

## Special Education and School Discipline: A Precarious Balance

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*ABSTRACT: The 1997 Amendments to the Individuals with Disabilities Education Act brought together, for the first time, all of the disciplinary provisions pertaining to students with disabilities, attempting to guarantee a free and appropriate public education (FAPE) for students in special education while preserving a safe school environment for all students. Yet the discipline of special education students has continued to create controversy, with critics suggesting that those provisions create a dual system that limits the options of school administrators with respect to school discipline. A review of the literature reveals little or no evidence that suspension and expulsion make any contribution to reducing disruption or violence and some evidence that those procedures target certain populations disproportionately. Seeking to move toward a unified system of discipline that implements effective and accountable disciplinary options will be more likely to preserve FAPE and guarantee safe and civil schools for all children.*

■ Under current federal law, any student who brings a weapon to school is subject to a 1-year expulsion. If that student is served in special education, bringing a weapon may still result in disciplinary removal, but a different, more complex set of regulations governs when and how the student may be removed. The amount of time that student can be removed is more limited, the nature of the relationship between the act and the student's disability must be determined, and educational services must still be provided during the period of removal.

This difference in the treatment of students with disabilities who are violent or disruptive has created an intense controversy that continues to swirl around the disciplinary provisions of special education law. The often-heated controversy represents a fundamental clash between two basic values enacted into law and supported by the courts: the right of students with special needs to due process and a free and appropriate public education (FAPE) versus the right of schools to implement procedures they see as necessary to protect the safety of students and teachers.

The guarantee of a free and appropriate education for students with disabilities is central to special education law in the United States as it has evolved in the past 30 years. In response to a series of court rulings overruling the systematic exclusion of children with dis-

abilities (McCarthy, Cambron-McCabe, & Thomas, 1998), Congress passed Public Law 94-142, the Education for All Handicapped Children Act in 1975. Later renamed the Individuals with Disabilities Education Act (IDEA), the legislation relies upon a number of basic principles guiding the education of students with disabilities, including a free and appropriate public education and parental due process rights.

The more recent Gun-Free Schools Act (GFSA, 1994) represents an equally basic societal value, namely, the right of students to learn, and teachers to teach, in schools that are free of weapons. Passed in response to national concerns about school violence, and at the height of a national movement toward zero tolerance, the act mandates a 1-year expulsion for any student bringing a weapon to school. The law also mandates that procedures be established at the local level to allow a case-by-case review of such expulsions and that any legal violation occurring on school grounds be reported to law enforcement authorities.

In 1997, Congress passed the Individuals with Disabilities Education Act Amendments (IDEA '97), the most sweeping changes to the law since its inception in 1975. Those amendments were intended to codify case law and administrative decisions that occurred between 1975 and 1997. Among the most

important and most controversial changes in the law were the IDEA '97 provisions governing the discipline of students with disabilities. Those provisions brought together in statute for the first time all of the rules that apply to students with disabilities faced with disciplinary action, seeking "a balanced approach to the issue of discipline of children with disabilities that reflects the need for orderly and safe schools and the need to protect the right of children with disabilities to a free appropriate public education (FAPE)" (Office of Special Education Programs [OSEP], 1997).

Yet several years after passage of the law, educators and policymakers remain deeply divided on the appropriate balance between the individual rights of students with disabilities and the flexibility administrators need in order to ensure school safety. This article reviews the complex issues involved in the discipline of students with disabilities, including (a) the content, and some of the reasons for controversy, of the IDEA 97 disciplinary provisions; (b) the state of knowledge and practice concerning school suspension and expulsion; (c) alternatives to suspension and expulsion in promoting civil behavior and school safety; and (d) prospects for resolving the controversy concerning the discipline of students with disabilities.

## IDEA '97 Disciplinary Provisions

Controversies notwithstanding, special education law does not make it impossible for school administrators to discipline students with disabilities. Rather, balancing the tradition of a free and appropriate public education with the need to ensure safe schools, it delineates a set of conditions under which students with disabilities may or may not be exposed to suspension and expulsion. Indeed, in some areas, such as the issue of "dangerousness," the IDEA '97 amendments provide administrators with disciplinary options not previously available.

But while it is not correct to state that special education law disallows suspension and expulsion for students with disabilities, it is accurate to state that the disciplinary requirements of the new amendments are highly complex, and perhaps not yet fully understood by either educators or policymakers. Part of this complexity stems from the multiple legal

precedents that IDEA '97 attempted to weave together. For school administrators who may feel a need to act decisively on issues of school discipline, the sheer amount of procedure involved in removing a student with disabilities may seem to make disciplinary removal next to impossible.

However one may feel about the provisions of IDEA '97, those amendments did not simply spring up full-blown in 1997. With few exceptions, the disciplinary provisions are based on a history of case law and administrative decisions that go back to the initial passage of special education law in Congress. The following sections summarize the main provisions of IDEA '97 regarding discipline, review historical and legal precedents that informed each requirement, and, where relevant, summarize the arguments of advocates and critics of the provisions. [For further discussion of these provisions, readers are referred to excellent treatments in Hartwig and Ruesch (2000) and Yell (1998).]

### Short-Term Disciplinary Removal

In the history of wrestling with the discipline of students with disabilities, two important principles have emerged. First, students who have disabilities must to some extent be held accountable for their behavior; special education is not intended to make students immune from school suspension (McCarthy et al., 1998). Yet the desire to rule out arbitrary exclusion led to what might be regarded as the central tenet of IDEA: the guarantee of a *free and appropriate public education* for students with disabilities. Beyond a certain point, long-term suspension and expulsion may threaten the student's right to a free and appropriate public education. In *Honig v. Doe* (1988), the Supreme Court set a standard of 10 days as the dividing line between typical short-term discipline and long-term change that triggers the FAPE guarantee for students with disabilities. Beyond 10 days, a disciplinary removal is considered a change of placement triggering the special education protections against arbitrary removal.

When does a disciplinary removal constitute a change of placement? The IDEA '97 regulations rely upon administrative rulings by both the Office for Civil Rights (OCR, 1988) and the Office of Special Education Programs (OSEP, 1995) to offer a set of guidelines that define *change of placement* for disciplinary

removal as being (a) more than 10 consecutive school days or (b) a series of removals that constitute a pattern by summing to more than 10 days in a school year. A "pattern" is judged by considering factors such as the length of each removal, total time removed, and the proximity of the removals to one another; responsibility for making that judgment rests with the individualized education program (IEP) team. Whenever that change-in-placement criterion is met, students with disabilities must be provided with services that enable them to meet the goals in their IEPs.

It is an important point, sometimes misunderstood, that prior to the criterion of change in placement being met, there are no special requirements governing the discipline of special education students. For removals of less than 10 days that do not constitute a change in placement, special education students are treated no differently than other students; administrators are free to use any consequence that would be applied to all other students.

### **Long-Term Disciplinary Removal**

The main provision of the Gun-Free Schools Act (GFSA) of 1994 is the mandatory 1-year expulsion of any student bringing a firearm to school. This provision of mandatory expulsion seems to create a legal quandary with respect to students with disabilities, apparently pitting their FAPE rights against the rights of schools to maintain a safe and gun-free environment.

