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The Impact of Exclusionary School Discipline Policies and an Analysis of Alternative Approaches to Punishment

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The Impact of Exclusionary School Discipline Policies and an Analysis of Alternative Approaches to Punishment

Harvard Law School Mississippi Delta Project

Spring 2015

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I. Introduction¹

This report evaluates out-of-school suspension (OSS) in the context of the Clarksdale Municipal School District (CMSD) using research based in positive behavioral systems and alternative approaches to exclusionary punishment. Not only does OSS detrimentally impact suspended students hindering their learning and increasing their risk harmful behaviors, but OSS also has harmful collateral effects on the larger student body, the economy, public safety, and society. This report aims to identify particular problems associated with OSS as well as offer solutions, specifically examining Positive Behavioral Intervention and Supports (PBIS) through a local school case study, discussing effective teacher training for these types of disciplinary programs, and offering forms of alternative punishments that CMSD could consider implementing. While these strategies were designed specifically with CMSD's conditions in mind, they can be adapted for other schools working to reduce their OSS rates.

This report offers context about Clarksdale's school suspension policies and problems by first summarizing Clarksdale's demographics and the other educational challenges in the Mississippi Delta ("the Delta"). This report then discusses the disciplinary policies of Mississippi and Clarksdale more specifically, and explores the particularly negative effects OSS can have on students with disabilities. Following this background discussion, this report details alternative approaches to exclusionary discipline and offers recommendations on how those approaches might be implemented at CMSD.

II. Demographics of Clarksdale

Clarksdale, Mississippi is located in the northwest of Mississippi, near the Arkansas border. According to the 2013 Census Bureau Data, Clarksdale has a population of 17,725,² and the median income in 2013 was \$25,707,³ compared to \$39,031 for the state of Mississippi⁴ and \$53,046 for the nation⁵. Almost 41 percent of Clarksdale residents live in poverty⁶ while the corresponding percentages for Mississippi and the United States are only 22.7 percent and 15.4 percent, respectively.⁷

¹ This report was prepared by Amanda Savage and Seth Packrone, members of the Harvard Law School Mississippi Delta Project under the supervision of Desta Reff, Harvard Delta Clinical Fellow. The following students from the Harvard Mississippi Delta Project were involved in researching and drafting the report: Patrick Grubel, Trisha Jhunjhnuwala, Maria Makar, Amalia Reiss, Joseph Resnek, and Katherine Taylor.

² *Clarksdale City, Mississippi*, U.S. CENSUS BUREAU (February 23, 2015), <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtmll###>.

³ *Id.*

⁴ *State and County QuickFacts*, U.S. CENSUS BUREAU (February 23, 2015), <http://quickfacts.census.gov/qfd/states/28000.html>.

⁵ *Id.*

⁶ *Clarksdale City, Mississippi*, *supra* note 2.

⁷ *State and County QuickFacts*, *supra* note 4.

This high level of poverty impacts the school district and the resources it can provide to students. Almost 55 percent of the school-aged children within the school district live in families under the poverty line.⁸

A. Challenges to School Districts in the Delta Region

Mississippi's education system faces a number of challenges at the state level.⁹ Mississippi has one of the lowest high school graduation rates in the country. In 2012, Mississippi ranked second to last among all states for the percent of students who graduate high school within five years.¹⁰ The graduation rate is estimated to be 75.5 percent.¹¹ In Clarksdale, graduation rates are worse, and are on the decline. Clarksdale's graduation rate was about 72 percent in 2008, and only 55.7 percent in 2012.¹² Clarksdale's dropout rate correspondingly shows the inverse: in 2008, the dropout rate was 11.9 percent, and in 2012, it rose to 35 percent (compared to only about 14 percent in the state of Mississippi).¹³ Fewer Mississippi youth are graduating from high school on time (within four years) as compared to the national average, with 32 percent of Mississippi students in 2012 failing to graduate on time compared to only 19 percent nationally.¹⁴

Mississippi's educational challenges are amplified for students with disabilities. The national graduation rate for students served under the Individuals with Disabilities Education Act¹⁵ is 64.6 percent.¹⁶ However, in Mississippi, the rate of graduation for this group is just 27.8 percent.¹⁷ This is the single lowest graduation rate for students with disabilities in the country.¹⁸ As will be demonstrated in the remainder of this report,

⁸ *Poverty by School District*, KIDS COUNT DATA CENTER, <http://datacenter.kidscount.org/data/tables/8215-poverty-by-school-district?loc=26&loct=10#detailed/10/7461-7612/false/36,868,867,133,38/any/16733> (last visited July 8, 2015).

⁹ This section uses statistics based on the 2012 school year. The authors of this report visited CMSD and learned that the graduation rate has since increased. However, we did not have those new numbers to include in this report.

¹⁰ *Graduation in the United States*, EDUCATION WEEK, <http://www.edweek.org/media/embargoed-graduation-in-the-united-states.pdf> (last visited July 8, 2015).

¹¹ *Graduation Rates in Mississippi*, KIDS COUNT DATA CENTER, <http://datacenter.kidscount.org/data/tables/7549-graduation-rates?loc=26&loct=10#detailed/10/7461-7612/false/868,867,133,38,35/any/14680> (last visited July 8, 2015).

¹² *Id.*

¹³ *Dropout Rates in Mississippi*, KIDS COUNT DATA CENTER, <http://datacenter.kidscount.org/data/tables/7576-dropout-rates?loc=26&loct=10#detailed/10/7461-7612/false/868,867,133,38,35/any/14722> (last visited July 8, 2015).

¹⁴ *High School Students not Graduation on Time*, KIDS COUNT DATA CENTER, <http://datacenter.kidscount.org/data/tables/7245-high-school-students-not-graduating-on-time#detailed/1/any/false/1024,937,809,712,517/any/14289,14290> (last visited July 8, 2015).

¹⁵ 20 U.S.C. § 1400 (2012).

¹⁶ *Graduation Rates Among Students Ages 14 to 21 Served under IDEA, Part B: 2011-2012*, ANNUAL DISABILITY STATISTICS COMPENDIUM, <http://disabilitycompendium.org/compendium-statistics/special-education/11-6-special-education-graduation-rate-among-students-ages-14-21-served-under-idea-part-b> (last visited July 8, 2015).

¹⁷ *Id.*

¹⁸ *Id.*

Mississippi's disciplinary policies contribute to these low graduation rates for students with disabilities.

B. School Issues

Mississippi

Mississippi features some of the harshest disciplinary policies in the country. For example, Lauderdale County has a mandatory minimum sentencing scheme that requires in-school suspension (ISS), OSS, or expulsion for a variety of offenses, including highly subjective behaviors such as insubordination.¹⁹ In the South Delta School District, the administration employs a three strikes rule, in which a student can be sent to alternative education programs for his third offense of distracting the class.²⁰ While presumably put into place to improve student behavior, these harsh disciplinary policies negatively impact students' educational outcomes and make it more difficult for teachers to effectively do their jobs.²¹

Mississippi schools suspend a high volume of students every year. Student in the state are more likely to receive OSS than students in Louisiana, Georgia, Texas, or Arkansas.²² The OSS rate in Mississippi for all students is about 16 percent, making it the second highest-suspending state in the nation (tied with South Carolina and Alabama).²³

Two groups of students are disproportionately impacted by Mississippi's disciplinary practices: black students and students with disabilities. Overall, black students are three times more likely to receive OSS than white students.²⁴ Secondary school students with disabilities are suspended at a rate of 23 percent (compared with 16 percent for all students), exceeding the national suspension rate of 18 percent for secondary students with disabilities.²⁵ Such high rates of suspension for students with disabilities call into question whether the suspensions result from their disabilities or related misunderstandings.²⁶ These high rates indicate that not only is OSS no longer considered a punishment of last resort, but that it is not working as a deterrent.²⁷

¹⁹ ADVANCEMENT PROJECT, ET AL., *HANDCUFFS ON SUCCESS: THE EXTREME SCHOOL DISCIPLINE PROBLEM IN MISSISSIPPI PUBLIC SCHOOLS 4* (2013), available at http://b.3cdn.net/advancement/bd691fe41faa4ff809_u9m6bfb3v.pdf.

²⁰ *Id.* at 9.

²¹ *Id.* at 4.

²² *Id.*

²³ Daniel Losen, et al., *Are we Closing the School Discipline Gap?*, THE CENTER FOR CIVIL RIGHTS REMEDIES 24 (Feb. 2015), available at http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf.

²⁴ ADVANCEMENT PROJECT, ET AL., *supra* note 19 at 4.

