



A MODEL CODE on Education and Dignity

CHAPTER 3: DIGNITY

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Background

In order to ensure that every child receives a high-quality education, schools must create healthy, respectful climates for learning where the fundamental dignity of students and all members of the school community is protected and nurtured. A school climate that protects human dignity exists when students feel socially, emotionally and physically safe, when there is mutual respect between teachers, students, parents or guardians, and when students' self-expression and self-esteem are supported.

Yet in schools across the United States, degrading school environments and exclusionary discipline practices are undermining teaching and learning, and are pushing young people out of school. In the 2015–2016 school year, roughly 2.7 million students across the country were suspended and over 120,000 expelled.⁸⁶ Rather than improve student behavior, these punitive practices increase the likelihood that students will fall behind academically and drop out, and contribute to an unhealthy school atmosphere affecting students and teachers alike. They also reflect a growing criminal justice approach to our schools, utilizing harsh punishment and exclusion as the main tools to control behavior, rather than focusing on meeting students' needs and teaching them how to address conflict and hold each other accountable in healthy ways.

Part of creating positive school climates is preventing schools from too hastily removing students from school without considering the full effect of such action. Exclusionary discipline practices like suspension and expulsion result in a loss of valuable learning time and do not typically change the behavior or deter it from occurring again. In rare cases when exclusion must be an option, schools need to ensure that students and their parents or guardians have a right to fully participate in a fair process for determining appropriate consequences.

To achieve this, states, districts and schools must adopt preventive and positive approaches to discipline that support students in building social and behavioral skills, resolving conflicts in a non-violent manner, and creating productive learning environments. Research has shown that positive approaches to discipline can improve student engagement, academic performance and teacher satisfaction, while also reducing violence and disciplinary incidents in schools.⁸⁷ Across the country, educators and communities are advocating for school-wide models for discipline such as Restorative Justice Practices and School-Wide Positive Behavior Interventions and Supports (SWPBIS), which give teachers and students the tools to build a positive school community and to prevent and respond to conflict in ways that address students' social, emotional and academic needs. When implemented, these interventions can reduce suspensions by up to 50 percent, improve school climate, increase teacher effectiveness and support better educational outcomes for all students.⁸⁸ They also treat students with dignity and respect, implicitly and explicitly communicating that the students can be trusted to take accountability for their actions without threats of harsh punishment and exclusion.

In order for positive approaches like Restorative Justice Practices and SWPBIS to be successful, states, districts and schools must also minimize and work towards removing all police personnel from schools and eliminating the use of metal detectors and other criminalizing tactics.⁸⁹ The presence of police or other law enforcement personnel increases anxiety and contributes greatly to the criminalization of low-income youth,⁹⁰ youth of color, youth with disabilities and

⁸⁶ Office for Civil Rights, Dept. Of Educ., Civil Rights Data Collection 2015–2016. Available at: <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.

⁸⁷ See generally Russell Skiba Et Al., Are Zero Tolerance Policies Effective in The Schools? An Evidentiary Review and Recommendations (2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf>.

⁸⁸ Instead of Suspension: Alternative Strategies for Effective School Discipline. Available at: https://law.duke.edu/childedlaw/schooldiscipline/downloads/instead_of_suspension.pdf.

⁸⁹ See generally Dignity In Schs. Campaign–N.Y., Platform for Positive School Discipline In New York City Schools (2011), available at http://www.nesri.org/sites/default/files/DSC-NY_Discipline_Platform.pdf.

⁹⁰ See generally Justice Policy Inst., Education Under Arrest: The Case Against Police in Schools (2011), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf; DIGNITY IN SCHS. CAMPAIGN–L.A., Youth Justice Coal & Cmty. Rights Campaign. Solutions for Los Angeles School Police Department: A Blueprint for School Police Reform (2010), available at <http://www.thestrategycenter.org/sites/www.thestrategycenter.org/files/Solutions%20for%20LASPD%20-%202006%20-%20cover.pdf>.

