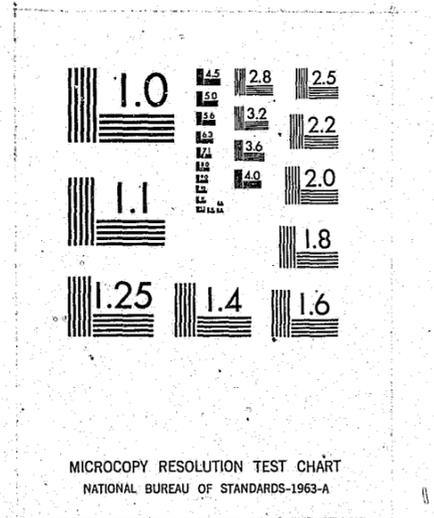


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

MF-1

Juvenile Justice Handbook for Missouri Schools

80914

A guide for the relations of school officials, juvenile and the



Juvenile Justice Handbook for Missouri Schools

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Missouri Department of Elementary
and Secondary Education

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

NCJRS

SEP 8 1981

ACQUISITION

1981

Missouri Department of Elementary and Secondary Education
Arthur L. Mallory, Commissioner of Education

Table of Contents

Foreword	5
Introduction	7
The Role of the School District	9
School District Policies and Procedures	9
School District Advisory Committee	9
Contact Persons	9
Coordination with the Police Department	10
Coordination with the Juvenile Court and Other Agencies	15
Confidentiality of Records and Information	17
Conduct, Behavior and Discipline	19
Bus Conduct	21
Attendance and Truancy	22
Suspension	26
Expulsion	26
The Role of the Police	28
The Role of the County Juvenile Court	31
Various Ways Cases are Handled by the Juvenile Court (Dispositions)	31
Release of Information from Juvenile Court Files	34
Glossary of Juvenile Justice	
Legal Definitions	36

List of Figures

Figure 1 General Flow Chart	11
Figure 2 Release Form (Sample)	13
Figure 3 School District Excessive Absence or Truancy Report Form (Sample)	24
Figure 4 Excessive Absence or Truancy Report (Sample)	25
Figure 5 Conditions of Supervision (Sample)	33

Preceding page blank

Foreword

One of the most sensitive areas of school administration involves dealing with students who are charged with juvenile or criminal offenses, whether in school or in the community at large. School officials are sometimes required to call law enforcement officials onto school premises to deal with disruptive incidents or potentially dangerous situations. School officials also may have close contact with juvenile justice officials as we work with students who remain in school while under jurisdiction of the juvenile court.

To prevent confusion, delays and possible abridgement of students' rights, all of these situations require that school officials, law enforcement personnel and juvenile justice authorities work together cooperatively. This booklet has been prepared to facilitate such cooperation. It can help school officials establish clear guidelines for handling juvenile-justice-related issues, and it can help clarify the roles of the respective authorities involved in dealing with these issues.

Juvenile offenders are often troubled and troublesome, but schools can be important, positive influences in their lives. I hope this guide is helpful as we jointly serve a group of young persons who need our attention, support and help.

Arthur L. Mallory
Commissioner of Education

Preceding page blank

Introduction

In 1978, the Missouri State Board of Education and the Department of Elementary and Secondary Education established a Juvenile Justice Task Force to address the need for more effective communication and cooperation among police, juvenile courts and public schools in Missouri. As a result of the Task Force's efforts, this handbook was developed.

The purpose of this guide is to assist school districts, police and juvenile courts in working cooperatively and effectively with students in the public schools of Missouri. Because cooperation is often essential for satisfactory resolution of problems, this guide suggests policies and procedures that may be used by school personnel in acting upon juvenile problems which require the cooperation or intervention of police or juvenile authorities. It also attempts to describe the roles and responsibilities of each of these authorities in dealing with school-related juvenile justice issues.

Personnel in each school ought to be familiar with the policies and procedures established by the local school board. When problems occur, school staff members should be in a position to take appropriate action quickly, in order to prevent disruption of the school environment and to protect the rights of all concerned. Students, too, should be aware of district policies governing their behavior and procedures for dealing with their actions.

This guide is divided into three sections: *The Role of the School District*; *The Role of the Police*; and *The Role of the Juvenile Court*. The role of each institution is examined only in terms of juvenile justice issues and concerns in the school context.

The Division of Urban and Teacher Education of the Missouri Department of Elementary and Secondary Education is grateful to the Juvenile Justice Task Force for its assistance and guidance in developing of this guide. The Task Force included representatives of the Hazelwood and Normandy School Districts and the St. Louis County Juvenile Court. We also acknowledge the assistance of a special committee (school officials, lawyers, judges, police and juvenile authorities) appointed by the Department, The Missouri Bar and the Missouri Attorney General's office in reviewing the draft of this guide.

Dr. Albert L. Walker
*Assistant Commissioner,
Division of Urban and
Teacher Education*

Mrs. Joan Solomon
Director of Urban Education

Preceding page blank

7

Unless otherwise noted, all citations of Missouri law in this publication refer to the Revised Statutes of Missouri, 1978 (RSMo., 1978).

The Role of the School District

School District Policies and Procedures

The local board of education is responsible for providing educational programs in a school district. The board develops policies that chart the course of action and ensure the effective and efficient operation of the schools in the district. Board policies relating to juvenile justice concerns, such as drug and alcohol abuse, disruptive behavior, suspension, expulsion and truancy, should make it easier for school district personnel to deal quickly, responsibly and consistently with specific juvenile problems.

The board of education is responsible for adopting policies related to:

1. Dealing with juvenile problems and concerns.
2. Protecting the student's individuality, personal dignity and rights under the law.
3. Cooperating and working closely with all local, state and federal agencies in matters of juvenile concern.
4. Communicating with the community about objectives, programs and accomplishments of students and school personnel regarding juvenile justice and other matters.
5. Coordinating efforts to meet the needs of the school district and acting in the best interests of the students it serves.

School District Advisory Committee

An advisory committee consisting of community representatives, juvenile court officers, police officers, representatives of the Division of Family Services and school district personnel (such as administrators, teachers, counselors and security staff) is important to effective communication in juvenile related issues. Such a committee should schedule an appropriate number of meetings per year to discuss and review related school, community and law enforcement concerns. A summary of information discussed and questions arising at each meeting should be forwarded to the superintendent for review and action, if needed.

