



# Safe School-based Enforcement through Collaboration, Understanding, and Respect

## SECURE

### State and Local Policy Rubric

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#### What is the SECURE State and Local Policy Rubric?

The U.S. Departments of Education (ED) and Justice (DOJ) have designed the **SECURE State and Local Policy Rubric** to provide information for **States and local governments** looking to develop or revise **statutes, regulations, and written agreements** related to the appropriate incorporation of school-based law enforcement officers—commonly referred to as school resource officers (SROs)—into school learning environments, with the goal of preventing unnecessary or inappropriate arrests, referrals to law enforcement, contact with the juvenile justice system, and violations of civil rights laws. The SECURE State and Local Policy Rubric provides examples of policies in place throughout the country that help communities establish responsible school-police partnerships. These examples are not an exhaustive list, and other State and local laws and policies may provide helpful guidance to govern the role of SROs in the school learning environment.

#### What are the SECURE Rubric Action Steps?

The **SECURE Rubric** includes five common-sense action steps that can help ensure that SROs are incorporated responsibly into school learning environments. These action steps are:

1. Create sustainable partnerships and formalize memoranda of understanding (MOUs) among school districts, local law enforcement agencies, juvenile justice entities,<sup>1</sup> and civil rights and community stakeholders.
2. Ensure that MOUs meet constitutional and statutory civil rights requirements.<sup>2</sup>
3. Recruit and hire effective SROs and school personnel.
4. Keep your SROs and school personnel well trained.
5. Continually evaluate SROs and school personnel, and recognize good performance.

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<sup>1</sup> These entities include those representing judges, prosecutors, public defenders and civil legal aid partners, probation officers, and relevant social service agencies.

<sup>2</sup> Including Federal, State, and local prohibitions on discrimination on the basis of race, color, national origin, language status, religion, sex, sexual orientation, and disability; on the use of excessive force; and on improper searches, seizures, or interrogations.

**DISCLAIMER:** This rubric is not an endorsement of any law or written agreement. These action steps and recommended activities are provided for the user’s convenience and do not necessarily reflect the positions or policies of the U.S. Departments of Education (ED) or Justice (DOJ). Neither ED nor DOJ controls or guarantees the accuracy, relevance, timeliness, or completeness of any outside information. All school district and law enforcement officials and policymakers should also seek independent guidance to ensure that any proposed legislation or policy is consistent with all applicable Federal and State laws.

## EXAMINING STATE STATUTES AND REGULATIONS FOR SECURE<sup>3</sup>

**SECURE Action Step 1:** Create sustainable partnerships and formalize MOUs among school districts, local law enforcement agencies, juvenile justice entities, and civil rights and community stakeholders.

**In taking this action step, State and local policy encourages the creation of sustainable community partnerships, supported by strong MOUs, by:**

- A. Requiring the execution of an MOU prior to commissioning SROs;
- B. Requiring that MOUs be substantially similar to an approved model;
- C. Requiring the involvement of school administrators, educators, law enforcement, and community stakeholders in the development of MOUs; and
- D. Requiring the periodic revision of MOUs.

### Examples of such State policies include:

- Missouri statute, MO. REV. STAT. § 162.215 (2016), which requires the execution of an MOU prior to commissioning an SRO at the direction of a school board.

*162.215. School officers may be commissioned to enforce certain criminal laws.*

*1. The school board of any school district may authorize and commission school officers to enforce laws relating to crimes committed on school premises, at school activities, and on school buses operating within the school district only upon the execution of a memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, provided that the memorandum shall not grant*

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<sup>3</sup> State statutes and regulations were found in the National Center for Safe Supportive Learning Environments' Compendium of School Discipline Laws and Regulations, accessed May 2016 at <https://safesupportivelearning.ed.gov/school-discipline-compendium>. The compendium provides information on school discipline laws and administrative regulations for each of the 50 States, Washington, D.C., and the U.S. territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands effective as of March 2015. (See the DISCLAIMER on page 1.)

*statewide arrest authority. School officers shall be licensed peace officers, as defined in section 590.010, and shall comply with the provisions of chapter 590. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer. (Effective Date: August 28, 2013)(emphasis added)*

- Pennsylvania regulation, which requires communities to explain the differences between their MOUs and the State-provided model, and provide a rationale for those differences, at the direction of a local superintendent.

