the Needs of All Students  
  (http://www.nasponline.org/about_nasp/positionpapers/AppropriateBehavioralSupports.pdf)
- Enhancing the Blueprint for School Improvement in the ESEA Reauthorization: Moving From a Two-to a Three-Component Approach  
  (http://www.nasponline.org/advocacy/UCLA_NASP_Brief_FINAL.pdf)
If you would like further information about effective school discipline, positive conditions for learning, or the role of the school psychologist in addressing the school to prison pipeline, please contact Kelly Vaillancourt, PhD, Director, Government Relations (kvaillancourt@naspweb.org).

Respectfully,

[Signature]

Susan Gorin, CAE
Executive Director