Contact Persons

To provide a more consistent, efficient and effective working relationship among the schools, police and courts, the

superintendent may designate an administrator from the school district as the District Contact Person and a staff person from each school as the School Contact Person to serve as the school-police-court liaison team. The District Contact Person should coordinate matters of mutual concern among schools, police and courts. The School Contact Person should handle direct, day-to-day contact with the school, police and courts. (In elementary schools, the principal, in most cases, will assume this function.)

The District and School Contact Persons should be available to coordinate all business occurring among the schools and the institutions involved. The flow chart on page 11 shows how an already existing operation works. In emergency situations where time is of the essence, the School Contact Person may not be initially involved. Any follow-up or required disposition, however, should involve that staff person, whether it is in or out of the school setting.

Coordination with the Police Department

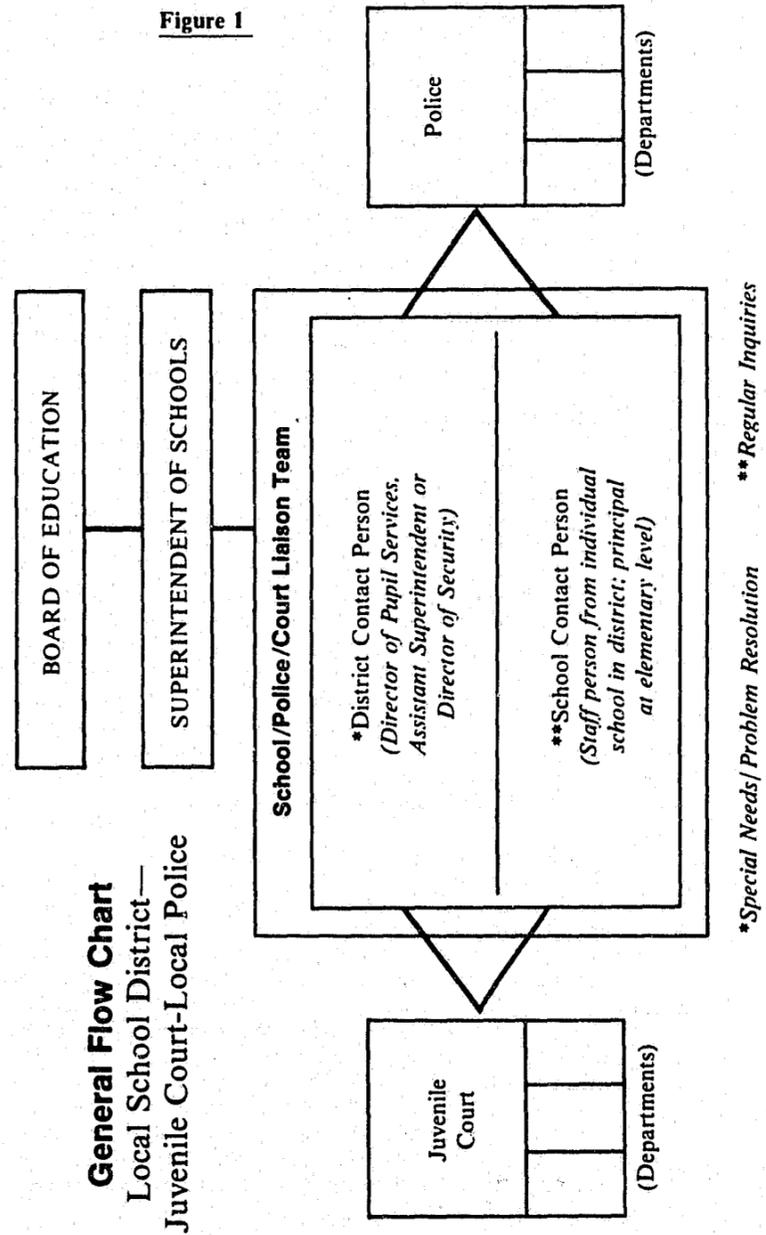
From time to time, school officials need assistance from the local police departments. Some situations simply require cooperation between the school and police, while others might not only require cooperation but also police intervention. In situations where an adversary proceeding or legal action against a student is imminent, certain procedures should be established to ensure that personal dignity and legal rights of the student are protected and, at the same time, that the lawful missions of community institutions (police, court, school) are fulfilled.

Situations occurring within the school setting that frequently require police assistance include:

1. Incidents of crime and violence
2. Possession, sale or use of controlled substances
3. Disturbances/demonstrations
4. Trespassing
5. Child abuse/neglect
6. Absenteeism

Incidents of serious crime (felonies)—especially crimes against persons (assaults, rapes, robberies, extortions)—should be reported to the police immediately by the School Contact Person, and the superintendent should be notified promptly. When a matter is minor or nonemergency in nature, but district policy or law requires that it be reported, the School Contact Person should assist in involving the police or other appropriate agency. Once the police are notified, the principal

Figure 1



General Flow Chart
Local School District—
Juvenile Court-Local Police

or School Contact Person should work with them in making the report and coordinating any necessary additional investigation.

Board policy should include guidelines for cooperation with police or juvenile officials when they arrive at school. If the police make a request that is contrary to an established policy, the School Contact Person should state that reservation to the officer and advise him or her that the police will assume full responsibility for the student and the consequences of removing the persons and/or property from school custody or jurisdiction. When the student is to be taken from school, the officer and the School Contact Person should be asked to sign a responsibility form. (See Figure 2, page 13, for an example.)

School personnel should observe the following guidelines in releasing or interviewing a student:

1. Students should only be released to the custody of their parents, legal guardians, or person(s) designated in writing by a parent or legal guardian, or to appropriate authorities in compliance with a court order or arrest.
2. A student should be released to a law enforcement officer when the officer possesses a warrant or a written order requiring release of the student to the officer, or when the officer is otherwise making an arrest or detention. The principal shall notify the parent or legal guardian as soon as practicable.
3. If a police officer wants to interview a student, the principal should call the parent or legal guardian and advise him or her of the request. The interview should be conducted in the principal's office or appropriate place with the principal present. (See page 29.)

Other incidents that might require police assistance are:

1. Boycotts, walkouts, demonstrations

While the courts have recognized the authority of local boards to limit certain student actions, the constitutional rights of the students are to be respected, except when protests and demonstrations by them materially and substantially interrupt the educational process. Such actions then become inappropriate ways for students to communicate their wishes concerning school policy, rules, regulations and procedures. Students involved either directly or indirectly in the planning or execution of any disruptive demonstration or protest shall be disciplined according to the laws of the state of Missouri, the policies of the local board of education and the administrative rules and procedures developed by the superintendent and approved by the board.

Figure 2

CASE NUMBER _____

RELEASE FORM

I _____ do hereby take custody of
_____ and accept full responsibility for the care and custody of same.

