

PROMISE

The PROMISE program is a Broward County Public Schools (BCPS) alternative to external suspension (AES) and juvenile pre-arrest diversion program (PAD).

- Students otherwise participating in PROMISE would be subject to external suspension and/or arrest for minor offenses.

BCPS established PROMISE in 2013 as the result of a Collaborative Agreement between numerous stakeholders, including:

- DJJ
- Broward State Attorney
- Broward Public Defender
- Chief Judge of the 17th Judicial Circuit (Broward County)
- Broward County law enforcement agencies

The original agreement is dated November 5, 2013, and an updated agreement took effect in October of 2016.

PROMISE is an AES program, but we will focus on PROMISE as a pre-arrest diversion program and its consequences in the Cruz case.

- All pre-arrest diversion programs target first time, minor, non-violent offenders.
- This gives them an opportunity to remediate their misbehavior without establishing a criminal record.

The pre-arrest diversion concept:

- Young people misbehave and/or commit minor crimes for which they need consequences.
- Arrests for first time minor crimes are usually unnecessary and they may be a barrier to future success.
- Successful pre-arrest diversion programs:
 - limit the eligible offenses to minor crimes and,
 - have a limited number of times that people may participate and avoid an arrest.

The BCPS PROMISE program allows multiple referrals to PROMISE in a school year and eligibility is reset each school year.

- Under state law in effect prior to July 1, 2018, the state's civil citation pre-arrest diversion program allowed juveniles to participate in pre-arrest diversion up to three times.
- Current law allows the number of pre-arrest diversion to be set by the stakeholders in each of Florida's 20 judicial circuits.

PROMISE is largely consistent with Florida's civil citation criteria, but the "offense reset" every school year is unique.

- The PROMISE data and a student's participation is not integrated with DJJ's Prevention Web tracking of juvenile pre-arrest diversion.
- The result in Broward County:
 - A juvenile could have multiple in-school PROMISE diversions and multiple out-of-school civil citation diversions without either system being aware of the multiple diversions.

- Generally speaking, recidivist behavior warrants criminal charges.
- If a child has not taken advantage of the diversion opportunity and stayed out of trouble, then escalated sanctions, including criminal charges, may be appropriate.
- Neither PROMISE nor any other pre-arrest diversion program is appropriate for high recidivist offenders, and certainly not for prolific offenders.

According to BCPS, during the 2016-2017 school year:

- **89.1%** of the students referred to PROMISE for a first offense received no further referrals.
- The PROMISE program allows students who commit one of 13 eligible misdemeanor offenses to enter the program in lieu of arrest and/or an out-of-school suspension.
- There is no evidence that PROMISE is being used to divert prolific or high recidivist offenders.

Students participating in PROMISE:

- Are assigned to the Pine Ridge Educational Center for 2 to 10 days, as determined by Discipline Matrix
- Receive on-site intervention services at Pine Ridge
- Longer-term progress monitoring takes place once the student returns to his/her assigned school
- Some of the programming at Pine Ridge includes counseling, coping skills, conflict resolution, and pro-social behaviors

- The Collaborative Agreement, which includes the PROMISE program, states law enforcement discretion is limited in that:
 - Officers “should not” arrest a student for a first offense involving one of the listed crimes.
 - Before an arrest is made, the officer “shall” follow certain steps to ensure the arrest is necessary.
 - This process applies to the non-violent misdemeanor offenses listed in the Agreement.

The Collaborative Agreement specifically states:

- Nothing in the agreement limits an officer's discretion (this is applicable to offenses not listed in the agreement)
- Officers are encouraged to consider alternatives to arrest when appropriate
- All of the 13 eligible offenses in the Collaborative Agreement are misdemeanors
- None of the 13 offenses, if criminally charged, would ever result in a disqualification from purchasing, owning, or possessing a firearm

“Vandalism” (or criminal mischief as it is formally know under Florida law):

- Is a misdemeanor when the damage to property is under \$1,000
- This offense is one of the 13 offenses listed in the Collaborative Agreement as being PROMISE eligible
- Under PROMISE criteria, when a student commits a first time misdemeanor vandalism, the school administrator is not required to consult with law enforcement
- A second or subsequent vandalism mandates consultation with law enforcement

- Without law enforcement intervention:
 - A first time vandalism offender is assigned to PROMISE in lieu of an arrest or out-of-school suspension, and
 - He/she receives 3 days assignment to PROMISE AES
- A student who does not complete PROMISE program requirements may be arrested or referred to the juvenile justice system for the underlying offense.

- There is no evidence in this case that Cruz was referred to PROMISE more than once.
- Whether PROMISE should allow multiple referrals and whether referral eligibility being reset annually is appropriate, is outside the scope of this Commission's mandate.
- There is also no evidence that multiple PROMISE referrals has led to unintended negative consequences affecting school safety.

