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Zero Tolerance, Suspension, and Expulsion: Questions of Equity and Effectiveness

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INTRODUCTION

There can be no question that schools need sound disciplinary systems to maintain school safety and promote student learning. Indeed, in the face of multiple-victim homicides in the late 1990s, schools have been increasingly motivated to address issues of disruption and violence. Pressure from teachers who are concerned about the safety of their classrooms (Public Agenda, 2004) and from parents who wish to ensure school safety (Pew Research Center, 2000) have motivated schools and communities to search for methods that can promote safe school climates maximally conducive to learning.

Yet the climate of fear that has prevailed in recent years has also generated support for more punitive methods of school discipline, often under the broad rhetoric of *zero tolerance* (Noguera, 1995). Zero tolerance emerged from national drug policy of the 1990s and mandates severe punishments, typically out-of-school suspension and expulsion, for both serious and relatively minor infractions (Skiba & Peterson, 1999). The rise of zero tolerance philosophy has led to substantial increases in rates of out-of-school suspension and expulsion (Michigan Public Policy Initiative, 2003; Potts, Njie, Detch, & Walton, 2003; Wald & Losen, 2003).

Thus, schools face what is an apparently profound dilemma. To fulfill their responsibility to promote safe climates conducive to learning many schools and school districts increased their use of procedures that remove some children from the opportunity to learn. Under federal education legislation, No Child Left Behind, schools are under a mandate to use "only practices that are evidence-based, so only the best ideas with proven results are introduced into the classroom" (No Child Left Behind Act Fact Sheet, 2001). The purpose of this chapter is to examine what we know about the use of school exclusion as a disciplinary strategy. Are zero tolerance, out-of-school suspension, and expulsion effective methods for promoting safe and effective school climates? Are there effective alternatives that can keep schools safe without removing students from the opportunity to learn?

CONTEXT, HISTORY, AND CURRENT STATUS

Purposes of School Discipline

Although school discipline has increasingly come to be associated in the public mind with the use of punishment and school exclusion (Skiba & Peterson, 1999), there are in fact a number of important instructional and organizational purposes to any school disciplinary system:

- **Ensuring the safety of students and teachers.** Incidents of deadly school violence in the 1990s have drawn acute attention to the need to guarantee the safety of students and teachers. The most recent national data on school safety suggest that there has been a 50% drop in violent crimes committed at schools since 1992 (DeVoe et al., 2004), yet one in three teachers still report that physical violence is a very or somewhat serious problem at their schools (Public Agenda, 2004). Clearly, a primary purpose of school disciplinary systems must be to prevent incidents that could threaten the safety of students or staff.
- **Creating a climate conducive to learning.** Even beyond issues of physical safety, students cannot learn and teachers cannot teach in a school environment characterized by disruption, chaos, or frequent behavioral interruptions. Research in educational psychology has shown that student learning is largely a direct result of the amount and quality of instruction that students receive (Brophy, 1988; Fisher et al., 1981; Hattie, 2002; Reynolds & Walberg, 1991; Wang & Haertel, 1994; Wang, Haertel, & Walberg, 1997). Effective disciplinary systems should improve academic outcomes by increasing the amount and quality of time teachers can spend teaching, rather than responding to behavioral disruptions.
- **Teaching students needed skills for successful interaction in school and society.** It is interesting to note that the word *discipline* comes from the same Latin root as the word *disciple*: *discipere*, to teach or comprehend. *Webster's Revised Unabridged Dictionary* (1998) defines discipline as "The treatment suited to a disciple or learner; education; development of the faculties by instruction, and exercise; training, whether physical, mental, or moral." Recent survey research indicates that a large majority of both teachers (93%) and parents (88%) believe one fundamental element of a school's mission is to "teach kids rules so they are ready to join society" (Public Agenda, 2004, p.8). Children will always require socialization, instruction, and correction that shapes fundamentally egocentric behavior into interpersonal skills that make them capable of interacting successfully with others in school and beyond.
- **Reducing rates of future misbehavior.** Behavioral psychology defines the term *punishment* as something that reduces the probability of occurrence of some behavior (Alberto & Troutman, 2003; Driscoll, 2000; Maag, 2001; Skinner, 1953). One might then expect that those disciplinary interventions that are effective will lead to reduced rates of inappropriate or disruptive behavior in the school setting.

