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Zero Tolerance Policies and School Discipline

[F]or some equality means that all zero-tolerance policies must be the same for every school in the Nation. To require that all zero tolerance policies be equal means that the federal government would be creating the discipline code for every school in America....We need to trust the principals in our schools and the processes established by the local school boards which fairly, consistently, and responsibly implement and enforce these policies. To do otherwise, would continue to create the situations we see in headlines today claiming the punishment does not fit the act.

- National Association of Secondary School Principals, 2000

What are zero tolerance policies?

Zero tolerance policies have been defined in a myriad of ways. Walker et al. (2003) and Martin (2001) provide definitions of zero tolerance policies in schools that are the framework for this policy brief. As Walker et al. (2003) explain, "Zero tolerance education policies refer to a variety of school disciplinary practices that mandate automatic suspension and/or expulsion from school for offenses perceived to be a threat to the safety of other children, school employees, or the school community itself" (p. 1). Martin (2001) adds, "Zero tolerance means that a school will automatically and severely punish a student for a variety of infractions. While zero tolerance began as a Congressional response to students with guns, gun cases are the smallest category of school discipline cases... Zero tolerance has become a one-size-fits all solution to all the problems that schools confront. It has redefined students as criminals, with unfortunate consequences" (p. 1).

Research suggests the harmful effects of zero tolerance policies on students and their families may outweigh the benefits of deterring student misbehavior. This policy brief discusses the efficacy of zero tolerance policies as a strategy to address school violence.

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INTRODUCTION

Scholars have traced the adoption of zero tolerance policies in schools to the Columbine school shootings and other violent incidents in schools (Peebles-Wilkins, 2005). Walker et al. (2003) explain the adoption of the policies: “In the early 1990s, schools looked to no-nonsense ‘zero tolerance’ policies to help stem what the public perceived to be a tide of school violence....In 1994, the term zero tolerance assumed new significance when President Clinton signed into law the Gun Free Schools Act” (p. 2). According to Peebles-Wilkins (2005), “...the social politics of zero tolerance are associated with the possibility of losing federal funds under the Gun-Free Schools Act of 1994” (p. 3).

The Gun-Free Schools Act of 1994 required schools to expel students who bring weapons to school for one year.¹ Under the Act, a weapon is defined as a firearm. Stader (2006) contends the No Child Left Behind Act of 2001 amended the Gun-Free Schools Act “to force state and district compliance with the requirements of GFSA” (p. 66). He continues:

State education agencies must now require local districts to include in their applications for federal funds an assurance that they are in compliance with the law. SEAs must also collect information regarding any expulsions made under the law....Both the original GFSA and the modifications made under NCLB clearly empower local school administrators to modify (i.e., reduce) any disciplinary action for a firearm violation on a case-by-case basis. The logic behind this provision is to allow school district administrators and/or boards of education to take circumstances into account when considering student expulsion for weapon possession (p. 66).

RESEARCH

Policy Implementation in Schools

Although zero tolerance policies were “designed to prevent violence and create safe school environments,” research suggests many schools’ implementation of zero tolerance policies have been ineffective, confusing, and restrictive (Peebles-Wilkins, 2005; Walker et al., 2003).

The Advancement Project and the Civil Rights Project at Harvard University (2000) conducted a comprehensive study of zero tolerance policies in American public schools. The case studies revealed two important issues. First, school leadership matters. According to the researchers’ report, “How principals choose to exercise that discretion determines both the extent to which Zero Tolerance will be used, and subsequently, the rate at which children either will be allowed to take advantage of educational opportunities, suspended, or expelled” (p. vii). Second, teachers must receive training in classroom management. The researchers reported, “The case studies found general consensus that teachers need to be trained in classroom management and conflict resolution. Because teachers are the first link in the disciplinary process, they should be better equipped to deal with behavioral problems using innovative strategies that do not shut out students for typical adolescent misbehavior” (p. viii).

Further, researchers from the Michigan Public Policy Initiative analyzed national student discipline data and national public survey data and found, “In the current context, school administrators believe that there is little or no room for discretion; rather, they feel forced to impose a prescribed solution for each situation, regardless of circumstances” (Walker et al., 2003, p. 12).

Cost Benefit Analyses

Although zero tolerance policies in schools are controversial, both policy supporters and critics agree removing students from classrooms has detrimental effects on students. Students who have been suspended and/or expelled are more likely to drop out of school (Advancement Project, 2000; DeRidder, 1991). In our society, we spend more money to incarcerate a person than we do to educate a person. The

United States Department of Justice's report on education and correctional populations revealed "40% of state prison inmates, 27% of Federal inmates, 47% of inmates in local jails, and 31% of those serving probation sentences" dropped out of high school (Harlow, 2003, p.3). According to the United States Census Bureau (2008), public schools spent about \$9,138 per student in 2006; whereas it costs almost five times that amount to incarcerate an individual. Researchers examining the fiscal consequences of high school dropouts in Massachusetts reported the Massachusetts Department of Correction spent about \$43,025 per state prison inmate in 2006 (McLaughlin, Sum, Khatiwada, & Palma, 2007).

In addition to the economic drain on American society, research indicates these policies drain the talent pool of potential productive citizens. Many researchers have found zero tolerance policies adversely affect minority and special needs students (Advancement Project, 2000; Walker et al., 2003; Martin, 2001; Tebo, 2000). Furthermore, the Michigan Public Policy Initiative researchers' determined zero tolerance policies not only had a disproportionate impact on minorities and students with disabilities, but the policies adversely affected male students and younger students (Walker et al., 2003). Expressing the juvenile justice section of the American Bar Association's position on zero tolerance policies, Martin (2001) wrote, "There is increasing evidence that zero tolerance policies, while facially neutral, are having a disproportionate impact on students of color....Unfortunately, zero tolerance as practiced today is not rooted in theories of pedagogy or child adolescent development. It teaches children nothing about fairness, and often creates injustice" (pp. 3-4).

