IN THE
INDIANA SUPREME COURT

No. _____

Court of Appeals No. 32A05-1708-JV1907

D.Z. Appellant/Respondent, v. STATE OF INDIANA Appellee/Petitioner.	Appeal from the Hendricks Superior Court Cause No. 32D03-1704-JD-86 The Honorable Karen M. Love, Judge.

BRIEF OF AMICI CURIAE JUVENILE LAW CENTER; BARTON CHILD LAW AND POLICY CENTER, EMORY LAW SCHOOL; CENTER FOR CHILDREN'S LAW AND POLICY; CENTER ON WRONGFUL CONVICTIONS OF YOUTH; AND PAUL HOLLAND ON BEHALF OF APPELLANT

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INTEREST OF *AMICI*

Amici Juvenile Law Center; Barton Child Law and Policy Center, Emory Law School; Center for Children's Law and Policy; Center on Wrongful Convictions of Youth; and Paul Holland work to advance and enforce the rights of vulnerable young people. *Amici* have particular expertise in the area of children's constitutional rights, especially with regard to children's interaction with the juvenile justice and education systems, and the promotion of well-being through those systems. *Amici* also share a unique perspective on the interplay between the constitutional rights and developmental psychology of children involved in the justice systems. *Amici* join to urge this Court to affirm the decision of the Court of Appeals. Affirming the decision below will ensure robust due process protections for children in Indiana schools without undermining school discipline.

SUMMARY OF ARGUMENT

As both the State of Indiana and the United States Supreme Court have recognized, children require "special care" to ensure that their confessions are given knowingly and voluntarily. *See Gallegos v. Colorado*, 370 U.S. 49, 53 (1962); Ind. Code § 31-32-5-1. Children's developmental characteristics—including their immaturity, impulsivity, and susceptibility to coercion—make them particularly vulnerable during interrogations, and studies have shown that they are at a high risk of false confessions. *See J.D.B. v. North Carolina*, 564 U.S. 261, 269-273 (2011). Children therefore need meaningful due process protections during interrogation to assure that any admission "was not the product of ignorance of rights or of adolescent fantasy, fright or despair." *In re Gault*, 387 U.S. 1, 55 (1967).

Modern school-based policing practices make it increasingly likely that students will experience such interrogations not at the police station, but in their schools. *See* Paul

Holland, *Schooling Miranda: Policing Interrogation in the Twenty-First Century Schoolhouse*, 52 LOY. L. REV. 39, 74-76 (2006). These interrogations—whether conducted by school officials or police officers—are often intended to lead not just to school discipline, but to juvenile or criminal charges that can have lifelong consequences. Recognizing this reality, the Court of Appeals correctly held that *Miranda* protections are required before a child's statements to a school administrator working in concert with police can be used against the child in court. This ruling protects the constitutional rights of children without undermining traditional school discipline. Accordingly, this Court should affirm the decision of the court below.

ARGUMENT

I. CHILDREN ARE ENTITLED TO SPECIAL CONSTITUTIONAL PROTECTIONS, PARTICULARLY IN THE CONTEXT OF INTERROGATIONS

As far back as 1953, the United States Supreme Court held that "[c]hildren have a very special place in life which law should reflect." *May v. Anderson*, 345 U.S. 528, 536 (1953) (Frankfurter, J., concurring). The Court has repeatedly reaffirmed this core principle. *See, e.g.*, *J.D.B. v. North Carolina*, 564 U.S. 261, 274 (2011) ("'[O]ur history is replete with laws and judicial recognition' that children cannot be viewed simply as miniature adults.") (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982)). Drawing on historical experience, common sense, and scientific research, the Court has recognized that children possess developmental traits that distinguish them from adults, including lack of maturity, increased vulnerability to outside pressures, and an inability to recognize and avoid harmful choices. *See Miller v. Alabama*, 567 U.S. 460, 471-72 (2012) (citing *Roper v. Simmons*, 543 U.S. 551, 571 (2005), and *Graham v. Florida*, 560 U.S. 48, 71 (2010)). The basic principle that children are different from adults, and that the "distinctive attributes of youth" have legal significance, is reflected in a diverse array of

constitutional rulings, including the application of First Amendment protections, the reasonableness of searches under the Fourth Amendment, and the boundaries of the Eighth Amendment's prohibition of cruel and unusual punishment. *See, e.g.*, *Miller*, 567 U.S. at 471 ("[C]hildren are constitutionally different from adults for purposes of sentencing."); *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 379 (2009) (relying upon the unique vulnerability of adolescents to hold a suspicionless school strip search unconstitutional); *Ginsburg v. New York*, 390 U.S. 629, 636 (1968) (recognizing that exposure to obscenity may be harmful to minors even when it would not harm adults).

