

**Reforming the Discipline Management Process in Schools:
An Alternative Approach to Zero Tolerance**

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Abstract

There is a need for educational reform of zero tolerance policies in school disciplinary management procedures. Zero tolerance policies are rigid mandates of predetermined consequences for specific student misconduct. Common sense and fairness are not necessarily served by the application of inflexible disciplinary rules that do not address the circumstances surrounding particular situations. A disciplinary decision can have long-term implications for a student's future career, as well as to his or her perception of the educational system. This paper provides three case studies where zero tolerance was applied; presents research that supports systematic reform of zero tolerance policies, as a means of reforming current discipline management practices in schools; and describes an alternative approach to the application of zero tolerance disciplinary measures.

Case Studies on Zero Tolerance

Case One

A 16-year old high school honor student was expelled for having a 10-inch bread knife in the back of his truck. The knife was accidentally left in the truck when the personal belongings of the student's grandmother were being moved. Expulsion of the teenager was mandated by a zero-tolerance policy regarding weapons (Associated Press, March 2002).

Case Two

A 16-year old high school student, who was a knife collector, faced mandatory expulsion for buying a 15-inch knife at school from a teacher in a small rural school. The student had a note from his mother approving the purchase of the knife. No leeway was allowed in administering the mandated discipline even though there was alleged contributing misconduct by the teacher, who resigned, and the principal, who was placed on administrative leave with pay (Marshall, October 2002).

Case Three

A 13-year old eighth-grade honor student was removed as student council president, ousted from the honor society, and required to attend a disciplinary class for seven days because she brought a pencil sharpener to school. The girl's mother bought the pencil sharpener in South Korea for her daughter. The sharpener had a two-inch blade folded into a handle, the kind that is used by students in South Korea (and had been used by the mother as a student). School authorities applied zero tolerance discipline in the case. The student's parents filed a suit in federal court, contending that due process was not provided (Rice, October 2003).

Overview

Discipline in education can serve multiple purposes, including the development of student character, preservation of school decorum, and maintenance of campus safety (Duke, 2002). While laws and regulations exist to address school discipline, there is a trend to impose zero tolerance disciplinary policies, thereby impeding the application of administrator discretion to student infractions. Consequently, zero tolerance policies can seriously restrict the appropriateness of the punishment to the offense (Black, 2004).

As illustrated by the three case studies, the apparent injustice caused by the application of zero tolerance policies calls for reforms in how schools approach disciplinary management. The zero tolerance decision-making model can create counterproductive results, seriously hindering the educational purposes of discipline in schools (Cartledge, Tillman, & Johnson, 2001; LPR Publications, 2004). This is especially important considering that

students not viewed as dangerous to the school environment commit many of the offenses (Morrison & D’Incau, 1997). The literature suggests that school administrators should be allowed more flexibility in arriving at discipline management decisions (Chalk Talk, 2001); unless, of course, the incidents are so serious and harmful that no discretion should be allowed.

Factors from research and practice (Deer Park ISD, 2002-2003; Duke, 2002; McCarthy, Cambron-McCabe, & Thomas, 1998; Morrison & D’Incau, 1997) have been identified that school administrators could use in an alternative approach to arrive at disciplinary decisions. These factors could afford school administrators a systematic, common sense approach in making decisions, addressing fairness and consistency in the disciplinary process.

Discipline: Multiple Purposes

Discipline can have multiple purposes in schools. Disciplinary practices can discourage and restrain, or prevent future misconduct and encourage appropriate behavior (Duke, 2002). Thus, disciplinary action can be viewed as retributive, preventative, or rehabilitative. The term “discipline” is commonly associated with punishment as Cartledge et al. (2001) have stated, “Few would argue that the most common image in our society associated with discipline is punishment, particularly punishment of children” (p. 26).

School authorities have a responsibility to develop and preserve a learning environment in schools (Chapter 4, Texas Education Code, 2004). Conduct codes that include appropriate disciplinary measures and due process procedures should be developed and administered to address the mission of schools, especially to ensure a campus atmosphere conducive to learning (McCarthy et al., 1998, pp. 195-198). Discipline, applied fairly and appropriately, can positively influence character development and establish an environment of safety in the school community (Feldman, 2000). Duke (2002) recommends that discipline education be included in the learning process, stating “Learning about school and classroom rules, why they exist, and the

consequences for breaking them is consistent with the educational mission of schools, and reflective of an educational perspective on school safety” (Duke, 2002, p. 67).

Discipline: Laws and Regulations

The most common authority for administering student discipline is a locally adopted discipline management plan, sometimes called a student code of conduct or a disciplinary code. Such plans are governed by and frequently are a meld of federal, state, and local laws, together with local school district policy. For example, the Texas Education Code (TEC) 37.001 requires school boards of public schools to develop a student code of conduct that specifies misconduct and corresponding consequences (Chapter 37, Texas Education Code, 2004). The same chapter in the Texas code mandates certain consequences for certain misconduct, but also allows local districts to determine consequences for other misconduct within certain parameters. Thus, the required disciplinary code will encompass both state law and local policy. School disciplinary systems that include mandatory disciplinary consequences should temper the harshness of such mandates by allowing discretion in administering the discipline. The Texas Legislature embraced this concept by mandating expulsion for certain misconduct [TEC 37.007(a)], but giving the chief administrative officer of the local district the discretion to set the period of expulsion [TEC 37.007(e)(1)] (Chapter 37, Texas Education Code 2004).