²⁵ Losen *supra* note 23 at 23.

²⁶ Michelle Diament, *Students with Disabilities Suspended More Often*, DISABILITY SCOOP (Feb. 24, 2015), <http://www.disabilityscoop.com/2015/02/24/students-disabilities-suspended/20088/>.

²⁷ Motoko Rich, *Suspensions are Higher for Disabled Students, Federal Data Indicate*, N.Y. TIMES (Aug. 7, 2012), <http://www.nytimes.com/2012/08/08/education/analysis-examines-disabled-students-suspensions.html>.

Clarksdale

Clarksdale Municipal School District is comprised of four secondary schools: Clarksdale High School (10th-12th grade), Jerome W. Stampley Academy (9th grade), W.A. Higgins Middle School Academy (7th-8th grade), and Oakhurst Intermediate School (5th-6th grade).²⁸ All of Clarksdale's secondary schools utilize both OSS and ISS.

Suspension Rates at CMSD (January 2014 to February 2015)²⁹

	Oakhurst Intermediate School (5 th -6 th Grade)	Middle School Academy (7 th -8 th Grade)	Jerome W. Stampley Academy (9 th Grade)	Clarksdale High School (10 th -12 th grade)
Number of Students	452	452	238	552
Number of OSS	75	366	131	249
Number of ISS	17	159	275	59

In general, Clarksdale's secondary schools utilize OSS far more frequently than ISS. In Clarksdale High School and Oakhurst Intermediate, the number of OSS more than quadruples the number of ISS, and in the Middle School Academy, the number of OSS is double the number of ISS. The 9th Grade academy is an outlier on this measure, with its ISS doubling its OSS.³⁰

C. The Consequences of High Out-of-school Suspension Rates in Secondary Schools

Student and Learning Consequences

In 2008, the American Psychological Association (APA) found *no evidence* that the use of suspension, expulsion, or zero-tolerance policies has resulted in improvements in student behavior or school safety.³¹ In fact, the APA found that suspensions and expulsions are linked to an *increased* likelihood of future behavior problems, academic difficulty, detachment, and dropout.³² Schools with high suspension rates tend to score lower on state accountability tests (even when adjusting for demographic differences), and have dramatically reduced graduation rates.³³

²⁸ *Mississippi Student Information System: Dispositions by Race/Gender Report*, (Feb. 20, 2015), report provided by Dr. Dorothy Prestwich, Assistant Superintendent, Clarksdale Municipal School District and is on file with the Mississippi Delta Project.

²⁹ *Id.* These figures do not necessarily represent the number of students suspended, as individual students may have been suspended multiple times.

³⁰ *Id.*

³¹ AMERICAN PSYCHOLOGICAL ASSOCIATION ZERO TOLERANCE TASK FORCE, *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations*, 63 AM. PSYCHOLOGIST 852, 853-54 (Dec. 2008), available at <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.

³² *Id.* at 856, 859-60.

³³ Russell J. Skiba & M. Karega Rausch, *Zero Tolerance, Suspension and Expulsion: Questions of Equity and Effectiveness* 1071-72, 1077, in Carolyn M. Evertson & Carol S. Weinstein (Eds.), *HANDBOOK OF CLASSROOM MANAGEMENT: RESEARCH, PRACTICES, AND CONTEMPORARY ISSUES* (2006), available at http://www.indiana.edu/~equity/docs/Zero_Tolerance_Effectiveness.pdf.

Part of the problem is the exclusion from class that comes with suspension. Time spent learning is highly and positively correlated with student achievement. Thus, high rates of classroom exclusion cost students thousands of in-class hours every year. Further, students who are not in class are more likely to fall behind academically³⁴ and when suspended students return, they must spend time catching up. This makes it more difficult for these students to keep pace with their class, and leads to poor academic performance and an increased likelihood of disruptive behavior. Because exclusionary discipline is ineffective at addressing the root problems of misbehavior, disruptive conduct is likely to be repeated, if not exacerbated, by suspensions.³⁵

OSS can trigger cyclical disengagement. Suspended students often lose trust in their educators and become resentful of authority, thereby making them more difficult to teach. Proponents of exclusionary practices often defend the policies by emphasizing the need to separate those students trying to learn from students who disrupt class to foster an atmosphere conducive to learning. However, a study released in December 2014 suggests that high rates of OSS actually harm math and reading scores for non-suspended students.³⁶ While some argue that suspending students allows other students to learn, the inverse seems to be true: the higher number of suspensions during the course of a semester, the lower the non-suspended students' scores on end-of-semester reading and math evaluations.³⁷

Public Safety Consequences and the School to Prison Pipeline

Exclusionary discipline can undermine public safety because it puts suspended students on the streets without adult supervision. This increases the possibility that they will engage in criminal activity or other misbehaviors, which in turn increases the risk that they will drop out of school and be funneled into the juvenile and criminal justice systems.³⁸ Thus, the school-to-prison pipeline is both sustained and strengthened by exclusionary discipline. Students who drop out of school are more likely to be incarcerated.³⁹ This effect is evident among prison populations as well: in 2010, nearly 60 percent of federal inmates were high school dropouts.⁴⁰ Raising high school

³⁴ ADVANCEMENT PROJECT, ET AL., *supra* note 19 at 14.

³⁵ *Id.*

³⁶ Brea L. Perry and Edward W. Morris, *Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public School*, 79(6) AM. SOC. REV. 1, 12–15, 16–19 (2014).

³⁷ *Id.* The study tracked nearly 17,000 students over three years and involved 17 middle and high schools in a Kentucky School District. *Id.* at 2, 6. The study controlled for factors such as the level of violence and disruption at the school, school funding, student-teacher ratios, race, and the percent of students on free or reduced lunch. *Id.* at 9. The researchers theorized that it may have to do with the levels of anxiety and disconnection created in students when their peers are subject to frequent suspensions (often for minor offenses such as dress code violations or insubordination). *Id.* at 17.

³⁸ ADVANCEMENT PROJECT, ET AL., *supra* note 19 at 16.

³⁹ Lance Lochner & Enrico Moretti, *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports* 8-11 (Nat'l Bureau of Econ. Res., Working Paper Series 8–11 (2001), available at <http://www.nber.org.ezp-prod1.hul.harvard.edu/papers/w8605.pdf>).

⁴⁰ Bill Whitaker, *High School Dropouts Costly for American Economy*, CBS NEWS (May 28, 2010), available at <http://www.cbsnews.com/news/high-school-dropouts-costly-for-american-economy/>.

graduation rates would decrease both violent crime and property crime.⁴¹ Not only does exclusionary discipline contribute to low graduation rates and high dropout rates, but it also has enormous implications for the students themselves, the surrounding communities, and society as a whole.

Societal and Economic Consequences

Dropping out of school has large effects on the student's future economic capacity. A summary of the impact of dropping out of high school by the Alliance for Excellent Education reported that high school dropouts earned \$7,840 less per year compared to high school graduates.⁴² In addition to the cost to the student, there are many other negative economic consequences associated with not completing high school. For example, high school dropouts are more likely to become teen parents and their children are more likely to face health and educational challenges.⁴³ High school graduates are also less likely to use public services such as government health care, food stamps, or housing assistance; students who drop out are estimated to cost taxpayers more than \$8 billion in public assistance programs.⁴⁴

The picture is clear from these numerous statistics and findings—high OSS rates harm the suspended individuals and, by contributing to higher dropout rates, they harm public health and safety, the economy, and taxpayers.

III. Reforming Exclusionary School Discipline Policies

This section explores different approaches to reforming exclusionary school discipline policies. First, this section provides background research and a case study featuring Positive Behavioral Interventions and Supports. Schools have used this preventive, positive behavior system as a way to decrease the use of punishments altogether. The second part of the section provides suggestions on how PBIS and other behavioral systems can be implemented and guidance on training teachers in these systems. Finally, this section concludes with a survey of three forms of alternative discipline to help reduce the use and need for exclusionary school discipline policies, including restorative justice, ISS, and community service.

A. Positive Behavioral Interventions and Supports

Positive Behavioral Interventions and Supports is a systems change process for schools and school districts by which social and behavioral skills and expectations are taught in the same manner as academic subjects.⁴⁵ PBIS emphasizes the establishment of

⁴¹ Henry Levin and Clive Belfield, *The Cost and Benefits of an Excellent Education* 13 (Oct. 2006), available at http://www3.nd.edu/~jwarlick/documents/Levin_Belfield_Muennig_Rouse.pdf.

