

NATIONAL JUVENILE JUSTICE NETWORK

Policy Platform

SAFE AND EFFECTIVE SCHOOL DISCIPLINARY POLICIES AND PRACTICES

AUGUST 2011

Education of youth effectively serves as crime prevention; as educational attainment increases, the likelihood of criminal justice involvement decreases.¹ Therefore, it is particularly troubling that across the nation, many schools' discipline policies lead to children and youth being pushed out of schools and actually discourage high educational attainment. Through what is often called the "school-to-prison pipeline," certain discipline policies and practices funnel youth from schools into the justice system by responding to student misbehavior through direct referrals to law enforcement and the courts, as well as through excessive punishment that can lead to school "pushout."

Zero tolerance policies—through which students receive pre-determined punishments for infractions of the rules, regardless of mistakes, ignorance or other mitigating circumstances—may exacerbate the flow of students into the justice system by mandating immediate referrals to law enforcement agencies for a wide range of typical adolescent behaviors.² Zero tolerance policies frequently go hand-in-hand with a greatly increased presence of law enforcement officials in schools. Such officials traditionally respond to student misbehavior primarily through arrests and court referrals. While these severe policies are ostensibly intended to increase safety in schools, they can actually have the exact opposite effect, leading to increased levels of unsafe behavior by youth both in and out of schools.³

Additionally, current practices too often push students out of their schools and into the juvenile and/or criminal justice systems for behaviors and incidents that would not have led to court involvement in the past.⁴ Students who are pushed out of schools—through suspensions, expulsions, arrests, and/or court referrals—suffer disruptions in their education that can escalate poor behavior, drive students to get involved in gangs or engage in dangerous behavior, and dramatically decrease their chances of successfully returning to school and leading productive lives.

The National Juvenile Justice Network makes the following recommendations to ensure safe and effective school discipline policies and practices:⁵

Law Enforcement and Discipline Policies

- Schools must reject the one-size-fits-all prearranged set of sanctions laid out in zero tolerance policies and instead promote discipline policies that provide individualized assessments and interventions that are appropriate to ensure a safe learning environment.
- Schools must not use law enforcement as a response to non-criminal adolescent misbehavior. If students engage in criminal behavior on school grounds, schools must have graduated responses in place, reserving law enforcement for only the most serious offenses.
- Schools must establish clear guidelines for school personnel and on-campus law enforcement officials regarding the role of each in responding to youth behaviors and exactly which infractions may lead to court referrals. Referrals to court should be reserved for only the most serious infractions.
- To eliminate or curtail the use of mechanical restraints, chemical restraints, corporal punishment, and isolation, law enforcement and school officials must be trained on the traumatic effects of these practices, as well as child and adolescent development, appropriate methods for de-escalation, and safe and effective responses to youth behaviors.
- Schools must focus on prevention and effective intervention as responses to disciplinary issues. Positive Behavioral Interventions and Supports,⁶ peer juries, restorative justice processes,⁷ diversion, mentoring, mental health counseling, and restitution can be particularly effective in improving school safety and promoting positive youth development.

Suspensions and Expulsions

- Schools must reduce their reliance on expulsion.
- Schools must develop quality in-school alternatives to out-of-school suspension and expulsion that keep students and staff safe, while also ensuring youth remain engaged in their educational program and are appropriately supervised.
- Schools that utilize suspensions should ensure suspensions are for the shortest possible duration.⁸ Suspended students should be given schoolwork and the opportunity to remain current with their educational program.
- Schools must not suspend or expel youth for truancy or tardiness.
- Youth must not be expelled to the streets. Expelled youth and youth with long-term suspensions must be provided with quality alternative educational opportunities.
- Alternative educational programs must comply with federal, state and local educational standards, keep youth current with their primary educational program, provide adequate supervision, and be age-appropriate.

- Schools should not suspend or expel students for off-campus behavior, unless the student is an imminent danger to other students or staff, or unless the behavior occurs during school sponsored or school supervised activities.