The discipline management plan should also address Fourteenth Amendment due process issues. In 1975, the U.S. Supreme Court in the landmark case *Goss v. Lopez* set the bar for when removal from the educational setting as a disciplinary measure infringes on a student’s substantive due process property and liberty rights to the degree that the procedural due process right to a hearing is required prior to the administration of the discipline measure. The court stated:

The total exclusion from the educational process for more than a trivial period, and certainly if the suspension is for

ten days, is a serious event in the life of the suspended child. Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary....

At the very minimum, therefore, students facing suspensions and the consequent interference with a protected property interest must be given some kind of notice and afforded some kind of hearing. (Alexander & Alexander, 2005, p. 454)

When an application of a zero tolerance policy produces an overly harsh result, arguably the policy is irrational and therefore a violation of procedural due process. Further, zero tolerance policies that by definition disallow mitigating factors in determining discipline may create an irrebuttable presumption, also a violation of procedural due process (Alexander & Alexander, 2005, p. 789).

Discipline: Zero Tolerance

Zero tolerance policies apply “a one-size-fits-all solution” to discipline (Chalk Talk, 2001, p. 548). A zero tolerance policy is defined as a disciplinary policy that mandates prearranged results for specific offenses (Cartledge et al., 2001, p. 26). The application of zero tolerance policies tends to support a philosophy of punishment rather than a philosophy of rehabilitation (Zirkel, 1997). Little evidence exists that zero tolerance works to increase safety in schools and to improve the behavior of students (Skiba & Reece, 2000, p. 335). Moreover, there is no empirical evidence that frequent use of suspensions and expulsions reduces or deters misbehavior (Cartledge et al., 2001, p. 27). “According to the National Center for Educational Statistics (1998), schools with no reported crime were less likely to have a zero tolerance policy than schools that reported incidents of serious crime” (Holloway, 2001/2002, p. 84).

Educators and experts on school safety have begun to rethink zero tolerance policies because of unintended results (Joiner, 2002). In 2001, the American Bar Association voted in favor of

abolishing the discipline policies surrounding zero tolerance policies for schools (Chalk Talk, 2001, p. 548). Schools may have rigid disciplinary policies not so much for effectiveness, but for symbolic value (Skiba & Reece, 2000). These written policies help to reassure the school organization and the community at-large “that strong actions are being taken in response to a perceived breakdown of school order” (Skiba & Reece, 2000, p. 337). The zero tolerance approach can simply be an excuse for school authorities to treat all children in the same manner when corrective measures that address the particular student and surrounding circumstances of the incident would serve as a more appropriate approach (Curwin & Mendler, 1999).

Zero tolerance laws and policies can prevent school administrators from applying creative and tailored responses to infractions by students. In *Lyons v. Penn Hills School District*, the Pennsylvania Commonwealth Court, No. 1823 C.D., affirmed the trial court’s decision that the school board had exceeded its authority by preventing the superintendent to exercise discretion in handling discipline (*Lyons v. Penn Hills School District*, 1999). School administrators should be allowed to arrive at different solutions based on circumstances surrounding an incident. For instance, a different consequence or treatment may be applied to a student who has committed his or her first offense versus a repeat offender (Feldman, 2000). In their study on expulsion cases, Morrison and D’Incau (1997) defined four categories of offenders that included “First Offense”, “Disconnected”, “Troubled”, and “Socialized Delinquent” (p. 1). This research illustrates the importance of reviewing multiple factors, e.g., prior history of infractions, surrounding a student offense before making disciplinary decisions.

School disciplinary policies must be carefully and thoughtfully developed and implemented using common sense (Feldman, 2000; Zerkel, 1999). That is not to say that expulsion should not be mandated for serious misconduct, provided the facts surrounding the misconduct support this decision. Further, “there needs to be some provision for discretion to fit all circumstances in all situations” (Joiner, 2002, p. 17). For instance, a Pennsylvania

commonwealth court supported two dissimilar judgments for the same type of offense because in one of the cases “the punishment was found to be excessive for students with no prior history of discipline problems” (McCarthy et al., 1998, p. 203).

Educational Reform in School Discipline Management: Views Other than Zero Tolerance

Instead of zero tolerance, schools should use the “as tough as necessary” policy in handling disciplinary issues so the action assists in teaching children how to behave (Curwin & Mendler, 1999, p. 120). The key is to provide balance so school safety is maintained and discipline is not “too draconian” (Joiner, 2002, p. 17). In any disciplinary plan, the common sense element must be included (Chalk Talk, 2001, p. 549). The wisdom of any formula approach such as zero tolerance has to be questioned if it ends up creating additional problems in resolving the original issue (Duke, 2002, p. 92).

