

## BRIEF

## NATIONAL STANDARDS FOR THE CARE OF YOUTH CHARGED WITH STATUS OFFENSES

### I. BACKGROUND

The Coalition for Juvenile Justice's Safety, Opportunity & Success (SOS): Standards of Care for Non-Delinquent Youth is a multi-year partnership that engages State Advisory Group members, judicial leaders, practitioners, service providers, policymakers and advocates to guide states in implementing policy and practices that:

- Divert youth at risk for or charged with status offenses from the courts and connect them to family- and community-based systems of care that more effectively meet their needs;
- Eliminate the use of secure confinement for youth who commit status offenses.

**A status offense is conduct that would not be considered a crime if committed by an adult.** The most common examples of status offenses are truancy, running away, violating curfew laws, or possessing alcohol or tobacco.

### II. NATIONAL STANDARDS FOR THE CARE OF YOUTH CHARGED WITH STATUS OFFENSES

As part of the SOS Project, the Coalition for Juvenile Justice created the *National Standards for the Care of Youth Charged with Status Offenses*, which aim to promote policies and best practices for this youth population, based in research and social service approaches, and better engage and support youth and families in need of assistance. The *National Standards* call for an absolute prohibition on detention of status offenders and seek to divert them entirely from the delinquency system by promoting the most appropriate services for families and the least restrictive placement options for youth.

The *National Standards* are divided into four sections:

- Principles for Responding to Status Offenses;
- Efforts to Avoid Court Involvement;

The *National Standards* are organized as follows:

- The Standard to be adopted is articulated in full – “the black letter.”
- The need and underlying argument for the Standard is presented.
- One or more concrete practice or policy actions items are recommended that readers can take to advance and implement the Standard.

To read the *National Standards* in full, please visit <http://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards-care-youth-charged-status>.

- Efforts to Limit Court Involvement;
- Recommendations for Policy and Legislative Implementation.

The *National Standards* were developed by the Coalition for Juvenile Justice (CJJ) in partnership with the National Council of Juvenile and Family Court Judges (NCJFCJ) and a team of experts from various jurisdictions, disciplines and perspectives, including juvenile and family court judges, child welfare and juvenile defense attorneys, juvenile corrections and detention administrators, community-based service providers, and practitioners with expertise in responding to gender-specific needs. Many hours were devoted to discussing, debating and constructing a set of ambitious yet implementable standards that are portable, easily understood, and designed to spur and inform state and local policy and practice reforms.

### III. PRINCIPLES FOR RESPONDING TO STATUS OFFENSES

The first section of the *National Standards* provides a frame and foundation from which professionals working day-to-day with families and youth alleged to have committed status offenses can operate to achieve positive outcomes for everyone. In doing so, this section highlights twelve key principles to which professionals should adhere to protect youth and family safety, promote family connections and permanence, and ensure youth and family well-being.

The twelve principles stipulate that judicial, legal, law enforcement, justice, social service and school professionals working with youth alleged to have committed status offenses and their families should:

1. Apply a child and family-centric approach to status offense cases by prioritizing child and family **safety, well-being and permanency** for the child;
2. Understand and apply current and emerging **scientific knowledge about adolescent development**, particularly as it relates to court-involved youth;
3. Understand **positive youth development principles** and how they can be used to achieve better outcomes for court-involved youth;
4. Ensure that **past trauma** and other experiences, which may underlie or lead to status-offending behaviors, are identified and responded to with appropriate screening, assessment, treatment, services and supports;

#### Facts about Status Offenses

- In 2010, 36 percent of status offense cases were for truancy (skipping school); 22 percent were for liquor law violations; 12 percent for being 'beyond the control of their parents'; 11 percent for running away from home; and 10 percent for curfew violations. (National Center for Juvenile Justice)
- In 2009, African American youth were three times more likely to run away from their homes than white youth and two times more likely to be considered 'beyond the control of their parents.' (National Center for Juvenile Justice)
- In 2009, girls accounted for almost half of all status offense cases. Between 1995 and 2009, girls made up 61 percent of all the runaway cases. (National Center for Juvenile Justice)
- LGBTQ youth often face bullying and harassment in school. In one study, 32.7 percent of LGBTQ students reported that they had missed school in the past month because they felt unsafe. These youth are at a greater risk of being arrested for truancy. (GLSEN)