Student Rights and Family Engagement

- Schools must provide youth and parents with the opportunity to be heard and proactively engage them in the disciplinary process. Youth and parents must be kept informed of the status of the disciplinary process and given a meaningful and timely opportunity to appeal.
- All information and notifications of disciplinary action and hearings must be translated into the appropriate language to ensure that youth and parents fully understand the process and outcomes.
- Youth facing expulsion or long-term suspension should be entitled to representation by counsel or an advocate. Schools should be required to make written findings as to why the expulsion or suspension was necessary.
- Youth who are expelled should have the right to have a periodic and meaningful review of the expulsion decision.

Students with Disabilities

- In general, suspensions, expulsions, or other changes in placement should not be imposed on special education students for misconduct that is related to a student's disability. A change in placement for special education students can be made only after a manifestation determination review and proper compliance with federal laws and regulations requiring a Functional Behavioral Assessment, Positive Behavioral Supports, and a Behavioral Intervention Plan.⁹
- School discipline guidelines must include information about discipline for special education students and specific parameters for disciplinary action for special education students in accordance with state and federal law.

Data and Racial and Ethnic Disparities (Disproportionate Minority Contact)

- Schools and school districts must collect, evaluate and make public non-identifying statistical data (including numbers of referrals to juvenile court, suspension rates, and expulsion rates).
- Schools must work to identify any racial, ethnic, or other disparities currently present in disciplinary action and to prevent any disparate racial or ethnic impact.

For More Information:

- Advancement Project – <http://www.advancementproject.org/our-work/schoolhouse-to-jailhouse>
- American Civil Liberties Union – <http://www.aclu.org/racial-justice/education>
- Children’s Defense Fund – <http://www.childrensdefense.org/programs-campaigns/cradle-to-prison-pipeline/>
- Dignity in Schools Campaign – <http://www.dignityinschools.org>
- U.S. Department of Education, Office of Special Education’s Technical Assistance Center on Positive Behavioral Interventions and Supports – <http://pbis.org/>

¹ Sarah Lyons and Nastassia Walsh, “Money Well Spent: How Positive Social Investments Will Reduce Incarceration Rates, Improve Public Safety, and Promote the Well-Being of Communities,” Justice Policy Institute (September 2010): 30, available at http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_rep_moneywellspent_ps-dc-ac-jj.pdf and “Effective Investments in Public Safety: Education,” Justice Policy Institute (2007), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/pre/07-02_FAC_Education_AC-PS.pdf.

² Russell Skiba, et al., “Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations,” American Psychological Association (August 2006): 9, available at <http://www.jdaihelpdesk.org/Docs/Documents/1%20BINDER%20Tab%207%20Zero%20Tolerance.pdf>.

³ See, e.g. Russell Skiba, et al., “Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations,” American Psychological Association (August 2006): 5, available at <http://www.jdaihelpdesk.org/Docs/Documents/1%20BINDER%20Tab%207%20Zero%20Tolerance.pdf>.

⁴ See, e.g., Russell Skiba, “Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Policies,” Indiana Education Policy Center Issue SRS2 (August 2000): 5-6, available at <http://www.indiana.edu/~safeschl/ztze.pdf>.

⁵ Many of these recommendations stem from the work of Jim Freeman, Staff Attorney with the Advancement Project (www.advancementproject.org).

⁶ For more information on positive behavioral interventions and supports (PBS/PBIS) visit <http://www.pbis.org>, the federal Office of Special Education’s technical assistance center for PBIS.

⁷ For more information on restorative justice, see Melissa Jones, “Remedies, Not Punishment: Restorative Practices in Schools,” California Center for Rural Policy (November 2010), available at <http://www.humboldt.edu/ccrp/sites/ccrp/files/briefs/Restorative%20Justice.pdf>.

⁸ The vast majority of suspensions are for disruptive, rather than violent, behavior. For example, 51% of suspensions in California in 2008 were for disruptive behavior, while only 6% were for violent behavior. Nanette Asimov, “Suspensions Point to Trouble in Schools,” The San Francisco Chronicle (May 19, 2008), available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/05/19/MN5C10MBTP.DTL>.

⁹ For more information about the rights and responsibilities of schools and students under the Individuals with Disabilities Education Act (IDEA), visit www.idea.ed.gov.