Almost from the date of passage of the GFSA, amendments in Congress attempted to bring special education law into line with that act. The Jeffords Amendment to the Improving America's Schools Act (1994) introduced the concept of a 45-day placement for students with disabilities in an interim alternative educational setting (IAES) for possession of firearms. The disciplinary requirements enacted by Congress in IDEA '97 replace and extend the Jeffords Amendment, attempting to strike "a careful balance between the LEA's (local education agency) duty to ensure that school environments are safe and conducive to learning for all children including children with disabilities, and the LEA's continuing obligation to ensure that children with disabilities receive a free appropriate public education" (Senate Report 105-17, 1997). A number of the IDEA '97 disciplinary provisions address the issue of long-term removal for students with disabilities.

### ***Interim Alternative Educational Setting***

Under IDEA '97, school personnel may unilaterally place a student with a disability in an IAES for up to 45 days for possession of drugs or weapons. The length of the disciplinary removal should not exceed the length of removal that other students would receive for the same offense.

A student with a disability may also be placed in an IAES if the district can demonstrate through "substantial evidence" that the student's current placement is "substantially likely to result in injury to the child or to others." Unlike a change in placement for weapons or drugs, however, removal for dangerousness cannot be made by school personnel without parental consent. Rather, the school or school district must petition a hearing officer in an expedited due process hearing for disciplinary removal.<sup>1</sup>

Like many of the other disciplinary provisions of IDEA '97, the provision of the 45-day placement in an IAES has been the subject of controversy. Advocates hold that these provisions create a balance between FAPE and the need to guarantee safe schools by bringing IDEA '97 more into line with the Gun-Free Schools Act and expand the authority of schools and school districts with respect to the disciplinary removal of special education students. Critics, however, argue that the law creates a dual standard of discipline, shortening the period of exclusion for students with disabilities, and that the high cost of interim alternative placements will draw resources away from the majority of children (Koch, 2000).

### ***Parent Appeal and the Stay-Put Provision***

Due process rights are among the most fundamental rights and principles guaranteed under special education law. Parents of students with disabilities are specifically granted the right to appeal any change in placement, including any disciplinary removal that constitutes a change of placement. In order that these rights be respected during the process, a "stay-put" provision has evolved in special education law, such that a student cannot be moved from his or her current educational placement during appeal.

In the case of dangerous behavior, however, the stay-put provision may create substantial difficulty. This quandary was the central issue in the landmark Supreme Court

decision *Honig v. Doe* (1988). In seeking to expel two students with emotional disabilities, the California superintendent of public instruction argued that applying the stay-put provision to maintain students in their current placement regardless of the dangerousness of their behavior was untenable. The Supreme Court responded that Congress had intended to remove the authority of schools to unilaterally exclude children with disabilities, and it refused to issue an exception, even in the case of dangerousness.

The disciplinary provisions of IDEA '97 represent a significant expansion of options for school personnel in the case of dangerousness. By allowing a hearing officer to place a student with a disability in a 45-day placement if a district can demonstrate that student poses a substantial risk of injury to self or others, the provisions offer an additional option to administrators beyond what had been allowed by *Honig v. Doe*. In addition, IDEA '97 modified the stay-put provision somewhat for weapons, drugs, or dangerous behavior. Specifically, when a parent seeks a hearing or appeal of a placement to an IAES, the IAES becomes the "current" placement in which the student remains while appeals are pending.<sup>2</sup> In short, then, while the high court was unwilling to issue a "dangerousness" exception to the stay-put provisions of special education law, IDEA '97 has in effect created a dangerousness exception under the authority of the hearing officer.

### **Other Legal Alternatives**

IDEA '97 also attempts to ensure consistency of special education law with other law regarding school safety by explicitly asserting that the law in no way prohibits an educational agency from reporting a crime to law enforcement authorities or prevents law enforcement officials from exercising their responsibilities when crimes are committed in school. Finally, regardless of the limitations on disciplinary removal for students with disabilities under IDEA '97, the U.S. Supreme Court in *Honig v. Doe* ruled that schools may still seek a court injunction to remove a student who the district can show is dangerous and whose parents refuse to agree to a change in placement. If this option is successful, IDEA '97 disciplinary requirements cease to apply, since the child comes under judicial authority.

### **Manifestation Determination**

The idea that a student cannot be removed from school because of his or her disability is central to the development of special education law in the United States (see, e.g., *Mills v. Board of Education of the District of Columbia* [1972], in which the court ruled that students with behavioral disorders could not be expelled for behaviors that could be expected to be related to their disability). Since the passage of Public Law 94-142, court precedents (e.g., *Doe v. Koger*, 1979; *S-1 v. Turlington*, 1981) have established that a student with a disability can be expelled only if there is no relationship between the misconduct leading to the expulsion and the student's disability. This criterion, which came to be known as *manifestation determination*, was reaffirmed by the U.S. Supreme Court in *Honig v. Doe*.

IDEA '97 pulls together prior precedents to offer guidance regarding the manifestation determination. Whenever a disciplinary action would result in a change of placement, a manifestation determination, conducted by the IEP team, must take place within 10 school days of the decision to take disciplinary action. Three questions must be considered in the manifestation determination. First, were the IEP and placement appropriate, and were services and interventions provided consistent with the IEP and placement? If the IEP, placement, or services were inappropriate, the review cannot proceed, the behavior must be considered a manifestation of the disability, and the school district must take immediate steps to remedy the deficiencies. Second, did the child's disability impair his or her ability to *understand* the impact and consequences of the behavior? Third, did the child's disability impair his or her ability to *control* the behavior? If the answer to either of these questions is yes, then the behavior is viewed as a manifestation of the disability, and the child may not be subjected to standard disciplinary procedures.<sup>3</sup>

Although IDEA '97 provides more extensive guidance than was previously available, the process of manifestation determination may still be difficult and arbitrary in practice. The ability to understand the impact or consequences of one's behavior is a highly sophisticated internal process, as is the ability to control one's behavior. This difficulty is further magnified by the fact that there are currently no available measures validated for the purpose of making such distinctions (Katsiyannis

& Maag, 1998). Forcing an IEP team to make these difficult distinctions in the absence of adequate assessment tools may reduce the manifestation determination review to a battle of wills, pitting school principals seeking to exercise the option of disciplinary removal against special education administrators seeking to preserve the rights of special education students.

### **Functional Behavioral Assessment/ Behavioral Intervention Plan**

Once a student with disabilities has been removed for more than 10 school days, IDEA '97 requires that the school district conduct a functional behavioral assessment and implement a behavioral intervention plan. If a functional behavioral assessment and behavioral intervention plan are already in place, the IEP team must review that plan to ensure that it remains appropriate. Furthermore, IDEA '97 requires that "as soon as practicable after developing the plan" the IEP team be convened to take steps to develop and implement appropriate interventions.

Although fairly well established in the field of special education, the term *functional behavioral assessment* is a new one for many principals and general education teachers. Functional behavioral assessment is generally understood as a behavioral technology originally developed in the 1980s for use with students with severe disabilities, predominantly those who are nonverbal (Carr & Durand, 1985; Iwata, Dorsey, Slifer, Bauman, & Richman, 1982). In a functional behavioral assessment, observations, checklists, and interviews are used to develop specific hypotheses about conditions that might be associated with a student's disruptive behavior.

Of all the disciplinary provisions set forth in IDEA '97, functional behavioral assessment seems to have the least grounding in specific legal precedent. In contrast to most of the other disciplinary provisions, there are no specific court cases or OSEP rulings regarding functional behavioral assessment. Indeed, some writers within the field of special education have questioned whether this technology is sufficiently developed and has sufficient empirical support to be ready for generalization to all students with disabilities (Nelson, Mathur, & Rutherford, 1999).

