School Discipline Reform & Restorative Justice: A Policy Analysis

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For nearly a decade, educators in the United States have been experimenting with new forms of discipline policies. The goal appears to be to strike a balance in the outcomes of student discipline decision-making. The need for balance is obvious from the data that suggests that school policies that mandate predetermined consequences for specific offenses are more harmful than imagined or intended. These “zero tolerance” policies have fallen under suspicion in nearly all research studies of school incidents, but especially for incidents that do not involve serious crimes involving drugs or guns.

“Zero tolerance policies were formulated with the best of intentions... However... in a desire to be tough, no-nonsense, and scrupulously equal in punishment, schools have sacrificed measured and proportional responses for mechanical, non-discretionary decision-making... [that] is derailing the educational process.”

It is out of this body of scholarship that the call for more measured and proportional responses to student discipline is emerging. Phrases, slogans, and watchwords now animate the search for a balanced approach to student discipline. Most often, one hears that emerging school discipline reform constitutes “restorative justice,” a theory that is designed to change the approach to criminal justice and juvenile justice - and which has done so in New Zealand, Canada, the United States and other countries. However, this is not an accurate description of what is taking place in public schools. At best, the current school discipline reform incorporates a mild version of restorative justice, but that is still animated by strict accountability for serious disruptions. Nearly all educators continue to operate from the belief that as the nature of the campus incident becomes more serious, discipline policies should mandate predetermined consequences for specific offenses. Hence, the elements of the education version of restorative justice are more distinctive and variable.

The purpose of this article is to examine current school discipline reform in a brief, but empirical manner. To accomplish this task, we will examine for a moment the elements of restorative justice in its original form to determine the tools available to school officials in the ongoing experiments on discipline reform. The discussion then shifts to a convenience sample of the current discipline policies of school districts of various sizes in the United States. These examples will shape the summary observations about what educators seek to accomplish with discipline reform as well as identify the restorative justice tools employed to achieve their objectives.

Restorative Justice: Outside the School Environment

The most frequent statement about restorative justice theory is that it is “a process of bringing together the individuals who have been affected by an offense and having them agree on how to repair the harm caused by the crime.”

“The restorative justice process seeks to empower stakeholders to repair the harm of an injustice which will produce outcomes that are more distributively satisfying to [individuals who have been affected by an offense] than a process that seeks to deliver equal punishments to equal wrongs. If we put the problem in the center of the circle, as opposed to putting the person in the center, we are more likely to come up with a solution to the problem that is perceived by the participants to deliver justice distributive benefits.”

This point takes on added significance when one recognizes that the elements of the restorative justice theory are organized around collaboration in the same way that interagency child welfare systems shape positive outcomes with collaborative risk-factor and protective-factor analysis. Modern educators are familiar with the collaborative culture as well as the benefits it produces for decision-making.

Outside the school environment, restorative justice theory expands upon the traditional penal theory that crime and wrongdoing are an offense against an individual, the community, and the state. When its elements are used in problem-solving, the theory helps officials improve the process by personalizing the individual injury, measuring community harm, and assessing the needs of the offender in a more tangible way. Four ideals shape this focus:

1. Encounter: creating opportunities for victims, offenders, their families and community members to meet to discuss the crime and its impact on them;
2. Amend: expecting wrongdoers to take steps to repair the harm they have caused;
3. Reintegration: seeking to restore victims and offenders to wholeness, to become contributing members to the community; and
4. Inclusion: providing opportunities for parties with a stake in a specific crime or incident to participate in its resolution.

When correctly put into practice, the elements of restorative justice, described above, provide a meaningful language for a more effective assessment of a problem in light of existing policy. Decision-makers are not allowed to look at solutions to a problem in the same old way until examining the causes that led to the problem in the first place. The goal of restorative justice is not to produce a new mechanical approach for implementing a necessary policy, but to equip decision-makers with a means for producing outcomes that will be personally suited to the conditions that created the problem in the first place.

In its original intended application, in the criminal justice system, restorative justice theory alters traditional criminal procedure to include conversations between a victim, an offender, and the community. This encounter or “mediation,” has been shown to produce higher rates of victim satisfaction and offender accountability. This feature of restorative justice has a range of applications, each capable of increasing the number of participants to the conversation as necessary: victim-offender conferences, family group conferences, mediation circles, diversionary programs, and transitional programs.