⁴² *The High Cost of High School Dropouts: What the Nation Pays for Inadequate High Schools*, ALLIANCE FOR EXCELLENT EDUC. 1 (Nov. 2011), available at <http://all4ed.org/wp-content/uploads/2013/06/HighCost.pdf>.

⁴³ *Id.* at 3.

⁴⁴ Whitaker, *supra* note 40.

⁴⁵ *SWPBIS for Beginners*, PBIS OSEP TECHNICAL ASSISTANCE CENTER, <https://www.pbis.org/school/swpbis-for-beginners> (last visited June 28, 2015).

organizational supports including “(a) team-based leadership, (b) data-based decision-making, (c) continuous monitoring of student behavior, (d) regular universal screening, and (e) effective ongoing professional development.”⁴⁶ PBIS has been one of the most successful methods of behavioral supports nationwide.

Background Research and Data

Over 10,000 schools across the United States are implementing some form of PBIS; these schools are experiencing reductions in disciplinary referrals and academic improvements.⁴⁷ In Florida, after one year of PBIS implementation, a study of 102 schools found that office disciplinary referrals fell by 25% and OSS fell by 10%.⁴⁸ In the Jefferson Parish school district in Louisiana, OSS dropped 25% for the general student population and 50% for special education students since implementing PBIS in 2006.⁴⁹ The Georgia Department of Education surveyed districts that used PBIS and reported reductions in OSS days ranging from 24% to 30%.⁵⁰ Some of the schools also reported significant reductions in ISS from using PBIS.⁵¹ The effects can be seen nationally as well: a 2008 study using national data found that middle schools implementing PBIS were able to reduce OSS by 35% and ISS by 37%.⁵² These results show that implementing PBIS can lead to huge reductions in the need for exclusionary discipline.

Core Elements of PBIS

PBIS aims to correct schools’ overreliance on reactive behavioral management practices such as verbal reprimands, exclusionary discipline, and loss of privileges. Instead, PBIS follows the science that advocates focusing on proactive preventive practices in which positive behaviors are directly taught, practiced, and reinforced.⁵³ PBIS reduces negative consequences for problematic behavior and replaces them with consequences that strengthen positive behavior.⁵⁴ In order to prevent unwanted behaviors, a three-tiered approach has developed.⁵⁵ Each tier focuses on a different group of students. The group narrows as students move up tiers and the interventions

⁴⁶ *PBIS Facts*, PBIS OSEP TECHNICAL ASSISTANCE CENTER. <https://www.pbis.org/school/swpbis-for-beginners/pbis-faqs> (last visited June 28, 2015).

⁴⁷ DIGNITY IN SCHOOLS, *Louisiana Pushout Fact Sheet 2* (2012), available at <http://www.dignityinschools.org/sites/default/files/Louisiana%20Pushout%20Fact%20Sheet.pdf>.

⁴⁸ DIGNITY IN SCHOOLS, *Fact Sheet: Creating Positive School Environments 2* (2015), available at http://www.dignityinschools.org/sites/default/files/Creating_Positive_Discipline_Fact_Sheet.pdf.

⁴⁹ *Louisiana Pushout Fact Sheet*, *supra* note 47.

⁵⁰ GEORGIA DEPARTMENT OF EDUCATION, *Addressing Climate, Safety, and Discipline in Georgia Schools 12* (2013), available at http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Documents/PBIS/PBIS%20Final%20white%20paper_%20Sept%204.pdf.

⁵¹ MiMi Gudenrath, GEORGIA DEPARTMENT OF EDUCATION, *Positive Behavioral Interventions and Supports (PBIS)* slide 7 (2014).

⁵² Howard S. Muscott et al., *Positive Behavioral Interventions and Supports in New Hampshire*, 10(3) J. OF POSITIVE BEHAV. INTERVENTIONS 190, 199 (2008), available at http://education.nh.gov/instruction/special_ed/documents/sac200912_jpbi.pdf.

⁵³ U.S. DEP’T OF EDUC., IMPLEMENTATION BLUEPRINT AND SELF-ASSESSMENT: POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS 10–11 (2010), available at https://www.pbis.org/common/cms/files/pbisresources/SWPBS_ImplementationBlueprint_vSep_23_2010.pdf.

⁵⁴ *Id.* at 21.

⁵⁵ *Id.* at 20.

become more intense. Tier 1 consists of school and classroom-wide systems for all students, staff and settings, emphasizing general instruction focused on “defining, teaching, and encouraging expectations” school-wide.⁵⁶ Tier 2, which serves students with at-risk behavior, focuses on teaching core skills directly and frequently by putting systems into place that are specialized depending on students’ needs (for example, setting up meetings for a student with a school counselor).⁵⁷ Tier 3 serves students with high-risk behavior by creating individualized teaching and reinforcement opportunities based on “functional behavioral assessments” for students at a high risk for failure.⁵⁸ A case stud of Coahoma Agricultural High School, a Clarksdale high school that has begun implementing PBIS (see page 11), illustrates the three tiered system.⁵⁹

There are numerous core elements of PBIS that contribute to the system’s effectiveness:

- *Leadership Team*: The leadership team must be composed of representatives from the range of stakeholders, including special and general education teachers, families, administration, and professional development staff.⁶⁰ At least two members of the team should have behavioral expertise and experience and PBIS content competence.⁶¹ The team should complete an action plan, meet regularly, and determine the individuals who will be in charge of managing and implementing its goals.⁶²
- *Stable Funding*: There should be stable state funding sources to support the program for at least three years and to fund dissemination strategies for informing stakeholders about activities and accomplishments.⁶³
- *Administrative Support and Clear Policy*: Students’ social behavior must be a top priority for the administrative unit implementing the system, and the leadership team must report to them and foster direct participation.⁶⁴ The team should develop a policy statement, write procedural guidelines, and implement data and outcomes that are reviewed and audited on a regular basis to refine policy, including integrating PBIS with other similar initiatives.⁶⁵
- *Staff Training*: The leadership team should adopt evidence-based training for teachers and establish local training capacity, as well as a coaching network to establish and sustain the PBIS system.⁶⁶
- *Evaluation Procedures*: The leadership team should develop an evaluation process using school-based data that includes periodic dissemination and acknowledgment of outcomes and an annual report regarding implementation.⁶⁷

⁵⁶ *Id.* at 20–23.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See *Case Study, infra* at p. 12.

⁶⁰ *Id.* at 70.

⁶¹ *Id.* at 73.

⁶² *Id.* at 70.

⁶³ *Id.* at 71.

⁶⁴ *Id.* at 71.

⁶⁵ *Id.*

⁶⁶ *Id.* at 72.

⁶⁷ *Id.*

PBIS Implementation

Implementing PBIS in a school district is an important and complex process that requires constant evaluation, assessment, and flexibility. Effective PBIS implementation requires four elements: academic and behavior targets endorsed by the school's students, families, teachers and staff; interventions and strategies that are evidence-based; data used to identify problem behaviors and the effects of interventions; and support systems that enable the implementation.⁶⁸

Implementation of PBIS requires a “team-based, strategic, action planning process”⁶⁹ and occurs in the following phases:

1. *Exploration and Adoption*: Schools should explore the behaviors they want to address, identify evidence-based practices to use to pursue these goals, and consider the needs, strengths, and capacity of the current school environment to implement these practices.⁷⁰
2. *Installation*: As schools prepare to implement PBIS, they should estimate the cost of the programs, identify funding streams, evaluate how current resources are being used, develop descriptions of the PBIS program and policies, and establish plans for professional development.⁷¹
3. *Initial Implementation*: At the initial stage of implementation, schools should document outcomes and develop practice-related evaluation questions, meaningful measures, and data collection procedures.⁷²
4. *Full Implementation*: To expand PBIS, schools should integrate the program with other initiatives with similar goals, ensure the program is fully staffed, perfect administrative structures for leadership and coordinated implementation, and continue to collect data and evaluate the procedures.⁷³
5. *Innovation and Sustainability*: As the school shifts its focus to sustaining PBIS, it should continue to develop its PBIS policy, secure recurring funding, and emphasize the importance of strong leadership, which requires consideration of evaluation questions to document the impact of implementation.⁷⁴ The criteria used to determine the success of PBIS implementation are effectiveness, efficiency, relevance, sustainability, and scalability.⁷⁵ Continuous evaluation of practice implementation is necessary to ensure that problem behaviors are being adequately addressed.⁷⁶

Barriers to PBIS Implementation

There are many challenges that can arise during PBIS implementation. The most serious problem is failure to correct targeted problem behaviors. If this occurs, there are a few possible avenues to address it: ensuring teachers are properly trained and

⁶⁸ *Id.* at 28.