THE DELAWARE SITUATION

Delaware school districts and charter schools establish a student code of conduct² which sets forth students' rights and responsibilities, violations of the code, and the disciplinary procedures for infractions. In addition, the student codes of conducts contain provisions of the Delaware reporting school crime law. The mandatory school crime law requires schools to report certain serious offenses to law enforcement officials.³ These offenses range from offensive touching, terroristic threatening, and assault to use, possession, or sale of dangerous instruments or deadly weapons, controlled substances and alcohol, and homicide. Umbreen Bhatti, a staff attorney with the American Civil Liberties Union of Delaware, is familiar with zero tolerance cases in Delaware. During a recent interview, Ms. Bhatti stated, "My thoughts are that zero tolerance policies are inherently harsh. [The] H.B. 85⁴ (the Delaware reporting school crime law) list of offenses is overbroad. The mandatory reporting takes away local discretion-discretion at the school level. The ACLU of Delaware is developing a partnership with community members to handle zero tolerance cases. Zero tolerance is a big issue. The zero tolerance policy and school to prison pipeline are civil rights issues."

Nationally, media reports have covered stories of public school students who have been suspended, expelled, and/or arrested for what appear to be minor offenses as a result of zero tolerance policies. Last year in Delaware, a 12-year-old middle-school student, with no prior discipline history, was expelled from school for one year for "using a utility knife blade from home to cut windows out of a paper house for a class project" (Kepner, 2007). Under the school crime law, the offense was reported to law enforcement officials and the student was charged with a crime. However, the attorney general's office did not pursue criminal charges against the student (Jensen, 2007).

RECOMMENDATIONS

Schools must provide academically challenging learning environments.

According to researchers at the Advancement Project and The Civil Rights Project at Harvard University, "Almost all administrators agreed that if students are challenged academically, they are less likely to engage in disruptive behavior in the classroom....Thus, in schools that lack resources such as highly qualified teachers, textbooks, supplemental instructional materials, computers and other resources, it is probable that students may be more prone to engage in misconduct" (p. viii).

School officials should have more professional discretion in administering the policies.

Skiba (2006) advocates, “Apply zero tolerance policies with greater flexibility, taking context and the expertise of teachers and school administrators into account; teachers and other professional staff who have regular contact with students on a personal level should be the first line of communication with parents and caregivers regarding disciplinary incidents; define all infractions, whether major or minor, carefully, and train all staff in appropriate means of handling each infraction; evaluate all school discipline or school violence prevention strategies to ensure that all disciplinary interventions, programs, or strategies are truly impacting student behavior and school safety” (p. 12).

Common sense approaches to school safety should prevail.

Stader (2006) advises, “Properly administered zero tolerance policies have improved school safety by decreasing the incidents of weapon possession in schools. It is the misuse, misdiagnosis, and side effects of zero tolerance that cause the problem. Concerns about school safety are valid and real. But, it is inexcusable that some refuse to accept the responsibility to distinguish between butter knives and dangerous weapons and Motrin and illegal drugs?” (p. 73).

PUBLIC POLICY REFORM

Some states and school districts are moving away from zero tolerance policies. In April, the Florida legislature unanimously passed a bill striking the language of zero tolerance from all school violence and substance abuse policies in the state. According to *The Journal* article, “The bill also mandates that students be expelled and referred to the criminal justice or juvenile justice system for ‘serious criminal’ offenses, as opposed to the previous wording which specified only ‘offenses’ (i.e., not necessarily criminal and not necessarily serious)” (Nagel, 2008). The bill followed recommendations from the Florida Department of Juvenile Justice’s 2008 report, *Getting smart about juvenile justice in Florida*.

The Brandywine School District in Delaware adopted a student conduct policy that grants administrators flexibility and discretion in implementing school discipline. In an October 2007 *News Journal* on zero tolerance, Alison Kepner described the district’s policy as one that “leaves ...room for honest mistakes.”

“...if an investigation by school administration concludes that a student inadvertently or accidentally has possessed a firearm, weapon/dangerous instrument or look-alike weapon/dangerous instrument on school property and who immediately upon becoming aware that they were in possession has turned such item over to a teacher or building administrator, then the principal shall determine whether the student shall be disciplined up to and including a recommendation for expulsion.”

New language was added in 2000 due to incidents administrators “felt weren’t so black-and-white to fit a zero-tolerance policy.”

POLICY QUESTIONS FOR CONSIDERATION

1. Are the zero tolerance policies in Delaware schools contributing to safe learning environments?
2. How can the state support professional development that enables educators to effectively address student behavior and classroom management?
3. How does the Delaware mandatory reporting school crime law affect local administrators’ capacity to fairly evaluate school infractions on a student-by-student basis and to consider mitigating circumstances before implementing discipline?
4. What effects are zero tolerance policies having on indicators such as student achievement? Student dropout rates? Student attendance?
5. What are the benefits of zero tolerance policies as compared to their costs?

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NOTES

¹The Gun-Free Schools Act of 1994, 20 U.S.C. 8921.

²Title 14, Delaware Code, 605 Student rights and responsibilities.

³Title 14, Delaware Code, 4112 Reporting school crimes.

⁴The School Crime Reporting Law was originally referred to as H.B. 85. It was later amended by H. B. 322 and H.B. 209. Retrieved May 22, 2008, from <http://attorneygeneral.delaware.gov/schools/schcrim.shtml>.