Restorative justice theory is heavily documented with positive assessments. It is enough for now to cite a few typical examples.
Systemic use of restorative justice processes will lead to general deterrence and to a decrease in the crime rate. The alliance between victims and community members that is created through restorative processes produces greater satisfaction and trust, consequently increasing the percentages of reported new crimes. The rise in the reporting rates increases the risk of being caught and hence the reluctance of potential offenders to commit offenses.  

Offender satisfaction with both corporate and traditional individual restorative justice programs has been extremely high. The evidence of offenders being restored in the sense of desisting from criminal conduct is encouraging with victim-offender mediation, conferencing, restorative business regulatory programs, and whole-school antibullying programs, though not peer mediation programs for bullying.  

The opportunity restorative justice allows to come face-to-face with an offender clearly enhances the likelihood of an apology being offered: indeed, apology is usually seen as central to the process of restoration. Furthermore, it appears that the expression of remorse and a genuine desire for reconciliation on the part of the offender is a significant predictor of offenders' desistance from future offending.  

In analyzing the scholarship on satisfaction with the theory, the principal questions are: are there limits to its application in the criminal justice system? Does restorative justice theory produce praiseworthy results for all crimes? Are there some offences for which the theory is unsuitable? The answer appears to be that restorative justice theory losses its effectiveness inversely to the severity of the crime. In other words, its impact on the decision-making process in the area of criminal justice is strongest in the area of its initial focus: minor criminal offenses. Dr. Howard Zehr, one of the creators of the theory, emphasizes that "restorative justice began as an effort to deal with burglary and other property crimes that are usually viewed (often incorrectly) as relatively minor offenses." This assessment is readily apparent in the school environment. It explains why most educators continue to operate from the belief that as the nature of the campus incident becomes more serious, discipline policies should mandate predetermined consequences for specific offenses. The single most frequent error by those who seek to apply the theory is to confuse restorative justice with actual policy. Dr. Zehr notes:  

Like all change efforts, as restorative justice has developed and spread, it has sometimes lost its way. With more and more programs being termed "restorative," its meaning often has been diluted or confused. Under the inevitable pressures of working in the real world, restorative justice has sometimes been subtly co-opted or diverted from its principles. Restorative justice is not substantive policy. Rather, social scientists call it "meta-strategy" - a theory whose principles make more effective an existing policy. Its primary benefit is twofold. First, it helps to improve the process of decision-making through a collaborative framework that includes the actual stakeholders. Second, it discourages shortcuts to problem-solving by resisting mechanical, non-discretionary decision-making that tends to quickly move toward a predetermined solution. The irony of its application in the school environment, discussed below, is that school officials who misunderstand restorative justice theory tend to struggle in their decision-making by wrongly substituting the new predetermined solution (extreme tolerance) for the disfavored old mechanical solution (zero tolerance). The reasons for this misunderstanding are extraordinarily complex. No simple explanation can be given that will account for all or even most of the misapplications of the restorative justice theory. To date, the most important opinion is offered by one of its creators, Dr. Zehr:  

Restorative justice is not primarily about forgiveness or reconciliation. Reconciliation is the prerogative of the victim, as is forgiveness. Offenders are usually required to complete their punishment even if forgiven.  

Restorative justice is not mediation. An encounter is not always chosen or appropriate. No meeting between a victim and the offender is appropriate unless the parties are assumed to be on a level moral playing field, often with responsibilities that may need to be shared on all sides as a result of the incident.  

Moreover, to participate in most restorative justice encounters, a wrongdoer must admit to some level of responsibility for the offense, and an important component of such programs is to name and acknowledge the wrongdoing. The neutral language of mediation may be misleading and even offensive in such cases.  

Restorative justice is not primarily designed to reduce recidivism. Reduced recidivism is an expected byproduct, but restorative justice is done first of all because it is the right thing to do: victims' needs should be addressed, offenders should be encouraged to take responsibility, those affected by an offense should be involved in the process, regardless of whether offenders "get it" and reduce their offending.