⁶⁹ *Id.* at 27.

⁷⁰ *Id.* at 31.

⁷¹ *Id.*

⁷² *Id.* at 31.

⁷³ *Id.* at 31–33.

⁷⁴ *Id.* at 31–34.

⁷⁵ *Id.* at 37.

⁷⁶ See *id.* Many guidelines and assessment tools are available through <https://www.pbis.org/>.

implementing the practice effectively and to reevaluate the intervention's appropriateness for the school and behavior contexts.⁷⁷ Other strategies that could help address this problem include more precisely identifying the targeted behavioral issues to be addressed and establishing a coherent data system for tracking behaviors and disciplinary action.⁷⁸ Another possible problem is a lack of buy-in from teachers and other staff at the school. To help address this problem (and to hopefully prevent it from occurring), schools should ensure that the initial phases of implementation are completed in full and that individuals can come to the administrator to speak about their concerns, and should engage in continuous feedback with staff and students.⁷⁹

While PBIS implementation is a complex process with numerous moving parts, the potential for reducing the need for negative or exclusionary discipline has convinced schools across the country to undertake the effort. The following section will document how Coahoma Agricultural High School initiated PBIS and continues to work on its implementation process.

Case Study of Coahoma Agricultural High School⁸⁰

Following the recent mandate from the Mississippi Department of Education for schools to implement PBIS-like systems to address behavioral issues, Coahoma Agricultural High School (CAHS) in Clarksdale began implementing their own PBIS system. Principal Braxton Stowe headed the process of convening a PBIS team to identify problem behaviors and develop a system for addressing them.

The main problem behaviors identified by the team were that students were being rude and disrespectful both to their classmates and school staff members, such as cafeteria workers. In addition, students were not dressing in their uniforms and were repeatedly tardy. The school implemented the traditional three-tiered PBIS system in order to address these and other issues. The school started with a teacher support team that had gone through a Response to Intervention (RTI) training program, which is a multi-tier prevention system to maximize student achievement and reduce problem behaviors.⁸¹ This RTI team was convened and now meets once a month and goes over a behavior report, highlighting students with repeat system infractions to help with the tier placement process. The school utilized systems it already had in place for RTI to begin its PBIS process. The goal of the team in moving students into Tier 2 or Tier 3 is to intervene with particular behaviors, instead of generalized bad behavior. When a

⁷⁷ See *id.* at 39.

⁷⁸ Susan Barrett, *Building Solutions that Promote and Sustain Evidence Based Practices*, PBIS OSEP TECHNICAL ASSISTANCE CENTER, <http://www.pbis.org/common/cms/files/pbisresources/0309sbBuildingSolutionsNY.ppt> (last visited June 28, 2015).

⁷⁹ *Id.*

⁸⁰ Phone interview by Amalia Reiss with Braxton Stowe, Principal, Coahoma Agricultural high School, in Clarksdale, Miss. (Feb. 23, 2015), notes on file with interviewer. All information in this section comes from this interview.

⁸¹ See *Essential Components of RTI*, CENTER ON RESPONSE TO INTERVENTION, <http://www.rti4success.org/essential-components-rti> (last visited June 28, 2015); *Training Modules*, CENTER ON RESPONSE TO INTERVENTION, <http://www.rti4success.org/resources/training-modules> (last visited June 28, 2015).

student is moved into Tier 2, they meet with a guidance counselor once a week. If a student is moved into Tier 3, in addition to weekly meetings with the student, the guidance counselor meets with the student and his or her parents to develop a behavior plan.

With respect to students with disabilities, the system treats students with severe disabilities and those with learning disabilities differently. The school follows students' Individualized Education Plans (IEP), which are required for students with disabilities by the Individuals with Disabilities Education Act.⁸² Some of these students with IEPs are automatically considered within Tier 3, however this designation is not because of repeated high-risk behavior but rather a preventative measure to address possible behavioral problems. Students with general learning disabilities are placed within tiers with the same process as the other students, thus they would start in Tier 1.

In addition to their tier system, the school has also implemented two positive reinforcement systems based on the school's mascot, the tiger. Principal Stowe emphasized that authentically tying the system into the culture of the school was particularly important. The first system, "Tiger Paws," allows teachers to reward students' good behavior by giving them a tiger paw. Students collect these paws, and then are allowed to exchange them for rewards such as free admission to a school basketball game, dressing out of uniform, or attending a positive behavior rewards party. The second system, "Caught Being Good," entails staff members handing out cards to students who are observed behaving positively. Names are then drawn at the end of every month from students who received these cards, and a winner receives a prize, typically a gift-card or another prize with monetary value. To fund these programs, the school uses money from its activities funds, as well as fundraising from the community, including asking local businesses and larger businesses such as Wal-Mart for sponsorships. Even though the school implemented PBIS in January of 2015, Principal Stowe has already noticed far fewer disciplinary referrals compared to the fall of 2014.

Principal Stowe noted that the biggest challenge to implementation is buy-in from teachers, students, and parents. In particular, the PBIS system requires more from teachers, encouraging them to get students to reflect on their behavior and actions rather than just send them to the discipline office. Because of this, one of the main challenges is setting expectations for the students and showing them that the PBIS practices are in their best interests. Judging by the data surrounding implementation of PBIS across the country, Coahoma will likely continue to experience success as implementation continues and PBIS becomes more established.

Recommendations

Based on the positive data about PBIS, CMSD should work towards implementing it in all of their schools. PBIS has proven to be successful across different school contexts, from Chicago to Coahoma County. While implementing a full-PBIS system at the district-level can be a large undertaking, this analysis of both the background research

⁸² See, e.g., U.S. DEP'T OF EDUC., *A Guide to the Individualized Education Program*, <http://www2.ed.gov/parents/needs/speced/iepguide/index.html#introduction> (last visited June 28, 2015).

behind PBIS and a local program can provide guidance to CMSD. Furthermore, the promise of PBIS is that the school can avoid punishment altogether—by encouraging good behavior and reinforcing it, punishment should become less necessary.

The principles behind PBIS can contribute to improved disciplinary systems beyond PBIS. First, team-based leadership encourages buy-in and collaboration from the whole school by drawing together practitioners from different areas of the school. Through the use of data-based decision-making and continuously monitoring student behavior through universal screenings, the team can ensure that CMSD is constantly responding to the students' needs. This can be done at the district or the school level. Of course, ongoing professional development in these principles and the overall idea of PBIS is necessary to ensure success.

The best first step CMSD can take is to hold meetings with all key stakeholders, including teachers, students, and parents, in order to generate buy-in for the implementation of a PBIS system and to determine who will be on the leadership team. The leadership team must then identify particular behaviors that will be focused on, and select evidence-based practices that can effectively be integrated into the school environment. The school should require teacher training on implementing the practices as well as useful classroom management techniques, particularly positive reinforcement as opposed to negative reinforcement. Examples of positive incentives include verbal praise, class recognition, a “student of the week” program, admission to school events for free, or earning points as part of a classroom or school-wide behavioral tracking system that rewards the students.

One method to begin the process is to include the desired positive behaviors as part of a student code of conduct, as CAHS did.⁸³ CAHS's student handbook sets out the positive behaviors in each area of the school that are expected of students, including getting to class on time, walking on the right side of the hallway, keeping hallways and bathrooms clean, and cleaning up after oneself in the cafeteria.⁸⁴ CAHS's handbook outlines these positive behaviors, rather than listing specific infractions that will be punished. CMSD should revise its student handbook in a similar manner, including the positive behaviors it will be targeting as part of a student code of conduct.

Teachers should also be trained on tracking student behavior. Tracking methods include using a clipboard and tallying good or bad behavior, or a computer system such as Class Dojo, a free online program that allows for the tracking of student behavior.⁸⁵ Tracking data is important for evaluating the implementation phase of PBIS and ensuring that the targeted behaviors are being addressed and are improving.

CAHS has provided a model of how these different principles can be implemented in a low-cost, effective way. CMSD could implement a program similar to the Tiger Paws or

⁸³ COAHOMA COUNTY AGRICULTURAL HIGHSCHOOL, *Student Handbook 2014-2015 (DRAFT) 23–25 (2014)*, available at <http://cahs.k12.ms.us/StudentHandbook.pdf>.

⁸⁴ *Id.*

⁸⁵ *Learn More*, CLASS DOJO, <https://www.classdojo.com/learnmore/> (last visited Apr. 5, 2015).