This attention to children's distinctive developmental characteristics permeates the Supreme Court's jurisprudence on juvenile interrogations. In *J.D.B. v. North Carolina*, the Court emphasized that children are uniquely susceptible to coercion during interrogations, noting that "[e]ven for an adult, the physical and psychological isolation of custodial interrogation can undermine the individual's will to resist and . . . compel him to speak where he would not otherwise do so freely." 564 U.S. at 269 (internal quotation marks omitted). Children are more at risk of coercive pressure, the Court explained, as they "generally are less mature and responsible than adults," "lack the experience, perspective, and judgment" to avoid harmful choices, and "are more vulnerable or susceptible to . . . outside pressures." *Id.* at 272. To ensure that children are adequately protected against the pressures of interrogation, the Court therefore required that age be considered in the objective analysis of whether a suspect was "in custody" during questioning. *Id.* at 271-72.

This holding reinforces decades of precedent requiring the "greatest care" when children are subject to interrogation. *See In re Gault*, 387 U.S. 1, 55 (1967); *see also Haley v. Ohio*, 332 U.S. 596, 599-600 (1948); *Gallegos v. Colorado*, 370 U.S. 49, 54 (1962); *Fare v. Michael C.*, 442

U.S. 707, 725 (1979). More than fifty years ago, in *Gallegos v. Colorado*, the Court held unconstitutional the confession of a fourteen-year-old boy, noting that a teenager "cannot be compared with an adult in full possession of his senses and knowledgeable of the consequences of his admissions." 370 U.S. at 54. The *Gallegos* Court adopted the reasoning of *Haley v. Ohio*, in which a plurality of the Court held that age was the crucial factor in determining the voluntariness of a confession. *Id.* at 53; *Haley*, 332 U.S. at 599-601. "That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens," the Court explained in *Haley*, concluding that protracted questioning of a juvenile without the aid of counsel undermined "that due process of law which the Fourteenth Amendment commands." 332 U.S. at 599. And again, in *In re Gault*—the seminal Supreme Court case on juvenile due process protections—the Court emphasized that "the greatest care must be taken to assure" that any admission by a child was truly voluntary. 387 U.S. at 55.

Psychological studies and false confession research confirm the need for robust due process protections during juvenile interrogations. As the Supreme Court noted in *J.D.B.*, empirical studies "illustrate the heightened risk of false confessions from youth." *See* 564 U.S. at 269 (quoting Brief for Center on Wrongful Convictions of Youth et al., as *Amici Curiae* at 21-22, *J.D.B. v. North Carolina*, 564 U.S. 261 (2011) (No. 09-11121)); *see also* Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 944 (2004) (describing research showing that juveniles are grossly overrepresented in proven false confession cases). Many of these studies attribute adolescents' heightened risk of false confessions to their developmental characteristics, particularly their immature judgment, difficulty understanding long-term consequences of conduct, and tendency to comply with authority figures. *See, e.g.*,

Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 27 L. & HUM. BEHAV. 333 (2003).

The State of Indiana has also recognized that children need additional protections during interrogations to ensure their rights are upheld and any statements are given voluntarily. Under Indiana's juvenile waiver of rights statute, a juvenile must "be afforded a meaningful opportunity to consult with a parent or guardian before the solicitation of any statement." *S.D. v. State*, 937 N.E.2d 425, 429 (Ind. Ct. App. 2010). Only if such a consultation occurred—and both the parent and the child knowingly and voluntarily waive the right to remain silent—can a child give a statement to police without the aid of counsel. *See* Ind. Code § 31-32-5-1*; see also S.D.*, 937 N.E.2d at 429 ("The special status accorded juveniles in other areas of the law is fully applicable in the area of criminal procedure.").