Restorative justice is not a particular program or a blueprint. Restorative justice is not a map but the principles of restorative justice can be seen as a compass pointing a direction. At minimum, restorative justice is an invitation for dialogue and exploration in the context of victim-offender encounters.

Restorative Justice: Inside the School Environment

Once one has a grasp of the basic terrain of the restorative justice theory, he must step back and reflect on how it is being applied in the school environment. In regard to the zero tolerance/restorative justice distinction, school officials maintain an almost uncompromising insistence on keeping both in play as tools for maintaining a safe campus. To be sure, elements of restorative justice are recognizable in current policies and the best examples of this are found in the provisions of revisions to school disciplinary policies. Nevertheless, current school policies retain a surprising variety of predetermined consequences for specific offenses. The zero tolerance/restorative justice distinction is not obliterated, and critics of zero tolerance need to take note of this. While the difference is irrelevant for the milder range of frequent and foreseeable violations of the code of conduct, it is still to be taken note of as the gravity of the offense increases.

Among the things that need to be said about the education environment is that it comes tailor-made for the application of the elements of restorative justice. There is simply too much scholarship to accept any suggestion that restorative justice theory is incompatible with school safety. Three research studies illustrate this compatibility.  

The Family and Youth Restorative Conference Program has a positive impact on at-risk students. The evaluation demonstrates evidence of positive changes in behavior, attitudes, and opinions for both students and family members who participate. Given that temporary exclusion from school and involuntary school transfers can be a precursor to disengagement from school, the RCP appears to interrupt downward trajectories and return students to a path of academic progress.  

Positive school culture (focusing on the positive, creating leaders, and stressing consequences) is important in establishing a safe environment, and that restorative Justice practices can assist in this endeavor. [T]he administrators and teachers have already begun implementing mediation and other informal techniques to peacefully reconcile conflicts. Although they noted that this process consumes time and energy of all involved, it alleviates stress by addressing the root causes of the conflict.
Many times, all parties come to an agreement, thereby reducing future conflicts. Although we cannot definitively say that restorative justice was the cause of the suspension and expulsion reductions, the steep decline in suspensions and expulsions in the year the program was fully implemented at the school and the maintenance of these reductions in its second year provide strong supporting evidence that restorative justice did indeed reduce suspensions and expulsions.

Nevertheless, the insistence on keeping both in play as tools for maintaining a safe campus is clearly evident in a convenience sample of the current discipline policies of school districts of various sizes in the United States. The compilation gathers the discipline policy for 61 U.S. school districts: the 21 largest; 20 moderate-sized; and 20 small or rural public school districts. In addition to selecting policies that included provisions on “restorative justice,” the compilation took policies that made references to referrals to law enforcement, expulsion standards, suspension standards, and alternative school transfer standards.

**Conclusion**

In singling out actual school district policies for analysis, the most important conclusion that emerges is that school discipline reform reflects the politics of the jurisdiction as a whole. School discipline reform cannot be understood solely in terms of the restorative justice philosophy. Indeed, only a few school districts appear to embrace restorative justice in its classic form. Instead, the experiments over discipline policy will continue to be shaped by the nature of the campus incidents themselves and their impact on the community. School discipline policies will change in this wave of reform, but it will be an incremental change, in response to specific outcome failures attributable to the traditional decision-making model.

**Large School Districts**

Average District Size: 227,269  
Average District Budget: $3,081,787,000

- **Albuquerque Public Schools, NM** Discipline Policy: Strict. The Policy requires a mandatory expulsion for a student who possesses a firearm on school property. However, the Superintendent may modify the expulsion on a case by case basis. The Policy also establishes mandatory minimum actions that must be taken by the school for a wide range of student infractions.

- **Anne Arundel County School District, MD** Discipline Policy: Dual Elements. The County uses the Positive Behavior Approach to teach and reinforce student behavior using specifically timed interventions. These interventions fall into 3 Tiers (Tier A, B, and C) and address different kinds of behavior. However, VA State law requires a student to be expelled if the student brings certain weapons or controlled substances to school, unless special circumstances are found to stop the expulsion.

- **Austin Independent School District, TX** Discipline Policy: Strict. Students face mandatory expulsion and mandatory transfers to alternative schools for certain infractions. The Policy divides infractions into several categories.