Caught Being Good relatively easily. These programs would also provide CMSD with an opportunity to engage parents and other community stakeholders in the school. As Principal Stowe mentioned, the biggest challenge is buy-in from the program participants and administrators, specifically students, staff, and parents. By engaging the community and implementing these relatively simple and low-cost programs, CMSD could improve behavior without the word punishment even entering the conversation.

B. Approaches to Teacher Training and Program Implementation

Implementation of behavioral intervention systems and proper teacher training are critical, interrelated factors in improving school discipline. Successful implementation of these kinds of programs require ongoing and extensive teacher training.

First, this section explores the research behind the need for teacher training for these kinds of behavioral programs. Next, it details one specific teacher-training program that helped schools develop robust PBIS systems. Finally, it offers general guidance on the need for classroom management training for teachers and some organizations to partner with to help with this process. The first part of the section concludes with recommendations for how this research could be helpful to CMSD.

This section also details different approaches to implementing behavioral systems at the school level. As the previous section demonstrated, CAHS utilized the infrastructure it already had in place for RTI to jumpstart its PBIS program. Considering the similar structures of RTI and PBIS—both are complex, individualized data-driven programs and based on a model of tiered support for students determined by their performance in the classroom⁸⁶—this section details methods used to implement RTI that would also be useful in implementing PBIS.

Teacher Training

A recent study by the United States Department of Education reinforces the importance of teacher training to successful behavioral intervention systems.⁸⁷ The study specifically explored teachers' abilities in the relevant areas for implementing behavioral intervention systems, including teachers' ability to interpret data.⁸⁸ The researchers found that participating teachers could comprehend data (i.e. translate into verbal statements) in roughly two thirds of the examples.⁸⁹ However, the participating teachers interpreted the data correctly (i.e. made accurate predictions based on) in fewer than half of the examples.⁹⁰ These results capture the complexity of the behavior intervention systems and demonstrate that, in addition to training in the specific behavioral management systems, teachers should also receive general statistics training.

⁸⁶ *Response to Intervention & PBIS*, PBIS OSEP TECHNICAL ASSISTANCE CENTER, <http://www.pbis.org/school/rti.aspx> (last visited July 8, 2015).

⁸⁷ See BARBARA MEANS ET AL., IMPLEMENTING DATA-INFORMED DECISION MAKING IN SCHOOLS – TEACHER ACCESS, SUPPORTS AND USE, U.S. DEP'T OF EDUC., 45-49 (2009) *available at* <http://files.eric.ed.gov/fulltext/ED504191.pdf>.

⁸⁸ *Id.* at viii.

⁸⁹ *Id.* at 42.

⁹⁰ *Id.*

In addition to helping teachers appropriately interpret and adapt to student data, teacher training can help address another problem that research suggests schools confront when trying to implement programs like PBIS—teacher buy-in.⁹¹ Since the teachers are the ones who will implement these systems on a daily basis, their acceptance and enthusiasm is paramount. Once teachers understand the method and see success from it, they will more readily support the program. To help with implementation of these kinds of programs, teachers should receive values training.⁹² Since the values of a behavior intervention system are ultimately prevention-oriented, they may differ from traditional school personnel values.⁹³ Training should address conflicting values, such as the traditional “test and place” approach to difficult students.⁹⁴ By identifying and challenging conflicting values, the school can run more smoothly and work toward the goal of system fidelity.

i. PBISplus

PBISplus is a teacher-training program piloted in 42 Maryland elementary schools.⁹⁵ The program consisted of three coaches that trained teachers in PBIS Tier 2 implementation, focusing on “functional behavioral assessments, the student support teaming process, cultural proficiency, and evidence-based practices.”⁹⁶ With the assistance of the principal, the coaches gained access to the school by introducing themselves and the purpose of the coaching.⁹⁷ The coaches each had a caseload of between five and eight elementary schools and each school received about 16 hours of coaching per month.⁹⁸

The implementation of PBISplus revealed many of the steps necessary for effective teacher training. The Maryland schools that used PBISplus faced some barriers, “include[ing] issues of power, trust, protectiveness, or reluctance to change.”⁹⁹ To help build trust and help overcome teachers’ initial resistance to change, coaches first learned about the schools’ culture. Second, coaches took specific steps to overcome

⁹¹ Barbara Turnbull, *Teacher Participation and Buy-in: Implications for School Reform Initiatives*, 5 (3) LEARNING ENV'TS RESEARCH 235 (2002), available at <http://link.springer.com/article/10.1023/A:1021981622041>

⁹² See FLA. POSITIVE BEHAVIOR SUPPORT PROJECT, *Implementing a Multi-Tiered System of Support for Behavior: A Practical Guide*, 21-23 (2011), available at http://flpbs.fmhi.usf.edu/pdfs/RTIB%20Guide%20101811_final.pdf.

⁹³ *Id.* at 21

⁹⁴ *Id.*

⁹⁵ Catherine Bradshaw, et al., *Integrating school-wide Positive Behavioral Interventions and Supports with Tier 2 Coaching to Student Support Teams: The PBISplus Model*, 5(3) ADVANCES IN SCH. MENTAL HEALTH PROMOTION 177, 177 (2012), available at <http://www.tandfonline.com/doi/abs/10.1080/1754730X.2012.707429#.VSGtFov4vFI>.

⁹⁶ *Id.*

⁹⁷ Patricia Hershfeldt, et al., *Lessons Learned Coaching Teachers in Behavior Management: The PBISplus Coaching Model*, 22 J. OF EDUC. & PSYCHOL. CONSULTATION 280, 286 (2012), available at <http://www.tandfonline.com/doi/full/10.1080/10474412.2012.731293>.

⁹⁸ *Id.* at 284.

⁹⁹ *Id.* at 286.

trust issues with the principal and teachers, including activities such as working in the school's PBIS store (where students turned in incentives for tangible rewards), speaking informally with students and staff in the school office, and/or doing research they could normally conduct off-site in the school media center.¹⁰⁰ By spending this time with teachers, students, and school staff, the coaches were able to reduce the distrust that comes along with being outsiders of a school culture.¹⁰¹ Coaches demonstrated their desire ingratiate themselves with the school community and willingness to learn about the school in order to advise them how to improve it.

Once the coaches established acceptance in their assigned schools, they observed teachers, offered feedback, and gave professional development sessions on PBIS implementation.¹⁰² The *PBISplus* program emphasizes the importance of training teachers on alternative responses to student behavior. Teachers often struggle to respond consistently to behavior over time. “Help[ing] the teachers learn to diffuse the situation first rather than confront the behavior with an automatic, and often inflammatory, response” was important to help teachers learn how to respond in ways that will change student behavior.¹⁰³ The findings from this three-year trial showed the benefits of training teachers in PBIS.¹⁰⁴ The *PBISplus* program had a statistically significant impact on increasing teacher efficacy and students’ academic performance.¹⁰⁵ *PBISplus* shows that external coaches can be impactful in helping schools to implement PBIS.

ii. Classroom Management

Classroom management skills are related to both academic performance and implementing behavioral systems. Classroom management addresses discipline and behavior both directly and indirectly. A central tenet of classroom management is setting clear positive behavioral expectations early on and enforcing these expectations as well as reviewing them consistently.¹⁰⁶ Teachers should stick to positive reinforcement when possible, but may also resort to verbal reprimands, removal of privileges (e.g. missing recess), or planned ignoring when appropriate.¹⁰⁷

Classroom management is an important skill, but one that is often inadequately taught to aspiring teachers.¹⁰⁸ This leaves school districts to fill the gap in training teachers. Fortunately, training workshops have been effective in properly training teachers and

¹⁰⁰ *Id.* at 288.

¹⁰¹ *Id.*

¹⁰² *Id.* at 287–94.

¹⁰³ *Id.* at 294.

¹⁰⁴ *Bradshaw et al.*, *supra* note 95.

¹⁰⁵ *Id.*

¹⁰⁶ See Brandi Simonsen, et al., *Evidence-based Practices in Classroom Management: Considerations for Research to Practice*, 31 *EDUC. AND TREATMENT OF CHILD.* 351, 358 (2008) available at <http://www.e1b.org/LinkClick.aspx?fileticket=falymAssPTI%3D&tabid=3093&mid=5773>.

¹⁰⁷ *Id.* at 364-5.