In a broader sense, however, the new functional behavioral assessment/individual

behavioral plan requirements are consistent with at least the spirit of special education legislation. Since the passage of 94-142, one of the guiding principles of special education has been the idea of individualized education. The requirement for individual behavioral plans, and the functional assessment likely to make those plans more successful, is in some ways an extension of this concern with individual programming that meets the needs of students with disabilities. If the disruptive behavior of a student with a disability is related to his or her disability, then it only makes sense to ensure that an individual behavioral plan also be in place to remediate that behavior.

Still, it is not entirely clear that school districts are prepared to implement the IDEA '97 functional behavioral assessment requirements in a way that can meet the intent of the law. Without extensive research guidance with populations of students with less severe disabilities, many districts are using functional assessment methods developed for students with severe disabilities that have not been extensively tested in less restrictive environments. In addition, at the time IDEA '97 was enacted, few districts had personnel trained in conducting functional behavioral assessment (Smith, 2000). It may well be that the mandates of IDEA '97 regarding functional behavioral assessment and individual behavioral planning will stimulate research and practice toward more responsive behavioral planning for students with disabilities. On the other hand, in the absence of a well-developed technology and lacking trained personnel, it may be some time before school districts have the capability to conduct functional behavioral assessments that fulfill the law's intent.

### **Protections for Students Not Yet Eligible for Special Education**

Another element of the IDEA '97 disciplinary provisions states that any child not yet determined eligible for special education services may assert his or her rights to IDEA disciplinary protections only if the school or district had prior knowledge that the child has a disability. The educational agency would be determined as having this prior knowledge if the parent had expressed concern in writing to district personnel about a potential disability, if the child's behavior or performance demonstrates a need for services, if the parent had requested an evaluation, or if the child's

teacher or other school personnel had expressed concern about the child's behavior or performance.

It is important to note that this section of the regulations provides protections not only for students, but also for school districts. The provision protects students with disabilities in that a district or school cannot fail to identify a student it suspects may have disabilities simply so that it may continue to apply standard suspension and expulsion practices to that student (Johns, 1998). On the other hand, the provision also provides some protection to districts that fulfill those obligations, since parents of a nonidentified student facing disciplinary consequences may claim the protections of IDEA '97 only if certain well-defined conditions are met.

### Summary

Students with disabilities are subject to the same set of disciplinary consequences as all other students for any disciplinary removal of less than 10 days, if the removal cannot be considered a change of placement. Whether a set of removals during the school year constitutes a change of placement is an IEP team decision, based upon the pattern of removals. Nothing in IDEA '97 prohibits multiple suspensions of more than 10 days, as long as all services that the student is entitled to in the IEP are provided once the removals exceed 10 days.

For long-term removals, IDEA utilizes the interim alternative educational setting as an alternative to suspension and expulsion. School personnel may unilaterally place a student with disabilities in the IAES for drugs or weapons for up to 45 days. For a student deemed dangerous, school personnel may request a hearing officer to remand the student to an IAES for up to 45 days. Parents have a right to appeal either decision, but the child will remain in the IAES while the appeal is being conducted. All of these provisions are dependent upon the behavior's being a manifestation of the child's disability. If team review determines that the behavior is not related to the child's disability, normal suspension and expulsion procedures may be used, provided that services consistent with the IEP continue. For any disciplinary event cumulating to 10 or more days, schools and school districts must conduct or review a functional behavioral assessment or individual behavioral plan.

Finally, a student not yet determined eligible for special education may assert the right to IDEA disciplinary protections only if it can be shown that the district had prior knowledge that the student might have a disability.

### The Controversy Over IDEA '97

The intent of the disciplinary requirements of IDEA '97 was to weave together previous precedents and decisions so as to bridge the gap between the treatment of special education students and all other students in the area of school discipline. Yet whatever the intentions of the framers of IDEA '97, the new regulations apparently have not resolved the perceived conflict between FAPE and the Gun-Free Schools Act. If anything, the law passed by Congress and the implementing regulations promulgated in March 1999 seem to have increased disciplinary controversy.

Critics say the law ties the hands of administrators in matters of discipline for special education students. According to Julie Lewis, staff attorney for the National School Boards Association, "IDEA overrides state and federal zero-tolerance-for-firearms laws. They contradict one another" (Koch, 2000, p. 200). The American Association of School Administrators (1998; Hunter, 1999) suggests that the law creates a double standard for violent and disruptive behavior. Parents of students expelled or referred to alternative schools for weapons or drugs may be confused about why a student in special education receives different treatment for the same offense (Koch, 2000).

Student advocacy groups, disability rights groups, and mental health professional organizations, however, hold that the provisions of IDEA in general, and the disciplinary provisions in particular, protect the fundamental rights of a class of children previously denied those rights. In response to previous abuses, all three branches of government have consistently asserted the right of students with disabilities to protection from arbitrary removal or change of placement. "Without due process, these students would be removed disproportionately by schools that decided providing services was too costly, time consuming or inconvenient," states Kevin Dwyer, Past President of the National Association of School Psychologists and author of the U.S. Department of Education's guide to school safety. "Withdrawing educational services from any student

does not make our schools and streets safer" (Koch, 2000, p. 201).

These controversies have played out in sometimes emotional debate in Congress. Since the passage of the IDEA amendments in 1997, there have been numerous attempts to weaken or eliminate the disciplinary regulations of that act.<sup>4</sup> The latest were amendments passed in the Senate and House as part of the reauthorization of the Elementary and Secondary Education Act (Jones, 2001). The Norwood Amendment (Amendment 13 to H.R. 1, the No Child Left Behind Act of 2001) would have eliminated the mandated provision of special education services for children with disabilities who have been suspended or expelled for actions involving drugs, weapons, or aggravated assault and battery. The Sessions Amendment (Amendment 604 to S. 1, the Better Education for Students and Teachers Act of 2001) would have given state or local education agencies broad authority to establish and implement uniform policies regarding discipline and order for all children, unless the behavior in question represents a manifestation of the child's disability. Although neither amendment passed out of conference committee as part of the final version of the Elementary and Secondary Education Act, there is little question that such amendments will be reintroduced and debated as part of the upcoming reauthorization of IDEA.

Much of the controversy in attempts to modify the disciplinary provisions centers on the extent to which IDEA disciplinary requirements deprive schools and school districts of tools—school suspension and expulsion—needed to ensure school discipline. Yet there has been little examination of those disciplinary tools themselves during the debate. How are school suspension and expulsion used in the public schools? What are the issues concerning the use of those procedures? How effective are they in reducing disruption or guaranteeing school safety?

### **What Do We Know About School Suspension and Expulsion?**

Even before the implementation of a zero-tolerance policy for weapons at the national level, suspension was among the most widely used of disciplinary options in U.S. public schools. Applications of zero tolerance appear to have further increased the use of school

suspension and expulsion in school districts throughout the country (Advancement Project/Civil Rights Project, 2000). Many districts have enthusiastically supported the move toward tougher punishments, expanding the range of behaviors subjected to mandatory expulsion well beyond the federal mandate of weapons to include drugs, alcohol, fighting, or offenses that take place off school property; some have extended penalties beyond a calendar year to 2-year or even permanent expulsion ("Groups critical of no second chances school proposal," 1999).

