

**Testimony at Hearing on Proposed Revisions to NYC Discipline Code**

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Good evening. My name is Liz Sullivan. I am the Human Right to Education Program Director at the National Economic and Social Rights Initiative (NESRI). NESRI works with parent, youth and teacher organizations in New York City and around the country to promote positive school climates and discipline policies.

For discipline policies to be effective and to protect students' human right to education, discipline should not be approached as a punitive tool, but instead as a part of the educational process aimed at teaching social skills and supporting students' needs. To achieve this, a discipline code should promote 4 fundamental human rights principles:

- 1) The full academic, social and emotional development of all students,
- 2) Dignity and respect in the school environment,
- 3) Freedom from discrimination, and
- 4) The right to participation of students, parents and educators.

These fundamental principles are protected by universally recognized human rights standards found in documents like the Universal Declaration on the Rights of the Child and the Convention on the Rights of the Child. These principles are also consistent with research from the American Psychological Association and others which documents that punitive, zero-tolerance policies do not work, and that preventive and supportive policies are most effective.

In order to fulfill these principles, the NYC discipline code should minimize the use of suspensions and other exclusionary practices which punish and deny access to education, and mandate more positive, evidence-based practices, like restorative justice and Positive Behavior Supports, that work to address the causes of conflict and promote positive behavior.

Unfortunately, some of the current proposed changes to the NYC Code move in the wrong direction, expanding the behaviors for which students will be automatically suspended to include lesser infractions that are open to broad interpretation. These changes should be reversed.

For example:

- Level 4 Infraction B44 has been expanded from "Taking" to "Taking or attempting to take" property belonging to another without authorization
- Level 5 Infraction B55 has been expanded from "Participating in" to "Planning, instigating or participating in" an incident of group violence

To begin moving in the right direction, the Code should include language which requires schools to reduce the use of exclusionary practices and to use alternatives to suspension whenever possible.

For example, the Guidance Interventions listed in the Discipline Code are listed as a “Range of Possible Guidance Interventions to Be Used *in Addition to* Disciplinary Responses, as Appropriate.” Instead they should be used as *the first response* to behavior infractions, and/or *as alternatives to suspensions*, whenever possible.

This is consistent with changes to discipline codes in other major school districts, including Los Angeles and Chicago, which mandate and/or encourage the use of alternatives to suspension. In Chicago for example, in 2007-2008, the restorative peer jury program, similar to fairness committees being used in several NYC schools, helped students avoid 1,000 days of suspension by keeping them in schools while addressing behavioral issues through restorative strategies. Restorative circles and fairness committees should be added to the list of Guidance Interventions in the NYC code and should be used as alternatives to suspensions.

In order for schools to effectively adopt these alternatives, the Department of Education must also provide schools with the resources and technical assistance to implement them effectively. These programs are worth the investment because evidence shows that they not only decrease disciplinary incidents, but increase teacher satisfaction and academic performance.

The Department of Education should also begin a citywide dialogue with students, parents, educators and the community to revise the discipline code more broadly to adopt these evidence-based preventive and constructive approaches to discipline, including Positive Behavior Support and Restorative Practices.