



August 11, 2015

Dr. Rick McDaniel
Superintendent, McKinney Independent School District
One Duvall Street
McKinney, Texas 75069

Dear Superintendent McDaniel:

In light of the troubling recent events involving youth of color and law enforcement—not only in McKinney, Texas, but nationwide—the NAACP Legal Defense & Educational Fund, Inc. (LDF), Texas Appleseed, and the undersigned organizations write to encourage you to adopt training policies to ensure that the law enforcement officers and agencies in your district do not use excessive force or overly punitive discipline practices against students. As you may be aware, Governor Abbott recently signed House Bill 2684 (HB 2684) into law, which requires training for law enforcement officers serving in school districts with over 30,000 students. We applaud this step because it acknowledges the need for better training of officers who serve in schools and for ending overly punitive discipline practices that negatively affect the educational outcomes of all students, and students of color in particular. We urge you to follow Governor Abbott's leadership and proactively adopt a comprehensive training policy for the School Resource Officers (SROs) serving in the McKinney Independent School District (ISD), so that all McKinney students can receive quality education that is free from the harms of excessive punishment.

We are particularly concerned about the highly publicized, videotaped incident that occurred earlier this summer in which a McKinney Police Officer, Eric Casebolt, physically forced to the ground a bikini-clad, fifteen-year-old African-American girl, who was attending a

pool party, and pointed his gun at several unarmed teenagers who tried to come to her defense.¹ This officer's actions call into question the adequacy of the training that McKinney Police Department (PD) officers receive, particularly youth-focused training. One way to address this serious deficiency is to provide the McKinney Police Department with specialized training to ensure that they are equipped with appropriate techniques for interacting with youth.

As you know, McKinney ISD uses McKinney police officers in its SRO program. According to the McKinney ISD website, the district currently uses four officers, and is "making plans [with the City of McKinney and the McKinney Police Department] to add officers as needed to ensure the proper protection and education for students and teachers in the school district." Data from the McKinney PD show that there were actually 13 different officers involved in issuing citations to and arresting McKinney students in the 2014-15 school year. While we oppose the practice of using law enforcement officers to implement school disciplinary practices,² those school districts that do rely on law enforcement must provide proper, specialized training given the unique circumstances of providing police services in an educational environment with children. We believe that the training outlined in HB 2684, which includes de-escalation techniques and child-development instruction, will help police officers in schools better interact with youth.

The safety of students and teachers is unquestionably an important goal, and that safety depends on law enforcement officers being properly trained. It is unclear whether SROs in McKinney ISD receive any special training to deal with the population of students with whom they interact every day. Texas Appleseed sent an Open Records Request to the McKinney PD on June 12, 2015, requesting more information about the SRO program, including the nature and frequency of officer interactions with students and the type of training that officers receive. In response, the McKinney PD provided the Memorandum of Understanding (MOU) between McKinney ISD and McKinney PD, but that document does not describe any student-focused police training requirements and does not require prior experience with students as a prerequisite for employment as an SRO.

Texas Appleseed received data showing the number of and offense type for citations and arrests, disaggregated by issuing officer and the race of the student, since January 2012. Analysis of the data reveals disturbing results: African-American students are ticketed and

¹ Officer Eric Casebolt has since resigned as a corporal for the McKinney Police Department. Ashley Fantz, et al., *Texas Pool Party Chaos: 'Out of Control' Officer Resigns*, CNN, available at <http://www.cnn.com/2015/06/09/us/mckinney-texas-pool-party-video/>.

² We recommend alternative discipline practices, such as Restorative Practices, implementation of Social and Emotional Learning (SEL) curricula, and peer mediation, among others. For these and other alternatives to police in schools, please see the "Dear Colleague" Letter on Guidance for the Non-Discriminatory Application of Discipline issued by the Departments of Justice and Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

arrested at disproportionately high rates in McKinney ISD.³ In the period for which data was received, **African American students made up approximately 12-13% of the student population, but accounted for about 36% of all tickets issued by SROs and 39% of arrests made by SROs.**

The disproportionate ticketing and arrests of these African-American students is especially stark for the offenses that are most subject to the discretion of teachers, school administrators, and school police officers. For example, in this period beginning in 2012, African-American students received approximately 46% of tickets for “disruption of class”—a vague, subjective offense that is similar to what research has shown to lead to the disproportionate punishment of students of color.⁴ While the Texas legislature prohibited the ticketing of students for disruption of class in September 2013, the underlying biases against African-American students that produced the shockingly high citation rates have not been addressed through relevant youth-focused SRO training. In fact, it appears that the disproportionate ticketing of these students simply shifted to a different offense—following the ban on disruption of class tickets, the proportion of citations issued to African-American students for the similarly subjective offense of “disorderly conduct” increased from 47% to 61%.