Yet the increased use of suspension and expulsion as part of zero-tolerance discipline has also created controversy. Instances of students being suspended or expelled under zero-tolerance policies for seemingly minor events (e.g., possession of Midol, organic cough drops, nail files) has created a backlash against the unthinking application of school exclusion from groups of diverse political stripes. The Reverend Jesse Jackson has raised questions about issues of racial bias inherent in zero tolerance and supports a "reevaluation all across the country of the absurdities of zero tolerance" (Wing & Keleher, 2000). At the other end of the political spectrum, the conservative Rutherford Institute has strongly criticized zero tolerance policies, arguing that they violate students' civil rights, and has provided legal defense to students involved in a number of zero tolerance incidents (Rutherford Institute, 2000).

At the heart of the matter, again, is the use of school suspension and expulsion as disciplinary tools. The following sections will review the current status of our knowledge concerning school suspension and expulsion. In general, the data raise troubling questions concerning the consistency, fairness, and effectiveness of school suspension and expulsion.

### **How Are Suspension and Expulsion Used?**

School-based research has consistently found school suspension to be among the most widely used disciplinary techniques (Bowditch, 1993; Mansfield & Farris, 1992; Rose, 1988). In one midwestern city, one third of all referrals to the office resulted in a 1- to 5-day suspension, and 21% of all enrolled students were suspended at least once during the school year (Skiba, Peterson, & Williams, 1997). Suspen-

sion appears to be used with greater frequency in urban areas than in suburban or rural areas (Massachusetts Advocacy Center, 1986; Wu, Pink, Crain, & Moles, 1982).

As might be expected with such high rates of usage, school suspension is not always reserved for serious or dangerous behaviors. Fights or physical aggression among students are consistently among the most common reasons for suspension (Costenbader & Markson, 1994; Dupper & Bosch, 1996; Imich, 1994; Skiba et al., 1997). Yet school suspension is also commonly used for a number of relatively minor offenses, such as disobedience and disrespect (Cooley, 1995; Skiba et al., 1997), attendance problems (Kaeser, 1979; Morgan-D'Atrio, Northrup, LaFleur, & Spera, 1996), and general classroom disruption (Imich, 1994; Massachusetts Advocacy Center, 1986; Morgan-D'Atrio et al., 1996). In fact, students are suspended for the most serious offenses (i.e., drugs, weapons, vandalism, assaults on teachers) relatively infrequently (Dupper & Bosch, 1996; Kaeser, 1979).

While it is more controversial, school expulsion appears to be used relatively infrequently as compared to other disciplinary options (Sinclair, 1999). In one of the few studies examining school expulsion, Morrison and D'Incau (1997) reported that expulsion appears to be reserved for incidents of moderate to high severity, although there is some doubt as to whether students who are expelled are always those who are the most troublesome or dangerous. Zero-tolerance policies, mandating expulsion for certain types of events, apparently have led to the expulsion of many children and youths who would be considered good students.

### Who Gets Suspended and Why?

There can be little doubt that certain students are at a much greater risk than others for office referral and school suspension. Students who have been suspended are more likely to endorse statements indicating an antisocial attitude (Wu et al., 1982). Students who engage in harassment, bullying, or violent behavior appear to be at greater risk of disciplinary action (Tobin, Sugai, & Colvin, 1996). Some students clearly account for a disproportionate share of disciplinary effort. In one study of middle school students in a large midwestern urban district, 6% of students were responsible for 44% of all office referrals

(Skiba et al., 1997). Students who are suspended are also more likely to exhibit mental health problems (Eckenrode, Laird, & Doris, 1993; Morgan-D'Atrio et al., 1996).

Yet school disciplinary actions cannot be accounted for solely in terms of student behaviors. Teachers appear to differ greatly in their rate of disciplinary referral to the office. In one middle school in one study, two thirds of all disciplinary referrals came from 25% of the school's teachers (Skiba et al., 1997). School factors also strongly influence rates of suspension. Davis and Jordan (1994) reported high suspension rates in schools spending excessive amounts of time on discipline-related matters. Comparisons of schools with high and low use of school suspension indicate that schools with low rates of suspension have a lower student-teacher ratio and a higher level of academic quality (Hellman & Beaton, 1986) and pay significantly better attention to issues of school climate (Bickel & Qualls, 1980). Indeed, one national study found that school and district characteristics such as teacher attitudes and quality of school governance tend to be better predictors of suspension than student attitudes and behavior, prompting the researchers to conclude: "One could argue from this finding that if students are interested in reducing their chances of being suspended, they will be better off by transferring to a school with a lower suspension rate than by improving their attitudes or reducing their misbehavior" (Wu et al., 1982, pp. 255–256).

### Disproportionality in School Suspension

The expulsion of seven African-American students for 2 years in Decatur, Illinois, represents the most publicized incident to date involving racial disproportionality in school discipline. Yet overrepresentation of students from culturally and linguistically diverse backgrounds in school discipline is by no means a new issue. Both racial and economic biases in school suspension and expulsion have been studied extensively for more than 25 years, with consistent results.

#### *Socioeconomic and Racial Disproportionality in Suspension*

The overrepresentation of culturally and linguistically diverse and low-income students as targets of school suspension has been consistently documented (Brantlinger, 1991; Skiba,

Michael, Nardo, & Peterson, in press; Wu et al., 1982). Virtually every study of school suspension including students from diverse backgrounds for the last 25 years has found African-American overrepresentation in school suspension, typically at a rate two to three times higher than that of Caucasian students (Costenbader & Markson, 1994; Glackman et al., 1978; Kaeser, 1979; Lietz & Gregory, 1978; Massachusetts Advocacy Center, 1986; McCarthy & Hoge, 1987; McFadden, Marsh, Price, & Hwang, 1992; Skiba et al., 1997; Taylor & Foster, 1986; Thornton & Trent, 1988; Wu et al., 1982). African-American students are also exposed more frequently to more punitive disciplinary strategies such as corporal punishment (Gregory, 1996; Shaw & Braden, 1990) and receive fewer mild disciplinary consequences when referred to the office (McFadden et al., 1992). Some have argued that African-American overrepresentation in school suspension is not a matter of race, but is connected with social class (National Association of Secondary School Principals, 2000). Yet suspension seems to be related to race above and beyond the effects of socioeconomic status. When economic status is controlled statistically, African-American disproportionality in suspension remains (Skiba et al., in press; Wu et al., 1982).

There is the possibility that African-American students are suspended more because they misbehave more. In that case, disproportionality in suspension could be viewed as an appropriate response to higher levels of disruption. Yet school discipline researchers have found no evidence that African Americans misbehave at a significantly higher rate (McCarthy & Hoge, 1987; Wu et al., 1982). If anything, available research suggests that African-American students tend to receive harsher consequences for less severe or less objective offenses (McFadden et al., 1992; Shaw & Braden, 1990; Skiba et al., in press).

### ***Disproportionate Exclusion of Students with Disabilities***

Research on rates of school suspension has also found disproportionate rates of school exclusion for students with disabilities. Studies of suspension in Kansas, Kentucky, Delaware, and Minnesota, as well as national surveys, have consistently found that students with disabilities represent around 20% of all students suspended, a disproportionately high percentage given that special education students rep-

resent around 11% of the population (Leone, Mayer, Malmgren, & Meisel, 2000). These data also indicate that the majority of behaviors for which students with disabilities are suspended are generally nonviolent in nature and may not differ substantively from the behavior of students without disabilities.

It is difficult to know what to make of these data with respect to the argument that regulations prevent the discipline of students in special education. On the one hand, overrepresentation of students with disabilities in school discipline creates some doubt concerning how much administrators are actually being limited in the suspension of those students. It might be argued, however, that the disciplinary disproportionality of at least some students (e.g., students with emotional or behavioral disorders) may be warranted by behavior that tends to be more extreme.

