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## **Zero Tolerance, Zero Benefits: The Discipline Gap in American Public K- 12 Education**

Erin Russ



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In Maryland, a six-year old is suspended for shaping his breakfast pastry into what his teacher described as a gun. In Pennsylvania, a kindergarten student threatens another child with her Hello Kitty bubble blower and is suspended for several days.<sup>1</sup> In Florida, a 7<sup>th</sup>-grader taps his friend on the head during a bus ride home and is charged with assault and ordered to appear in court.<sup>2</sup> Zero-tolerance discipline policies explain the frequent and often illogical consequences that send students out of the classroom and sometimes into the courtroom. These policies prescribe the most severe consequence (suspension and/or expulsion) for a student's behavior, with recent data revealing an alarmingly disproportionate effect on minorities. Because zero tolerance discipline policies are inequitable for minority students within the public K-12 school system, it is time to re-examine their use.

The use of zero-tolerance discipline results in the disproportionate exclusion of minority students from the classroom. Although Black students represent approximately 15% of the general student population in the United States, they account for nearly 40% of all discipline referrals in the American public school system.<sup>3</sup> From 1970-2000, the number of times Black students were referred to a school administrator for disciplinary action increased by 120%, but increased only 64% for White students.<sup>4</sup> While this is indicative of greater reliance on zero-tolerance discipline, the disproportionate growth also indicates disparity among the treatment of different races. With increased focus on the achievement gap, which ranks minorities at the bottom of the gains scale, researchers, policymakers, and practitioners are paying closer attention to links between discipline and academic achievement.<sup>5</sup> Discipline policies in the public K-12 school system are the new battlefield for equity in education.

Despite efforts to end segregation and close the achievement gap in public education, there is still evidence of disproportionate treatment of different races through zero-tolerance discipline. During the 2009-2010 school year, there were 51.7 million students enrolled in grades K-12. Broken into subgroups, the composition was as follows (Figure 1)<sup>6</sup>:

- 27.7 million White (53.6%)
- 7.8 million Black (15.1%)
- 12.1 million Hispanic (23.4%)
- 2.1 million Asian (4.1%)

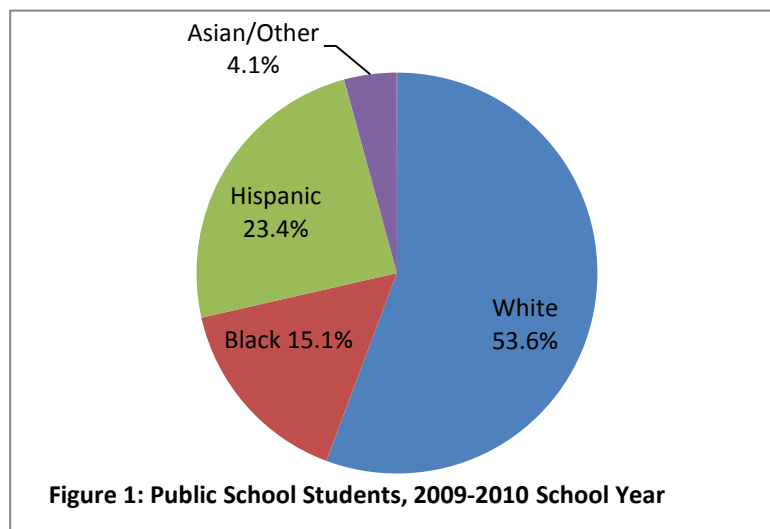
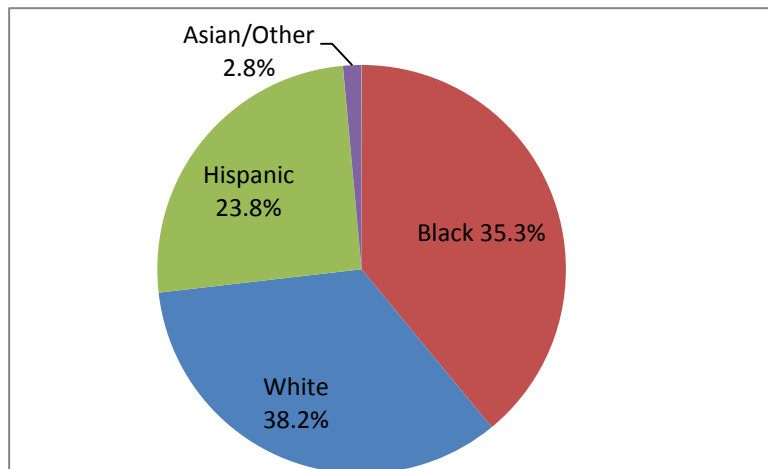
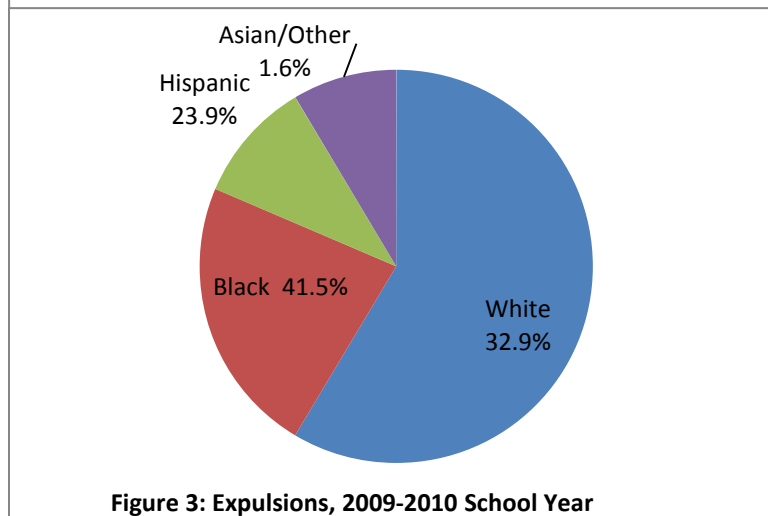