- **Baltimore County School District, MD** Discipline Policy: Dual Elements, tending toward lenient. However, the policy requires mandatory reporting to law enforcement for serious misconduct.

- **Boston City School District, MA** Discipline Policy: Lenient. The Code of Conduct is intended to be instructive, not punitive and is based on the principles of positive and preventative discipline.

- **Charlotte Mecklenburg Schools, NC** Discipline Policy: Strict. The Policy divides infractions into five progressively severe Tiers and outlines punishments associated with each Tier.

- **Chicago Public Schools, IL** Discipline Policy: Dual Elements. The policy creates 6 groups of interventions and relies on restorative justice principles in order to support proper student behavior. Furthermore, calling the Police is very restricted. However, for illegal behavior, the school district must request an expulsion hearing.

- **Clark County, NV Public Schools** Discipline Policy: Strict. Zero tolerance policy for violent infractions. Administrators must select from a preapproved list of responses for all infractions.

- **Cypress-Fairbanks Independent School District, TX** Discipline Policy: Strict. Students face mandatory expulsion for a wide array of serious criminal offenses. The policy divides infractions into 5 Levels, with Level V infractions being the most serious requiring mandatory expulsion.

- **Dade County Public Schools, FL** Discipline Policy: Strict. Zero tolerance policy for violent infractions. Administrators must select from a preapproved list of responses for all infractions.

- **Fairfax County Public Schools, VA** Discipline Policy: Dual Elements. The County uses the Positive Behavior Approach to teach and reinforce student behavior using specifically timed interventions.
the student's age, previous conduct, intent, severity of the incident, and the student's special needs. Administrators are tasked to use the least severe action that is appropriate to address the behavior and restorative justice principles guide all decisions.\textsuperscript{51}

- Philadelphia City School District, PA - Discipline Policy: Dual Elements, tending toward strict. Some zero tolerance expulsion recommendations for certain infractions and some mandatory reporting to law enforcement for serious infractions.\textsuperscript{14}

- San Diego Unified School District, CA - Discipline Policy: Dual Elements. While the school aims to avoid suspension, expulsions, and police involvement if possible, there are mandatory expulsion offenses. The Policy divides infractions into 6 Levels, with Level 6 requiring mandatory expulsion.\textsuperscript{45}

**Medium School Districts**

- Average District Size: 16,891
- Average District Budget: $157,513,749

- Alhambra CA Unified School District: Dual Elements. While the school aims to avoid suspension, expulsions, there are mandatory expulsion offenses. The Policy closely reflects the language of the California Education Code.\textsuperscript{46}

- Ann Arbor MI Public Schools: Strict. The Policy provides for mandatory expulsion for certain offenses that are criminal in nature. The Policy divides responses into 5 Action Levels, with Action level 1 being the least severe and Action level 5 being the most severe.\textsuperscript{47}

- Ascension Parish, LA Public Schools: Strict. The Policy centers in disciplinary action and does not rely on restorative justice principles. Infractions are listed in the Policy at length, and punishments are described for these infractions. Some infractions require mandatory expulsion according to Louisiana state law.\textsuperscript{48}

- Akron City, OH Public Schools: Strict. Akron City Public Schools have a zero-tolerance policy for any violent student behavior. The policy outlines the various punishments that are open to school administrators for infractions.\textsuperscript{49}

- Auburn, WA School District: Strict. The Policy allows for immediate expulsions for first time infractions.\textsuperscript{50}

- Bend-LA, Administrative School District, Deschutes County, OR: Dual elements, tending toward lenient. Policy features a graduated set of age-appropriate responses to misconduct that with the goal of being "fair, nondiscriminatory and proportionate in relation to each student's individual conduct." Mandatory expulsion for weapons-related incidents.\textsuperscript{51}

- Bentonville, AR School District: Lenient. The District is focused on using appropriate and effective interventions in order to improve student behavior. The school district employs a graduated system of interventions (STEP Plan) to deal with inappropriate student behavior. Alcohol and drug offenses may not be referred to law enforcement.\textsuperscript{52}