### **Suspension and Expulsion: How Effective?**

The most important question in the use of disciplinary removal is the effectiveness of school exclusion. Unfortunately, there is little or no evidence showing that suspension or expulsion improve student behavior or contribute to overall school safety. The evidence suggests that suspension is ineffective for those students for whom it is used most often. Studies have found that up to 40% of school suspensions are given to repeat offenders (Bowditch, 1993; Costenbader & Markson, 1994; Massachusetts Advocacy Center, 1986), suggesting that this segment of the school population is decidedly not figuring out that disciplinary removal intends to teach. Tobin, Sugai, and Colvin (1996) reported that students suspended in sixth grade were more likely than others to be referred or suspended in middle school, prompting the researchers to conclude that, for some students, "suspension functions as a reinforcer . . . rather than as a punisher" (p. 91).

Nor are the long-term outcomes associated with suspension encouraging. The national High School and Beyond survey (Ekstrom, Goertz, Pollack, & Rock, 1986) revealed that school dropouts were three times as likely to have been suspended as their peers who had stayed in school. Suspension appears to be part of a constellation of factors, along with poor academics and low socioeconomic status, predicting school dropout. Indeed, in some schools suspension appears to be used as

a push-out tool; repeated disciplinary removals are applied intentionally to certain students as a means of cleansing the school of persistent troublemakers who challenge school authority (Bowditch, 1993; Fine, 1986). Finally, over time, suspension and expulsion may be associated with an increased likelihood of delinquency. Criminal justice researchers have described gang involvement as a gradual process, starting with school alienation and requiring time to associate with those already in gangs (Patterson, 1992). Suspension and expulsion may thus accelerate the course of delinquency by providing at-risk and alienated youths with extra time to associate with deviant peers.

### Summary

School suspension is among the most widely used disciplinary tactics in schools today, used for moderate offenses such as fighting, as well as for minor offenses such as tardiness and disrespect. Yet there is currently no evidence that suspension or expulsion changes the behavior of difficult students. Rather, for troublesome or at-risk students, the most well-documented outcome of suspension appears to be further suspension and eventually school dropout. Nor is there evidence that the use of suspension and expulsion makes a contribution to safer schools, and some evidence suggests that suspension is more widely used at schools with a poor climate and less sound instruction. In an era almost defined by accountability, an instructional procedure that was used inconsistently, disproportionately targeted students from culturally and linguistically diverse backgrounds, and was associated with increased school dropout might well be the target of a Senate investigation. It is indeed ironic that the most widely used disciplinary tool in public schools—and the procedure at the heart of the special education disciplinary controversy—has just those characteristics.

### A Comprehensive Model of School Violence Prevention

No fewer than five federally initiated or federally sponsored panels of national experts have been convened in the last 5 years to make recommendations concerning effective practice in violence prevention (Dwyer, Osher, & Warger, 1998; Elliott, Hatot, Sirovatka, & Pot-

ter, 2001; Gottfredson, 1997; Mihalic, Irwin, Elliott, Fagan, & Hansen, 2001; Thornton, Craft, Dahlberg, Lynch, & Baer, 2000). Not one of those panels has included disciplinary removal as an effective or promising practice in addressing problems of youth violence. Rather, these reports—and the consensus in the field that they represent—indicate that it is possible to make a real difference in youth violence through preventive programs that teach students alternative strategies for solving their problems. Consistently, effective programs have been found to be proactive rather than reactive; involve families, students, and the community; and include multiple components that can address the complexity of school disruption and violence (Elliott, Hamburg, & Williams, 1998; Gottfredson, 1997, Hawkins et al., 2000). Indeed, preventive programs, while still emerging, appear to have more support for their effectiveness than do reactive and punitive approaches (Skiba & Peterson, 2000).

Recently, a comprehensive model of preventive discipline has begun to be supported by both research and mental health advocacy organizations as the approach most likely to address successfully the complexity of emotional problems and disruptive behavior in schools (American Psychological Association, 1993; Dwyer & Osher, 2000; Leone et al., 2000; Tolan, Guerra, & Kendall, 1995; Walker et al., 1996). The approach prescribes intervention at three levels:

- *Creating a positive school climate.* Targeting all students, effective schools implement schoolwide programs to encourage a positive connection between students and their schools and to teach alternatives to violence. Specific examples include unambiguous behavioral expectations, conflict resolution/peer mediation, bullying prevention, and proactive classroom management strategies.
- *Early identification and intervention.* Selected strategies are targeted for identifying students who may be at risk for violence. Just as important as identification, however, are programs that can provide support to alienated or at-risk youths, such as anger management or mentoring.
- *Effective responses to disruption and crisis.* Effective responses and individualized programs are targeted toward a relatively small number of students demonstrating significant behavioral or emotional prob-

lems. Such options might include functional assessment, restorative justice, community-based services, school-based mental health services, and crisis management strategies.

Although the primary prevention model of school discipline and violence prevention is supported by some promising evaluations of comprehensive programs (Leone et al., 2000), more extensive study of both the model of comprehensive prevention and the individual components of that model is needed. Still, it might be argued that the limited positive results for comprehensive alternatives to exclusionary discipline are far more promising than the largely negative results associated with the use of school suspension and expulsion.

The implementation of more effective alternatives for promoting school safety also requires improved training of school personnel in effective approaches to violence prevention. We can assume that school personnel do not rely on school suspension and expulsion because they enjoy excluding children from school. Rather, in many schools, there are simply few disciplinary tools available other than suspension and expulsion. Most distressing, both regular and special education teachers commonly report feeling underprepared by their training programs in the area of classroom management (Calhoun, 1987; Leyser, 1986). Implementation of best practice in school discipline will require institutions of higher education to increase their training of teachers and administrators in dealing with student behavior, and especially in effective strategies that can contribute to comprehensive planning for school safety.

### **Resolving the Dilemma: Toward a Single Disciplinary System**

Removing a student with disabilities based on disruptive or violent behavior is not ruled out by IDEA '97, but the conditions governing that removal are complex and difficult, leading to a perception by school administrators that the law has limited their options. It is difficult to see how policymakers can resolve the apparent conflict between the principles of due process and a free and appropriate public education on one hand and the desire to apply exclusionary discipline for purposes of school

safety on the other. What are the options for resolution of the disciplinary dilemma?

### **Remedies Within IDEA '97**

It is important to note that it is possible to resolve any special education/school discipline conflict at the local level if school districts and parents can come to agreement. Virtually all of the due process procedures involving the stay-put provision and placement in an interim alternative educational setting are meant to resolve cases in which there is disagreement between parents and the school district. If parents and the school both agree to a 45-day placement for dangerousness, for example, the school district need not go to a hearing officer to request that placement. Certainly, the involvement of parents in both special education and school discipline is an area requiring a great deal more attention in both practice and research.

Prior planning may also allow IEP teams to resolve disciplinary conflict well in advance of a disruptive incident. Apart from the specific disciplinary provisions of the law, IDEA '97 states that the IEP team should "consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports" to address the needs of students whose behaviors impede their own or others' learning. For a student for whom behavior is an issue, the IEP team might, a priori, decide on an appropriate IAES should one become necessary, define the characteristics of a pattern of suspensions that would constitute a change of placement, and develop a functional behavioral assessment and individual behavioral plan to prevent the occurrence of disruptive behaviors. Prior planning and consensus should decrease the chances of conflict among team members if and when a student with disabilities transgresses against the school disciplinary code.