¹⁰⁸ NAT'L COUNCIL ON TEACHER QUALITY, *Training Our Future Teachers: Classroom Management*, ii (2014), available at http://www.nctq.org/dmsView/Future_Teachers_Classroom_Management_NCTQ_Report

reducing inappropriate behavior in classrooms.¹⁰⁹ As little as three days of intensive training may be beneficial, though ongoing development of management skills is important.¹¹⁰

There are outside organizations – often affiliated with universities – which lend support to school districts looking to train teachers to implement new behavior systems.¹¹¹ One such organization is the University of South Florida-affiliated Florida’s Positive Behavior Support Project. They authored an implementation guide for schools in Florida, which includes advice regarding teacher training.¹¹² Perhaps the most appropriate organization to help CMSD with teacher training is the University of Southern Mississippi’s “REACH MS.”¹¹³ REACH MS explicitly focuses on providing professional development around Mississippi to support school-wide and district-wide implementation of PBIS.¹¹⁴ Staff members from CMSD could register for professional development in any one of the three PBIS tiers.¹¹⁵ The website for REACH MS provides a wide range of useful evaluation tools, benchmarks, and strategies to ensure that PBIS implementation is successful.¹¹⁶

iii. Teacher Training Recommendations

If CMSD selected a teacher-training program like PBIS*plus*, it would be important for each school’s principal to approve and actively support both the training program and the implementation of PBIS. In order to overcome the barriers that might arise, such as trust or reluctance to change, the trainers would have to become familiar with CMSD’s school culture. This could be accomplished by inviting the coaches to observe several days of school, attend a series of school events, or help administer whatever PBIS program CMSD chooses to start, whether that means handing out points for students who are caught being good in the elementary schools or attending a school wide pizza party that the high school earned for its improved behavior. While bringing in coaches might be expensive, the numbers from the Maryland study suggest that only one coach might be needed, as each coach had a caseload of between five and eight elementary schools and each school only received 16 hours per month of coaching. CMSD could also benefit from requiring teachers to participate in several classroom management workshops. This teacher training could reinforce the implementation of the behavioral management systems and help reorient the school’s approach to discipline. CMSD

¹⁰⁹ See Carolyn M. Evertson, *Improving Elementary Classroom Management: A School-Based Training Program for Beginning the Year*, 82 J. OF EDUC. RESEARCH 82, 83 (1989), available at http://www.jstor.org/stable/27540373?seq=2#page_scan_tab_contents.

¹¹⁰ See *id.* at 83.

¹¹¹ See generally *PBIS.org: Coach & Trainer Resources*, PBIS OSEP TECHNICAL ASSISTANCE CENTER, <http://www.pbis.org/training/default.aspx>, (last visited July 8, 2015).

¹¹² See generally *Implementing FLA. POSITIVE BEHAVIOR SUPPORT PROJECT*, *supra* note 92.

¹¹³ *REACH MS: Overview*, U. OF SOUTHERN MISS., <http://www.usm.edu/reachms/overview> (last visited May 19, 2015).

¹¹⁴ *Id.*

¹¹⁵ To register, visit: *REACH MS: Free Professional Development Series*, <https://www.usm.edu/reachms/free-professional-development-series#Tier1>.

¹¹⁶ See *REACH MS: Resources – Evaluation Tools*, U. OF SOUTHERN MISS., <https://www.usm.edu/reachms/resources-evaluation-tools> (last visited May 19, 2015).

should explore the teacher training resources that REACH MS offers, if it has not done so already.

Behavioral System Implementation

Introducing a brand new behavioral system like PBIS or RTI to a school district is a daunting task. However, there are two methods that can simplify the process: small group implementation and the one essential component approach.¹¹⁷

i. Small Group Implementation

The National Center on Response to Intervention (NCRTI) created a guide for middle school staff implementing RTI. While the NCRTI does not focus on implementing PBIS, as this report has shown through the similarities between these tiered programs and CAHS's example, implementation methods used for RTI can be generalized and borrowed for PBIS. The NCRTI recognizes that implementation of a program like RTI is a lengthy process and suggests that some schools "start small."¹¹⁸ This small group approach allows the school to focus on implementing all aspects of RTI for one small group of students within the school.¹¹⁹ After this small group establishes the program, the system can be implemented school-wide.¹²⁰ For example, the school might start with the seventh grade, or – going even smaller – only seventh grade math class. This first small group serves as a sort of pilot program from which the program may be expanded.¹²¹

There are many advantages to starting implementation with a small group for PBIS. First, administrators can collect data from this initial group, learning what worked well and what needs to be changed.¹²² Second, teachers in the small group begin and further the process of teacher buy-in, as teachers outside the small group see the success and enthusiasm within the group implementing the PBIS.¹²³ Third, staff members involved in the small group implementation can help train other staff members when the school is ready for school-wide implementation.¹²⁴ These teachers can serve as "liaisons and coaches for the rest of the school staff."¹²⁵ Beginning with one small group allows administrators a slower, more manageable transition and gives them time to refine the system and become confident in its ability to produce results.¹²⁶

ii. One essential component approach

¹¹⁷ NAT'L CENTER ON RESPONSE TO INTERVENTION, *Information Brief: RTI Implementation Processes for Middle Schools*, 12 (2011), available at http://www.rti4success.org/sites/default/files/0644MS_RTI_Implementation_Brief_d3.pdf.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 13.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *See id.* at 14.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *See id.* at 13-14.

The one essential component approach, in contrast, begins by implementing one component of the new behavioral system for the whole group.¹²⁷ Since PBIS, like many behavioral intervention systems, has a tiered structure, the school can introduce the simplest component first and work its way up.¹²⁸ Under this approach, teachers do not need training in all components at the same time; they can receive training one component at a time as the school implements them.¹²⁹ This might benefit schools that do not have the time or financial resources to provide extensive training for implementation of the entire system up front.

iii. Behavior Systems Implementation Recommendations

CMSD could approach implementing PBIS or RTI (or any other behavior management system it chooses) using the small group approach or the one essential component approach. For the small group approach, the NCRTI report shows that schools were able to see positive outcomes from the small group and then use these outcomes to help integrate the program into the whole school.¹³⁰ In this way, the small group approach also fosters teacher buy-in. Administrators from schools who have tried this approach have said the success in the small group led to increased enthusiasm from educators and students, helping school-wide implementation go more smoothly. Furthermore, this approach allows schools to select out the students most in need of intervention and start the program with them, implementing all aspects of it. However, schools using the small group approach still face the challenge of developing all aspects of the program at once. The one essential component approach helps address this challenge. For behavioral intervention systems based on student data, the one essential component approach allows schools to start by implementing data collection, then steadily phase in each aspect of the system. This could allow CMSD to start in a specific tier, which could enable the school to focus on the students most in need (much like the small group approach) in Tier 3. The main disadvantage of this approach is that it will further delay the results that schools need to produce to increase teacher buy-in.

C. Alternative Punishments

While OSS is frequently used to address problematic behaviors, it is a short-term solution that often has disastrous consequences. It also disproportionately affects students with disabilities, as they are twice as likely to be suspended as non-disabled students.¹³¹ Alternative disciplinary approaches can reduce the negative consequences currently associated with OSS. The impact that three types of alternative punishment—restorative justice, in-school suspension, and community service—can have on both disabled and non-disabled students is discussed below.

¹²⁷ *Id.* at 12-13.

¹²⁸ *See id.*

¹²⁹ *See id.* at 13.

¹³⁰ *See id.*

¹³¹ DIGNITY IN SCHOOLS, *Fact Sheet: School Discipline and The Pushout Problem 1*, http://www.dignityinschools.org/files/DSC_Pushout_Fact_Sheet.pdf (last visited July 8, 2015).