Figure 2 illustrates the frequency of zero-tolerance student discipline by subgroup.<sup>7</sup> During this school year an average of 1 in 5 Black students were suspended, compared to 1 in 20 White students. This indicates that Black students were more likely to experience an exclusionary form of discipline than White students.<sup>8</sup> Additional data concludes that Black students are more likely to face harsher and more long-term consequences than White

students; Black students spend more time serving out-of-school suspension than White students for the same offenses.<sup>9</sup>



**Figure 2: Out-of-School Suspensions, 2009-2010 School Year**



**Figure 3: Expulsions, 2009-2010 School Year**

While Black students constitute only 15% of the total student population, they account for 35% of out-of-school suspensions and 41% of expulsions.<sup>10</sup> These forms of zero-tolerance discipline exclude students from the classroom and from academic opportunity.

This paper addresses the context and effects of current zero-tolerance discipline policies, specifically as those policies relate to Black students, and identifies the mechanisms to prevent disproportionate treatment. Actions to eliminate the discipline gap that stems from

zero-tolerance discipline policies must address the culture of the classroom. Policies must foster better cultural understanding of students by teachers, while simultaneously limiting the use of zero-tolerance discipline. Federal, state, and local policymakers each have a responsibility to eliminate the discipline gap caused by zero-tolerance discipline policies.

### ***The Discipline Gap***

In order to understand the discipline gap it is important to define it generally, and understand how it occurs in various locations. This section will define the discipline gap, and present research conducted on disproportionate student discipline.

The “discipline gap” is defined as a disproportionate disciplinary response to one race compared to others. Specifically, Black males are shown to have higher out-of-school suspension and expulsion rates than other racial and ethnic subgroups. Among infractions leading to zero-tolerance consequences, such as suspension, “student misconduct” and “defiant behavior” are the most reported by teachers.<sup>11</sup>

Multiple studies indicate disproportionate disciplinary treatment of students of different races. Summary analysis of public school discipline data concludes that Black males are three and a half times more likely than White males to be suspended. Regional case studies on the subject of school discipline highlight key findings:

- In 2003, Chicago Public Schools (CPS) suspended over 21,000 students. 70% of those suspended were Black, even though Black students only made up 51% of the student population.<sup>12</sup>

- A 2010 North Carolina study revealed that Black 6<sup>th</sup> grade students were 79% more likely than White 6<sup>th</sup> grade students to be suspended, and the most common referral leading to suspension was for “student misconduct”, a non-criminal and highly subjective violation.<sup>13</sup>
- During the 2011-2012 school year, Florida arrested 13,789 public school students. 67% of those arrests were for misdemeanor offenses, and more than 50% of the total students arrested were Black.<sup>14</sup>

Recently the United States Department of Education’s Office of Civil Rights released the latest set of data collected for the purpose of tracking discipline.<sup>15</sup> It revealed the following trends:

- There is a relationship between secondary schools with high rates of suspension/expulsion and regional location. Specifically, more than 50% of schools with the highest suspension rates (greater than 85%) are located in the south.
- Schools and districts located in urban settings and with high populations of minority students (greater than 50% minority student population) are more likely than suburban or rural schools to show evidence of a discipline gap.
- In schools where minorities constitute less than 40% of the student population, there was no observable difference in the number and frequency of discipline referrals between races.