### **More Extreme Remedies: Repealing the Disciplinary Provisions?**

Local remedies, pursued sincerely, may well resolve the vast majority of disciplinary disputes for individual students. Yet given the intensity of feelings generated by the controversy, it is likely that policy disputes will continue. Critics of the IDEA '97 disciplinary provisions will probably continue to seek the repeal of disciplinary protections for students

with disabilities, exposing those students to the same set of consequences faced by all other students. Yet if the purpose of that repeal is simply to regain the option of disciplinary removal for students served by special education, a review of the data concerning suspension and expulsion might well yield the response "Why?"

Suspension and expulsion continue to be among the most frequently used school disciplinary tools in general education, despite an almost complete lack of documentation that school removal is an effective procedure for improving student behavior or school safety. To meet the FAPE mandate, current special education regulations have constructed an alternative disciplinary approach whose purpose is to keep students in school by using strategies (e.g., individual behavioral planning) that are far more effective than exclusion in promoting positive social skills and behavior. There can be little doubt that the increased costs of that system, and the different treatment of students with disabilities, have created tension between general and special education. But the question remains: Does it make sense to remove special education disciplinary protections regarding suspension and expulsion simply to ensure that students with disabilities can be equally exposed to consequences that the preponderance of evidence suggests are unsound and perhaps discriminatory?

It is easy to empathize with administrators who feel that IDEA '97 has limited their disciplinary options. Maintaining school discipline and ensuring school safety is a complex and difficult job, and anything that may make that job more difficult must be treated seriously. Yet if the only objection is that IDEA '97 limits the use of suspension and expulsion, then it might be said that the disciplinary options of schools were already distressingly limited, relying on strategies that may well be both unfair and ineffective in ensuring school safety.

### **A Single, Effective, and NonExclusionary System of Discipline**

Given the gulf separating proponents and opponents of special disciplinary protections for students with disabilities, advocating for a single system of school discipline for both general and special education students might seem unrealistic. Yet proposals for a single dis-

ciplinary system have been made by both supporters and critics of IDEA '97 disciplinary regulations. Beverly Johns, past president of the Council for Exceptional Children and a staunch advocate for the rights of students with disabilities, has argued that "schools can eliminate a dual system of discipline if consequences other than suspension and expulsion are used" (Johns, 1998). The American Association of School Administrators, a vocal critic of the regulations, also advocates for a single disciplinary system, including mandatory alternative school placement for *all* children who are expelled, and full funding for special education programs (Hunter, 1999).

Any proposal for a unified system of discipline has to face the apparently conflicting demands of FAPE on the one hand and school disciplinary measures meant to ensure school safety on the other. Yet it is critical to understand that these two principles come into conflict only under a certain definition of discipline. Defining school discipline solely or primarily as the ability to suspend and expel students for school disruption creates an ongoing conflict with special education law almost by definition, since the mandate of special education is to ensure continued education. The tension between the two systems is reduced or eliminated, however, if discipline is viewed not as school removal, but as the comprehensive prevention of disruption through teaching appropriate alternatives to violence. The procedures and principles laid out in IDEA '97 are meant to protect students with disabilities from school exclusion, not from approaches that will improve their behavior. When discipline can be accomplished without school removal, the complex protections of special education law become largely irrelevant.

To reduce confusion and ensure equity for all students, a single system of discipline may well be the best course in the long term. Given the current state of best-practice knowledge in the field of school discipline, such a system would need to go well beyond disciplinary removal to include the following characteristics:

- Suspension and expulsion are limited to only the most serious behavioral incidents.
- Preventive programs teach students alternatives to violence for solving their problems.

- Procedures are in place to identify troubled students who may be at risk for violence, as well as programs to help reconnect such students with their peers and classrooms.
- A broad array of responses to disruption reduces the need for suspension and expulsion, and individual behavioral plans are developed for students with chronic behavior problems.
- Effective alternative schools and in-school suspension programs are available to keep students who must be removed from class engaged in learning.
- The issue of overrepresentation of culturally and linguistically diverse students in school discipline is being studied and addressed; that is, students of different groups are treated similarly for similar offenses, and overall disciplinary actions reflect the relative proportions in the population of various groups.<sup>5</sup>
- A disciplinary incident and critical incident database is in place, and those data are used to evaluate the effectiveness of all school discipline and school safety measures.

It is important to note that such a proposal does not mean simply extending the protections of IDEA '97 to all students. Those elements of IDEA '97 that are both effective and logistically feasible for application to the broader population may make a contribution to a unified discipline system. But many strategies that have been shown to be effective in reducing student conflict and improving school climate, such as bullying prevention and violence prevention curricula, were developed and evaluated in general education settings. A unified system of school discipline would simply entail the application of those procedures that our best knowledge suggests are most likely to be effective in ensuring the safety of schools for all students.

## Conclusion

The controversy created by the IDEA '97 may be less a function of the skill of the law's drafters than of the difficulty in reconciling two deeply held but perhaps contradictory goals. Ultimately, it may be necessary to understand the futility of attempting to guarantee a free and appropriate public education to

students with disabilities while at the same time retaining the option to exclude them from that education through suspension and exclusion.

Indeed, a review of both the special education disciplinary procedures and disciplinary removal in general makes explicit the fundamental irony of the special education discipline controversy. The disciplinary procedures that are at the heart of the controversy, suspension and expulsion, do not appear to make a positive contribution to school safety. Eliminating the IDEA disciplinary protections and exposing students with disabilities to more disciplinary removals might result in a system that appeared more fair, in the sense of treating all students equally. But given what we know about suspension and expulsion, it would also likely reduce the overall quality of U.S. public education by exposing more students to disciplinary procedures that are ineffective and perhaps discriminatory.

Focusing on a single, effective, and nonexclusionary system of discipline for all students resolves the perceived contradiction between FAPE and school safety by addressing both of the primary values inherent in the special education discipline debate. Reducing the use of school exclusion as a consequence would obviate the conflict between school discipline and FAPE since there is no inherent conflict between FAPE and effective behavioral procedures that keep children engaged in education. Moreover, improving school discipline in general would likely increase the overall safety of schools, replacing procedures whose effect is largely negative with strategies that are at least promising in reducing school violence and disruption. The difficult, perhaps impossible, question faced by a dual system of discipline under current educational law is how to balance the basic values of FAPE and safe schools given a set of disciplinary tools—suspension and expulsion—that appear incapable of guaranteeing either. In the long term, it will be more fruitful to have as our goal the development of a single system of discipline that relies upon procedures that are truly effective in promoting civil behavior and safe schools for all children.

## Endnotes

1. For both placement in an IAES due to drugs or weapons, or due to a ruling by a hearing officer that the student is danger-

ous, the removal may be extended at the end of the first 45-day period if school personnel are able to demonstrate that the child remains likely to create injury to self or others.