- As noted previously, the PROMISE program began in 2013.
- On November 25, 2013, while Cruz was 15-years-old and an 8th grade student at Westglades Middle School, he damaged a sink's faucet in a school bathroom.
- The offense was PROMISE eligible and Cruz was assigned to 3 days at Pine Ridge.

- Cruz was supposed to attend PROMISE on November 26, 2013, and then again on December 2 and 3, 2013.
- As this was the first year of PROMISE, the database used to track PROMISE participants was not in the BCPS TERMS electronic student information system.
- The TERMS system is used to track student attendance, but it was not used in 2013 for PROMISE.

- In 2013, PROMISE program attendance was tracked in a FileMaker Pro database that was maintained on site at Pine Ridge, and not linked to the TERMS system.
- The two systems did not interface and a TERMS user could not view the FileMaker Pro database.

- The TERMS system shows Cruz present at Westglades on November 26, 2013 (when he should have been at PROMISE) .
- The FileMaker Pro system shows Cruz present at Pine Ridge for the PROMISE program on November 26, 2013.
- Cruz obviously could not have been in two places at once, but the district is unable to determine where he was on November 26, 2013.
- Staff members have no recollection whether Cruz was at Westglades or Pine Ridge.

- District transportation is required for all PROMISE students attending Pine Ridge.
- District transportation records do not show Cruz being transported to Pine Ridge on November 26, 2013.
- However, on that same day, the database indicates intake documents were prepared at Pine Ridge for Cruz's enrollment in PROMISE.
- The person who prepared the documents has no independent recollection of Cruz.

- TERMS shows Cruz absent at Westglades on December 2, 2013 and PROMISE records show Cruz absent at PROMISE the same day.
- There is also a note from a Westglades counselor who confirmed that Cruz was absent from Westglades on December 2, 2013.
- The teacher whose class Cruz was assigned at Pine Ridge is deceased and we are unable to determine whether he has any recollection of Cruz actually being in his classroom.

- TERMS shows Cruz present at Westglades and FileMaker Pro shows Cruz absent from PROMISE on December 3, 2013.


FileMaker Pro - [Promise 13-14 (PRCCB1)] 4b

File Edit View Insert Format Records Scripts Window Help

Records: 3 / 9527 Found (Sorted)

Show All New Record Delete Record Find Sort

Layout: Attendance View As: Preview



The School Board of Broward County, Florida
Pine Ridge Education Center

Attendance Report

Tile Windows

Id	Lasname	Firstname	FS#	School	Grade	Entry #	Days	Attendance	Date	Classroom Teacher
1	Cruz	Nicholas	0602075186	Westglades Mls	8	1	3	<input checked="" type="radio"/> Present <input type="radio"/> Absent <input type="radio"/> Excused Abs	11/26/2013	9 Jones, Johnny 3667
2	Cruz	Nicholas	0602075186	Westglades Ms	8	1	3	<input type="radio"/> Present <input checked="" type="radio"/> Absent <input type="radio"/> Excused Abs	12/2/2013	9 Jones, Johnny 3667
3	Cruz	Nicholas	0602075186	Westglades Mls	8	1	3	<input type="radio"/> Present <input checked="" type="radio"/> Absent <input type="radio"/> Excused Abs	12/3/2013	Jones, Johnny 3667

- Cruz returned to Westglades on December 4, 2013.
- The forms that should have been completed showing Cruz's PROMISE completion are absent from his file.
- There is nothing to indicate that Cruz participated in the PROMISE follow-up program upon his return to Westglades.

- In summary, the records are inconsistent and inconclusive as to where Cruz was during his assignment to PROMISE on the three days in 2013.
- Beginning in 2014, BCPS began capturing PROMISE attendance in TERMS.
- Had TERMS been used in 2013, the conflict and absences likely would have been known and more obvious.

- Under Florida law, misdemeanor criminal mischief is:
 - a first degree misdemeanor, and
 - punishable by up to one year incarceration (the statutory maximum penalty)
- Actual criminal penalties are not applied according to statutory maximums.
- If Cruz had been arrested initially, or referred to the juvenile justice system for not completing PROMISE, he likely would have been referred to a DJJ diversion program for first time misdemeanor first time offenders.

- If Cruz had not been referred to any diversion program, he would likely have received community service, or a comparable sanction for this first time misdemeanor offense.
- If Cruz had been arrested on November 25, 2013 after damaging the faucet and transported to the juvenile booking center:
 - DJJ would not have detained Cruz (law would not have allowed it), and
 - he would have been immediately released to his mother.

- If the case had then been prosecuted by the state attorney's office, and he was adjudicated guilty, the adjudication of guilt to a misdemeanor vandalism charge would have:
 - had no legal relevance on any subsequent contact Cruz had with law enforcement, and
 - it would never have had any effect on Cruz's legal right to buy, own or possess a firearm.