This increase in disorderly conduct tickets occurred despite an overall decrease in ticketing. Indeed, the decrease in ticketing can be attributed almost entirely to the reduction of tickets issued to white students, for whom citations went from 28% to 15%, from 2012 to 2015. African-American students continued to be ticketed at disproportionately high rates, including among the youngest children—African-American students between 11 and 13 years old received 33% of all citations issued to their age group. Overall, 66 tickets were issued to children ages 11 to 13. This prolific ticketing of young children strongly suggests a need for training in alternative discipline practices.

Also troubling is the data showing frequent SRO involvement in truancy issues in McKinney ISD. Police officers in schools should have never been involved in the process of referring students to court for the offense of truancy—complaints for truancy should have only been filed by school administrators.⁵ We therefore encourage you to ensure police officers in your district are trained in the changes set forth by the new truancy law, HB 2398, which still

³ In 2013, the Texas legislature prohibited the ticketing of students in schools for Class C misdemeanors through Senate Bill 393. Class C charges now have to be made through a formal complaint process. Some of the data we received pre-dates the change in the law, which went into effect in September 2013. For purposes of this letter, we use the term “ticket” to describe all Class C charges, whether issued by the complaint or ticketing process, made during the period for which data was received.

⁴ See Skiba, Russell J. and Natasha T. Williams, *Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior*, The Equity Project at Indiana University, March 2014.

⁵ See Tex. Educ. Code § 25.0951 (School District Complaint or Referral for Failure to Attend School).

limits the ability to make court referrals to school administrators and prohibits officers from taking students into custody.⁶

We also reviewed data on McKinney ISD's school discipline practices from the Texas Education Agency (TEA). This information reveals disproportionate discipline rates for students of color. Research shows that, although students of color are no more likely to misbehave than their peers, they are punished more severely and more frequently.⁷ According to McKinney ISD's data for the 2013-14 school year, the district's African-American and Latino students were punished with in-school suspensions, out-of-school suspensions, and placements in Disciplinary Alternative Education Programs (DAEP) at much higher rates than their white classmates. Though African-American children make up approximately 13% of the McKinney ISD student population, they accounted for approximately 30% of in-school suspensions, 38% of out-of-school suspensions, and 31% of DAEP placements. Though Latino children make up approximately 27% of the McKinney ISD student population, they accounted for approximately 33% of in-school suspensions, 32% of out-of-school suspensions, and 40% of DAEP placements.

Racial disparities in the use of these exclusionary punishments often coincide with racial disparities in the rates of referrals to school police—and this fact further underscores the need for comprehensive school discipline reform, including SRO training.⁸ There are opportunities for McKinney ISD to access training in research-based school discipline practices, including training in restorative discipline techniques, at Education Service Centers through a partnership between TEA and the University of Texas Institute for Restorative Justice and Restorative Dialogue.

We urge you to adopt a training policy for school police officers in McKinney ISD as required by HB 2684 to help to address and remedy these troubling disparities. Although McKinney ISD, with a school population under 30,000 students, is not subject to HB 2684's mandate for the adoption of officer training policies only for school districts serving more than 30,000 students, **we urge you to revise the district's MOU to require officers who work in your schools to comply with the law's training requirements.** This training is critically important for officers who work with children because it focuses on de-escalation techniques, interactions with children with disabilities and special education needs, mental health crisis intervention, alternatives to overly punitive discipline methods, and child development and psychology. Because discipline disparities and reports of the use of excessive force by school

⁶ See House Bill 2398, Section 8(b)(2)(B)(i) (to take effect September 1, 2015) available at <http://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB02398F.HTM>.