It is important to note that zero tolerance is not simply a strategy, but also a philosophy of school discipline (Skiba & Knesting, 2001). As such, there are a number of purposes for school discipline that are associated specifically with the philosophy of zero tolerance:

- **A belief in the deterrent function of school punishment.** An implied purpose of severe punishment is the deterrent effect on others who may witness that punishment (Noguera, 1995). Ewing (2000) argued that zero tolerance "appropriately denounces violent student behavior in no uncertain terms and serves as a deterrent to such behavior in the future by sending a clear message that acts which physically harm or endanger others will not be permitted at school under any circumstances."

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Zero Tolerance: Background

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- **Remove troublemakers in order to improve the school climate for others.** Central to the idea of suspension and expulsion is the notion that removing the most persistently disruptive students will lead to substantial improvements in the learning climate for others. A large majority of middle and high school teachers agree with this proposition, noting that if persistently troublemaking students were removed from school, teaching and learning would be much more effective for the remaining students (Public Agenda, 2004).
- **What happens if we don't punish?** This assumption is in some ways the inverse of a belief in the deterrent capability of punishment. Zero tolerance suggests that failure to punish misbehavior sufficiently will "send a message" that a school is not serious enough about safety (Larson & Ovando, 2001).

Before examining whether the disciplinary practices favored by a zero tolerance approach have been effective in meeting the primary purposes of school discipline, we review the background and definition of zero tolerance.

Zero Tolerance: Background and Definition

Zero tolerance first received national attention as the title of a program developed in 1986 by U.S. Attorney Peter Nuñez in San Diego, impounding seagoing vessels carrying any amount of drugs. U.S. Attorney General Edwin Meese highlighted the program as a national model in 1988, and ordered customs officials to seize the vehicles and property of anyone crossing the border with even trace amounts of drugs, and charge those individuals in federal court. Beginning in 1989, school districts in California, New York, and Kentucky picked up on the term *zero tolerance* and mandated expulsion for drugs, fighting, and gang-related activity. By 1993, zero tolerance policies had been adopted across the country, often broadened to include not only drugs and weapons, but also smoking and school disruption. This tide swept zero tolerance into national policy when the Clinton administration signed the Gun-Free Schools Act of 1994 into law. The law mandates a 1-calendar-year expulsion for possession of a firearm, referral of these students to the criminal or juvenile justice system, and the provision that state law must authorize the chief administrative officer of each local school district to modify such expulsions on a case-by-case basis (Public Law 103-227, 1994).

State legislatures and local school districts have broadened the mandate of zero tolerance beyond the federal mandates of weapons, to drugs and alcohol, fighting, threats, or swearing. Many school boards continue to toughen their disciplinary policies; some have begun to experiment with permanent expulsion from the system for some offenses (Potts et al., 2003). Others have begun to apply school suspensions, expulsions, or transfers to behaviors that occur outside of school.

Since the passage of the Gun-Free Schools Act, some form of zero tolerance policy appears to have become prevalent in public schools. Defining zero tolerance as a policy that mandates predetermined consequences or punishments for specified offenses, the National Center on Education Statistics report, *Violence in America's Public Schools: 1996-1997* (Heavyside, Rowand, Williams, & Farris, 1998), found that 94% of all schools have zero tolerance policies for weapons or firearms, 87% for alcohol, 79% for tobacco, and 79% for violence. It is important to note, however, that the NCES definition of zero tolerance is quite broad. One would expect that there are few school disciplinary policies that do not mandate some predetermined consequences for specific behaviors, and it is possible that the high prevalence rates reported for zero tolerance in the NCES study were due to an overly broad definition. A more typical and more limited definition of zero tolerance is as a disciplinary policy that is "intended primarily as a method of sending a message that certain behaviors will not be tolerated, by punishing all offenses severely, no matter how minor" (Skiba & Peterson, 1999, p. 373).

