



# White Paper 2

## FairfaxZeroToleranceReform.org

**Mission:** To transform the Fairfax County Public School discipline system from a criminal and punitive approach to a restorative, educational, and therapeutic process by working with families, FCPS, county staff, civil rights and child development specialists, and legal representatives.

### Topic: Record Hearings

Date: April 4, 2011

<b>Desired Outcome</b>
Electronically (audio or video) record all superintendent and school board hearings, and provide them free of charge to parents/guardians immediately upon the conclusion of the hearing.
<b>Problem</b>
<ul style="list-style-type: none"> <li>• Dozens of Fairfax families report that FCPS disciplinary hearings are unnecessarily confrontational and severe. Families describe hearings where they are berated, called liars, and attacked with false allegations.</li> <li>• Disciplinary appeals to the Hearings Office are not allowed to be recorded by any means. The three-member committee relies on hand-written notes of the proceedings. No verbatim transcript or recording is made.</li> <li>• While procedures for disciplinary appeals to the School Board three-member committee allow for an official record of the hearing by a court reporter or “by such other means as the School Board hearing committee may determine,” these have been reported to cost as much as \$350 for parents/guardians to obtain.</li> </ul>
<b>Evidence in FCPS</b>
<ul style="list-style-type: none"> <li>• From the Remembering Josh, blog entry March 22, 2009, “The questioning started out in a reasonable way but as the meeting progressed and Josh was not showing forth the type of responses they wanted, it became more and more confrontational, which caused him to shut down even more.”</li> <li>• From “Suicide Turns Attention to Fairfax Discipline Procedures,” <i>The Washington Post</i>, February 20, 2011, “The Stubans say, the hearing became accusatory. No handwritten notes were taken to reflect this. ... the proceeding was now harassing and unfair, based on suspicion instead of evidence.”</li> <li>• From: “Teenager Suspended from Fairfax County School Over Acne Drug,” <i>The Washington Post</i>, March 22, 2011 “... parents contend that the tone of that day’s hearing grew invasive and condescending.”</li> </ul>
<b>Solutions</b>
<ul style="list-style-type: none"> <li>• Make verbatim electronic (audio or video) recordings of interrogations and hearings to demonstrate that a student is provided due process, to ensure that all parties conduct themselves in a respectful manner, and to provide transparency of the disciplinary process.</li> <li>• Provide the recordings to parents/guardians immediately upon conclusion of the interrogation/hearing.</li> </ul>
<b>Research</b>
<ul style="list-style-type: none"> <li>• Pennsylvania State Code §12.8 lists written or audio recordings of all school disciplinary hearings as 1 of 10 due-process requirements.</li> <li>• Washington State Code 392-400-315 requires “either a tape-recorded or verbatim record of the hearing shall be made” at all hearings before the school board or disciplinary appeal council.</li> <li>• The City of Virginia Beach requires recordings of the three-member committee and will record hearings by the hearing officer, if requested.</li> </ul>
<b>Legislative and Regulatory Issues/Impacts</b>
<ul style="list-style-type: none"> <li>• Change Student Responsibilities &amp; Rights Section C.2.d.(3) and Section C.4.a.: “The hearing will not be recorded verbatim by stenographic, tape, or other means.” To “The hearing shall be recorded verbatim by electronic or digital means and the recording shall be provided to the parent or guardian immediately at the conclusion of the hearing at no charge.”</li> <li>• Change: School Board Policy 2611.9 2a. from, “An official record of the hearing shall be made by a court reporter or by such other means as the School Board hearing committee may determine for a specific hearing.” To “An official verbatim record of the hearing shall be made by a court reporter or audio or digital recording. A copy of the official record shall be provided to the parent or guardian immediately at the conclusion of the hearing at no charge.”</li> <li>• Delete footnote to School Board Policy 2611.9 2a “The student . . . may contract with the court reporter to have a transcript of the official record prepared at their expense, if desired.”</li> </ul>
<b>Resources / Citations</b>
<ul style="list-style-type: none"> <li>• Pennsylvania State Code: <a href="http://www.pacode.com/secure/data/022/chapter12/s12.8.html">http://www.pacode.com/secure/data/022/chapter12/s12.8.html</a></li> <li>• Washington State Code: <a href="http://apps.leg.wa.gov/wac/default.aspx?cite=392-400-315">http://apps.leg.wa.gov/wac/default.aspx?cite=392-400-315</a></li> <li>• FCPS SR&amp;R: <a href="http://www.fcps.edu/dss/ips/ssaw/SRR/2010-11-SRR.pdf">http://www.fcps.edu/dss/ips/ssaw/SRR/2010-11-SRR.pdf</a></li> <li>• Fairfax County School Board Policy: <a href="http://www.boarddocs.com/vsba/fairfax/Board.nsf/goto?open&amp;id=867SBJ2A6E22">http://www.boarddocs.com/vsba/fairfax/Board.nsf/goto?open&amp;id=867SBJ2A6E22</a></li> </ul>