(check one)

Custody granted with notification of parents _____

Custody without notification _____

Person Assuming Custody

Badge No. _____

Title _____

Department _____

School Representative:

Date _____

Time _____

When a disruptive demonstration or protest occurs, the staff's primary concerns shall be the safety and rights of all persons and the protection of school property. The principal should follow this suggested procedure:

- (a) Assess the situation. Determine how many students are out of class.
- (b) See that those students who are not participants in disruptive actions are in class.
- (c) Inform the superintendent or District Contact Person about the situation.
- (d) Assign staff members to protect the health and welfare of all students not involved.
- (e) Isolate the disruptive group.
- (f) Make an effort to deal with the individual problems.
- (g) Direct the students to return to class.
- (h) Request that students and non-students involved in demonstrations leave the premises.
- (i) Contact the law enforcement officer. If students or non-students do not consent to return to class or to leave the premises, if all efforts to resolve the problem seem to be failing and if educational processes are continuing to be disrupted, contact the police to quell the disturbance. The police may be asked to remove some students and demonstrators from the premises. If they do so, they have the prerogative to refer the matter to the prosecuting attorney or the juvenile court. Students may be suspended from school in accordance with Section 167.171 until a conference with students and parents or legal guardians is held to consider further action.

Following an investigation of the incident by appropriate school officials, disciplinary measures should be recommended. Leaders and active participants may be subject to long-term suspension or expulsion from school and prosecution. Non-students participating in any unlawful student demonstration may be prosecuted to the fullest extent of the law.

The board of education should receive a written report on the incident from the superintendent's office as soon as practicable. If, in the opinion of the superintendent and staff, the problem cannot be resolved under existing board policy or law, a recommendation for resolution should be made to the board. Inquiries by representatives of the news media should be referred to the superintendent or his or her designee.

2. *Controlled substances (drugs/alcohol)*

The illegal possession, use or transfer of controlled substances (drugs, including alcohol) and other chemical compounds or mixtures which may have an adverse effect on the user shall be prohibited on school grounds, in all school facilities and conveyances and at all school activities. When a student is found illegally possessing, using or transferring a controlled substance (as defined above) or if there is reasonable evidence that the student is in any way involved with the use of drugs, the following administrative procedures are suggested:

- (a) The parents or legal guardians and the appropriate law enforcement agency should be informed as soon as possible.
- (b) The situation should be discussed with the student and parents or legal guardians in a conference. If it is determined that the student has violated board policies concerning the illegal use, possession or sale of controlled substances, the student should be disciplined in accordance with district policy.
- (c) Law enforcement officials should determine from available evidence whether criminal charges or other legal action would be appropriate.
- (d) In some cases, chemical analysis may reveal that suspicious material possessed, used or transferred by a student is *not* a controlled substance (powdered sugar instead of cocaine, for example). Based on all available evidence, however, the board of education, the superintendent or their designee may conclude that the student intended to violate prohibitions against controlled substances. It may be determined that the student's activity did, in fact, constitute illegal possession, use or transfer. Therefore, for purposes of good school order and discipline, school officials may elect to discipline the student in accordance with district policy concerning controlled substances.

Coordination with the Juvenile Court and Other Agencies

Most contact with the *Juvenile Court* will occur for the following reasons:

1. To update pertinent information or to inform the court officer about a student who has been referred but who has not yet had a hearing.
2. To assist the Deputy Juvenile Officer or social worker assigned to a student who has been in court and who is currently involved in treatment, supervision and/or placement. The school can often help the student and the family in the program specified by the court.
3. To deal with educational neglect and truancy situations. If a student is absent from school without

permission or justification, the juvenile court can become involved in two ways: First, if the parents or guardians neglect or refuse to provide education as required by law, they can be brought before the court [Section 211.031.1(1)(a), RSMo., Supp. 1980]. Second, if the child is repeatedly and without justification absent from school, the matter can be referred to the court [Section 211.031.1(2)(a), RSMo., Supp. 1980]. (See page 22.)

4. To deal with child abuse or neglect situations. If no immediate danger is suspected, the Division of Family Services' hot line should be called (1-800-392-3738). If the child is in immediate danger, not only the hot line, but also the police should be called to assist in recording the incident and to collect and preserve the evidence.

All administrators, counselors and teachers have legal responsibilities to report incidents of child abuse and neglect to the proper authorities and to call the hot line. Coordinating the reports of these incidents through the School Contact Person can ensure that the most appropriate agency is contacted.

Frequently, contact with other *community resource agencies* is needed. Certain circumstances might cause teachers, counselors and administrators to believe that a student is about to get involved with the police or court. These include:

1. Poor peer relations or social acceptance
2. Little or no parental control
3. Incurable behavior
4. Physical abuse problems
5. Suspected drug/alcohol use
6. Known curfew violation
7. Questionable residence

If a student appears to have a potential problem, knowledgeable school personnel can take action that will help provide assistance to the student and his or her family and prevent his or her inappropriate or unlawful behavior. The concerned staff person should attempt to get the student and family involved with an appropriate community resource agency.

Students or their families may seek help from the school before the school is aware of any problems. These individuals can be directed to available services designed to meet their needs, and perhaps their involvement with the criminal justice system can be avoided.

Confidentiality of Records and Information

School policies and procedures concerning student records must conform to the Federal Family Educational Rights and Privacy Act (General Education Provisions Act, Section 438, P.L. 90-247, Title IV, as amended). The principal of each school shall keep a daily register as prescribed by state law (Section 171.151) and shall collect, classify and maintain complete records and data on each student as prescribed by rules and procedures approved by the board of education. Student records and documents should be kept in a fireproof vault or file cabinet.

Access to student records shall be granted in accordance with these rules and procedures and in compliance with these federal and state laws. As required in these laws, an annual "Notification of Rights" letter shall be provided to all parents or legal guardians.

Suggested administrative rules and procedures are:

1. Classification of student records

(a) Administrative records

Official administrative records that constitute the minimum personal data necessary for operating the educational system should include birth date, sex, names and addresses of parents or legal guardians, academic work completed, grades, honors, standardized achievement scores and attendance records. These records should be permanent and maintained by the school in perpetuity.

(b) Supplementary records

This classification includes verified information important but not necessary to operate the educational system, such as scores on standardized intelligence and aptitude tests, health data, family background information, and *verified* reports of serious or recurrent behavior patterns. Except for aptitude test scores which should be retained for three years, all supplementary records can be destroyed when the student graduates or leaves school permanently.