⁷ See The Council of State Governments, *BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 46 (2011); see also Skiba, Russell, et. al, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, Policy Research Report #SRS1, The Indiana Education Policy Center, June 2000; Rudd, Tom, *Racial Disproportionality in School Discipline: Implicit Bias is Heavily Implicated*, Kirwan Institute Issue Brief, Kirwan Institute for the Study of Race and Ethnicity, The Ohio State University, February 2014.

⁸ See Texas Appleseed, *TEXAS' SCHOOL-TO-PRISON PIPELINE: TICKETING, ARREST & USE OF FORCE IN SCHOOLS* 3 (2010).

police are prevalent among students of color, we also encourage you to adopt training that will address the role of implicit and explicit bias in disciplinary actions. HB 2684’s training, which will be provided by the Texas Commission on Law Enforcement (TCOLE), **does not create additional requirements for school police officers; rather, it is designed to be part of the total training hours that are already required for all law enforcement officers to maintain their licenses.**

Texas’ new law comports with the historic Joint Guidance issued last year by the U.S. Departments of Justice and Education to school districts nationwide to help address the prevalence of racial disparities in the application of school discipline.⁹ The Joint Guidance includes a number of recommendations to help districts implement non-discriminatory discipline policies and practices. Recognizing that training for school personnel, including SROs for schools that use them, is crucial to achieve improvement in the overall school climate and to remedy discipline disparities that impact students of color, the Guidance encourages school districts employing SROs to:

- Ensure that SROs “receive training to work effectively and appropriately with elementary and secondary students . . . includ[ing] instruction in bias-free policing[,] . . . child and adolescent development and age appropriate responses; practices demonstrated to improve school climate; restorative justice techniques; . . . [and] conflict resolution”¹⁰
- Document the “roles and responsibilities of school resource officers . . . in a written agreement . . . between the school and appropriate law enforcement . . . agencies.”¹¹

Further, the President’s Task Force on 21st Century Policing recommends that law enforcement take a limited role in schools and function in a way that does not criminalize students. For example, the Task Force’s Final Report notes that law enforcement officers should not use tactics that “unnecessarily stigmatize youth and marginalize their participation in schools (where law enforcement should have limited involvement in discipline) and communities.”¹² The report also underscores the importance of incorporating the principles of child development in school discipline practices as “findings have raised doubts about a series of policies and practices of ‘zero tolerance’ that have contributed to increasing the school-to-prison pipeline by criminalizing the behaviors of children as young as kindergarten age.”¹³ Specifically, the Task

⁹ See U.S. DEPT. OF JUSTICE & U.S. DEPT. OF EDUCATION, DEAR COLLEAGUE LETTER ON THE NONDISCRIMINATORY ADMINISTRATION OF SCHOOL DISCIPLINE, Jan. 8, 2014, *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>.

¹⁰ *Id.* at Appendix, page 4.

¹¹ *Id.* at Appendix, page 3.

¹² FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING, May 2015, *available at* http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf, at 3.

¹³ *Id.* at 47.

Force recommends that “[l]aw enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.”¹⁴ Consistent with this recommendation, HB 2684 requires training around child development to help school police officers properly interact with young people and utilize de-escalation techniques.

As the Superintendent of McKinney ISD, we urge you to follow the leadership of Governor Abbott and the Texas legislature by supporting the safety and well-being of your students and adopting training policies for police officers in your district’s schools. We plan to monitor the responses of districts to which we will send similar requests and hope that McKinney ISD will be among those that are proactive in taking all necessary steps, including the adoption of school police training policies, to protect their students and promote positive and inclusive school climates.

We welcome the opportunity to meet with you, Chief of Police Conley, and McKinney ISD Board of Trustees members to discuss this request in detail at a mutually convenient time. To follow up on this request or if you have any questions, please contact Morgan Craven with Texas Appleseed at mcraven@texasappleseed.net and Janel George with the NAACP Legal Defense and Educational Fund, Inc. at jgeorge@naacpldf.org. Thank you for your consideration, and we look forward to meeting with you.

Sincerely,

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¹⁴ *Id.* at 48.

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