*22 Pa. Code 10.11. Memorandum of understanding.*

*(a) Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity.*

*(b) A memorandum of understanding between a school entity and a local police department, including its development and implementation, must meet the requirements of section 1303-A(c) of the Safe Schools Act (24 P. S. 13-1303-A(c)).*

*(c) In developing a memorandum of understanding to execute with a local police department, a school entity shall consult and consider the model memorandum of understanding promulgated by the Board in Appendix A (relating to model memorandum of understanding).*

*(d) On a biennial basis, a school entity shall file with the Department's Office for Safe Schools a memorandum of understanding with each local police department having jurisdiction over property of the school entity. As part of its filing with the Department, a school entity shall identify substantive differences between the memorandum of understanding adopted by the school entity and the model memorandum of understanding and provide a statement of reasons for the differences.*

*(e) The Board, on a biennial basis, will review and, as necessary, revise its model memorandum of understanding in Appendix A. As part of its biennial review, the Board will consider the memoranda of understanding filed by school entities with the Department's Office for Safe Schools and statements explaining school entities' reasons for adopting memoranda of understanding having substantive differences with the model memorandum of understanding.*

*(Effective Date: July 21, 2012)(emphasis added)*

- New Jersey regulations, which require periodic review and revision of an MOU with the involvement of community stakeholders, educators, and law enforcement with close involvement between the local superintendent and other community stakeholders.

*6A:16-6.2. Development and implementation of policies and procedures.*

*(b) School district policies and procedures shall include the following components:*

[...] 14. *An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the memorandum of agreement, and to review the effectiveness of policies and procedures implemented pursuant to this subchapter:*

*i. The annual review shall include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials designated by the county prosecutor.*

(Effective: March 17, 2014)(emphasis added)

<b>SECURE Action Step 2: Ensure that MOUs meet constitutional and statutory civil rights requirements.</b>
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<b>In taking this action step, written State policy supports school-based law enforcement that complies with civil rights laws by:</b>
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Identifying Federal and State constitutional provisions and Federal, State, and local civil rights laws and ordinances that apply to law enforcement in educational settings and ensuring that law enforcement and school administrative policies and practices comply with those legal requirements.
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**An example of such State policy includes:**

Minnesota Law Section 363A.13 – Educational Institutions

*(1) It is an unfair discriminatory practice to discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability, or to fail to ensure physical and program access for disabled persons. For purposes of this subdivision, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.*

*(2) It is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability. (emphasis added)*

**SECURE Action Step 3:** Recruit and hire effective SROs and school personnel.

**SECURE Action Step 4:** Keep your SROs and school personnel well trained.

**In taking these action steps, State and local policy supports hiring, training, and management of SROs by:**

- A. Mandating school-specific preparation.
- B. Specifying the minimum duration of training.
- C. Encouraging officers to minimize arrests when a less punitive measure, such as diversion, restorative justice, or the school code of conduct, could be applied.
- D. Eliminating the involvement of SROs in non-criminal matters.

**Examples of such State policies include:**

- Indiana statute, which provides the minimum duration for school-specific training prior to appointment as an SRO.

*C 20-26-18.2-1. "School resource officer".*

*(b) Before being appointed as a school resource officer, an individual must have:*

*(1) successfully completed the minimum training requirements established for law enforcement officers under IC 5-2-1-9; and*

*(2) received at least forty (40) hours of school resource officer training through:*

*(A) the Indiana law enforcement training board established by IC 5-2-1-3;*

*(B) the National Association of School Resource Officers; or*

*(C) another school resource officer training program approved by the Indiana law enforcement training board. (emphasis added)*

- Missouri statute, which limits the authority of school officers to certain crimes.

*162.215. School officers may be commissioned to enforce certain criminal laws.*

*2. School officers shall abide by district school board policies, all terms and conditions defined within the executed memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, and shall consult with and coordinate activities through the school superintendent or the superintendent's designee. School officers' authority shall be limited to crimes committed on school premises, at school activities, and on school buses operating within the jurisdiction of the executed memorandum of understanding. All crimes involving any sexual offense or any felony involving the threat or use of force shall remain under the authority of the local jurisdiction where the crime occurred. School officers may conduct any justified stop on school property and enforce any local violation that occurs on school grounds. School*

*officers shall have the authority to stop, detain, and arrest for crimes committed on school property, at school activities, and on school buses. (emphasis added)*

## **EXAMINING MOUs FOR SECURE**

**SECURE Action Step 1:** Create sustainable partnerships and formalize MOUs among school districts, local law enforcement agencies, juvenile justice entities, and civil rights and community stakeholders.