Research and data show disproportionate exclusion of students from the classroom. Minorities, especially Black males, are more likely to be removed from the classroom and school as punishment. Many of these consequences are the result of reports from teachers that list *student misconduct* as the primary offense.<sup>16</sup>

### ***Policy Landscape***

Zero-tolerance discipline includes in-school suspension, out-of-school suspension, and expulsion. Discipline policies are interpreted differently at the federal, state, and local levels. While the federal government gives general policy guidance, states and districts may determine the details and severity of disciplinary consequences.<sup>17</sup> This section outlines the federal context for student discipline policies, and presents examples of the variance of state and local discipline policies.

#### ***The 1994 Gun Free Schools Act***

A key factor contributing to current zero-tolerance discipline policies and the subsequent discipline gap is the 1994 Gun Free Schools Act, aimed at reducing and eliminating the number of firearms brought to school.<sup>18</sup> States, districts, and schools added security officers and metal detectors to increase detection and prevent firearms from being brought to school grounds in order to receive federal education funding. States were also encouraged to implement their own legislation that prescribed expulsion for possessing a weapon on school grounds. Eventually, discipline policies for all offenses began to use punitive and exclusionary measures, which removed students from the classroom with little follow-up. This included a zero-tolerance approach to discipline and increasingly stronger links between school discipline

and juvenile detention, in both punishments and a perceived police presence on school campuses.

### *State and Local Interpretation*

States and local districts use zero-tolerance discipline, like suspension and expulsion, for a variety of non-violent offenses. While the purpose of the 1994 Gun Free Schools Act was to reduce and prevent instances of violence on school campuses, current interpretations of discipline policies punish student's behavior and attitudes. In Maryland, over 30,000 suspensions were issued because of non-violent offenses like *insubordination, class disturbance, class disruption, and refusal to obey school policies*.<sup>19</sup> Strikingly, Black students accounted for 57% of those suspensions.<sup>20</sup> In Mobile, Alabama, and Hallandale Beach, Florida, students and parents have taken legal action for out-of-school suspensions stemming from non-violent offenses.<sup>21 22</sup> These are only a few examples that represent the interpretation and use of zero-tolerance policies to exclude students from the classroom, resulting in disproportionate punishment of minorities.

### *School Partnerships with Police Departments*

The goal of zero-tolerance discipline policies is to protect learning time by maintaining a safe school environment. As the name indicates, these policies offer few to no second chances. With greater reliance on consequences like suspension and expulsion, school systems began partnering with local police departments for on-campus support. From 1997 to 2002, the number of police officers on school campuses increased from 9,446 to 14,337.<sup>23</sup> A result of the increased police presence on school campuses is the escalation of school discipline referrals to

legal infractions and potential juvenile detention, creating a “school-to-prison pipeline.” The effect of increased policing within schools was seen within years of zero-tolerance policies being implemented. In 2003, Black males under the age of 18 accounted for only 14% of the total under-18 population, but made up 45% of the population in juvenile detention centers.<sup>24</sup> Furthermore, caseloads in all major offense categories increased in the years after zero-tolerance policies were implemented, from 1990 – 1999.<sup>25</sup> This shows the disproportionate effects of zero-tolerance school discipline in other policy areas, such as juvenile justice.

Zero-tolerance discipline policies were originally intended to promote safety and improve academic achievement by protecting valuable learning time. In reality, these policies are shown to have no positive academic or behavioral impact on students, and data increasingly links these policies to disproportionate treatment of minorities. Seventy five percent of schools report utilizing zero-tolerance policies for both major and minor offenses, ranging from weapons possession to attendance violations.<sup>26</sup> This range of interpretations means that students can be suspended for bringing a gun to school or for missing too many days of class. Supporters of zero-tolerance policies argue that they serve as deterrents, prevent students from committing offenses, and protect learning time in the classroom. Critics argue that these policies are inequitable because they primarily punish students from low-income, minority groups; the punishment rarely fits the offense; and their exclusionary nature eventually leads to a widening of the achievement gap.