5. Implement a status offense system framework that promotes shared leadership and responsibility by encouraging **youth engagement** in court, agency, and other meetings affecting their case, safety, well-being, treatment services and/or placement;
6. Utilize **alternative dispute resolution** strategies to resolve youth and family conflicts outside of the court system;
7. Employ **family engagement strategies** that identify and emphasize a family's strengths, and empower families to find and implement solutions outside of the court system;
8. **Eliminate racial and ethnic disparities** by being culturally aware and ensuring impartial and equal access to culturally-competent prevention and intervention services and treatment for youth charged with status offenses and their families;
9. Understand the developmental, behavioral and social differences between boys and girls and how their service needs are accordingly different. Make **gender-responsive** choices regarding interventions, treatment and services before, during, and following court involvement;
10. Ensure that **lesbian, gay, bisexual, transgender, or questioning (LGBTQ) youth** who are charged with status offenses receive fair treatment, equal access to services, and respect and sensitivity from all professionals and other youth in court, agency, service, school and placement;
11. Ensure children do not enter the status offense system because of **learning, mental health, sensory, speech/language or co-occurring disabilities**. Ensure that children with disabilities who do enter the status offense system are treated fairly and given access to needed evaluations, treatments and services;
12. **Coordinate** with other relevant formal and informal systems of care to better serve children and families.

#### IV. EFFORTS TO AVOID COURT INVOLVEMENT

This section of the *National Standards* discusses key principles and practices that shape how education, social service, community-based, child welfare, runaway and homeless youth, mental health, law enforcement and juvenile justice systems should first respond to youth and families at risk and in need of immediate assistance. They offer guidance to professionals on how to identify the reason(s) the child and family have been referred to them and select and deliver the best early intervention services that will help the child and family avoid court involvement.

**Education, social service, community-based, child welfare, runaway and homeless youth, mental health, law enforcement and juvenile justice systems should:**

1. Aim to resolve all status offense matters through the provision of voluntary **diversion services**;
2. Determine the proper course of action by identifying the **family circumstances, unmet needs, or other factors** that led to contact with the status offense system;

3. **Train professionals** who first respond to alleged status offenses about family and community dynamics and other factors that can cause status offense behaviors, as well as the availability and role of screenings, assessments and services.

**Law enforcement systems should:**

4. Focus on **prevention and intervention** by connecting children and families to needed services in lieu of charging or detaining children alleged to have committed status offenses.

**Education systems should:**

5. Implement responses to **truancy** that match the reasons youth are absent from school and that aim to avoid court involvement, school suspension or expulsion.

**Child welfare, juvenile justice and runaway and homeless youth systems should:**

6. Implement responses to alleged status offense behaviors that aim to avoid court involvement and are **tailored to the reasons** the youth and family have been referred to the child welfare, juvenile justice or runaway and homeless youth system.

**Court intake personnel should:**

7. **Not accept jurisdiction** over any status offense case until it has been determined that the applicable statutory requirements were met and that the agency that first responded to the claim made reasonable efforts to avoid court involvement by exhausting all available, culturally appropriate, pre-court assessments, services, entitlements and treatments.

**SOS Project Products**

In addition to the *National Standards for the Care of Youth Charged with Status Offenses*, the Coalition for Juvenile Justice has released several publications related to status offenses. These SOS Project products include:

**Disproportionate Minority Contact and Status Offenses**

Available at: [http://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final\\_0.pdf](http://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final_0.pdf)

**Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach**

Available at: [http://www.juvjustice.org/sites/default/files/resource-files/SOS%20Project%20-%20Girls%2C%20Status%20Offenses%20and%20the%20Need%20for%20a%20Less%20Punitive%20and%20More%20Empowering%20Approach\\_0.pdf](http://www.juvjustice.org/sites/default/files/resource-files/SOS%20Project%20-%20Girls%2C%20Status%20Offenses%20and%20the%20Need%20for%20a%20Less%20Punitive%20and%20More%20Empowering%20Approach_0.pdf)

