

A BETTER WAY



Empowering Youth to Build Character and Community in our Schools

JOAN P. VESTRAND

We know today that the single greatest predictor of youth incarceration is a history of school discipline. It's a problem that has come to be known as the school-to-prison pipeline, and the impact is worse for urban schools and minorities.¹ Blame for this phenomenon may be squarely placed on the Zero Tolerance school-discipline policies that sprung from the Reagan-era mentality of "just say no." These "no exception" policies commanded harsh discipline for all sorts of perceived school misconduct. Although enacted with good intentions, this initiative backfired in significant way: it bred insidiously an outcome quite outside the goal—a school-to prison pathway that led to a schoolhouse-to-jailhouse crisis across the nation. In fact, the United States leads the world in the percentage of citizens behind bars.

Under Zero Tolerance, what was once considered "normal" youth behavior and misbehavior became justification to criminalize conduct and exclude noncompliant students from the school community. Such automatic harsh consequences, irrespective of the severity of the misbehavior or the circumstances involved, proved disastrous. Unfortunately, in the zeal to adopt these policies, there was no consideration of their potential negative impact on the welfare of the offending student or on the culture within our schools.

Add to this that Zero Tolerance proved without benefit. No evidence emerged that such policies made schools safer or improved student behavior. In fact, according to a 2008 Task Force Report by the American Psychological Association, Zero Tolerance wholly failed to achieve the intended goal of creating an effective school discipline system. To the contrary, it made things worse, a result supported by the science. Research repeatedly demonstrates that suspension, expulsion, and other punitive consequences are not the solution to disruptive or even dangerous student behaviors. The fact is that dangerous students do not become less dangerous when excluded from appropriate school settings. Instead, exclude and the safety risk escalates.² Youth who are not in school are at exceedingly high risk of delinquency and crime, which increases the danger to everyone.³

And then there is the fiscal hit we take as a nation for every drop-out. Each year's class of dropouts drains the country of more than \$200 billion annually in lost earnings and taxes. Billions more are spent on welfare, health care and other social services that flow from the problem. Prison costs are an example. In Michigan, for the year 2013, we spent approximately \$40,000 per prisoner annually, compared to about \$8,000 per student.⁴ Clearly, it is much less costly and better for society to keep a student in school—to find a better way to address behavioral issues.

In part due to mounting societal pressure against harsh school discipline laws, Michigan's Board of Education is seeing the light. In 2012, it asked districts to take a second look at their Zero Tolerance mandates urging the abandonment of policies that exclude students from the educational process.⁵ Although the Department's directive is advisory only, numerous districts have begun to replace punitive practices with restorative ones. Schools are shifting toward programs and policies that meet the developmental needs of youth. Punishment is giving way to practices that allow students to problem-solve, dialogue, and build positive relationships. We are starting to realize that to raise healthy and productive members of society we must provide meaningful and authentic opportunities for youth to be active participants in making decisions and resolving conflict.



Schools that are getting it are experiencing amazing results. Restorative justice works because these programs “are centered on respect, responsibility, relationship-building, and relationship-repairing” with a focus on “mediation and agreement rather than punishment.”⁶ With a restorative justice system in place, the misbehaving student receives the chance to come forward and make things right. Instead of a culture of punishment and mistrust, it’s one of accountability and responsibility—and training youth to be correct in their behavior.

What we now know is that positive discipline produces positive behavior. Schools that embrace restorative justice initiatives have seen suspensions decrease by 50 percent or more, and disrespect for teachers has declined. Students are more focused on their studies and attend classes in greater percentage. The suspensions and expulsions which often led students to fall behind, drop-out, and enter the juvenile justice system, have subsided, putting a halt to the school-to-prison pipeline. As one educator put it: the whole thing boils down to a shift in perspective. It’s seeing the truth that “My student is not giving me a hard time—my student is having a hard time.”⁷ Marvin Berkowitz, the director for the National Center for Character Education preaches to teachers all over the country that “we can’t teach through a ‘rat’.” Personal turmoil, problems at home, lack of support, abuse, and neglect—these rats come right into the school with the child. Berkowitz says that to get anywhere with a youth, we must first address the rats. To ignore them is solid barrier to success. For change to take place, root issues must be exposed and dealt with.⁸