- Brentwood Union Free School District, NY: Dual Elements, tending toward lenient. The school has a graduated system of punishments designed to address student infractions. No mandatory expulsions are required, though a mandatory 1-year suspension exists if a student is found guilty of bringing a firearm on school property or to a school event. Law enforcement referrals are optional at the discretion of school officials.\textsuperscript{53}

- Bryan, TX Independent School District: Dual Elements, tending toward strict. Disciplinary decision-making specifically references restorative discipline techniques, including a Tiered Discipline Guide. Zero tolerance policy for violent infractions. The Policy includes mandatory transfers and mandatory expulsions.\textsuperscript{54}

- Columbia, MO # 93 School District: Dual Elements, tending toward lenient. The policy uses a variation of restorative justice by placing substantial discretion in administrators. Predetermined sanctions apply to a modest list of infractions.\textsuperscript{55}

- Davenport, IA Community Schools: Strict. Utilizes a zero-tolerance policy for range of student behavior. The policy outlines the punishments for infractions imposed at the discretion of school officials. The Policy requires that students who possess firearms, or "look alike" firearms, on school property must be expelled.\textsuperscript{56}

- Falcon, CO School District 49: Lenient. The policy makes great use of compass and waypoint metaphors as a means of showing students and parents that it is meant to be a helpful guide used to create a positive environment. The Policy makes use of restorative discipline designed to minimize the time a student is away from normal class activities.\textsuperscript{57}

- Highline, WA School District: Dual Elements, tending toward lenient. The policy relies on traditional discipline techniques, such as suspensions and expulsions, but makes no mention of restorative justice. Suspensions are discouraged until other forms of corrective action have been utilized. First-time suspensions and expulsions are predetermined as to a short-list of "severe" infractions.\textsuperscript{58}

- Hilliard City, OH School District: Dual Elements, tending toward strict. The policy requires that a student be expelled for bringing a firearm on the school property, and the mandatory involvement of law enforcement for certain infractions. However, the Policy's overall focus is on using interventions other than suspension and expulsion to improve student behavior. While the Policy has a "zero tolerance" policy for infractions, the "zero tolerance" policy does not describe any mandatory punishments.\textsuperscript{59}

- Kansas City Public Schools, MO: Lenient. Although the policy recommends a 1-year suspension for a student bringing a weapon on campus, the Superintendent can alter the punishment on a case by case basis. The Policy does not require mandatory reporting to the Police. The policy also makes use of restorative justice interventions while students are suspended from class.\textsuperscript{60}

- Littleton, CO Public Schools: Dual Elements, tending toward lenient. The school policy does not include any mandatory expulsions and makes use of alternative intervention methods to eliminate or decrease the time a student will be suspended. All expulsions are discretionary. Law enforcement must be called whenever a student has brought a firearm to school. Law enforcement involvement for drug and alcohol incidents is discretionary.\textsuperscript{61}

- Rogers, AR School District: Dual Elements, tending toward lenient. The policy is designed to intervene in order to adjust student behavior, not punish. However, there are serious infractions that must be reported to law enforcement. Some infractions mandate predetermined consequences according to Arkansas state law.\textsuperscript{62}

- Stamford, CT Public Schools: Strict. The Policy mandates predetermined consequences, including expulsion for specified infractions. The policy also requires law enforcement involvement for any criminal infraction.\textsuperscript{63}

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Small School Districts
Average District Size: 3,312
Average District Budget: $34,786,485

• Abbeville County, SC School District: Strict. Moderate corporal punishment is allowed at the Principal's discretion. Three levels of sanctions: Level 1 disorderly conduct, Level 2 disruptive conduct, and Level 3 criminal conduct. Law enforcement must be notified regarding any criminal infractions.44

• Aberdeen, SD School District: Strict. The policy calls for a mandatory expulsion for students possessing firearms at school. Five levels of progressive sanctions. Law enforcement must be notified regarding any criminal infractions.64

• Achievement School District, Memphis, TN: Strict. The school has a zero-tolerance policy for a specified list of infractions.66

• Accomack County, VA Public Schools: Strict. The school has a zero-tolerance policy for a specified list of infractions.67

• Adair County, KY Schools: Strict. The Zero Tolerance Policy also allows the school to use corporal punishment, although the parents have the right to opt their children out of this part of the policy. Law enforcement must be notified regarding any criminal infractions.68