**Ungovernability and Runaway Youth**

Available at: <http://www.juvjustice.org/sites/default/files/resource-files/Ungovernable%20and%20Runaway%20Youth%20Guidance.pdf>

**LGBTQ Youth and Status Offenses**

Available at: <http://www.juvjustice.org/sites/default/files/resource-files/LGBTQ%20Youth%20Guidance%20FINAL.pdf>

**Use of the Valid Court Order**

Available at: <http://juvjustice.org/sites/default/files/resource-files/State%20VCO%20usage.pdf>

**Truancy and Other Status Offenses**

Available at: <http://juvjustice.org/sites/default/files/resource-files/Guidance%20For%20Education%20Professionals%20and%20Systems.pdf>

## V. EFFORTS TO LIMIT COURT INVOLVEMENT

The third section of the *National Standards* focuses on what efforts court system stakeholders should make to limit court involvement when pre-court diversion efforts have not yielded desired outcomes. The following Standards offer guidance to judicial, legal and other professionals working within the court system on how they can use the court's powers to ensure the proper services are implemented while avoiding deeper court involvement. They also provide guidance at various stages of the case to ensure best outcomes for youth and families.

**Endorsements of the National Standards**

The *National Standards for the Care of Youth Charged with Status Offenses* have been endorsed by a wide range of state and national groups including:



To view the full list of endorsements please visit <http://juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards/endorsements>. If you would like to endorse the *National Standards*, please contact Lisa Pilnik at [pilnik@juvjustice.org](mailto:pilnik@juvjustice.org).

### Judicial officers should:

1. Dismiss or, alternatively, stay proceedings when **community-based services or other formal or informal systems approaches** would circumvent the need for continued court jurisdiction;
2. Assess early whether the **Indian Child Welfare Act (ICWA)** applies;
3. Ensure youth charged with status offenses have independent, qualified and effective **legal representation** throughout status offense proceedings;
4. Not allow children in status offense cases to **waive counsel** or alternatively only allow waiver if: (1) the waiver is on the record, (2) the court has fully inquired into the child's understanding and capacity and (3) the waiver occurs in the presence of and in consultation with an attorney;
5. Exercise their statutory and inherent authorities to determine, prior to adjudication, whether youth and families received, in a timely manner, **appropriate interventions that could have limited** their court involvement;
6. Exercise their statutory and inherent authorities throughout the child and family's court involvement to ensure that service delivery systems are providing the appropriate **assessments, treatments and services** to children and families in status offense cases;
7. Assess **alternatives** to out-of-home placement or secure confinement;
8. **Not securely detain or confine** youth at any point in the status offense process.

## Lawyers for alleged and adjudicated status offenders should:

9. Advocate for **voluntary and community-based assistance** to limit and/or avoid continued court involvement and secure confinement;
10. Advocate for child clients to be treated fairly throughout the court process and for their **due process rights** to be protected;
11. Ensure that child clients' **rights and entitlements** under relevant federal and state laws are protected.

## Judicial officers and entities providing case management services should:

12. Effectively manage and close court and agency cases in a **timely manner**.

### Additional Resources on Status Offenses

The **Coalition for Juvenile Justice's SOS Project** is a multi-year partnership that engages State Advisory Group members, judicial leaders, practitioners, service providers, policymakers and advocates to guide states in implementing policy and practices that help youth who are at risk of, or charged with committing status offenses. For more information visit: <http://www.juvjustice.org/sos>.

The **Administration for Children and Families** at the U.S. Department of Health and Human Services provides a directory of providers serving runaway and homeless youth across the nation. For more information visit: <http://www.hhs.gov/homeless/resources/>.

The **American Bar Association** provides practical guidance to attorneys representing status offenders in and out of court. For more information visit: [http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/status\\_offenders.html](http://www.americanbar.org/groups/child_law/what_we_do/projects/status_offenders.html).

The **National Council on Juvenile and Family Court Judges** is undertaking efforts to educate and equip judges to eliminate use of the valid court order (VCO) exception and instead rely on evidence-informed strategies that do not result in locked detention. For more information visit: <http://www.ncjfcj.org/our-work/detention-alternatives>.