LGBTQ+ youth. Disproportionate rates of arrest and referrals to the juvenile courts and detention system⁹¹ in turn lead to push out and incarceration later in life.⁹² This is how the school-to-prison pipeline operates, feeding mass incarceration in the U.S and denying millions of people the opportunity to reach their full potential.

Change is also essential in the juvenile and criminal justice systems to ensure students' human right to education. Criminal penalties for status offenses, including truancy, should be eliminated and juvenile detention, jails and all "lock-ups" must provide educational services that meet the same standards as regular schools. Juvenile and criminal justice facilities, as well as school systems, must also ensure smooth transitions for students from lock-ups back to schools.

A Guide to Chapter 3

Chapter 3 on Dignity is the most comprehensive and detailed chapter of the Model Code. It is focused on transforming our school system's approach to discipline in order to end the exclusion and criminalization of youth and create safe and supportive learning environments. The chapter is divided into seven different sections.

Section 3.1 on Key Elements of School Climate and Positive Discipline outlines the key elements necessary for any discipline policy to be effective and supportive, including creating a positive school climate and an approach to discipline that responds to misbehavior in constructive ways. It also calls for the elimination of zero-tolerance policies, culturally affirming social and emotional learning (SEL), building Trauma-Sensitive schools and strict limits on the use of exclusion in the form of suspension or expulsion.

Section 3.2 on Guidelines for Suspensions, Expulsions and Removals provides additional detailed policies for when and how to use suspensions and expulsions as a last resort, including placing limits on the number of days students can be suspended or expelled, describing the factors schools must consider before excluding a student, prohibiting exclusion for specific behaviors, and providing for quality educational services during the period of exclusion. The section also outlines standards for guaranteeing full due process rights for students facing suspension or expulsion, including the right to an exclusion conference for students facing suspension and the right to a full hearing with appointed counsel at public expense for expulsions.

Section 3.3 on Law Enforcement and Criminalization in School Environments calls on states, districts and schools to remove all law enforcement personnel stationed in schools on a regular basis, including School Resource Officers (SROs), police, security guards, probation officers and other law enforcement personnel. It provides model policies to minimize the role of law enforcement that are called into schools, prohibiting involvement of law enforcement in school disciplinary matters as defined in the section. It also outlines guidelines for the training and oversight of any law enforcement personnel that come into contact with schools.

Section 3.4 on Truancy Prevention and Dismantling Status Offense Laws directs schools to respond to truancy and improve attendance rates through prevention and intervention strategies, not through criminal penalties, tickets or fines. It calls on school systems and juvenile and criminal justice systems to end the criminalization of students for all status offenses, including for truancy.

Section 3.5 on Alternative Schools sets out guidelines for voluntary transfer or placement in alternative schools for students who would benefit from an alternate learning environment. It prohibits involuntary placement for academic reasons, and places limits on placement for disciplinary reasons. It requires that alternative schools meet the same standards as regular educational environments, work with students to conduct progress reviews and ensure that students have the right to return to their original school or a new school placement.

Section 3.6 on Education for System-Involved Youth describes students' right to attend school during periods of detention or incarceration and their right to return immediately to regular school with the necessary transition plans, critical supports and transfer of school credits after the period of detention or incarceration.

Section 3.7 includes Model Policies on Specific Topics, each one focused on prevention and intervention rather than punishment and criminalization. The Model Policies are on: School-wide Positive Behavior Interventions and Supports (SWPBIS), Restorative Justice Practices, Fighting, Dress Codes, Bullying Behavior, Drugs and Alcohol and an Intervention Support Team Approach for "Threat Assessments."

⁹¹ See generally Justice Policy Inst., *Education Under Arrest: The Case Against Police in Schools* (2011), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf; DIGNITY IN SCHS. CAMPAIGN-L.A., *Youth Justice Coal & Cmty. Rights Campaign, Solutions for Los Angeles School Police Department: A Blueprint for School Police Reform* (2010), available at <http://www.thestrategycenter.org/sites/www.thestrategycenter.org/files/Solutions%20for%20LASPD%20-%2006%20-%20cover.pdf>.

⁹² See generally *Education Under Arrest*, supra note 234.