• Albion Central School District, Orleans County, NY: Lenient. The policy establishes a mandatory 1-year expulsion for any student who has been found guilty of bringing a firearm on school property. However, the Superintendent can adjust this policy on a case-by-case basis.89

• Coos Bay, OR School District #9: Dual Elements, tending toward lenient. Expelling students is reserved for only the most serious infractions or repeated violations of lesser infractions. Dangerous weapons and firework possession requires a mandatory one year expulsion. However, this punishment can be altered by the Superintendent on a case-by-case basis.70

• Delavan-Darien School District, Delavan, WI: Lenient. The policy takes a positive approach to disciplinary measures, taking into account the dignity of the student, the seriousness of the infraction and the need for positive motivation of students. Except where the behavior is extreme, a teacher should generally warn a student that continued misbehavior might lead to removal from class. Expulsion is appropriate only when it is satisfied that the interest of the school demands the student's expulsion and only when the student has committed a qualifying infraction or series of infractions.71

• East Lycoming, PA School District: Strict. The Zero-Tolerance Policy requires that students who possess, use, or sell a controlled substance/ alcohol or possess a weapon or look alike on school property will automatically be recommended for expulsion to the Board of Education.72

• Eufaula City, AL Schools: Strict. The Zero Tolerance Policy mandates predetermined consequences for specific offenses. It also requires that students who possess, use, or sell a controlled substance/ alcohol or possess a weapon or look alike on school property will automatically be recommended for expulsion to the Board of Education.73

• Garfield Heights, OH City Schools: Strict. The Zero Tolerance Policy states that, "No form of violent, disruptive, or inappropriate behavior, including excessive truancy, will be tolerated." The Policy includes permanent exclusion for a specified list of misconduct.74

• Hoboken, NJ Public School District: Lenient. The Policy does not require any mandatory expulsion and makes use restitution and restorative justice principles.75

• Jasper, SC School District: Strict. The Zero Tolerance Policy mandates predetermined consequences for specific offenses. It also requires that students who bring a firearm to school will automatically be recommended for expulsion to the Board of Education.76

• Kodiak Island Borough School District, AK: Dual Elements, tending toward lenient. The Policy does not include any mandatory expulsions and places great discretion in school officials to mete out the proper discipline. Educators must report criminal activity to law enforcement. Schools can take independent disciplinary action even if the charges against the student are dropped.77

• Milford, DE School District: Strict. The Zero-Tolerance Policy mandates predetermined consequences for specific offenses. Law Enforcement is called when a student commits a crime or is being disruptive and refuses to leave the classroom.78

• Perham-Dent Public School District, Perham, MN: Lenient. The discipline policy is based on an expectation for students to demonstrate "Above the Line Behavior." Above the Line Behavior helps school and classrooms promote a safe environment for the students and teachers. All staff members work together to ensure that students are taught the difference between appropriate and inappropriate behaviors. All behaviors are divided into three groups: "Above the Line," "Below the Line," and "the Bottom Line." All consequences must be related to the behavior, and the consequences must be respectful and reasonable.79

• Tweedsmere, MA Township Schools: Strict. The Zero-Tolerance Policy mandates predetermined consequences for specific offenses. It also requires that students who bring a firearm to school will automatically be expelled for one year.80

• Stepney County, GA School System: Lenient. The Policy does not call for mandatory expulsions or zero tolerance. Instead, Disciplinary actions are designed to teach students self-discipline and to help them substitute inappropriate behaviors with those that are consistent with the character traits from Georgia's Character Education Program.81

• Van Buren, MI School District: Strict. The Zero Tolerance Policy mandates predetermined consequences for specific offenses. The Policy applies on all school property, off school property, and between school terms. A student possessing a firearm or other dangerous weapon on school property will be expelled for at least 1 year.82

• Zachary, LA Community School District: Strict. The Zachary Community School Board takes a position of zero tolerance with regard to weapons, explosives, physical attacks or batteries, fighting and illegal narcotics, drugs, alcohol and controlled substances. Such conduct will not be tolerated by the School Board. These offenses require immediate recommendation for expulsion. The police must be notified for any criminal infractions and whenever students fight or otherwise commit violence.83

For references and footnotes, click here in our digital edition.

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