**SECURE Action Step 2:** Ensure that MOUs meet constitutional and statutory civil rights requirements.

**In taking these action steps, States and local communities can encourage the creation of sustainable MOUs, including by:**

- A. Clarifying the frequency of review;
- B. Requiring that communities, schools, and law enforcement participate in the MOU review process; and
- C. Mandating the collection, analysis, and reporting of school-based law enforcement data to inform the development of partnerships, to inform the MOU review process, and to evaluate compliance with Federal, State, and local civil rights laws.

**An example of such an MOU includes:**

*Broward County Public Schools*

*Collaborative Agreement on School Discipline*

**ARTICLE IV. DATA COLLECTION AND OVERSIGHT**

*Data reflecting all school-based arrests, referrals to law enforcement, and filing of criminal complaints and disaggregated by location of arrest/school, charge, arresting agency, gender, age, race/ethnicity, disability and ESL status is collected by the School District and Department of Juvenile Justice. Data reflecting the number and nature of incidents of misbehavior is also collected by the School District.*

*Each month, this data will be delivered to the Juvenile Justice Advisory Board and the Eliminating the Schoolhouse to Jailhouse Committee to monitor compliance with the terms of this agreement, the overall number of minor incidents being handled by the criminal justice system and reductions in racial disparities. In addition, these factors should be included in reviewing each school's overall school climate. This data will also be reported to the public at the end of each semester to monitor whether there have been reductions in the overall number of minor incidents being handled by the criminal justice system and reductions in racial disparities.*

*The parties agree to meet twice a year, at the end of each semester, with the Eliminating the Schoolhouse to Jailhouse Committee to provide oversight of the Agreement and make recommendations to the heads of each agency on any modifications to the Agreement. (emphasis added)*

**An example of such a State policy includes:**

- Colorado statute, which requires law enforcement agencies to collect school-based law enforcement data.

*22-32-146. School use of on-site peace officers as school resource officers: notifications of arrests and notices issued: reporting requirements.*

*(4) Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:*

*(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;*

*(b) The number of students arrested by the officer, including the offense for which each such arrest was made;*

*(c) The number of summonses or tickets issued by the officer to students; and*

*(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event. (emphasis added)*

**SECURE Action Step 3:** Recruit and hire effective SROs and school personnel.

**SECURE Action Step 4:** Keep your SROs and school personnel well trained.

**In taking these action steps, States and local communities can support the hiring and management of SROs by including the following in MOUs:**

- A. Requiring prospective SROs to receive training regarding youth development.
- B. Listing all required and ongoing trainings, and supervisory structures, for SROs and staff, with clarity regarding agency responsibility for each component.
- C. Clarifying the processes for schools' right to request removal or re-assignment of an SRO.

**An example of such an MOU includes:**

- Denver, Colorado MOU, which outlines the school-specific training that SROs must have, the agency that will supervise the SRO, and a schools' right to request the removal or re-assignment of an SRO.

*Intergovernmental Agreement Concerning the Funding, Implementation and Administration of Programs Involving Police Officers in Schools*

#### **4. THE SCHOOL DISTRICT'S OBLIGATIONS & RESPONSIBILITIES**

*Denver Public Schools reserves the right to request the removal/re-assignment of any SRO for any reasonable cause DPS provides in writing to the Police Department after other attempts to correct the problem have been explored. The District Commander shall consider DPS's input when determining the removal or reassignment of any SRO and the District Commander shall have the final decision concerning the removal or reassignment of any SRO.*

*d. The School District will:*

*iv. Provide time for their school principals or their designees and the assigned SROs to attend three two-hour citywide training meetings per year, one at the beginning of the school year and once during each semester, and will excuse SROs to attend additional trainings as may be required by the P.O.S.T. Board. Such trainings may include topical areas such as child and adolescent development and psychology; age-appropriate responses; cultural competence; restorative justice techniques; special accommodations for students with disabilities; practices proven to improve school climate; and the creation of safe spaces for lesbian, gay, bisexual, transgender and questioning students. Any training beyond those specifically required by the P.O.S.T. Board must be agreed upon by both the District and the Police Department.*



*e. The Police Department will:*

*i. Provide SRO supervision.*

*ii. Provide SRO-trained police officer, when such training is required by state statute.*

*iii. Provide SRO training to comply with state requirements, when such training is required*

*by state statute.*

*iv. Provide the SRO with uniforms and equipment.*

*v. Follow the agreed upon schedule for deployment of SROs at high schools and middle schools.*

*vi. Ensure that a member of the Police Department District Command Team, having a rank of Lieutenant or above, maintains communication with DPS school administration and conduct face to face meetings at least twice per semester to evaluate the performance of services provided by the SRO.*