At WMU Cooley Law School, we are working to do just this. A few years back, we designed a high school Peacemaking Court that has our students supervising high school students in resolving peer conflict and other misbehavior in a positive way—one which avoids punishment. The project, in place at Avondale High School in north Oakland County, is a partnership with our Auburn Hills campus. In the program, adults stand down. Instead, high school students (the peacemakers) trained and supervised by law students, work with their peer to correct behavior and repair any harm. Using a circle process and a talking piece, the students work to build trust with their peer and to create a safe place for honest dialogue. In other words, they give gentle nudge toward introspection and amends.

What typically begins as an intervention involving a closed-off, un-invested classmate, peer-to-peer transforms into something very special. Typically, by mid-proceeding, comes recognition by the classmate that the care and support is genuine and the classmate starts to open up. Demeanor changes and the classmate is now leaning into the circle and making eye contact. Responses grow considered and thoughtful. There begins the hint of a smile and more smiles, and laughter often erupts as bonds develop. The armor loosens and the guard comes down.

With this transformation, the real work—the heart work—can begin. Tender inquiries probe for root issues and solutions, including what needs to happen to repair any harm. The kids who spin this gold? Again, their one very special qualification is their co-peer status and with it their ability to truly identify with their classmate. They, too, are works in progress—far from perfect with many mistakes of their own—and a personal character still very much under development. Often they have experienced similar problems. They can relate and can empathize. By the same token, they can get very real very quickly and see past the malarkey. They have an uncanny knack for holding their peer accountable and for helping their classmate

realize the errors in their ways and the harm not just to others, but themselves. It is peer-generated tough love at its finest. The cheering and support upon pivotal insights, and recognition, and oftentimes tough reality checks, come from the heart. And, from the smile on the classmate’s face, they are received in the same way. In these moments, hearts are expanding all around, in benefit of everyone. It’s the power of love—the true antithesis to exclusion and best remedy for broken soul.

Again, with peer peacemaking, what begins at opening ceremony as dubiousness and mistrust gives way to a kind of evident joy that only comes from being basked in the care and support of others. For every case we’ve held, the tide has turned for the classmate involved. Troubling history of suspensions and in-school detentions for defiant and insubordinate behavior, have resolved themselves into new friendships with the peacemakers, and better choices—ones that are kinder to the self and more respectful of others.

Perhaps best of all, the program is designed such that every student that is the subject of peacemaking goes on to become a peacemaker, paying it forward. One such student, who came into the peacemaking process with a terrible attitude and two-year record of discipline to show for it, and who was referred because the school had exhausted all other options, was so changed by the experience that he advocates peacemaking as first stop for every struggling student. He feels that had this happened for him, things would have been different much sooner. The high school is listening. Impressed with the results of the program, they would like to have peacemaking available every day of the week and we’ll work hard to make that happen.

It’s been a terrific community partnership with what are actually unsurprising but extremely gratifying results for all concerned. It’s a win-win for everyone involved. The law students are learning to question the effectiveness of a punishment-based system in favor of a more humane approach—one that actually seeks to change behavior and repair relationships. This is far cry from the law’s traditional focus on the offense only, disregarding any emotional factors involved.

The high school peacemakers are learning the same thing—that dispute resolution, in order to be effective, must be positive. Equally significant, in recognition that the role of peacemaker is an important one, which holds them out as an example, they have stepped up their own character accordingly. They have strived to become what they stand for. Their personal growth is also product of the trust placed in them by the school. After all, this program gives them a stake in their own school community—which in the past has been a rare, if not unheard of, opportunity. It empowers them with a voice and a role in what happens with their peers. They feel important and valued to have this responsibility—all very good and very necessary stuff for best school culture. There is a third aspect to their growth—one that at first blush might come as surprise, but not when we think it through: the peacemakers are helped by their classmate. It’s like the bumper sticker about rescue dogs that wisely poses the question: “Who rescued whom?” Take the time to help someone else—and your own heart expands. Look what it did for the Grinch: his heart grew three sizes the day he finally put others first. A program like this helps to build empathy and respect, extremely important traits for assurance of a successful democracy in a country that embraces capitalism.