Restorative Justice

Using restorative techniques in schools is a new concept. Restorative justice programs began in the criminal justice system as a way to hold criminals accountable to the people their actions harmed.¹³² However, many districts are beginning to recognize the value of restorative justice in schools as well. For schools, “restorative justice is a philosophy and an approach to discipline that moves away from punishment toward restoring a sense of harmony and well-being for all those affected by a hurtful act.”¹³³

Restorative justice in schools has three aims.¹³⁴ First, it holds students accountable for their actions by holding the wrongdoer accountable to the individual they harmed.¹³⁵ This helps students acknowledge that their actions have a direct impact on other people. Second, restorative justice promotes the safety of the community by focusing on mending broken relationships while promoting a sense of unity “to empower the community to take responsibility for the well-being of its members.”¹³⁶ Third, restorative justice improves the pro-social skills of the wrongdoer by addressing the “underlying factors” that led to the destructive behavior.¹³⁷

Restorative practices can take many different forms. One model utilizes peacemaking circles.¹³⁸ A trained facilitator leads the circle and allows students, teachers, or any other involved or affected party to participate in the discussion.¹³⁹ Only one person speaks at a time.¹⁴⁰ Through providing a safe place for open communication, peacemaking circles empower participants, improve their relationships, and resolve the conflict.¹⁴¹ This approach has been found to produce impressive results—after implementing this program, a school district in Peoria, Illinois experienced a 35% decline in the number of referrals to detention.¹⁴²

Christian Fenger Academy High School in Chicago takes a more conflict specific approach to restorative justice. For example, a boy with disabilities thought of as a “loner” kissed a girl that another boy was dating.¹⁴³ This other boy, the captain of the wrestling team, chased after him and then threatened to hurt him.¹⁴⁴ Rather than

¹³² Nirvi Shah, ‘*Restorative Practices*’: *Discipline But Different*, EDUCATION WEEK (Oct. 16, 2012), http://www.edweek.org/ew/articles/2012/10/17/08restorative_ep.h32.html.

¹³³ LOS ANGELES UNIFIED SCHOOL DISTRICT, *Restorative Justice in LAUSD 2*, <http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/293/Restorative%20Justice%20Statement.pdf> (last visited July 10, 2015).

¹³⁴ Jessica Ashley and Kimberly Burke, *Implementing Restorative Justice: A Guide for Schools* ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY 6, available at <http://www.icjia.state.il.us/public/pdf/BARJ/SCHOOL%20BARJ%20GUIDEBOOK.pdf>.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.* at 14.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Shah, *supra* note 132.

¹⁴⁴ *Id.*

suspending both students, a conference was held with their parents.¹⁴⁵ During this meeting the students' parents agreed to immediately contact one another if the hostilities between the two boys went any further.¹⁴⁶ After this restorative justice intervention, the two young men sat together for lunch every day.¹⁴⁷ The emphasis was on restoring the relationship rather than allocating blame or punishing the students.¹⁴⁸ Fenger High School has been implementing restorative techniques for three years.¹⁴⁸ The amount of misconduct occurring at the school has decreased by 70 percent since the program started.¹⁴⁹

Another form of restorative justice involves the implementation of peer courts. Davidson Middle School in San Rafael, California instituted a peer court program.¹⁵⁰ The peer court meets during lunch and consists of five to six students who serve as a panel that determine the sentence a student will receive.¹⁵¹ These students have undergone training to teach them how to listen and "to interrogate."¹⁵² If a student faces suspension as a possible punishment, the student may choose to be suspended or to attend peer court.¹⁵³ If the student chooses peer court and completes their assigned sentence, the record of their wrongdoing is erased.¹⁵⁴ Failure to complete the sentence in the specified time results in suspension.¹⁵⁵ Example sentences "include: school based community services, letters of apology, reflective essays, and tutoring in subjects where the student needs academic support."¹⁵⁶ One example of the peer court in action occurred after a small knife was found in a 7th grade student's backpack.¹⁵⁷ The students on the court questioned the student and also looked at his academic record.¹⁵⁸ They delivered a multi-prong sentence to the student with three tasks that had to be completed within 21 days: "write a paper on bringing knives to school and decisionmaking, 20 hours of community service, and five tutoring sessions each in science and math" (the two subjects in which his grades were the lowest).¹⁵⁹ The student completed this sentence and changed his behavior.¹⁶⁰ The program at Davidson Middle School has been extremely successful, and the suspension rate has drastically decreased. While there were more than 300 suspensions during the 2009-10 school year, by 2011-12, that number had dropped to 27.¹⁶¹

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *See id.*

¹⁵⁶ *Davidson Middle School 2014-2015 Student and Parent Handbook*, SAN RAFAEL CITY SCHOOL DISTRICT 5, (2014) available at <http://dms.srcs.ca.schoolloop.com/file/1217027460444/1344348321886/8006447047787550833.pdf>.

¹⁵⁷ Shah, *supra* note 132.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *See id.*

¹⁶¹ *Id.*

Restorative justice, whether implemented through peer courts, peacemaking circles, or more conflict-specific approaches, aims to restore a community. Its approach focuses on meaningful punishments that teach students the impact of their decisions and allows them to mend relationships they previously broke through bad choices. While restorative justice does not explicitly teach positive behaviors like PBIS, it seeks to produce positive consequences for the community rather than simply punish negative behaviors.

In-school Suspensions

In-school suspension may be the most intuitive replacement for out-of-school suspension. ISS punishes students but also provides them with supervision. It keeps them out of the classroom but also out of the streets. However, successful ISS programs do more than simply keep students on school grounds. “The most effective in-school suspension programs have components to address students’ academic and social needs”¹⁶² Not only can these programs benefit students, they also do not break the bank. ISS programs are not free, but they are not expensive either. The cost of these programs is usually limited to the cost of paying an additional teacher to run the ISS program and any cost involved with finding an extra room.

Coahoma Agricultural High School in Clarksdale has instituted its own version of in-school suspension known as the Silent Learning Center.¹⁶³ When a student is sent to the Silent Learning Center they must remain in that detention classroom all day with the exception of two bathroom breaks.¹⁶⁴ During the day, the students complete assignments provided to them from their classroom teachers or the center’s supervisor and will get credit for this schoolwork.¹⁶⁵ If a student refuses to follow the Silent Learning Center’s rules, further consequences may include additional days in the Silent Learning Center, OSS, or a disciplinary hearing.¹⁶⁶

Another example of a successful ISS program is the Positive Alternative to School Suspension (PASS) at Crawford Mosley High School in Lynne Haven, Florida.¹⁶⁷ Students can choose to participate in this program instead of receiving OSS.¹⁶⁸ Depending on the situation, students may be assigned to the program for a three, five, or ten day period.¹⁶⁹ For each student the ISS begins with an orientation that outlines both the expectations and rules for PASS.¹⁷⁰ Each day, students are graded on a rubric that includes five elements: “attendance, tardiness, ability to follow all rules, behavior,

¹⁶² *In-School Suspension: A Learning Tool*, EDUCATION WORLD, http://www.educationworld.com/a_admin/admin/admin329.shtml (last visited May 20, 2015).

¹⁶³ COAHOMA AGRICULTURAL HIGH SCHOOL, *supra* note 83, at 25.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *In-School Suspension: A Learning Tool*, *supra* note 162.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

and work habits in class.”¹⁷¹ This daily rubric helps keep parents informed about their children’s behavior and serves as a measurement tool to determine if additional punishment is necessary.¹⁷² If a student violates one of the five elements, they are given “a point.”¹⁷³ Once a student receives five points, they fail out of PASS and must serve OSS.¹⁷⁴ If a student fails PASS, the highest grade they can receive on any of the schoolwork they completed while in the program is a D.¹⁷⁵ At Crawford this program seems to be effective. In a past year, only 67 students out of the 467 students assigned suspension actually served it out-of-school.¹⁷⁶

North Kirkwood Middle School implements a similar ISS program known as the North Intervention Center (NIC).¹⁷⁷ Students are assigned to the program for a period of one to five days, but never as a first resort.¹⁷⁸ During this time they work on assignments from class and one of their teachers checks in with them on a daily basis.¹⁷⁹ The first day they enter the program a teacher goes through the school’s handbook with the student to discuss how they violated it and discusses alternative ways the student could have behaved.¹⁸⁰ Students tend to be deterred more by NIC (compared to OSS) because while at NIC they cannot leave the room, so they cannot participate in extracurricular activities, and they must do schoolwork.¹⁸¹ Lastly, before re-integrating into the classroom, students must meet with a counselor or administrator.¹⁸²

Falcon Middle School in Peyton, Colorado utilized an ISS program for many years with success.¹⁸³ Students who fight or obtain three detentions are assigned to the ISS program for up to five days.¹⁸⁴ Students are supervised at all times, must complete schoolwork, cannot talk, and must remain in the room during lunch.¹⁸⁵ Students must also work through a packet to explain why they are being punished and the supervisor walks through this information with them to discuss their choices.¹⁸⁶ Each day the students participate in 45 minutes of community service activities such as stapling packets together or picking up trash around the school.¹⁸⁷ This program radically reduced disciplinary incidents. Before the program began in 2000-01 there were 437

¹⁷¹ *Id.*
¹⁷² *See id.*
¹⁷³ *Id.*
¹⁷⁴ *Id.*
¹⁷⁵ *Id.*
¹⁷⁶ *Id.*
¹⁷⁷ *Id.*
¹⁷⁸ *Id.*
¹⁷⁹ *Id.*
¹⁸⁰ *Id.*
¹⁸¹ *Id.*
¹⁸² *Id.*
¹⁸³ *See id.*
¹⁸⁴ *Id.*
¹⁸⁵ *Id.*
¹⁸⁶ *Id.*
¹⁸⁷ *Id.*

disciplinary and safety incidents, but the following year, after the program began, there were only 74 incidents.¹⁸⁸

ISS programs can be structured in many different ways, but it is important that they encourage students to focus on their schoolwork in a supportive environment with a teacher there to monitor and assist them. ISS supervisors can serve as mentors and help students think through their choices while providing a structured and safe environment outside of the normal classroom.