2. Dissemination of student records

Administrative and supplementary records may be released without prior consent of either the student or his or her parents or legal guardians to school officials and teachers who have a legitimate educational interest in examining the information. Administrative records may also be released without consent of the student, parent or guardian to

officials of other elementary or secondary schools in which the student intends to enroll, if the parents are notified by letter that this will be done. Parents may have access to their children's records as provided by state and federal laws and regulations.

No other person may have access to a student's records except under the following circumstances:

(a) Written consent must be received before releasing student records to any other person. This consent:

1. Is given by the student's parents or legal guardians until the student reaches 18 years of age. After a student is 18 years old, is in a postsecondary school, and is no longer attending a district school, his or her consent and not that of the parents or legal guardians must be obtained to release the information. However, parents retain the right to see the student's records as long as the student remains as their dependent.

2. Must specify the person requesting access, the records to be examined, and the date. Each request for consent must be handled separately; blanket permission for release of information shall not be accepted.

3. Becomes part of the student's record.

(b) Administrative and supplementary records may be released under compulsion of law and judicial order.

(c) Data may be released for outside research purposes when it is in such a form that no individual student is identifiable.

3. Management of student records

The principal should manage the records for his or her school and should be responsible for maintaining the confidentiality of student records.

The principal should review the files and delete supplementary records when necessary. He or she should also be responsible for granting or denying access to records in accordance with the law and board policy.

4. Access to student names and addresses

The principal should grant access to student names and addresses only as prescribed by administrative rules and procedures approved by the board of education.

Suggested administrative rules and procedures are:

(a) Legal notice

The following legal notice should be posted in all schools and should be published in one legal publication and all high school newspapers at least once prior to September 30 each year:

The School District, in conformance with the U.S. General Education Provisions Act, declares the following as "directory information." As provided in that act, this information concerning students may be made public:

1. Student's name, address, telephone listing
2. Date and place of birth
3. Pictures
4. Participation in officially recognized activities
5. Weight and height of members of athletic teams
6. Dates of attendance
7. Honors and awards received.

This public notice is required by law before such information can be placed in yearbooks, student directories or other student publications. If any parent or legal guardian of a student does not want any of this information released without his or her consent, he or she may contact the principal of the school that the student attends within thirty (30) days of this notice.

(b) Order of the board of education

Names or lists of names may be released to certain educational institutions and individuals with legitimate educational interests as defined under the Rights and Privacy Act.

Conduct, Behavior and Discipline

Schools should adopt policies and procedures for student conduct and discipline that are consistent with state and federal laws. Every certificated employee shares in controlling conduct and behavior and in disciplining students enrolled in the district.

Students are expected to conduct themselves in ways not disruptive of the educational process and not threatening to the safety or rights of others.

Suggested administrative policies and procedures are:

1. When a student's behavior indicates that a problem exists, the parents or legal guardians should be notified by letter or telephone and asked to attend a conference at school. The letter should describe the problem or list the infraction(s) of school rules. One copy of the letter should be sent to the student's counselor so that counseling may be initiated, and another copy should be placed in the student's supplementary records.

2. When a student's behavior is chronically disruptive or involves an act of a serious nature, the principal or assistant principal should hold a hearing. The parent or legal guardian should be notified by letter or telephone, informed of the charges against the student, and requested to attend the hearing. Copies of the letter should be sent to the student's counselor and to the superintendent, and should be placed in the student's supplementary records. The principal or, in his or her absence, the assistant principal or a designated staff member should conduct the hearing. The charges against the student should be presented, and the student should be given an opportunity to explain his or her conduct.

3. The principal may take one of the following courses of action as a result of the hearing:

- (a) Return the student to school with possible corrective action.
- (b) Assign the student to school detention.
- (c) Suspend the student for up to ten (10) calendar days until a conference to decide on corrective measures is held with the parents and notify the superintendent of this action. If the parent or legal guardian does not appear within ten (10) days, the case must be referred for further action to the superintendent, a staff committee or perhaps a discipline committee at the secondary level.
- (d) Suspend the student for up to ten (10) calendar days and notify the superintendent of this action.
- (e) Suspend the student for up to ten (10) calendar days and refer him or her to the superintendent or a discipline committee for a hearing concerning further action.
- (f) Take reasonable action to correct the problem.

Some additional discipline procedures for secondary schools are:

1. A secondary school student who has seriously violated school rules, has a history of continual infractions or has not responded in a positive fashion to previous disciplinary action may be referred by the principal to the superintendent or a discipline committee for a hearing. The student may be suspended from school until the hearing occurs, if the principal feels the student's presence would disrupt the educational process.

2. Hearings by the superintendent or discipline committee must be held within ten (10) calendar days after the suspension on a regularly scheduled school day. Parents of the student shall receive notice of the hearing—including date, time and a statement of the charges—in person, by telephone or by letter

prior to the hearing. At the hearing, the student shall be given an opportunity to explain his conduct.

3. If a student and/or parent or legal guardian does not attend a hearing, the superintendent or discipline committee should convene the hearing to review the case and take action based on the evidence submitted.

4. If a discipline committee is convened, it should be composed of the principal or designated assistant principal, an assistant principal and one other member of the staff appointed by the principal. The superintendent or his or her designee should serve as chairperson and preside over all hearings. If the superintendent must be absent from a hearing, the assistant superintendent should appoint the administrative assistant or the principal to serve as chairperson. All recommendations of the discipline committee should be referred to the superintendent for final action.

5. If the counselor has information, he or she can be brought into the proceedings.

6. Prior to the hearing, the principal should provide the superintendent or discipline committee with information from the student's school record that is pertinent to the case.

7. Other personnel may be asked to be present at the hearing.

Bus Conduct

Students are under the authority and supervision of the bus driver while on the school bus and are expected to adhere to his or her directions and the rules and regulations established by the superintendent. Infractions of the rules and regulations may result in disciplinary actions, including loss of bus-riding privileges. Some school districts may require junior and senior high school students riding school buses to display identification cards or passes containing their bus numbers. These cards should ensure proper identification, prevent riding on incorrect buses and provide better control of student conduct.

Suggested administrative rules and procedures are:

1. The director of transportation should provide the principal with a list of appropriate school bus rules, and the principal should notify students of the type of behavior required on school buses.

2. If, in the driver's opinion, a student is not behaving

according to bus rules, the driver should submit a report of the misbehavior to the transportation office. The report should be sent to the principal, who may recommend disciplinary action.

3. In districts requiring bus passes or cards for secondary students, the driver may take the pass from the student and turn it in with the report of the misbehavior to the transportation office. The report should then be sent to the principal for his action. The same procedure should be used for reporting misbehavior at the elementary level, although passes are not involved.

