

PRESIDENT'S MESSAGE

Restorative Justice Symposium — Breaking the School to Prison Pipeline

By Hon. Derrick J. Robinson

The Suffolk Academy of Law is conducting, at no cost, a virtual Restorative Justice Symposium on Nov. 19, 2020. There will be a comprehensive presentation and discussion of the issues, trends, and problems that perpetuate the School to Prison Pipeline (SPP). This symposium is the outgrowth of a report generated by the New York State Bar Association's task force that John H. Gross, Esq., a former President of the Suffolk County Bar Association, co-chaired. The report outlined the issues and made recommendations to address the School to Prison Pipeline and Restorative Justice. This symposium will offer a demanding and precise opportunity for school districts, educators, students and community resources to explore an approach to acknowledge and address alternative ways to address student misbehavior in "fair, non-discriminatory, and effective" ways.

What is Restorative Justice? Restorative Justice is a theory of justice that emphasizes repairing the harm caused by a code of conduct violation. The various forms of restorative justice seek to bring individuals involved in a conflict to engage in constructive dialogue to resolve disputes. It is an increasingly acknowledged and employed approach to school discipline, behavior and relationships. Restorative Justice shifts the focus of a disciplinary proceeding or inquiry toward repairing the harm caused in a conflict instead of punishment as to the only objective. The practice of pushing students out of school and toward the juvenile and criminal justice systems has become known as the "School to Prison Pipeline" (SPP). The disproportionate tendency of minors and young adults from disadvantaged backgrounds to become incarcerated because of zero-tolerance policies is made worse by school funding cuts that overburden counselors and stress teachers. They have resulted in suspensions, expulsions and arrests of millions of public-school students.

Suffolk County Bar Association, the Nassau County Bar Association, the Suffolk County Sheriff's Office and the Suffolk Academy of Law have designed the Restorative Justice Symposium to foster constructive dialogue and awareness. School district leaders are being called upon to become part of the solution and lead the effort to provide a more effective than traditional measure in building a stronger school community. The NYSBA report recommends considering

amendments to the Education Law Section 3214 to permit and endorse restorative justice practices in place of suspension and expulsions of Black and Brown students at a much greater rate than Caucasian students. Since suspension is the statutorily endorsed discipline under Education Law 3214, the report emphasizes this trend will only continue to increase unless language is included in Section 3214 to permit and approve the use of restorative justice practices as an alternative to suspension of students. One of the objectives of the symposium is to encourage school districts to use alternative disciplinary procedures to suspensions. If there is a dialogue for potential changes in the Education Law, many more school districts may utilize this model to address student misconduct.

The school to prison pipeline pushes students out of the classrooms and into the criminal justice system. This result happens through repeated high-confrontations, hostile interactions, student removals and suspensions. One incredibly impactful set of policies are zero-tolerance discipline measures that mandate specific punishments (usually suspension or expulsion) for behavioral infractions. This disciplinary measure's legislative intent was initially to punish serious offenses; however, they have also been used to punish students for minor violations such as talking back to teachers. In New York City, suspensions issued for being insubordinate represented the second largest number of behavioral infractions, even outranking some offenses involving physical harm. A student with disabilities is twice as likely to be suspended than their non-disabled peers, and LGBTQ students are more likely to face suspension than their straight peers. Students suspended or expelled for a discretionary violation are nearly three times more likely to contact the juvenile justice system the following year. A suspension can be life-altering. It is the most significant predictor of whether children will be suspended again, drop out of school and travel the road to a greater likelihood of unemployment, reliance on social-welfare programs, and imprisonment.

What begins as a simple violation of a school rule can quickly spiral into an encounter with the criminal justice system. Zero tolerance policies support this line of action. According to the member-led advocacy organization, Teachers United, "Zero Tolerance policy is defined as the "punishing for any infraction of a rule regardless of accidental mistakes, ignorance or extenuating circumstances." Such policies may fail students by not offering them the chance to be accountable and correct their mistakes. The subjective policies developed from it, however, primarily impact groups from historically marginalized and underserved communities. School staff and safety agents often have inadequate training to support many marginalized students who have intersecting identities. Inadequate

training can promote high confrontation and poor communication between youth and adult and school-based stakeholders.

Zero-tolerance policies not only impact students on the receiving end of disciplinary measures; they also affect overall community morale. They create a tense and hostile school environment, devoid of healthy and supportive relationships. The American Bar Association finds that the data shows, "A public school student is suspended every second and a half, and a recent study found that 95 percent of out-of-school suspensions are for nonviolent, minor disruptions such as tardiness or disrespect." Further, there is no correlation between the number of suspensions and a decrease in unwanted behaviors; studies suggest the opposite. Students suspended from school are more likely to engage in undesirable behaviors and show declines in academic achievement.

Throughout the country, school districts' efforts have utilized restorative justice as an integral part of the student disciplinary process. As an increasing amount of evidence demonstrates the system of punitive discipline is not only ineffective in reducing behavioral incidents but detrimental to young people, particularly those of color, school districts are turning to the evidenced-based practices of restorative justice. The effectiveness of restorative justice is most often measured by studies that document repeated success, reducing school violations' severity and frequency. It can have an enormous positive impact and be an effective means of transforming school culture. The evidence is clear; restorative justice works as a viable alternative to punitive discipline in schools.

Additionally, more law enforcement is present in many urban schools than guidance counselors and social workers combined nationally. Students do not need more law enforcement to create a positive school environment. They need more support.

Register and join us on Nov. 19, 2020, for The Restorative Justice Symposium. It will be held virtually and help identify the problems that perpetuate the SPP and discuss comprehensive recommendations, remedies and alternatives. It will be a valuable experience for all.