### ***Analysis***

Black students are not committing disciplinary offenses more frequently or more severely than White students; however, Black students are being suspended and expelled more frequently and more severely than White students. Intended to protect the academic environment, zero tolerance discipline policies are not responsive to the cultural diversity that exists within the public school system.<sup>27</sup> Current local interpretations of zero-tolerance discipline policies results in the disproportionate exclusion of Black students. Rather than reserving suspensions and expulsions for the most severe threats, policymakers and practitioners rely on those consequences to punish minor, non-violent student behavior without addressing the cause of that behavior. Furthermore, the culture of one student's community and personal history does not always translate to the teacher, classroom, and school. The discipline gap can be seen as a gap in cultural understanding between teacher and student. Cultural and social misunderstandings between teachers and students, schools and students, and policymakers and students are the cause of racial disparities connected to zero tolerance discipline policies.

Research increasingly indicates that exclusionary discipline policies like classroom removal, suspension, and expulsion provide no behavioral or academic benefits to the student.<sup>28</sup> Current discipline policies encourage teachers to act as authoritative figures through a harsh, punitive discipline code.<sup>29</sup> Rather than facilitate opportunities for understanding, current policies demand penalty.

## **Recommendations**

School discipline policies should not rely on classroom exclusion as a form of punishment. Educators and policymakers must use the data surrounding the discipline gap to ask why Black students are excluded from the classroom at disproportionate rates. New models to improve the discipline gap must focus on facilitating better cultural understanding between teachers and students. Policymakers at the federal, state and local levels should limit the use of zero-tolerance policies, promote more positive behavior interventions, and provide better teacher training. There are several mechanisms for achieving these goals.

#### *Reauthorization of the Elementary and Secondary Education Act*

As federal lawmakers consider the reauthorization of the Elementary and Secondary Education Act (ESEA), an emphasis on student discipline must be included. Through reauthorization, the federal government can incentivize state-level policies that reduce school reliance on zero-tolerance discipline. By requiring schools, districts, and states to report how often they assign exclusionary discipline, lawmakers can hold states accountable for actions that exclude students from the learning environment. ESEA reauthorization should also reward states for implementing more positive approaches to student discipline, like school-based mediation and Positive Behavior Intervention Supports (PBIS).

#### *Revise Zero Tolerance Discipline Policies*

Since the passage of the 1994 Gun Free Schools Act, state legislatures have mandated zero-tolerance discipline policies in schools in an effort to improve security. Discipline policies that remove truly violent and threatening students from schools are still needed to maintain student safety. However, some states have recognized the overuse and harmful effects of zero-

tolerance policies on all students, especially minorities, and have repealed them. In 2012 the Maryland state legislature began reviewing the state's zero tolerance discipline policies, and recently the Florida state legislature recommended that local school districts replace zero-tolerance discipline with "softer," more flexible, and well-researched policies. Models like PBIS and restorative justice are intended to eliminate disruptive classroom behavior by addressing and treating the causes of student misconduct. To ensure equity of opportunity for students in the K-12 public school system, all states should follow the examples of Maryland and Florida by revising and limiting the use of zero tolerance discipline in public schools.

#### *Codify Effective Preventative Efforts*

Current discipline policy is largely focused on punitive consequences after an offense has occurred. In order to promote better behavior, socialization, and cultural understanding, schools, districts, and policymakers should encourage preventative strategies that encourage positive behavior through policymaking. Programs like PBIS are currently being implemented across several states and districts with great success. PBIS seeks to define and reward positive behavior through school-wide praise and incentives, while addressing the causes of negative behavior. Rooted in psychological theory, this approach is supported by current Federal programs through the Department of Education and the Department of Health and Human Services. These efforts should be formalized through Federal grants from the Department of Education and local policies. Shifting the focus from punitive mandates to preventative ones will address the immediate school-based concerns as well as other larger social inputs that affect student behavior.

### *Re-think the Role of Police Officers and Guidance Counselors within Schools*

State and local policymakers must invest in alternative measures of discipline that encourage mediation and rehabilitation. To accomplish this goal, schools must appropriately utilize their personnel. A 2012 College Board survey found that 70% of secondary school guidance counselors felt they were underutilized in their jobs. The same survey revealed that 60% of school counselors reported performing administrative tasks and test administration as a major part of their daily job.<sup>30</sup> Schools and communities should redirect funding so that guidance counselors are provided the opportunity to perform the jobs they are trained to do; supporting students academically, socially, and emotionally.

