

## **Testimony on proposed changes to New York City School Discipline Code**

**Department of Education, Public Hearing, August 8, 2007**

The National Economic and Social Rights Initiative (NESRI) works with parent and youth organizers in New York City to promote the rights to education, dignity and community participation in schools. In March 2007, NESRI released the report *Deprived of Dignity Degrading Treatment and Abusive Discipline in New York City and Los Angeles Public Schools*. The report shows that New York City schools excessively suspend and remove students from their classrooms for days, weeks or even months without access to educational instruction or positive behavioral interventions. It further describes the inappropriate involvement of police officers in school disciplinary matters and the use of excessive force. The report documents interviews with over 40 students, parents, and teachers in New York City schools.

The proposed changes to the discipline code reflect some positive steps towards addressing the problems documented in the report. We support the new distinction made between “altercations and/or physically aggressive behavior” and “horseplay” under Level 4 infractions, and hope that additional distinctions can be made regarding behaviors that warrant suspension.

But overall, the code continues to prioritize suspensions and other punishments over the use of preventive and supportive interventions for a wide and often subjective range of behaviors. For example, students can receive a Superintendent’s Suspension for up to 90 days for “engaging in intimidating” behavior or “threatening” a student or staff member, and schools can suspend students for up to ten days for “being insubordinate.” These offenses are quite vague and can be applied unevenly and inappropriately with devastating consequences for the academic development of children.

For example, several young people interviewed for our report received suspensions of ten days and in some cases one month for cursing or yelling at a teacher, while others were simply sent out of the classroom for the same behavior. Punishments are handed out unequally, disproportionately targeting students of color from poor communities and students with a bad reputation. Students explained that even a suspension of one week is “a lot of class time” to miss, but that two weeks or more resulted in students falling behind, missing tests they were not allowed to make up, and even failing classes, leading to summer school or repeating a semester.

Such lengthy or recurring suspensions deny students access to their fundamental right to education for what are often typical, albeit inappropriate and disrespectful, adolescent reactions. Adolescents have not fully developed the level of impulse control available to adults, and the role of the school should be to help students develop constructive ways of addressing conflict. Human rights standards in the Convention on the Rights of the Child and other treaties emphasize that school policies should be

aimed at the full development of the child including the teaching of positive behavioral skills, and should not jeopardize the right to education.

For these reasons, we are concerned by the removal from the discipline code of references stating that “the school should offer appropriate counseling to students” who are found in possession of controlled substances or engage in sexually aggressive behavior. The code should specifically suggest counseling not only for those behaviors, but for others as well, in particular for involvement in fights or conflicts with students or staff, and for persistent behavioral problems.

Students we interviewed said that without accompanying counseling or mediation services, suspensions and other punishments do little to address the problems that cause misbehavior. Students questioned how sending a student home for a week to “sleep late” and play around helps address disciplinary problems when “you’re gonna come back and the problem will still be there.” In some cases, without addressing the underlying conflict, removal can make the situation worse. In one case, students that were suspended for a fight became “more mad because they got suspended and then walked right back into school” and there was an even bigger fight.

Under the current discipline code, counseling, conflict resolution and mediation are listed as “Possible Guidance Interventions to Be Used in Addition to Disciplinary Responses.” However, schools are not required to utilize these methods before resorting to suspensions or other punishments, or to use them at all. These supportive services should be mandated in schools and used whenever possible as alternatives to lengthy suspensions.

However, based on our interviews, schools serving low-income neighborhoods rarely offer any of these alternative forms of discipline to students, nor do many schools have the resources or staff to make those services available. Almost two thirds of the students we interviewed said that guidance counselors are *rarely* or *never* involved when they are disciplined or suspended. Resources should be prioritized to hire additional counselors and adult mediators in schools.

Finally, the discipline code fails to address the role of police and safety agents who intervene in school discipline. Of the students we interviewed, over one third said that when they face disciplinary action in school, police or safety agents are involved *most* or *all of the time*, and another quarter said that police or safety agents are *sometimes*. Several students we interviewed had been handcuffed, patted down, taken to detention rooms and even arrested for being disruptive in hallways, talking back to school personnel or being involved in a fight. These offenses often reflect typical adolescent behavior and should be handled by school staff. Students also reported that police and safety agents have used excessive physical force. When fights occur, police and safety agents “slam” students against the walls, against lockers and down to the ground. In some cases, this practice is used even after the fight is over and there is no remaining threat or danger.

Students acknowledged that in some cases police should be called in for serious and violent offenses, but said that the regular patrolling of hallways and the handcuffing and arresting of students is unwarranted and detrimental. They also said that safety agents can play a constructive role in schools, but that they need better training and guidelines for how and when to intervene.

Human rights standards emphasize that school policies must not violate the dignity of students, cause mental or physical humiliation or harm, or criminalize adolescent behavior. The discipline code should establish clear guidelines for when both police and safety agents should intervene in disciplinary matters, and what tactics are appropriate for the school setting.

For more information or a copy of the *Deprived of Dignity* report please contact Elizabeth Sullivan, 646-342-0541, or see NESRI's Right To Education Program