Community Service Options

Community service is tool commonly used as punishment by the criminal justice system. However, it can also be adapted and used as a creative alternative to suspension in the school context and can transform a student's punishment into a meaningful learning experience.

The Burke County Public Schools in North Carolina use a program known as the Burke Alternatives to Suspension, or BATS. The BATS program serves students who are suspended for between three and ten days.¹⁸⁹ It is a collaborative effort between the school district and the broader community within the county.¹⁹⁰ The parents must provide transportation for their child to and from the volunteer organization and pick up the student's packet of classwork from the school if they want their child to continue working while out of the classroom.¹⁹¹ When parents decide to pick up the schoolwork (about 50 percent of the time), the students bring this work to their volunteer site where they have time and space to complete it.¹⁹² The student must elect to participate in BATS, and if a student participates, they will not be counted absent from school.¹⁹³ This is a big incentive for students because the county has a rule that if a student has five unexcused absences they are at risk of not receiving credit for the class and so must repeat it.¹⁹⁴ Thus, participating in the BATS program can prevent a suspended student from having to repeat a class, or an entire grade. However, each student is only eligible to participate in BATS one time per semester.¹⁹⁵ Thus, if students receive more than one OSS in a single semester, they can only opt into BATS as an alternative once.

Students work at one of the participating agencies within the community performing community service, including local elementary schools (where students assist cafeteria and custodial staffs), a soup kitchen, and the county's public works site.¹⁹⁶ The students

¹⁸⁸ *Id.*

¹⁸⁹ Telephone Interview by Katherine Taylor with Melissa Streppa, BATS Program Coordinator, Burke County Public Schools (Mar. 03, 2015), notes on file with interviewer.

¹⁹⁰ See BURKE COUNTY PUBLIC SCHOOLS, *Student Code of Conduct for the Burke County Schools 4* (2008), available at <http://www.burke.k12.nc.us/schools/trms/Parent%20Student%20Documents/Student%20Code%20of%20Conduct.pdf>.

¹⁹¹ Telephone Interview with Melissa Streppa, *supra* note 189.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

are often exposed to placements where they may desire to pursue jobs or careers after high school.¹⁹⁷ At each placement, students are often lightly supervised, forcing them to be responsible or risk removal from the program.¹⁹⁸ BATS focuses on not being punitive or judgmental.¹⁹⁹ Instead, the goal of the program is to increase the students' sense of self-worth and to improve their behavior not only in school, but also within the larger community.²⁰⁰ Judging by the fact that approximately 60 percent of students choose BATS over OSS, it seems to be working.²⁰¹

Recommendations

Restorative justice, in-school suspension, and community service programs are all viable alternatives to the traditional out-of-school suspension approach to punishment. All three of the programs can be incorporated into CMSD to promote a stronger community for both disabled and non-disabled students.

Restorative justice could be an effective alternative to OSS. Although it requires creativity and more effort on the part of teachers and administrators, the results can be impressive. Not only does it improve students' behavior in the long run, but it also tailors punishments specifically to the wrongful act committed. This would be especially beneficial to students with disabilities. Students with disabilities may not fully grasp why their conduct was incorrect and may lack the necessary skills to correct it. Restorative justice ensures that students understand why their actions were wrong. It shows students who their actions hurt and allows them to make amends with those people. In addition, such an approach would foster a community of understanding and acceptance by helping other students understand their peer's disability. Peer courts in particular would be easy to implement and would provide many benefits to CMSD. If the court took place during lunchtime, a classroom would be vacant and a teacher available to monitor the court, therefore the program would be very inexpensive. Not only would the court benefit the student on trial by tailoring a punishment to teach and restore them, but it would also benefit the students on the panel by teaching them civics and responsibility.

Lessons learned from the ISS programs surveyed can also be applied to CMSD. The school district already has an ISS program in place, but by tweaking certain aspects of it, CMSD may be able to achieve better results. There are four specific features from the model programs that could have big impacts for CMSD. First, adding an orientation period at the beginning of each student's suspension to talk through the incident could be very beneficial. This would particularly aid students with disabilities in understanding how they could have reacted to the situation in a more positive manner. Second, sending home daily progress reports to the parents, similar to the rubric Crawford Mosley High School uses, could involve parents in the process. This would allow parents to understand how their children are behaving each day and what behaviors still

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ BURKE COUNTY PUBLIC SCHOOLS, *supra* note 190, at 4.

²⁰¹ Telephone Interview with Melissa Streppa, *supra* note 189.

need to be changed. Third, the ISS monitor could assign each student 45 minutes of community service work to complete daily, following the lead of Falcon Middle School. The community service could include any tasks that need to be completed around the school, from copying papers for teachers to cleaning up the parking lot or helping the cafeteria staff. This would give the students an opportunity to give back to the school in a positive way. Fourth, instituting a restorative justice-type reconciliation at the end of ISS could strengthen the school community. A short meeting could be set-up between the student and the teacher who sent them to ISS after they have completed the program. The goals of the meeting would be to address how the student's actions affected the teacher and to build a stronger, positive relationship with the teacher to replace any negative one that may have formed. All four of these improvements can be implemented free of cost to the school and would benefit both teachers and students.

CMSD could also implement community service in a program similar to the BATS program, not only to improve their punishment system but also to promote a greater sense of unity and pride within the school community. CMSD could seek non-profit or other public interest organizations in the community and ask them to participate. This could have the added benefit of helping students with disabilities become more integrated into the community. Also, many students have a hard time sitting still throughout the day, and this would be a way to capitalize on their abundant energy in a productive and positive way. Additionally, students would be exposed to agencies in the community where they might want to seek employment after graduation. Although this program is not well-suited for every student because of the high level of autonomy each student might have at the volunteer site, it could be beneficial for many students and could be tailored appropriately. Partnering with different community stakeholders to implement a community service program would benefit CMSD, teachers, students, and the entire community.

IV. Conclusion

It is evident that the high out-of-school suspension rate for students, especially students with disabilities, has a detrimental effect on the students and schools as well as a larger, negative societal impact. While there is no quick fix to alleviate these challenges, there are certain practices that could be implemented to more effectively address student behavior.

PBIS could help CMSD lower levels of OSS by encouraging and reinforcing good behavior. PBIS emphasizes team-based leadership, data-based decision making, and ongoing professional development. In the long-term, these principles will lead to lower infraction rates, and reduce the need for ISS and OSS. Although implementing PBIS is time-intensive and complex, Coahoma Agricultural High School provides a useful model as it has implemented the program effectively and at a low cost with simple initiatives such as "Tiger Paws" and "Caught Being Good."

To effectively administer changes within a school's behavior management system, schools must thoughtfully implement the programs and teachers must be effectively

trained. Teacher training is needed in many areas, including interpreting data and classroom management. Furthermore, both teacher training and program implementation could be accomplished through the small group approach, the one essential component approach, or by partnering with outside organizations. The small group approach would help increase teacher buy-in, and the one essential component approach could help students who need intervention the most. Both approaches are conducive to implementing behavioral systems with limited resources.

Increasing good behaviors in school is important, but it is also critical to find alternative punishments to use when students misbehave that effectively deter misbehaviors and are less harmful to students than OSS. This report explored three types of alternative punishment: restorative justice, which involves parent-teacher conferences and peer courts; in-school suspension, which keeps students in school under supervision while still punishing them; and community service, which allows suspended students to transform their suspension into a more meaningful experience. CMSD could adopt these by emulating the ways other schools have implemented them, or by adding aspects of them into their current punishment system.

By increasing good behaviors through PBIS and using alternatives punishments, CMSD could lower its OSS rates and create an atmosphere more conducive to learning. Decreasing OSS rates would also help raise graduation rates. Spending more time in the classroom and reducing interruptions in learning could greatly improve the lives of students and reduce the far-reaching negative consequences of exclusionary discipline.