Frequency of Use of Suspension and Expulsion

Out-of-school suspension and expulsion are often viewed as a relatively linear response progressing from student disruption to office referral to school removal. It is important to note however, that any disciplinary action is the culmination of a complex process, not an isolated event (Morrison et al., 2001). Disciplinary actions are multiply determined by student behavior, teacher tolerance, school and classroom characteristics, and local and state policy. In addition, the length of out-of-school suspension can vary widely from a few hours or a day to 10 or more days. The most common cutoff in state law differentiating suspension and expulsion appears to be that removal of 10 days or less constitutes suspension, whereas removal for more than 10 days constitutes expulsion, but this is by no means universal (Skiba, Eaton, & Sotoo, 2004). Finally, because of the federal protections of free and appropriate public education (FAPE) for students with disabilities, those students are subject to a somewhat different set of disciplinary regulations for school removals exceeding 10 days (Yell, 1998).

These multiple sources of variation in the application of suspension and expulsion make it difficult to precisely estimate the exact frequency of out-of-school suspension¹ and expulsion. Available national estimates suggest that 1.5 million American students missed at least 1 day of school because of out-of-school suspension or expulsion in the 1970s; over the past decade, that number had doubled and reached an estimated 3.1 million or approximately 7% of the student population (Brooks, Schiraldi, & Ziedenberg, 1999; U.S. Department of Education, 2000). Both state and local district reports suggest increases in out-of-school suspension rates at the local level (Raffaele-Mendez & Knoff, 2003; Rausch & Skiba, 2004a; Richart, Brooks, & Soler, 2003).

Studies of school discipline (Bowditch, 1993; Mansfield & Farris, 1992; Rose, 1988; Skiba, Peterson, & Williams, 1997; Uchitelle, Bartz, & Hillman, 1989) have consistently found that suspension is among the most widely used disciplinary techniques, and at the office level, perhaps the most frequently used response to office referrals. Reported schoolwide rates of suspension at the high school level vary widely, from a low 9.3% of enrolled students (Kaeser, 1979), to 33.6% of the students in a given high school (Morgan-D'Atrio, Northrup, LaFleur, & Spera, 1996), to a reported suspension rate of 92% in one high school in East Baton Rouge, Louisiana (Thornton & Trent, 1988). Skiba et al. (1997), studying disciplinary referrals across all middle schools in one large urban school district, reported that one third of all referrals to the office resulted in a 1- to-5-day suspension, and 21% of all enrolled students were suspended at least once during the school year. In contrast, school expulsion appears to be used relatively infrequently relative to other disciplinary techniques (Heaviside et al., 1998). National and state data on the implementation of the Gun-Free Schools Act (Sinclair, 1999) show that fewer than 1 in 1000 students have been expelled for weapons violations under that law.

Rates of usage of suspension and expulsion also appear to be dependent on location and level served (e.g., elementary, middle, or high school), and do not appear to be spread evenly across schools. Out-of-school suspension rates appear to be highest in urban schools compared to usage rates at suburban, town, or rural locales (Massachusetts Advocacy Center, 1986; Rausch & Skiba, 2004a; Wu, Pink, Crain, & Moles, 1982). Specific to school level, suspension rates

¹In addressing suspension in this manuscript, we refer only to out-of-school suspension, not in-school suspension, for two primary reasons. First, zero tolerance discipline has tended to rely on school exclusionary punishments such as out-of-school suspension and expulsion, rather than in-school consequences, for its presumed deterrent effect. Second, the apparent disciplinary paradox of exclusionary approaches in terms of threatening academic engaged time does not necessarily apply in the case of in-school suspension.

appear to be lowest in elementary schools and drop from middle to high school. The slight drop in suspension rates in high schools (Mendez & Knoff, 2003). Students who had been suspended or expelled do not appear to be at risk of dropping out of school in the top 10% of schools in the top 10% of districts (Rausch & Skiba, 2004a).

Why Is Consideration Given to Suspension and Expulsion?

Oftentimes, controversy surrounds the use of suspension and expulsion by removing an otherwise law-abiding student for an infraction. In response to a letter to the editor of the *St. Petersburg Times* (1998),

Zero tolerance policies are like a cup of sangria for a group of people who have lost their property. . . . Bringing a zero tolerance policy as a solution is like as toting a loaded magazine into a classroom. . . . In terms of severity, the system looks like a cup of sangria for a group of people who have lost their property. . . . Bringing a zero tolerance policy as a solution is like as toting a loaded magazine into a classroom. . . . In terms of severity, the system looks like a cup of sangria for a group of people who have lost their property. . . .