Further, police should be viewed as partners, not punishers. Schools and local police departments should partner to offer more preventative programs to at-risk youth. The Denver, Colorado School System recently announced plans to refocus the efforts of school-based police officers. Rather than using police officers to punish student behavior, the school system will now rely on officers to mediate conflicts involving students before they escalate to punishable offenses. Partnering with a local youth organization and aimed at reducing the number of suspensions and expulsions, the agreement between the school system and police force redefines the role of resource officers to offer more mediation and preventative services.<sup>31</sup>

### ***Restructure Teacher Training***

Efforts to improve the discipline gap must focus on better teacher training and understanding of student culture. With so much focus on ensuring students understand the school environment, there are few policies and strategies to educate faculty about students.

Research shows a relationship between high rates of minority referrals and the often subjective interpretation of student behavior that leads a teacher to make the referral decision. Discipline referrals occur because of student-teacher relationships and the conditions which facilitate those relationships.

Recent local efforts to address the cultural competency of teachers and staff are taught through professional development programs. Public school teachers in Berkley, California attend “Cultural Competency Academies,” and in Guilford County, North Carolina, teachers receive cultural training through their professional development courses. Each of these programs is intended to reduce exclusionary discipline by improving teacher-student relationships. However, these efforts are limited to localities where funding exists for the programs. A larger effort is needed to support similar programs and increase teacher understanding of student culture.

The ESEA solidified curriculum standards and educator accountability are the staples of public education. To implement these policies, public schools need to recruit the best-trained educators, measured by undergraduate grade point average, course completion, and Praxis scores. Accrediting agencies for teacher education programs take great care in ensuring that schools train their teachers in curriculum, pedagogy, and human development, but teachers rarely have the time or opportunity to acquire cultural competency training. School systems and teacher training programs must refocus professional development efforts so that teachers are prepared to meet the social, emotional, and cultural, in addition to academic, needs of their students. The National Council for Accreditation of Teacher Education and the newly formed

Council for the Accreditation of Education Programs (CAEP) can take the lead in this effort by explicitly including an accrediting standard that promotes classroom mediation training and alternative discipline for diverse groups of students. Additionally, training programs for teachers and guidance counselors should be redesigned to partner with local behavioral health providers.

### *Increase Data Collection and Research*

Efforts to address the discipline gap are limited by lack of available data. The U.S. Department of Education's Office of Civil Rights should continue soliciting data annually from states and districts and monitoring the progress of efforts made to improve school discipline outcomes. States can advocate for better discipline practices by tracking student discipline through the state-level education agency. Generating research about current discipline practices and more effective policies is a role that the research community must lead.

### *Clarify Language*

"Student misconduct" is the most common referral offense; however, the lack of clearly defined behavior that leads to this offense is problematic. It is incumbent upon schools, districts, and boards of education to clearly define the expectations of student behavior so that there is no question about what constitutes "misconduct." Because "student misconduct" is the most prevalent offense reported by teachers, districts and schools should adopt standard language that defines "student misconduct." This will help students understand what is expected of them, potentially reducing the instances of improper behavior, and give teachers a

clear measure of when “Student misconduct” is an appropriate label. Consistently defining offensive student behavior is essential to reduce the discipline gap.

### ***Conclusion***

As the nation continues to focus educational efforts on academic achievement, policymakers cannot ignore the links between discipline and academic performance. Excluding students from the classroom through suspension and expulsion, while simultaneously expecting superior performance results is not an appropriate model for achievement. By reframing the conversation so that discipline policy is at the forefront, stakeholders have the opportunity to address the inequities of zero tolerance policies as well as the indicators leading to a student’s academic success.

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<sup>30</sup> College Board, "2012 National Survey of School Counselors"

<sup>31</sup> Shah, Nirvah. "With New Effort, Denver Tackles School-to-Prison Pipeline", *Education Week*, (February 19, 2013): accessed [http://blogs.edweek.org/edweek/rulesforengagement/2013/02/with\\_new\\_effort\\_denver\\_tackles\\_school\\_to\\_prison\\_pipeline.html](http://blogs.edweek.org/edweek/rulesforengagement/2013/02/with_new_effort_denver_tackles_school_to_prison_pipeline.html).