Attendance and Truancy

Regular school attendance is compulsory by law (Sections 167.031, 167.033, 167.051; Section 211.031, RSMo., Supp. 1980); and by board of education policy for every child between ages 7 and 16, unless the child is excepted by law (Section 167.031; Section 211.031, RSMo., Supp. 1980) and unless situations should arise over which the child or his or her parents or legal guardians have no control. School administrators and teachers are expected to enforce the law (Section 167.111) and board policy regarding regular attendance.

The principal should determine if the parents, legal guardians or students have control over the circumstances for absence. Students who are absent for other reasons shall be considered truant and subject to school disciplinary procedures. Continued unexcused absences of those under 16 years of age will be handled in accordance with the law (Sections 167.061, 167.071, 167.091, 167.111; Section 211.031, RSMo., Supp. 1980). Parents or guardians are required by law (Sections 167.031, 167.061; Section 211.031, RSMo., Supp. 1980) to cause their children between the ages of 7 and 16 to attend school regularly.

Suggested administrative practices and procedures are:

1. Absences due to situations over which the student, parent or legal guardian has no control should be excused. Illustrative of these situations are illness of the student, death of a family member or extreme emergency. Absences for any other reason should be considered unexcused unless approved by the principal in advance.

2. Building administrators and teachers should be alert to excessive absences of any student. Teachers should keep the building administrators informed of any excessive absences by any student.

3. When a student does not attend school regularly, the parents or legal guardians should be notified and asked to arrange a conference with appropriate school personnel to bring about regular attendance. If the conference does not result in the student's attending school regularly, the parents or legal guardians should be notified that additional action will be taken if within five (5) days they cannot show justifiable cause for the continued absence.

4. If the parents or legal guardians fail to show cause for continued absence, the case should be referred to the district school attendance officer. (In small districts, the District Contact Person may also serve as the attendance officer.) The school attendance officer, designated by the superintendent, should investigate reported instances of truancy or educational neglect and attempt to correct the problem. Upon receiving a referral on the attached form (Figure 3, page 24), the attendance officer should follow this procedure:

(a) A home visit, if feasible, should be made to determine if the situation is, in fact, (1) truancy or (2) neglect by the parents.

(b) Where deemed helpful, a copy of the Compulsory Attendance Law (Section 167.031) or the Penalty for Violating the Compulsory Attendance Law (Section 167.061) should be delivered to the parents. (See Figure 4, page 25, for an example.)

(c) After the parents are informed of the Compulsory Attendance Law, the student should be expected to respond within a reasonable time period. If the child does not respond, the case should be referred to the juvenile court. It is recommended that each juvenile court in the 43 judicial circuits of Missouri appoint a staff member as the court's contact person for coordinating matters of mutual concern among the schools, police and court within their respective jurisdictions.

(d) Should the attendance officer determine that the parents are neglectful in getting their children to school (e.g., keeping child home to baby-sit), the prosecuting attorney should be contacted and asked to assist in the following manner:

1. The prosecuting attorney should be requested to send a warning letter to the parents, pointing out their liability and the penalty for violating the Compulsory Attendance Law.

2. If the parents fail to comply after the warning letter, the attendance officer should refer the matter to the prosecuting attorney for official disposition.

Figure 3

School District Excessive Absence or Truancy Report Form

Date _____

Student _____ Age _____ Date of Birth _____

Parent's Name _____

Address of Student _____

Home Phone _____ Parent's Work Phone _____

School _____ Grade _____

Days Present This Year _____ Days Absent This Year _____

Total Days Absent Last Year _____

Reasons for Absence _____

Action Taken and Parental Reaction _____

Attendance Officer's Report _____

Disposition--Truancy _____

Disposition--Neglect _____

Figure 4

Excessive Absence or Truancy Report

Mr. and Mrs. _____ Date _____

Address _____ Re: _____

_____ Number of Days Absent _____

Dear _____:

We wish to inform you of the State Law which requires compulsory school attendance and the penalty for violating same (Sections 167.031, 167.033, 167.051, 167.061, RSMo 1978). Section 167.031 requires the "...parent, guardian, or other person in this state having charge, control or custody of a child between the ages of seven and sixteen years..." to cause the child to attend a day school regularly. The penalty for violating this law is stated in Section 167.061, RSMo 1978.

167.061, RSMo 1978. PENALTY FOR VIOLATING COMPULSORY ATTENDANCE LAW...

Any parent, guardian or other person having charge, control or custody of a child, who violates the provisions of sections 167.031 to 167.051 is guilty of a misdemeanor and punishable by a fine of not less than ten [\$10.00] nor more than twenty-five [\$25.00] dollars or by imprisonment in the county jail for not less than two nor more than ten days...

In compliance with the above statutes, it is of the utmost importance that you provide suggestions which will enable us to avoid having to institute proceedings under Section 167.061 of the Missouri State Statutes.

In the absence of a satisfactory plan to meet the above state requirements, we will then institute immediate proceedings in the County Juvenile Court (Section 211.031, RSMo Supp. 1980).

Principal _____

School _____

Phone _____

An effective truancy program will have two major benefits:
1. It will provide specific guidance for handling truancy cases, including specific steps to follow in the referral process.

2. It will call for court intervention only after the school has taken reasonable steps to correct the problem. Such intervention will come late enough to ensure that this serious step is necessary and early enough to be truly helpful to the student with a potential for more serious problems.

Suspension

The board of education may authorize the superintendent of schools to suspend students for not more than ninety (90) school days and the principals of schools to suspend students for not more than ten (10) calendar days. Suspension can only occur after:

1. The student has been given oral or written notice of the charges against him or her.
2. The student has been given an opportunity to present his or her version of the incident.
3. The student who has denied the charges has been given an oral or written explanation of the facts forming the basis of the charges.

Any suspension by a principal shall be reported immediately to the superintendent, who may revoke the suspension at any time.

If the superintendent suspends a student for more than ten (10) days, the student, parents or legal guardians may appeal the decision to the board or to a committee of board members appointed by the board president and having the full authority of the board. The superintendent shall promptly transmit to the board a complete written report of the facts concerning the suspension, the action taken and the reasons for the action. The board, upon request, shall grant a hearing to the appealing party. The suspension shall be stayed until the board renders its decision, unless, in the superintendent's judgment, the student's presence poses a continuing danger to persons, property or the academic process.