Authorities that enforce rules should use the same prudence as accepted in court (Duke, 2002). “Determining the disposition of a disciplinary infraction...should take account of the particular circumstances of the violation, the prior records of those involved, and the impact of the offense on others” (Duke, 2002, p. 93). Students who commit wrongdoing need to see the logical consequences of the punishment for an educational process to occur (Duke, 2002). When punishment is not appropriate for the crime, students can lose trust in the way society handles critical issues, so that “their trust and respect for authority are compromised” (Chalk Talk, 2001, p. 549).

Assessment of Disciplinary Action: An Alternative Approach

School district planning documents tend to highlight the value of developing caring, productive citizens. Consequently, instead of focusing primarily on the development of zero tolerance policies, school districts should consider key factors that allow school administrators to exercise their judgment as professionals in determining the type of discipline to be applied for misconduct.

The following factors, placed in eight categories, have been identified from research and practice (Deer Park ISD, 2002-2003; Duke, 2002; McCarthy et al., 1998; Morrison & D’Incau, 1997) for consideration in disciplinary decision-making: (1) student’s age, gender, and grade level; (2) student’s special considerations (e.g., special education); (3) offense’s seriousness; (4) circumstances surrounding the offense; (5) student’s prior history of offenses; (6) student’s attitude and socio-emotional development level; (7) overall impact of offense on school members and community at-large; and (8) resiliency level—that is, whether the student holds a high grade point average, participates in extracurricular events, and has teacher, parent, and community support. The quality of support from teachers, parents, and community members, such as a minister, provides an indication of a student’s level of involvement with responsible adults who can provide constructive advice, mentoring, and continued support. Table A, entitled “Factors to Determine Discipline for Offense Using Administrator Discretion”, outlines factors, placed in eight categories, to analyze a student infraction in making a decision regarding a disciplinary action.

Table A: Factors to Determine Discipline for Offense Using Administrator Discretion

Factors for Assessing Discipline	Description
(1) Student's Age, Gender, and Grade Level	
(2) Special Considerations	
(3) Seriousness of Offense	
(4) Circumstances Surrounding Offense (i.e., unintentional/accidental, intentional)	
(5) Student's Prior Offense History (i.e., number of major and minor incidents)	
(6) Student's Attitude and Socio-Emotional Development (e.g., cooperative versus uncooperative, respectful versus disrespectful, remorseful versus remorseless, self-control versus lack of self-control)	
(7) Overall Impact of Offense on School and Community At-Large (i.e., minor or serious)	
(8) Resiliency (e.g., class attendance, grade point average, school involvement, parental, teacher, and community support)	

Disciplinary Management Actions	Yes ✓	Notes
Nonpunitive Consequences		
Verbal correction/warning		
Counseling by teachers		
Counseling by special services		
Counseling by administrative personnel		
Parent-teacher Conference		
Parent-administrator conference		
Parent intervention (other)		
Peer mediation		
Behavioral management contract (planning and rehearsal)		
Referral to student services program		
Referral to government agency		
Referral to an alternative educational program		
Enrollment in an awareness development program or rehabilitation program		
Other: _____		
Punitive Consequences		
Assigned school duty other than class tasks		
Withdrawal of privileges, e.g., participation in extracurricular activities, honor positions		
School-assessed and administered probation		
Grade reductions as permitted by policy		
Corporal punishment		
Detention (before, during, or after school)		
Modified school day		
Suspension location (in-school)		
Suspension time limits (short- or long-term)		
Suspension with educational training		
Removal of alternative educational program		
Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the school district		
Expulsion		
Restoration/restitution		
Other: _____		

Table B: Chart of Sample Disciplinary Management Actions

Table B, entitled “Chart of Sample Disciplinary Management Actions”, provides a list of nonpunitive and punitive disciplinary actions to address offenses. These disciplinary actions have been obtained from research and practice found in Curwin and Mendler (1999); Deer Park ISD (2002-2003); and Duke (2002, p. 80). School administrators can use this chart to select the relevant

disciplinary action and to make notes on procedural issues, such as timelines. School authorities should receive training to develop skills to investigate, analyze, and make judgments to effectively enforce the discipline management plan, while remaining fair, humane, and consistent in the disciplinary process (Duke, 2002, p. 93).

Conclusion

The applications of fairness and consistency cannot be overstated in the disciplinary process; consequently, the need for educational reform in school disciplinary management procedures. In developing zero tolerance provisions in their student discipline management plans, school districts exclude pertinent explanations and common sense solutions to address student infractions. Decisions based on zero tolerance policies can have seriously harmful consequences, in particular for first-time offenders—consequences that impair academic progress, reputation, career opportunities, and emotional development especially with regard to trust in the educational system. Administrator discretion in the application of alternative disciplinary actions can better address the circumstances surrounding the case, thus showing the value of discipline in a school's mission. The factors, placed in eight categories, listed in Table A can serve as useful indicators for school administrators in developing their disciplinary responses, found in Table B. The results of this systematic decision-making process can provide both constructive responses to specific student offenses as well as demonstrate a policy of fairness and respect in the educational community.

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