II. D.Z. WAS SUBJECT TO A CUSTODIAL INTERROGATION, AND THUS REQUIRED *MIRANDA* WARNINGS FOR HIS STATEMENT TO BE ADMISSIBLE IN COURT

Despite this long-standing legal recognition that children need heightened protections during interrogations, the State contends D.Z. was entitled to no constitutional protections at all, as in their view he was not subject to a custodial interrogation. This Court should reject this proposition and join courts around the country in recognizing that, under existing Supreme Court precedent, *Miranda* warnings are required before a child's statements to a school administrator acting in concert with law enforcement can be used against the child in court. *See infra* pp. 13-14. By affirming that the Fifth Amendment applies to school-based policing practices, this Court would uphold the constitutional requirements articulated in *Miranda* and *J.D.B.*—while still preserving school discipline procedures—and ensure that children do not go from the schoolhouse to the jailhouse without meaningful due process protections.

A. The Court of Appeals' Conclusion that D.Z. Was Subject to Custodial Interrogation Comports with the Requirements of *Miranda* and *J.D.B.*

In order to safeguard the constitutional protection against self-incrimination, an individual held for interrogation "must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney." *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). These well-established *Miranda* warnings protect a suspect from "the compulsion inherent in custodial surroundings," *id.* at 458, and they are "prerequisites to the admissibility of any statement made by a defendant." *Id.* at 476. It is undisputed that D.Z. was never advised of his Fifth Amendment rights prior to the admission of his statement into evidence against him; the issue is whether the questioning that elicited that statement amounted to "custodial interrogation." The Court of Appeals rightly concluded that it did.

"Custodial interrogation" has two components: the individual must be "in custody," and there must be questioning by law enforcement or its "functional equivalent." *Rhode Island v. Innis*, 446 U.S. 291, 300-01 (1980). In *J.D.B.*, the Supreme Court clarified that the objective "in custody" determination examines whether "a reasonable child" would feel "pressured to submit" to questioning under the circumstances surrounding the interrogation. 564 U.S. at 272. Relevant circumstances include "any circumstance that would have affected how a reasonable person in the suspect's position would perceive his or her freedom to leave," including the suspect's age. *Id.* at 271-72 (internal quotation marks omitted). The school environment does not prevent a child from being "in custody"; in fact, a student may be *more* likely to be "in custody" during an interrogation in a schoolhouse setting, where attendance "is compulsory and . . . disobedience is cause for disciplinary action," than in other environments. *Id.* at 276.

Miranda warnings become necessary if a child in custody is subject to "interrogation." Although there must be law enforcement involvement for questioning to amount to custodial interrogation, this Court and the United States Supreme Court have held that "interrogation" includes both express questioning by police and its "functional equivalent." *Sears v. State*, 668 N.E.2d 662, 668 (Ind. 1996); *Innis*, 446 U.S. at 300-01. Police "cannot avoid their duty under *Miranda* by attempting to have someone act as their agent in order to bypass the *Miranda* requirements." *Sears*, 668 N.E.2d at 668; *see also J.D.B.*, 564 U.S. at 280 (warning against bright line rules that "enable the police to circumvent the constraints on custodial interrogations established by *Miranda*"). Thus, the Supreme Court has broadly interpreted "interrogation" to include any "practice that the police should know is reasonably likely to evoke an incriminating response from a suspect." *Innis*, 446 U.S. at 301; *see also Mathis v. United States*, 391 U.S. 1, 4-5 (1968) (holding that *Miranda* warnings were required before questioning of an inmate by an IRS agent because the agent's investigations "frequently lead to criminal prosecution[]").

Based on this precedent, D.Z. was subject to a custodial interrogation. D.Z.'s questioning occurred as part of an investigation jointly undertaken by the assistant principal and a police officer stationed at the school. Both the assistant principal and the officer knew the investigation carried potential criminal consequences; indeed, the assistant principal described the alleged misconduct to the officer as "criminal mischief of vandalism and graffiti." (Tr. at 17.) The two reviewed the evidence, narrowed in on a suspect, and decided that the assistant principal would conduct the interrogation because he "had a rapport" with D.Z. (Tr. at 43.) The assistant principal summoned D.Z. to his office and questioned him alone with the door closed, employing classic interrogation techniques—such as asserting knowledge of guilt—before obtaining an incriminating statement. He then turned D.Z. immediately over to the officer, who again interrogated D.Z. and subsequently

filed charges against him in juvenile court. At no point during this process was D.Z. advised of his right to remain silent or that his statements could be used against him in court.