Expulsion

Only the board of education may expel a student from school, and it may do so only after a hearing on charges against the student. The superintendent shall notify the parents or legal guardians in writing of the day, time and place of the hearing and of the charges against the student. The parents or legal

guardians and the student will be given their full due process rights. The board shall carefully consider the evidence and statements presented by all parties and shall take whatever action it believes to be in the best interests of the school and the student.

The Role of the Police

The statutes and ordinances of Missouri clearly define the power and authority of law enforcement officers in the state. Police officers receive their authority from the U.S. Supreme Court, the Missouri Supreme Court, state statutes, county ordinances, municipal ordinances and police department rules and regulations.

The relationship between school and police officials is sometimes strained because of lack of understanding about each other's authority and responsibility. These officials should try to develop and maintain a cooperative, understanding relationship. Law enforcement officers are usually called to school to assist school officials, rather than coming on their own initiative. However, their authority to enter school property is in no way dependent upon their being summoned. The police officer and school official should be sensitive to the other's responsibilities. Generally, it would be easier if the same officer, an officially designated Police Contact Person, made contacts in any given school, but this is not always possible due to manpower changes and shift work.

A police officer may contact a school for one or more of the following reasons:

1. *Pre-Interview.* To determine if a particular person is a student at that school; to obtain directory information (page 19) on a student; to determine if the person is a juvenile (16 years or younger) or an adult (17 years and older).

2. *Interview (Pre-accusatory stage of the investigation).* To gain information or obtain facts regarding an alleged offense from a person not then under suspicion; to discover who is involved or to learn significant facts about those involved.

3. *Interrogation (Accusatory stage of an investigation).* To determine a person's involvement in an offense and elicit a confession. For a statement made by a juvenile during an interrogation to be admissible in any juvenile or adult proceedings, the following persons must be present at initial stages of interrogation: the juvenile; the mother, father, guardian or adult friend of the juvenile (principal or

counselor); and the Court Juvenile Officer or one of his deputies. The youth must have his rights read and explained to him before the statement is taken.

4a. *Custody.* To take a youth into custody (not an arrest). A youth may be taken into custody under juvenile court law (a) in a situation where an adult would be arrested, (b) to protect the youth from probable harm or (c) when evidence exists that the youth may harm others. The youth is usually then released back into the custody of the parent, guardian, school or adult friend, unless (a) the court orders detention, (b) the youth is being protected from himself or others, (c) the youth would flee or (d) no one will assume custody.

4b. *Arrest.* To arrest a youth 17 years or older. A court normally issues a warrant ordering the adult student to be placed under the authority of the local correction facility. Arresting an adult student may involve removing the youth from the school and placing him or her under the authority of the Department of Welfare or local detention facility pending warrant application.

Generally, when an investigation leads the police officer to a school, the officer should first contact the principal or School Contact Person to determine if the person in question is a student and is presently in the school. The police officer should then contact the parents, if possible, to advise them of the circumstances of the investigation and what is required of them. The interviewing or interrogating of a student while in school is not a normal activity of the local police and should only be done in extraordinary cases, preferably when the police officer has previously secured the cooperation of the school and the parent (if the suspect is a juvenile). If the student is 17 years or older, the police officer has no legal obligation to notify the parents or legal guardians. In this case, an opportunity will be provided for the student to make such notification.

When an interview at school is necessary, it should be held in the principal's office or other room away from casual visitors or curious students. A school official, counselor or parent should be present. If the interview reaches a point where it appears the situation will possibly result in the juvenile being referred to juvenile court, the interview must be stopped until the provisions contained in "Interrogation" (No. 3, page 28) are followed.

At this point, it is possible for the child to be taken into custody, referred to the court and released back to the custody of the

parents or returned to school. The youth may also be taken to a detention facility of the court. For certain major offenses, detention is required with release only upon authorization of the judge of the juvenile court. Examples include:

1. Arson
2. Assault in the first degree
3. Assault in the second degree
4. Armed robbery
5. Murder
6. Sale of drugs
7. Forcible rape
8. Forcible sodomy
9. Sexual abuse
10. Burglary in the first degree

When an officer has reasonable grounds (probable cause) to take a juvenile into custody, he can lawfully do so with or without a warrant. In determining if a youth shall be removed from school for further investigation, the officer should consider the following:

1. Is the nature of the offense such that juvenile court action is required immediately?
2. Is the nature of the offense such that the community needs to be protected from the juvenile?
3. Does the situation require removal because of local law enforcement agency regulations?

Taking a student from school into custody during regular school hours should be avoided unless absolutely necessary. The principal shall attempt to notify the parent or legal guardian as soon as practicable.

School officials have stated concern about handcuffing a student who is being taken from school, whether he is taken into custody as a juvenile or arrested as an adult. Most police departments have policies concerning when to use handcuffs. The use of restraints may be at the discretion of the officer and is for the protection of the suspect, the officer, and/or the community.

Police should realize that school principals are understandably cautious and protective of their students. If a school administrator hinders an investigation, however, he or she could be prosecuted under Section 575.030 (Hindering prosecution) or Section 575.150 (Resisting or interfering with arrest).

The Role of the County Juvenile Court

A county juvenile court derives its authority from the Juvenile Code of Missouri, Chapter 211 of the Revised Statutes of Missouri, 1978. In addition, the juvenile courts in the 43 judicial circuits in Missouri operate within the guidelines set by the Supreme Court of Missouri, Rules of Practice and Procedure in Juvenile Courts, effective August 1, 1976.

Section 211.031, RSMo., Supp. 1980, and Supreme Court rules specify the situations in which the juvenile court has jurisdiction over any person under the age of 17:

1. The parents (or other persons legally responsible for the care and support of the child) neglect or refuse to provide proper support, care and education as required by law.
2. The behavior, environment or associations of the child are injurious to the child's welfare or the welfare of others.
3. The youth is alleged to have violated a state law or municipal ordinance.

Various Ways Cases are Handled by the Juvenile Court (Dispositions)

Methods of handling juvenile court cases (dispositions) vary greatly from an informal adjustment (such as a phone call by a court worker to the parents or a standard court warning letter) for a minor juvenile offense to certifying the youth 14-to-16 years old to stand trial as an adult (see Section 211.071 and Sp. Ct. Rule 118.01). This latter disposition is usually used only for serious felonious acts involving assault or for a juvenile who has received counseling and other court assistance over a period of time but continues to break the law.