For the classmate who is the subject of peacemaking, the impact of this program is first seen on their face and then in their change. Another benefit, though, is that upon successful completion of any amends, no record is kept of the incident. This is how true second

chances look. No baggage, no stigma, and no scarlet letter; just reacceptance and a fresh start. Equally beneficial, the classmate becomes part of the solution—serving as a peacemaker in future cases.

Our program has garnered both local and national attention and accolades. It received the 2012 Eastern Leaders Group Leadership Award and was the subject of lectures and instruction at the St. Louis National Center for Character and Citizenship as part of their Carnegie Project for Social Justice. In addition, by request, we presented on the project at Native American Peacemaking conferences held in northern Michigan, sharing the information so that others may replicate the work. Recently, the Manistee and Benzie County, Mich., schools requested copies of the materials, and next January, we will be presenting on the project at a national conference of special education administrators in California. Through initiatives like these, we can turn the tide on the school-to-prison pathway and foster the development of empathy, personal responsibility, and other important character traits in our youth for a better nation and community. ☺



Joan Vestrand is the associate dean of Western Michigan University-Cooley Law School's Auburn Hills campus and teaches personal and professional responsibility. Dean Vestrand formerly served as the associate dean of the school's Ann Arbor campus and prior to that was the Assistant Dean of the Auburn Hills location. She is also the immediate past chair of the law school's Department of Professional Responsibility. Upon joining the

law school in 2002, Dean Vestrand helped to revamp the school's legal ethics curriculum and assisted in the development and implementation of numerous professionalism initiatives and programs. In 2006, the law school was awarded the American Bar Association's E. Smythe

Gambrell Professionalism Award for its outstanding professionalism programs. Reprinted with the permission of the Oakland County Bar Association. Original Printing: LACHES, September 2016. © 2017 Joan Vestrand. All rights reserved.

Endnotes

¹Andrew Keller, *Zero-tolerance policy creating 'school to prison' pipeline*, (WNEM Meredith Broadcast Corporation) Nov 24, 2015.

²Bear, Quinn, & Burkholder, *Interim Alternative Educational Settings for Children with Disabilities*, Bethesda, MD: National Association of School Psychologists; National Association of School Psychologists—www.nasponline.org (2001) (see fact sheets on Positive Behavior Supports; Zero Tolerance; IDEA and Discipline); Safe and Responsive Schools Project—www.indiana.edu/~safeschl (accessed May 25, 2016), Sugai & Horner, *School climate and discipline: Going to scale* (The National Summit on the Shared Implementation of IDEA, Washington, D.C., June 2001).

³See note 2.

⁴*Youths march against Detroit schools' suspension policies; call it a 'school to prison pipeline,'* www.mlive.com/news/detroit/index.ssf/2013/detroit_youths_protest_strict.html (accessed May 25, 2016).

⁵See note 4.

⁶Dalporto, *Restorative Justice: A Different Approach to Discipline*, www.weareteachers.com/blogs/post/2015/04/03/restorative-justice-a-different-approach-to-discipline (accessed May 25, 2016).

⁷*More Teachers Adopting Restorative Discipline Practices*—NEA Today (Sept 8, 2014).

⁸Berkowitz, *You Can't Teach Through a Rat and Other Epiphanies for Educators*, Character Development Group, Inc. (2012).

THANK YOU TO OUR CONFERENCE SPONSORS

PLATINUM



GOLD



Federal Bar Association
Federal Litigation Section



Federal Bar Association
Intellectual Property Section

MEDIA SPONSORS