Under these circumstances, no reasonable child would have felt free to end the interrogation or leave the assistant principal's office—to suggest otherwise turns a blind eye to the reality of a student's experience in school. *See J.D.B.*, 564 U.S. at 272; *see also N.C. v. Commonwealth*, 396 S.W.3d 852, 862 (Ky. 2013) (concluding under similar circumstances that "[n]o reasonable student, even the vast majority of seventeen year olds, would have believed that he was at liberty to remain silent, or to leave, or that he was even admitting to criminal responsibility under these circumstances."). And while the officer did not initially question D.Z. directly, the assistant principal's questioning was the "functional equivalent" of interrogation by police. *See Sears*, 668 N.E.2d at 668; *Innis*, 446 U.S. at 301-02. The police and the assistant principal acted in concert throughout the investigation. Collectively, they made the strategic decision that the assistant principal would conduct the interrogation because his relationship with the student made it more likely the questioning would "evoke an incriminating response from a suspect." *See Innis*, 446 U.S. at 301. To hold that this tactic negates the need for Fifth Amendment protections would "enable the police to circumvent the constraints on custodial interrogations established by *Miranda*." *See J.D.B.* 564 U.S. at 280. Thus, as the Court of Appeals correctly recognized, D.Z. experienced a custodial interrogation and he should have received the *Miranda* warnings for his statements to be admissible in court.

This conclusion is in accord with other cases in this area. Recognizing children's need for robust due process protections, and acknowledging the increase in police presence in schools, numerous courts in other states have held that questioning by school administrators in conjunction with a law enforcement investigation can trigger *Miranda* protections. *See, e.g.*, *N.C.*, 396 S.W.3d

at 863 ("Because the assistant principal was acting in concert with SRO, and they had established a process for cases involving interrogations of this kind," *Miranda* warnings were required "even if the confession came in response to questions from the assistant principal rather than the SRO."); *State v. Heirtzler*, 789 A.2d 634, 640-41 (N.H. 2002) (finding an agency relationship where there was a "silent understanding" between the police officer and school officials that the school would collect evidence in situations "inaccessible to [the officer] due to constitutional restraints"); *In re T.A.G.*, 663 S.E.2d 392, 396 (Ga. Ct. App. 2008) (upholding suppression of a statement to an administrator where the juvenile court found that the SRO "was involved in the [interrogation] process and that the administrator acted on his behalf"). This Court should similarly conclude that D.Z. was entitled to Fifth Amendment protections.

B. Providing Appropriate Due Process Protections to Students Does Not Undermine School Discipline

The State and its *amici*'s concerns that this holding is unworkable or will undermine school discipline are misplaced.[1] D.Z. does not suggest, nor did the lower court hold, that school administrators must issue the *Miranda* warnings and contact parents "prior to all juvenile conversations." (*See* Br. Amicus Curiae Indiana School Boards Association ("ISBA") in Supp. Appellee's Pet. to Transfer at 11.) On the contrary—the Court of Appeals decision applies only in situations where administrators and police act "in concert in obtaining . . . incriminating statements." (Slip Op. at 15.) When teachers or school officials execute their educational and school disciplinary functions, without the involvement of law enforcement, the Fifth Amendment is not implicated. Nor must administrators be trained in *Miranda* or make complex determinations

[1] *Amici* ISBA's concern that school officials will be subject to §1983 suits for not giving *Miranda* warnings is similarly unreasonable. The United States Supreme Court has held in a plurality opinion that the failure to provide *Miranda* warnings cannot be grounds for a §1983 action. *Chavez v. Martinez*, 538 U.S. 760, 772 (2003).

of the criminal implications of a student's conduct, as *Miranda* protections are only warranted when law enforcement is involved; such officers are specifically trained on the criminal code and proper administration of *Miranda* warnings.