Strictures against cruel and unusual punishment will be that school punishment is a violation of basic perceptual-motor skills.

Important as such concerns are, the primary concern is ensuring the safety of students and staff. Suspension and expulsion are violations of student rights to maintain safe and productive learning environments. The ability to use any and all available resources to ensure learning.

Yet out-of-school suspension and expulsion pose some risk to educational outcomes. The psychology of the last 20 years has shown that the loss of engaged time in academic activities (Greenwood, 1990; Wang et al., 1997) is a significant factor in school alienation-scholarship loss (Hawkins, Doueck, & J. 1998). Suspension and expulsion that remove students from school must be viewed as a significant loss of academic time.

Thus, questions about the cost-benefit of suspension and expulsion are a significant part of forming a school climate and school bonding that is consistent with the literature on the effectiveness of discipline. The question.

appear to be lowest in elementary school, increase and peak during middle school, and slightly drop from middle to high school (Raffaele Mendez & Knoff, 2003; Rausch & Skiba, 2004a). The slight drop in suspension rates from middle to high school has been hypothesized (Raffaele Mendez & Knoff, 2003) as being due to what has been termed the "pushout" phenomena: Students who had been suspended multiple times in middle school and early high school may have dropped out and thus not been present to be suspended in high school. Finally, rates of suspension do not appear to be evenly distributed across schools. One analysis found that schools in the top 10% of out-of-school suspension use accounted for 51% of all suspension incidents (Rausch & Skiba, 2004a).

Why Is Consideration of Efficacy Important?

Oftentimes, controversies about zero tolerance focus on the civil rights controversies aroused by removing an otherwise "good student" from school for what appears to be a relatively minor infraction. In response to the long-term suspension of an honors student for a sip of sangria, the *St. Petersburg Times* wrote in an editorial:

Zero tolerance policies are inherently unjust and irrational because they conflate harms. Accepting a cup of sangria for a good-bye toast is punished as severely as a student who gets drunk on school property. . . . Bringing a butter knife to school to cut an apple for lunch carries the same expulsion as toting a loaded magnum. Those harms are not equivalent, and if they are punished with equal severity, the system looks both unfair and nonsensical. ("Zero sense," 1998)

Strictures against cruel and unusual punishment are fundamental to our legal system. It may well be that school punishments greatly out of proportion to the offense arouse controversy by violating basic perceptions of fairness inherent in our system of law.

Important as such concerns are, they may be less important to frontline educators than ensuring the safety of school environments. It might well be argued that, unfortunate as occasional violations of students' rights are, out-of-school suspension and expulsion are necessary to maintain safe and productive school climates. Certainly, schools have the right and responsibility to use any and all effective procedures to ensure a school climate that is conducive to learning.

Yet out-of-school suspension and expulsion, by their very nature, are interventions that pose some risk to educational opportunity. One of the most important findings of educational psychology of the last 30 years is the positive relationship between the amount and quality of engaged time in academic learning and student achievement (Brophy, 1988; Fisher et al., 1981; Greenwood, 1996; Greenwood, Delquardri, & Hall, 1984; Greenwood, Horton, & Utley, 2002; Wang et al., 1997). In addition, models of youth violence and delinquency have identified school alienation-school bonding as one of the strongest variables in predicting delinquency (Hawkins, Doueck, & Lishner, 1988). Thus procedures such as out-of-school suspension and expulsion that remove students from the opportunity to learn and potentially weaken the school bond must be viewed as potentially risky interventions.

Thus, questions about the usefulness of school suspension and expulsion are essentially questions of cost-benefit. Does the removal of troublesome students from school through suspension and expulsion provide sufficient benefits in terms of reducing disruption and affording a school climate conducive to learning to offset the risks to educational opportunity and school bonding that are inherent in disciplinary removal? The following sections review the literature on the efficacy of out-of-school suspension and expulsion in order to address that question.