The most common dispositions, in order of increasing severity, are:

1. *Informal adjustment.* This is used for minor violations where there has been no prior violation and is done by court letter, phone call or conference of the court worker, juvenile and parents.
2. *A conditional dismissal.* After a series of minor violations or a felony followed by a hearing where the allegation is found to be true, the court may order that the petition be dismissed after a given period of time (usually six months) providing the

(offenses which only apply to youths 16 years or younger and which, therefore, are not considered adult crimes), and parents or guardians will no longer accept responsibility for the custody of the youth.

5. *Commitment to Division of Youth Services (DYS)*. If the juvenile continues to break the law after jurisdiction and supervision, which involves all the court's resources and facilities, the juvenile can be assigned to supervision under *DYS*. Once this is ordered, the juvenile court's jurisdiction passes to *DYS*. Often, the court must choose between sending a youth to *DYS* and certifying the youth to stand trial as an adult.

Release of Information from Juvenile Court Files

There are few definite guidelines for exchange of juvenile court information other than the Missouri Supreme Court's rules under which the juvenile courts operate.

1. Supreme Court Rule 122.02. Juvenile Court Records to be Confidential.

The records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and shall be open to inspection only by order of the judge of the juvenile court.

2. Supreme Court Rule 122.03. Law Enforcement Records of Juveniles to be Kept Separate.

All records of juveniles made and retained by law enforcement officers and agencies shall be kept separate from the records of other persons and shall not be open to inspection or their contents disclosed or distributed, except by order of the judge of the juvenile court. . .

The juvenile courts are bound by Section 211.321, RSMo., Supp. 1980:

Juvenile court records—records of peace officers as to children. . .

The proceedings of the juvenile court shall be entered in a book kept for that purpose and known as the juvenile records. These records as well as all information obtained and social records prepared in the discharge of official duty for the court, shall not be open to inspection or their contents disclosed, except by order of the court to persons having a legitimate interest therein. . .

A strict legal interpretation of this law would mean that only juvenile court personnel would have access to the following: court records or social file, which contains police reports; a log

of the counseling sessions between the Deputy Juvenile Officer and the juvenile, parents and anyone else involved; any tests that have been administered and any other information required. However, the phrase, "to persons having a legitimate interest therein," gives some leeway to the law. To qualify as such a person, a schoolteacher, administrator or police officer would have to request information from the juvenile court and, if refused, petition the circuit court for the information. In one case (*State v. Reagan*, 427 S.W. 2d 371) decided by the Missouri Supreme Court in April, 1968, the prosecuting attorney for an adult court wanted the juvenile records of a youth who had been certified to stand trial as an adult. Even though the defense argued that the statute states these records are confidential, the Supreme Court ruled that the prosecuting attorney was a "person having a legitimate interest therein."

If the juvenile and his parents jointly request the court to release information contained in the juvenile court's social records, the court's decision to grant or deny the request would be based on Section 211.321, RSMo., Supp. 1980.

Glossary of Juvenile Justice Legal Definitions

The following pages contain generally accepted legal definitions of key terms, but they are not the sole definitions of these terms. They are supplied to give the reader basic understanding of terms used in this guide and in situations which frequently arise in matters related to juvenile justice.

Action: A legal proceeding to enforce one's rights against another.

Administrative Law: Orders, rules, regulations and individual decisions by the administrative agencies of the executive branch of government; generally based on statutes and departmental regulations and subject to court review.

Affidavit: A written statement of facts that a person makes voluntarily and confirms by oath before an officer having authority to administer the oath, such as a notary public.

Appellate Court: A court of appeals (not a court of original jurisdiction where the case is first heard). An appeals court, such as the United States Circuit Court of Appeals, consists of three or more judges who review decisions of lower courts by studying the records of litigation, trial, and previous appeals; by reading briefs; and by hearing oral arguments by the attorneys for the parties. The judges themselves rarely hear any live testimony. The U.S. Supreme Court is the highest court of appeals. There is one level of intermediate appellate courts in the federal system, and one or more levels of appellate courts in each of the state systems. In Missouri, there is one intermediate level.

Assault (Criminal): The threat, attempt or act of physically harming another.

Assault in the First Degree (Section 565.050): A person commits the crime of assault in the first degree if:

- (1) He knowingly causes serious physical injury to another person; or
- (2) He attempts to kill or to cause serious physical injury to another person; or
- (3) Under circumstances manifesting extreme indifference to the value of human life, he recklessly engages in conduct which creates a grave risk of death to another person and thereby causes serious physical injury to another person.

Assault in the Second Degree: A person commits the crime of assault in the second degree if:

- (1) He knowingly causes or attempts to cause physical injury to another person by means of a deadly weapon or dangerous instrument; or
- (2) He recklessly causes serious physical injury to another person; or
- (3) He attempts to kill or to cause serious physical injury or causes serious physical injury under circumstances that would constitute assault in the first degree under Section 565.050, but
 - (a) Acts under the influence of extreme emotional distress for which there is a reasonable explanation or excuse. The reasonableness of the explanation or excuse shall be determined from the viewpoint of an ordinary person in the actor's situation under the circumstances as the actor believes them to be; or
 - (b) At the time of the act, he believes the circumstances to be such that, if they existed, would justify killing or inflicting serious physical injury as defined by statute, but his belief is reasonable.

Assault (Verbal): Verbal threat to do bodily harm.

Breach of the Peace: A misdemeanor of disturbing the public order and tranquility by an act of violence or by inciting to violence.

Burglary: The unlawful entering or remaining in a building or inhabitable structure for the purpose of committing a crime.

Capias: A writ from a judge to the sheriff or the police commanding them to take a juvenile or adult into custody.

Case Law: The body of law developed by court decisions, as opposed to statutory or administrative law. See also *Common Law*.

Child Abuse: Any physical injury, sexual abuse or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody and control.

Child Neglect: The failure, by those responsible for the care, custody and control of the child, to provide the proper or necessary support, education as required by law, or any other care necessary for the child's well-being, including medical and surgical.

Civil Action: An action brought to establish or enforce some private right or to obtain redress for some wrong.

Clear and Present Danger: The criterion for determining whether constitutional rights may be restricted or abridged. Since imminence of danger is an essential requirement, the danger of a particular expression or action must outweigh the importance of constitutional rights or guarantees.

Common Law: Legal principles derived from usage and custom, or from court decisions affirming such usages and customs, or the acts of Parliament in force at the time of the American Revolution, as distinguished from law created by enactment of American legislatures.

Complaint: The filing of allegations in any civil or criminal lawsuit stating the cause of action and describing the facts requiring a judicial decision.

Contempt of Court: Any intentional act likely to embarrass, hinder or obstruct a court in the administration of justice or to lessen its authority or dignity. The contemptuous act may be committed in or out of the presence of a court by a party, witness, attorney, member of the audience or some other person.