*vii. Train DPD officers on their role within DPS's schools and on the rights afforded to students as required by the P.O.S.T. Board. Trainings may include such topics as child and adolescent development and psychology; age-appropriate responses; cultural competence; restorative justice techniques; special accommodations for students with disabilities; practices proven to improve school climate; and the creation of safe spaces for lesbian, gay, bisexual, transgender, and questioning students. Any training beyond those specifically required by the P.O.S.T. Board must be agreed upon by both the District and the Police Department. (emphasis added)*

## **SECURE Action Step 4: Keep your SROs and school personnel well trained.**

**States and local leaders can support community efforts to close a school-to-prison pipeline by ensuring that MOUs:**

- Encourage officers to minimize arrests for minor school-based offenses.
- Eliminate the involvement of SROs in non-criminal matters.
- Define the different roles of SROs and school administrators when addressing minor student misbehavior.

**Examples of such MOUs include:**

- Broward County, Florida encourages alternatives to arrest for minor, non-violent misdemeanors, and clarifies that administrators are primarily responsible for discipline.

*Collaborative Agreement on School Discipline*

*2.01 Responding to Student Misbehavior.*

*In the event a student misbehaves, the school principal and their designees will be the primary source of intervention and disciplinary consequences. The Code of Student Conduct and Discipline Matrix provides detailed information on consequences and interventions and shall guide the responses to particular types of misbehavior. In addition, school officials should make every effort to connect students to school or community-based support services, such as counseling, mentoring, or extra-curricular activities.*

*Many types of minor student misbehavior may technically meet the statutory requirements for non-violent misdemeanors, but are best handled outside of the criminal justice system. In any school year, the first instance of student misbehavior that rises to the level of a non-violent misdemeanor and requires consultation with a police officer should not result in arrest nor the filing of a criminal complaint, but instead be handled through the Code of Student Conduct and Discipline Matrix. Behavior that rises to the level of a felony offense under any of the above statutes is not included herein.*

*All parties involved in school discipline decisions shall consider the surrounding circumstances including the age, history, disability or special education status, and other factors that may have influenced the behavior of the student, the degree of harm caused and the student's willingness to repair the harm.[...]*

### *2.03 Consultations with Law Enforcement – Role of School Administrator.*

*The school principal and their designee are encouraged to talk to the student and evaluate the unique surrounding circumstances in each case. Before referring a student to law enforcement, the school principal or their designee shall:*

#### *STEP 1. Consult the Code of Student Conduct:*

*Does the Discipline Matrix require consultation with law enforcement? If not, the school principal or their designee should determine the consequences and interventions to be used without involving law enforcement, including the PROMISE program.*

#### *STEP 2. Consult with law enforcement:*

*If the Discipline Matrix does require consultation, work with law enforcement to assess and respond to the situation. A consultation does not mean that an arrest is necessary.*

#### *STEP 3. Collaborating with law enforcement to resolve the situation:*

*If the law enforcement officer has exhausted their efforts to resolve the situation, could the student be held accountable through further intervention from the*

*Collaborative Problem Solving Team, PROMISE program or community-based programs? Refusal to participate in the offered alternatives to arrest may result in referral to the Juvenile Justice System of Care and, after input from the State Attorney offices, could be referred back to law enforcement. If further support is needed but not available at the school level, the school principal or designee may call the district designee at Student Support Initiatives for guidance. Emergency and other situations may arise that require the immediate involvement of law enforcement. In such instances, school officials and law enforcement should confer after the situation has been diffused, but, if feasible, before any arrest is made, and follow the process outlined in this agreement to ensure the most effective and least punitive means of discipline is being employed.*

#### *2.04 Consultations with Law Enforcement – Role of Officer.*

*Before making an arrest of a student for misbehavior on school grounds, school transportation or during a school sponsored or related event, a law enforcement officer shall follow the steps and guiding questions below and attached herein as Exhibit “A”. If the situation is resolved short of arrest at any point during this process, the officer does not need to move on to the next step.*

*STEP 1. Consult with the school principal or their designee:*

*Has the Discipline Matrix been followed in this instance? Could this be resolved by consequences within the school discipline system (such as detention, suspension, or interventions)?*

*STEP 2. Evaluate the situation:*

*Considering all the surrounding circumstances, does this incident rise to the level of a felony or pose a serious threat to school safety that necessitates an arrest? If so, the officer shall proceed to Step 6. If the behavior falls into the category of non-violent misdemeanor, continue to the steps below. If the behavior is non-criminal or otherwise minor and not rising to any of these levels, it may be referred back to the school for consequences and interventions.*