**Office of Juvenile Justice and Delinquency Prevention (OJJDP)** has a DSO Best Practices Database, which offers a searchable database containing profiles of promising programs and strategies in each of the five major status offense categories. For more information visit: <http://www.juvenilejustice-ffa.org/resources/dso/about-dso>

The **Status Offense Reform Center (SORC)** provides policymakers and practitioners with tools and information to create effective, community-based responses for keeping young people who engage in non-criminal behavior out of the juvenile justice system and safely in their homes and communities. The Center is a project of the Vera Institute of Justice and is supported by the John D. and Catherine T. MacArthur Foundation's Models for Change Resource Center Partnership. For more information visit: [www.statusoffensereform.org](http://www.statusoffensereform.org).

## VI. RECOMMENDATIONS FOR POLICY AND LEGISLATIVE IMPLEMENTATION

The last section includes recommendations for policymakers to institute legislative, policy, administrative and budgetary changes that align with and support the implementation of the previous sections of the *National Standards*. This list of state and federal law and policy recommendations should be used by federal, state and local policymakers to help effect meaningful changes to status offense laws and policies. These changes can promote early intervention, diversion, and increased and coordinated services and support for youth and their families. This section can also be used by policy advocates to support their organizational efforts to change state and

federal laws, policies and budgetary schemes to support better outcomes for young people in or at risk of entering the status offense system.

**State and local policymakers and advocates should:**

1. Eliminate juvenile court **penalties and sanctions** for behaviors labeled status offenses and ensure that systems are accurately responding to behaviors as either episodes of normal adolescent behavior, or critical unmet youth and family needs that are best resolved through non-judicial interventions and supports;
2. Support an infrastructure of community-based and child and family serving programs and systems to ensure direct youth and family access to a **seamless, comprehensive and non-judicial continuum of care** that is empowered and resourced to respond to behaviors that might otherwise be labeled as status offenses;
3. In those limited circumstances where court involvement is necessary, ensure court mechanisms are in place that allow the **appropriate court division to effectively serve the needs of the youth and family** without inappropriate use or risk of more punitive outcomes for the child and family;
4. Prohibit schools from referring youth who engage in status offense behaviors to court unless and until the **school has made all reasonable efforts** to avoid court involvement;
5. Prohibit parents/caregivers from referring youth who engage in status offense behaviors to the juvenile court until the family has first **sought and meaningfully engaged non-judicial interventions**;
6. Promote **coordinated, blended or braided public funding streams** that create a seamless, comprehensive community-based continuum of care for youth and families;
7. Enact laws that ensure the **right to counsel** for youth who come into contact with the juvenile court for a status offense by not allowing youth to waive their right to counsel or only allowing waiver if: (1) it is on the record, (2) the court has fully inquired into the child's understanding and capacity, and (3) the waiver occurs in the presence of and in consultation with an attorney;
8. **Prohibit the use of locked confinement** for youth petitioned to court for a status offense;
9. Mandate meaningful efforts to **engage youth and families** in all aspects of case planning, service delivery, court proceedings and disposition strategies.

**Federal policymakers and advocates should:**

10. Amend the federal Juvenile Justice and Delinquency Prevention Act (JJDP A) to **prohibit the use of the valid court order (VCO) exception** to securely confine youth adjudicated for status offenses;
11. Strengthen relevant federal agencies to provide **research, training and technical assistance** to state and local authorities to better assist state status offense system reform efforts;

12. Create **coordinated approaches** between federal government agencies and programs that serve youth and families that will help states coordinate, blend or braid federal funding streams to create a seamless, comprehensive and, to the greatest extent possible, non-judicial continuum of care for youth and families.

Research shows that locking up status offenders leads to worse outcomes for individual children and for their communities. Youth who are chronically truant, run away from home, or commit other non-criminal offenses are best served by community and family services that do not involve the courts or juvenile justice system at all. The Coalition for Juvenile Justice believes that every effort must be made to protect these youth from the damaging effects of justice system involvement.



To learn more about the Coalition for Juvenile Justice Safety, Opportunity & Success: Standards of Care for Non-Delinquent Youth Project:

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