2. If, however, the school district petitions the hearing officer to extend that student's stay in the IAES past 45 days, then the student's placement prior to the IAES becomes the "current placement" in which the student must stay while appeals are pending.
3. If the manifestation determination review determines that, according to the above criteria, the disruptive behavior was not related to the student's disability, the student may be subjected to standard disciplinary procedures, including long-term suspension and expulsion. Yet even when there is no relationship between the behavior and the disability, students with disabilities cannot be expelled or suspended for long periods without services. IDEA '97 reflects prior case law in requiring that services must be provided that enable the student to make progress toward meeting the goals in his or her IEP whenever a disciplinary removal constitutes a change in placement as defined above (*Metropolitan Sch. Dist. of Wayne Township v. Davila* [1992]; *S-1 v. Turlington* [1981]; see also the New letter [Office of Special Education and Rehabilitative Services, 1989], in which the Office of Special Education Programs declared that services consistent with the IEP had to be provided to children with disabilities during a school expulsion).
4. Given that bills in Congress tend to be introduced and then dropped or combined with other legislation, it is difficult to arrive at an exact count of attempts to repeal the disciplinary provisions. A search of the Library of Congress THOMAS legislative information database using the terms *IDEA* and *discipline*, however, yielded 17 pieces of legislation introduced addressing the disciplinary provisions of IDEA in the 106th session of Congress alone.
5. It might be objected that such a policy forces a so-called quota method of discipline that would be inappropriate should students from CLD backgrounds be responsible for a greater proportion of student misbehavior. Yet the absence of data showing that CLD students are in fact

responsible for a greater share of disruption suggests that, in cases of disproportionality of discipline, the onus may well be on the school district to show that statistical discrepancies in discipline are justified (see Advancement Project/Civil Rights Project, 2000).

## References

- Advancement Project/Civil Rights Project. (2000). *Opportunities suspended: The devastating consequences of zero tolerance and school discipline policies*. Retrieved from Harvard Law School Web site: [http://www.law.harvard.edu/groups/civilrights/conferences/zero/zt\\_report2.html](http://www.law.harvard.edu/groups/civilrights/conferences/zero/zt_report2.html)
- American Association of School Administrators (1998, September). Need for fairness creates state of emergency for IDEA. *AASA Online*. Retrieved from <http://www.aasa.org/Advocacy/legis9-16-98.htm>
- American Psychological Association. (1993). *Violence and youth: Psychology's response*. Washington, DC: Author.
- Bickel, F., & Qualls, R. (1980). The impact of school climate on suspension rates in the Jefferson County Public Schools. *The Urban Review*, 12, 79-86.
- Bowditch, C. (1993). Getting rid of troublemakers: High school disciplinary procedures and the production of dropouts. *Social Problems*, 40, 493-507.
- Brantlinger, E. (1991). Social class distinctions in adolescents' reports of problems and punishment in school. *Behavioral Disorders*, 17, 36-46.
- Calhoun, S. E. (1987). Are our future teachers prepared for the stress that lies ahead? *The Clearing House*, 6, 178-179.
- Carr, E. G., & Durand, V. M. (1985). Reducing behavior problems through functional communication training. *Journal of Applied Behavior Analysis*, 18, 111-126.
- Cooley, S. (1995). *Suspension/expulsion of regular and special education students in Kansas: A report to the Kansas State Board of Education*. Topeka: Kansas State Board of Education.
- Costenbader, V. K., & Markson, S. (1994). School suspension: A survey of current policies and practices. *NASSP Bulletin*, 78, 103-107.
- Davis, J. E., & Jordan, W. J. (1994). The effects of school context, structure, and experiences on African American males in middle and high schools. *Journal of Negro Education*, 63, 570-587.
- Doe v. Koger, 489 F. Supp. 225 (N.D. Ind. 1979).
- Dupper, D. R., & Bosch, L. A. (1996). Reasons for school suspensions: An examination of data from one school district and recommendations

- for reducing suspensions. *Journal for a Just and Caring Education*, 2, 140–150.
- Dwyer, K., & Osher, D. (2000). *Safeguarding our children: An action guide*. Washington, DC: U.S. Departments of Education and Justice, American Institutes for Research.
- Dwyer, K., Osher, D., & Warger, C. (1998). *Early warning, timely response: A guide to safe schools*. Washington, DC: U.S. Department of Education.
- Eckenrode, J., Laird, M., & Doris, J. (1993). School performance and disciplinary problems among abused and neglected children. *Developmental Psychology*, 29, 53–62.
- Ekstrom, R. B., Goertz, M. E., Pollack, J. M., & Rock, D. A. (1986). Who drops out of high school and why? Findings from a national study. *Teachers College Record*, 87, 357–373.
- Elliott, D. S., Hamburg, B. A., & Williams, K. R. (1998). *Violence in American schools: A new perspective*. New York: Cambridge University Press.
- Elliott, D., Hatot, N. J., Sirovatka, P., & Potter, B. B. (2001). *Youth violence: A report of the Surgeon General*. Washington, DC: Office of the U.S. Surgeon General.
- Fine, M. (1986). Why urban adolescents drop into and out of public high school. *Teachers College Record*, 87, 393–409.
- Glackman, T., Martin, R., Hyman, I., McDowell, E., Berv, V., & Spino, P. (1978). Corporal punishment, school suspension, and the civil rights of students: An analysis of Office for Civil Rights school surveys. *Inequality in Education*, 23, 61–65.
- Gottfredson, D. (1997). School-based crime prevention. In L. Sherman, D. Gottfredson, D. MacKenzie, J. Eck, P. Ruter, & S. Bushway (Eds.), *Preventing crime: What works, what doesn't, what's promising: A report to the United States Congress* (pp. 1–74). Washington, DC: U.S. Department of Justice, Office of Justice Programs.
- Gregory, J. F. (1996). The crime of punishment: Racial and gender disparities in the use of corporal punishment in the U.S. public schools. *Journal of Negro Education*, 64, 454–462.
- "Groups critical of no second chances school proposal." (1999, January 27). *Baltimore Sun*, p. 4B.
- Gun-Free Schools Act of 1994, Public Law 103-382, 108 Statute 3907, Title 14.
- H. R. 1, The No Child Left Behind Act of 2001, Amendment 13.
- Hartwig, E. P., & Ruesch, G. M. (2000). Disciplining students in special education. *Journal of Special Education*, 33, 240–247.
- Hawkins, J. D., Herrenkohl, T. I., Ferrington, D. P., Brewer, D., Catalano, R. F., Harachi, T. W., & Cothern, L. (2000, April). Predictors of youth violence. *Juvenile Justice Bulletin*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Hellman, D. A., & Beaton, S. (1986). The pattern of violence in urban public schools: The influence of school and community. *Journal of Research in Crime and Delinquency*, 23, 102–127.
- Honig v. Doe. 484 U.S. 305 (1988).
- Hunter, B. (1999, June). AASA supports single discipline standard in Juvenile Justice bill. *AASA Online*. Retrieved from: <http://www.aasa.org/Advocacy/6-22-99norwood.htm>
- Imich, A. J. (1994). Exclusions from school: Current trends and issues. *Educational Research*, 36(1), 3–11.
- Improving America's Schools Act, P.L. 103-382, Sect. 314(a) (1994).
- Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1401 *et seq*; Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, 105th Cong., 1st Sess.; Individuals with Disabilities Education Act Regulations, 34 C.F.R. 300.1 *et seq*.
- Iwata, B. A., Dorsey, M. F., Slifer, K. J., Bauman, K. E., & Richman, G. S. (1982). Toward a functional analysis of self-injury. *Analysis and Intervention in Developmental Disabilities*, 2, 3–20.
- Johns, B. H. (1998). What the new Individuals with Disabilities Education Act (IDEA) means for students who exhibit aggressive or violent behavior. *Preventing School Failure*, 42(3), 102–105.
- Jones, N. L. (2001, June 22). Amendments relating to the discipline of children with disabilities in H. R. 1 and S. 1, 107th Congress. *CRS Report for Congress*.
- Kaesler, S. C. (1979). Suspensions in school discipline. *Education and Urban Society*, 11, 465–484.
- Katsiyannis, A., & Maag, J. W. (1998). Disciplining students with disabilities: Issues and considerations for implementing IDEA '97. *Behavioral Disorders*, 23, 276–289.
- Koch, K. (2000, March). Zero tolerance: Is mandatory punishment in schools unfair? *Congressional Quarterly Researcher*, 10(9), 185–208.
- Leone, P. E., Mayer, M. J., Malmgren, K., & Meisel, S. M. (2000). School violence and disruption: Rhetoric, reality, and reasonable balance. *Focus on Exceptional Children*, 33(1), 1–20.
- Leyser, Y. (1986). Competencies needed for teaching individuals with special needs: The perspective of student teachers. *The Clearing House*, 59, 179–181.
- Lietz, J. J., & Gregory, M. K. (1978). Pupil race and sex determinants of office and exceptional education referrals. *Educational Research Quarterly*, 3(2), 61–66.
- Mansfield, W., & Farris, E. (1992). *Office for Civil Rights survey redesign: A feasibility study*. Rockville, MD: Westat.
- Massachusetts Advocacy Center. (1986). *The way out: Student exclusion practices in Boston middle schools*. Boston: Author.