*STEP 3. Issue a warning:*

*Can the situation be resolved with an intervention approach that may include the officer talking to the student about their behavior; a verbal warning; taking the student out of the situation in order to cool off or other intervention? [...]*

#### *2.05 Discretion of Law Enforcement.*

*Nothing in this agreement is intended to limit the discretion of law enforcement. Officers responding to an incident or consulting with school officials are encouraged to use their*

*discretion in determining the best course of action, especially when using alternatives to arrest. While the option to use the criminal justice system is available for many incidents, the totality of the circumstances should be taken into consideration and any less punitive alternatives that ensure the safety of the school community should be considered.*

- Clayton County, Georgia, which limits the use of arrest for minor misbehaviors.

*Cooperative Agreement Between The Juvenile Court Of Clayton County, The Clayton County Public School System, The Clayton County Police Department, The Riverdale Police Department, The Jonesboro Police Department, The Forest Park Police Department, The Clayton County Department Of Family & Children Services, The Clayton Center For Behavioral Health Services, Robert E. Keller, District Attorney And The Georgia Department Of Juvenile Justice*

*“Focused Acts” are misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey an officer’s command to stop or not leave campus), and criminal trespass (not involving damage to property).*

*A. Warning Notice and Referral Prerequisites to Complaint in Cases Where a Student has Committed a Focused Act.*

*Misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey an officer’s command to stop or not leave campus), and criminal trespass (not involving damage to property) shall not result in the filing of a complaint alleging delinquency unless the student has committed his or her third or subsequent similar offense during the school year and the Principal or designee has reviewed the behavior plan with the appropriate school and/or system personnel to determine appropriate action. In accordance with O.C.G.A. §20-2-735, the school system’s Student Codes of Conduct will be the reference documents of record. The parties agree that the response to the commission of a focused act by a student should be determined using a system of graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the Juvenile Court. The parties agree that a student who commits one of the focused acts must receive a Warning Notice and a subsequent referral to the School Conflict Diversion Program before a complaint may be filed in the Juvenile Court. An SRO shall not serve a Warning Notice or make a referral to the School Conflict Diversion Program without first consulting with his or her supervisor if the standard operating procedures of the SRO Program of which the SRO belongs requires consultation.*

*1. First Offense. A student who commits one of the focused acts may receive a Warning. Notice that his or her behavior is a violation of the criminal code and school policy, and that further similar conduct will result in a referral to the Juvenile Court to attend a diversion program. The SRO shall have the discretion not to issue a Warning Notice and in the alternative may admonish and counsel or take no action.*

*2. Referral to School Conflict Diversion Program. Upon the commission of a second or subsequent focused act in that or a subsequent school year, the student may be referred to Intake to require the student and parent to attend the School Conflict Diversion Program, Mediation Program, or other program sponsored by the Court. However, a student who has committed a second “bullying” act shall be referred to the School Conflict Diversion Program to receive law related education and conflict resolution programming, and may also be required to participate in the mediation program sponsored by the Court for the purpose of resolving the issues giving rise to the acts of aggression and to hold the student accountable to the victim(s). Intake shall make contact with the parent of the child within ten (10) business days of receipt of the notice from the School Resource Officer or the school to schedule the parent and child to attend the School Conflict Diversion Program, or other program of the Court appropriate to address the student’s conduct. Intake shall forward to the school where the child attends a confirmation of the child’s successful participation in the diversion program. A child’s failure to attend shall be reported to the School Resource Officer to determine if a complaint should be filed or other disciplinary action taken against the child.*

*3. Complaint. A student receiving his or her third or subsequent delinquent offense against the public order may be referred to the Court by the filing of a complaint. If the student has attended a diversion program sponsored by the Court in that year or any previous school year and the student has committed a similar focused act, the student may receive a Warning Notice warning that the next similar act against the public order may result in a complaint filed with the juvenile court. A student having committed his or her third “bullying” act shall be referred to the Juvenile Court on a juvenile complaint and the Court shall certify said petition provided probable cause exists and if adjudicated shall proceed to determine if said student is delinquent and in need of supervision. The school system shall proceed to bring the student before a tribunal hearing and if found to have committed acts of bullying shall in the least, with consideration given to special education laws, expel said child from the school and place in an alternative educational setting, unless expulsion from the school system is warranted. All acts of bullying shall be reported by school personnel and addressed immediately to protect the victims of said acts of bullying.*