Contract: A legally enforceable agreement between two or more parties stating that the parties agree to perform certain acts or to refrain from performing certain acts.

Defamation: Words written or spoken concerning another that tend to injure the person's reputation. See also *Libel* and *Slander*.

Delinquency: The behavior by a juvenile that violates a statute or ordinance and would constitute a crime if committed by an adult.

Deputy Juvenile Officer: A juvenile court social staff officer assigned to provide consultation to a juvenile after the juvenile is placed under the jurisdiction of the court by whatever judicial procedure. (See Section 211.401 for duties of juvenile officers.)

Dropout: A youth who quits school. A student dropout is beyond the compulsory school attendance age of 16.

Due Process: Limitations on the exercise of the powers of government so as to protect individual rights.

Evidence: Legally admissible information submitted to a court or investigating body, either orally, in writing or as an exhibit, in order to determine the truth concerning any matter at issue.

Expulsion: The termination of a student's right to attend school.

Felony: A crime classified by law as serious and thus distinguished from a misdemeanor; punishable by confinement in a state or federal prison (usually for more than one year) and/or a fine.

Finding: A decision about a question of fact; often called a "finding of fact" upon which a "conclusion of law" may be based.

Fraud: An act characterized by deceit, cunning or intentional misrepresentation.

Fundamental Right: Any right explicitly or implicitly guaranteed by the Constitution.

Hearsay Evidence: Testimony given by a witness who relates what others have told him or what he has heard said by others, rather than what he knows personally. It is secondhand knowledge.

Holding: A determination of a question of law. The core of a judge's decision; the part of the judge's written opinion that applies the law to the facts of the case. See also *Finding*.

Hot Line (Child Abuse): The telephone number to call in compliance with Section 210.115 in regard to a person under the age of 17, who allegedly has been abused or neglected. The telephone number is 1-800-392-3738.

In Loco Parentis: Literally, "in place of the parent;" someone having the parent's rights, duties and responsibilities for a child.

Injunction: A prohibitive order issued by a court forbidding the defendant to do some act he is threatening, or forbidding him to continue doing some act which is injurious to another party.

Injunction, Temporary: An injunction granted at the beginning of a suit to restrain the defendant from doing some act, the right to which is in dispute. It may be dissolved or made permanent

according to the results of the case after the rights of the parties are determined.

Interrogation: (Accusatory stage of an investigation). A technique to determine a person's involvement in an offense and to elicit a confession.

Interview: (Pre-accusatory stage of an investigation). An attempt to gain information or facts regarding an offense in order to discover who was involved and to learn significant facts about what happened.

Judgment: An authoritative determination, rendered by a court, of the legal rights and duties of the parties to a controversy.

Judicial Review: The authority of the court to hold a specific enactment of a legislative body or a particular act of an administrative official to be unconstitutional and hence unenforceable.

Jurisdiction: The authority of a court to hear and decide cases within a defined geographic area or concerning particular subject matters or parties.

Juvenile: A person under 17 years of age. There may be some exceptions to this definition, however. Under certain circumstances, for example, persons between the ages of 17 and 21 may be subject to the jurisdiction of a juvenile court.

Juvenile Code: Chapter 211, RSMo., 1978, designed to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court.

Liabile: Responsible, answerable, chargeable or accountable to compensate or make restitution.

Libel: An untrue statement deliberately made in writing, picture or effigy that injures the reputation of another person.

Malice: The intent to perform an unlawful act without just cause and with an intent to inflict injury or with a reckless disregard of the harmful effect.

Mandamus: A writ to compel a public body or its officers to perform official ministerial duties.

Misdemeanor: A criminal offense less serious than a felony that may be punishable by time in the county jail or a fine or both.

Obscenity: Constitutionally unprotected expression with prurient appeal; patent offensiveness and lack of social value, as viewed in light of contemporary community standards. Obscenity is ultimately a question of law, and since its

determination has constitutional ramifications, the Supreme Court stands as the ultimate arbiter of the issue.

Prima Facie: At first sight; on the face of it; presumed to be true.

Prima Facie Case: A case in which the evidence is sufficient to substantiate a verdict or finding unless the evidence is contradicted or overcome by rebutting evidence.

Prior Restraint: Action taken by a school administrator or other governmental representative that prevents someone from exercising a right guaranteed by the First Amendment; courts usually approach such cases with a presumption that the action was unconstitutional.

Procedural Due Process: The procedures, such as giving adequate notice and providing an impartial hearing for students and parents, that an institution or governing body must follow before taking action that substantially affects a student's rights.

Public Agency: Any unit of state or local government, or combination of such units, or any department, agency or instrumentality of any of these units.

Pushout: A student who decides to leave school because of frustration from not achieving success or because of pressure exerted by the school through various disciplinary actions.

Referral: A report sent by school, police or other agencies of an alleged violation of the Juvenile Code by a juvenile. From the report, a decision is made as to the next judicial procedure to be implemented, i.e., informal adjustment, formal hearing.

Robbery: Stealing or taking by force or by threats of physical force anything of value from another's person.

Slander: The oral utterance of a falsehood that is intended to defame a person or injure his reputation.

Status Offense: An offense chargeable only to juveniles (persons under the age of 17), e.g., curfew, truancy.

Subpoena: A court order for a person to appear and give testimony; the refusal to obey subjects the person to imposition of a penalty. It may include an order to bring certain documents into court.

Suspect Criteria: Pertains to the "traditional indications of suspectness," such as race, religion or national origin. Though

the Supreme Court has never defined precisely what "suspect criteria" are, it has noted the general characteristics as (1) a class determined by characteristics which are solely an accident of birth, or (2) a class with a history of purposefully unequal treatment or relegated to a position of political powerlessness that requires extraordinary protection from the majority. When a suspect classification comes before a court, the normal presumption of constitutionality is reversed and the "strict scrutiny" test applies.

Suspension: The exclusion of a student from school for a specified period of time, usually from one to ten calendar days but not more than ninety school days.

Treatment: Includes but is not limited to medical, educational, social, psychological and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to aid the individual and to protect the public where necessary.

Trespassing: An unlawful entering or remaining on property, including school property, by an unauthorized person or persons.

Truancy: Any unexcused or improper absences from school that are repeated and without justification by children between the ages of 7 and 16.

Vandalism: The willful or malicious destruction or defacing of property belonging to another.

Warrant: An order from a judge or other authority requiring a police officer or other official to arrest a particular person or to search specified premises for particular items.

Weapon: Anything that can inflict bodily harm.

END