- McCarthy, J. D., & Hoge, D. R. (1987). The social construction of school punishment: Racial disadvantage out of universalistic process. *Social Forces*, 65, 1101-1120.
- McCarthy, M. M., Cambron-McCabe, N. H., & Thomas, S. B. (1998). *Public school law: Teacher and students' rights*. Boston: Allyn & Bacon.
- McFadden, A. C., Marsh, G. E., Price, B. J., & Hwang, Y. (1992). A study of race and gender bias in the punishment of handicapped school children. *Urban Review*, 24, 239-251.
- Metropolitan Sch. Dist. of Wayne Township v. Davila, 969 F.2d 485 (7th Cir. 1992). *cert. denied*. 507 U.S. 949 (1992).
- Mihalic, S., Irwin, K., Elliott, D., Fagan, A., & Hansen, D. (2001, July). Blueprints for violence prevention (OJJDP Juvenile Justice Bulletin). Retrieved from U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention Web site: [http://ncjrs.org/html/ojjdp/jjbul2001\\_7\\_3/contents.html](http://ncjrs.org/html/ojjdp/jjbul2001_7_3/contents.html).
- Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (D.D.C. 1972).
- Morgan-D'Atrio, C., Northrup, J., LaFleur, L., & Spera, S. (1996). Toward prescriptive alternatives to suspensions: A preliminary evaluation. *Behavioral Disorders*, 21, 190-200.
- Morrison, G. M., & D'Incau, B. (1997). The web of zero-tolerance: Characteristics of students who are recommended for expulsion from school. *Education and Treatment of Children*, 20, 316-335.
- National Association of Secondary School Principals. (2000, February). *Statement on civil rights implications of zero tolerance programs*. Testimony presented to the United States Commission on Civil Rights, Washington, DC.
- Nelson, J. R., Mathur, S. R., & Rutherford, R. B. (1999). Has public policy exceeded our knowledge base? A review of the functional behavioral assessment literature. *Behavioral Disorders*, 24, 169-179.
- OCR Letter of Finding, EHLR 307.06 (Office for Civil Rights, 1988).
- Office of Special Education and Rehabilitation Services. (1989). *New letter*, EHLR 213:258.
- Osborne, A. G. (1998). The principal and discipline with special education students. *NASSP Bulletin*, 82(599), 1-8.
- Office of Special Education Programs. (1995). [OSEP Memorandum 95-16, 22 IDELR 531]. Washington, DC: Author.
- Office of Special Education Programs. (1997). *Initial disciplinary guidance related to removal of children with disabilities from their current educational placement for ten school days or less*. [OSEP Memorandum 97-7]. Washington, DC: Author.
- Patterson, G. R. (1992). Developmental changes in antisocial behavior. In R. D. Peters, R. J. McMahon, & V. L. Quinsey (Eds.), *Aggression and violence throughout the life span* (pp. 52-82). Newbury Park, CA: Sage.
- Rose, T. L. (1988). Current disciplinary practices with handicapped students: Suspensions and expulsions. *Exceptional Children*, 55, 230-239.
- Rutherford Institute. (2000). *Eighth-grade student suspended for saving friend's life: Rutherford attorneys file complaint in circuit court*. [Press release]. Retrieved from <http://www.rutherford.org/courts/hot-cases.asp#18>
- S-1 v. Turlington, 635 F.2d (5th Cir. 1981), *cert. denied*, 454 U.S. 1030 (1981).
- S. 1, The Better Education for Students and Teachers Act of 2001, Amendment 604.
- S. Rept. 105-17, 105th Congress, 1st Sess. 28 (1997).
- Shaw, S. R., & Braden, J. P. (1990). Race and gender bias in the administration of corporal punishment. *School Psychology Review*, 19, 378-383.
- Sinclair, B. (1999). *Report on state implementation of the Gun-Free Schools Act: School year 1997-98*. Rockville, MD: Westat.
- Skiba, R. J., & Peterson, R. L. (2000). School discipline: From zero tolerance to early response. *Exceptional Children*, 66, 335-347.
- Skiba, R. J., Peterson, R. L., & Williams, T. (1997). Office referrals and suspension: Disciplinary intervention in middle schools. *Education and Treatment of Children*, 20, 295-315.
- Skiba, R. J., Michael, R. S., Nardo, A. C., & Peterson, R. (in press). The color of discipline: Sources of racial and gender disproportionality in school punishment. *Urban Review*.
- Smith, C. R. (2000). Behavioral and discipline provisions of IDEA '97: Implicit competencies yet to be confirmed. *Exceptional Children*, 66, 403-412.
- Taylor, M.C., & Foster, G. A. (1986). Bad boys and school suspensions: Public policy implications for black males. *Sociological Inquiry*, 56, 498-506.
- Thornton, C. H., & Trent, W. (1988). School desegregation and suspension in East Baton Rouge Parish: A preliminary report. *Journal of Negro Education*, 57, 482-501.
- Thornton, T. N., Craft, C. A., Dahlberg, L. L., Lynch, B. S., & Baer, K. (2000). *Best practices of youth violence prevention: A sourcebook for community action*. Atlanta: Centers for Disease Control and Prevention, National Center for Injury Prevention and Control.
- Tobin, T., Sugai, G., & Colvin, G. (1996). Patterns in middle school discipline records. *Journal of Emotional and Behavioral Disorders*, 4, 82-94.
- Tolan, P. H., Guerra, N. G., & Kendall, P. C. (1995). Introduction to special section: Prediction and prevention of antisocial behavior in children and adolescents. *Journal of Consulting and Clinical Psychology*, 63(4), 515-517.
- Walker, H. M., Horner, R. H., Sugai, G., Bullis, M., Sprague, J. R., Bricker, D., & Kaufman, M. J. (1996). Integrated approaches to preventing

antisocial behavior patterns among school-age children and youth. *Journal of Emotional and Behavioral Disorders*, 4, 194–209.

Wing, B., & Keleher, T. (2000, Spring). Zero tolerance: An interview with Jesse Jackson on race and school discipline. *Colorlines*, 3(1). Retrieved from [http://www.arc.org/C\\_Lines/CLArchive/story3\\_1\\_01.html](http://www.arc.org/C_Lines/CLArchive/story3_1_01.html).

Wu, S. C., Pink, W. T., Crain, R. L., & Moles, O. (1982). Student suspension: A critical reappraisal. *The Urban Review*, 14, 245–303.

Yell, M. L. (1998). *The law and special education*. Upper Saddle River, NJ: Merrill/Prentice Hall.

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