

NESRI Testimony at the NYC Department of Education Public Hearing on
Proposed Changes to the Discipline Code
August 9, 2006

My name is Elizabeth Sullivan. I am the Right to Education Project Director at the National Economic and Social Rights Initiative (NESRI), a human rights organization that works with parents and youth organizers in New York City to promote the rights to education, dignity and community participation in schools. For the past year we have carried out over 80 interviews with high school students, parents, teachers and advocates about the impact of safety policies on students' human rights in New York City and Los Angeles. We have found that the use of zero-tolerance discipline and armed police officers in schools creates unwelcoming environments, results in excessive suspensions for minor infractions that exclude students from learning, and leads to the criminalization and mistreatment of young people.

Many of the current proposed changes to the discipline code continue to implement increasingly harsh punishments that can be subjectively and excessively applied to students. For example, provisions stating that students can receive up to 10 day suspensions for defying behavior, shoving, or throwing an object such as chalk, or up to 90 day suspensions for engaging in an altercation that creates substantial risk of injury, creates tremendous leeway for school staff to interpret behavior and hand out excessive punishments that can have devastating consequences for young people.

In our interviews in New York City, students described that suspensions of two weeks or more are given for talking back to teachers, shouting, being involved in arguments and for minor fights. As a result, students described missing homework and tests that they were not allowed to make up, falling behind in classes, and that during suspensions they did not receive alternative education services. Students also described that repeated suspensions make students feel disengaged from their classes and from school in general, and that they perceive that schools would rather "get rid of them" than help them to learn.

Furthermore, these punishments are handed out unequally, disproportionately targeting students of color from poor communities, and students with a bad reputation, who have been labeled as "difficult" or who are known for "hanging out with the wrong crowd," often without regard to the context of the situation.

International human rights standards found in the Convention on the Rights of the Child and other treaties require that schools create discipline policies and practices which not only respect students' rights to dignity and due process, but that encourage learning and promote positive social and behavioral skills. Current discipline policies are aimed at punishing students, rather than preventing misbehavior and addressing students' needs. Positive behavior reinforcement, counseling services and parent conferences should be used to avoid suspensions when possible.

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The discipline code also fails to address the increasing criminalization of young people that is taking place because of heavy police presence in schools. Police officers patrol schools not only to address criminal behavior, but to intervene in day to day disciplinary matters, ranging from cutting class in the hallway to verbal arguments and minor fights. Human rights standards prohibit schools and other institutions from punishing youth as criminals for offenses that in any other context would be considered non-criminal, even typical adolescent behavior.

But our interviews in New York City reveal that police tactics are routinely used for school disciplinary matters, including handcuffing and searching students, interrogating students, and in some cases arresting them. The mere presence of police officers, as well as their involvement in discipline, makes schools feel like prisons and students feel like criminals. Armed police officers should be removed from the school discipline process and school safety agents should be trained to positively interact with students.

Finally, we recognize the positive step the Department of Education has taken to include a range of guidance responses to student behavior in the Discipline Code. This is a step in the right direction. However, it is important that these supportive services be used preventively and early on in the discipline process before it escalates to suspensions and other primarily punitive responses.

In addition, in order for guidance services to be available and used effectively, adequate resources and training for guidance counselors must be provided. In our interviews, students reported that in many schools guidance counselors are unavailable and overwhelmed and have no time to help students with disciplinary matters. Students wait in front of offices for hours or have to set up appointments weeks in advance, which are then sometimes canceled. The number and availability of counselors must be increased, and teachers and other school staff must receive the training and support they need to effectively use these resources.

We would also like to note that we support the recommendations presented to the Department of Education by the Urban Youth Collaborative, which include providing full-time trained adult mediators in schools. Peer mediation programs are important, but it is also essential that trained adult mediators be available to support students.

We also support the recommendations of the Urban Youth Collaborative calling on the Department of Education to establish a process for gathering and listening to student perspectives about safety, including having functioning and participatory school safety committees in every school. The rights of young people to participate in their school community is fundamental to human rights. Furthermore, discipline policies cannot be effective without student participation in their development and implementation.