Moreover, even in situations where the police and school administrators *do* act in concert, the Fifth Amendment presents no limitation on the school's ability to impose appropriate disciplinary sanctions. The Fifth Amendment bars the admission of certain statements into evidence in criminal or juvenile proceedings, but—as the State rightly notes—the full scope of its protections do not extend to traditional school disciplinary proceedings. *See Goss v. Lopez*, 419 U.S. 565, 583 (1975) (holding that students are entitled to certain procedural due process protections prior to imposition of school discipline, but stopping short of requiring "even truncated trial-type procedures" prior to short suspensions, which might "overwhelm administrative facilities" and "destroy [a suspension's] effectiveness as part of the teaching process"); *see also Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976) (explaining that the Fifth Amendment applies in prison disciplinary proceedings only to the extent that inmates' statements "might incriminate them in later criminal proceedings"). The assistant principal in this case was free to impose a five-day suspension on D.Z. based upon his admissions during the custodial interrogation, regardless of whether *Miranda* warnings were issued. What the State could *not* do was use D.Z.'s statements against him in a criminal or juvenile proceeding, where the potential consequences extend far beyond the classroom.

III. SCHOOL-BASED POLICING PRACTICES HEIGHTEN THE NEED FOR MEANINGFUL DUE PROCESS PROTECTIONS IN SCHOOLS

D.Z's experience of facing criminal sanctions for graffiti in a school restroom is not unusual in the modern school environment, where the presence of law enforcement and use of

policing practices are now commonplace. Within this atmosphere, robust constitutional protections for students are especially necessary.

A. The Modern School Environment Is Characterized by Increased Law Enforcement Presence and Participation in Schools

Over the past few decades, growing safety concerns have led to heightened law enforcement presence in schools. According to national estimates, "17,000 law enforcement officers—often termed 'school resource officers' (SROs)—are assigned permanently to schools." Jason B. Langberg & Barbara A. Fedders, *How Juvenile Defenders Can Help Dismantle the School-to-Prison Pipeline: A Primer on Educational Advocacy and Incorporating Clients' Education Histories and Records into Delinquency Representation,* 42 J.L. & EDUC. 653, 656 (2013). Indiana outpaces many other states in this trend: the state exceeds the national average in both the number of schools staffed with school resource officers and the rate of arrests made from school referrals to law enforcement. *Which Students Are Arrested the Most?*, EDUCATION WEEK, http://www.edweek.org/ew/projects/2017/policing-americas-schools/student-arrests.html#/overview.

While school police officers may have education and counseling responsibilities, for many officers, the primary function is to further law enforcement goals. Michael Pinard, *From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities*, 45 ARIZ. L. REV. 1067, 1078 (2003). As a result, not only are there more frequent interactions between students and police on school grounds, but school administrators have "altered their activities to collaborate with police officers." Paul Holland, *Schooling Miranda: Policing Interrogation in the Twenty-First Century Schoolhouse*, 52 LOY. L. REV. 39, 39 (2006). For example, the policies set out in D.Z's student handbook include a "Referral to Police" section that explains that the school police and the court system may be

involved in modifying a student's negative behavior, indicating that police and court system consequences may be likely based on actions in school. *See* Brownsburg Community School Corporation, Brownsburg High School Student Handbook 2017-2018, 32, *available at* https://www.brownsburg.k12.in.us/cms/lib/IN02200676/Centricity/Domain/77/1718_High_School_Handbook_FINAL.pdf. Expanded police presence has led to greater student contact with the criminal justice system and children facing criminal sanctions for offenses that were normally handled by teachers and school officials. Maryam Ahranjani, *The Prisonization of America's Public Schools*, 45 HOFSTRA L. REV. 1097, 1101-02 (2017). School zero tolerance policies, which often emphasize criminal charges, result in juvenile justice system interventions even for "common school misbehavior"—such as the bathroom graffiti at issue in this case. *See N.C.*, 396 S.W.3d at 862-64.

B. Indiana Students Are Subject to Problematic Interrogation Techniques by School Officials

One disturbing manifestation of the collaboration between school officials and law enforcement is the use of problematic interrogation techniques by school administrators, working in concert with police officers, to pressure students into "confessing" to school violations. The most common interrogation technique taught to law enforcement in the United States is the Reid Technique, a method involving "nine steps of relentless psychological pressures" designed to weaken a suspect to obtain a confession. Kevin Lapp, *Taking Back Juvenile Confessions*, 64 UCLA L. REV. 902, 910 (2017). The coercive nature of the Reid Technique has been shown to lead to false confessions, especially when used on juveniles. *See* Megan Crane, Laura Nirider, & Steven A. Drizin, *The Truth About Juvenile False Confessions*, INSIGHTS ON L. & SOC'Y, Winter 2016, at 10, 13 ("Today, many experts agree that the Reid Technique is psychologically coercive and can lead to false confessions, even when used on adults.").

Yet school administrators, including those in Indiana, are being specifically trained in this interrogation method so they can obtain admissions of guilt from their students. *See* JOHN E. REID & ASSOCIATES, INC., THE REID TECHNIQUE OF INTERVIEWING AND INTERROGATION FOR SCHOOL ADMINISTRATORS 1-2 (2012), *available at* http://reid.com/media/webinar-sa-all.pdf; John E. Reid & Associates, Inc., *The Reid Technique of Interviewing and Interrogation for School Administrators*, TRAINING PROGRAMS, https://www.reid.com/store2/detail.html?sku=webinar-sa-all; *The Reid Technique of Interviewing and Interrogation – Nov 9-2017*, INDIANA DEPARTMENT OF EDUCATION, https://www.doe.in.gov/safety/reid-technique-interviewing-and-interrogation-nov-9-2017. Thus, even when students are being questioned by administrators in school settings, they may still be subject to the manipulative and adversarial interrogation techniques used by law enforcement officers.

C. The Consequences of School-Based Policing Practices Extend Far Beyond the Classroom

The incorporation of police officers and criminal investigation techniques into the modern school environment leads to students facing criminal justice consequences for their actions at school that go far beyond traditional school discipline. D.Z., for instance, did not receive "an exclusively school-penalty of a five-day suspension," as State's *amici* contend, (*see* Br. Amicus Curiae ISBA at 5); he also received a punishment in the juvenile justice system of four months of probation. School disciplinary policies can even result in the incarceration of students. *See* ADVANCEMENT PROJECT, TEST, PUNISH, AND PUSH OUT: HOW "ZERO TOLERANCE" AND HIGH-STAKES TESTING FUNNEL YOUTH INTO THE SCHOOL-TO-PRISON PIPELINE, 9 (2010), *available at* https://www.ushrnetwork.org/sites/ushrnetwork.org/files/test_punsih_push_out.pdf (explaining that punitive school discipline policies are directly tied to the law enforcement strategies that have led to the extraordinary increase in the number of incarcerated Americans). Yet, D.Z. and students

like him routinely receive no constitutional protections throughout their interactions with school administrators and police.

When students face criminal sanctions in addition to school disciplinary procedures, they must be provided with corresponding constitutional protections. Although traditionally such protections may not have been necessary, contemporary disciplinary practices that criminalize student misbehavior call for a "critical reassessment" of what protections are due when students are the subject of investigation and interrogation. Catherine Y. Kim, *Policing School Discipline*, 77 BROOK. L. REV. 861, 862-63 (2012). In *In re Gault*, the United States Supreme Court rejected the argument that preserving informality of process was more important than ensuring adequate procedural protections in juvenile court, where a youth may be "subjected to the loss of his liberty for years." 387 U.S. at 36; *see also id.* at 24 ("There is no reason why the application of due process requirements should interfere" with the positive aspects of the juvenile justice system). Today's students often face the same prospect of loss of liberty and other potentially lifelong consequences due to school-based policing practices. This Court should follow the Supreme Court's approach in *Gault*, and ensure students receive adequate procedural protections during school disciplinary practices that lead youth into the juvenile and criminal justice systems.

CONCLUSION

For the foregoing reasons, *Amici Curiae* respectfully request that this Court affirm the decision of the Court of Appeals.

Respectfully submitted, this the 16th day of April, 2018.

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CERTIFICATE OF WORD COUNT

I verify that this brief contains no more than 4,163 words as calculated by the word processing software used to prepare this brief and excluding the parts of the brief excluded from length limits by Indiana Rule of Appellate Procedure 44(C).

/s/ Amy Karozos
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CERTIFICATE OF SERVICE

I certify that the foregoing document was served through the IEFS upon Jeffery A. Earl, counsel for Appellant, Ellen Hope Meilaender and Curtis T. Hill, counsel for Appellee, and Kent M. Frandsen, counsel for amicus curiae Indiana School Boards Association on April 16, 2018.

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