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EDUC 6740
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Module 12 – Law Case Analysis #9

You will assume the role of a legal advisor for the Adams County School District #14. Using the following anecdotal case, respond to it in terms of the “district's position”. Justify your remarks using data and information we discussed in class or that was found in this course. Try to respond fully, yet keep your responses succinct and to the point.

Safe Schools – Zero Tolerance Policies

Jonetta Brown was a 9th grade student at Red Rocks High School in Adams County School District #14 when she took a nail clipper out of her back-pack while in class. When the teacher saw this, Jonetta was sent to the office and expelled from school. Jonetta was a high-achieving student with no prior disciplinary issues.

Due to many high-profile school violence acts in the region the school district adopted a Zero-Tolerance Policy that calls for an immediate one-year expulsion of any student who brings a weapon to school. The clippers Jonetta brought to school had a 2-inch metal blade as an attachment, which she believed was for cleaning fingernails.

The school administrators and school board disagreed. It seems that under the school's zero tolerance policy, the 2-inch file was considered a "knife." Many incidents similar to this are not uncommon across the country.

In Jonetta’s case, she faces a long period of time dealing with ostracism, a mark on her academic record, personal doubts about adult decision-making, being out of school, and having been treated unfairly.

*Was the school district **justified** for implementing a **zero-tolerance policy** to deter school violence? In your opinion, are **zero-tolerance policies**, including those for violence, drugs, alcohol, and contraband, **effective in schools**? What alternatives could be implemented? Does having a zero-tolerance policy tie the hands of the district in terms of their response? How would you have handled this situation if a zero-tolerance policy was not in place?*

My Response: As we consider Jonetta’s case, it’s worth noting the context of what led us to this situation. Many school districts just like ours began implementing zero-tolerance policies in the 1980s and 90s, in order to respond to school shootings, violence, etc., in hopes of making schools safer and discipline fairer. Instead, they have created an arguably toxic environment with many unintended consequences, including situations where such policies have hurt victims of bullying, take away teacher autonomy to resolve conflicts, discriminate against special needs students and minorities, and many other negative side effects (Maxime, 2018; Morin, 2018; Winter, 2016). Is that what we want for our students?

Here are some more sad truths about zero-tolerance policies: while black students were twice as likely in the 1970s to be suspended as their white counterparts, that has doubled in recent years so that now, black students are four times as likely to be suspended as white students (Winter, 2016). We’ve had 30+ years of solid data, and analysis of it shows that it leads to kids being arrested for minor infractions, (and even sometimes accidents, like Jonetta’s case might be interpreted), leaving the students feeling a great sense

of injustice regarding the discipline, and leading to a breakdown in school culture and pride (American Psychological Association, 2008; Morin, 2018; Winter, 2016).

For example, in 2010, a 12-year-old woman in New York City was arrested and booked into jail after writing on her desk with a washable marker; that same year, a 10-year-old student was given a week-long detention for eating a Jolly Rancher. And again in 2010, a young lady wearing a rosary in remembrance of her grandmother was suspended because of perceived possible gang involvement. In 2013, a kindergartener was given detention for bringing a Lego gun, the size of a quarter, onto the school bus. Later that same year, a 7-year-old Baltimore boy was suspended after eating his toaster pastry into the shape of a pistol (Rawles, 2014).

Nearly all of these cases involved students who had not previously had discipline problems, yet due to zero-tolerance policies, the reaction was draconian, swift, and many would also say overbearing and troublesome. Many of these districts were consequently sued, with most settling out of court to avoid further public embarrassment (2014). These stories illustrate how ridiculous the responses can seem in the public eye when a zero-tolerance policy is taken to the extreme. While they seem good on paper, again, such anecdotes prove that in practice, they are unsettling and even ridiculous in application.

And that brings us to Ms. Jonetta Brown. By all accounts, she is an excellent student! She has never had a single documented disciplinary issue. Yet we as a district have decided to expel her, a model student, for an entire year? Does that make *any* sense? I believe that upon reflection, we can all agree that no, it does not, and we ought to forthwith reevaluate these policies and consider some alternatives. It is therefore my recommendation, as your legal advisor, to issue an immediate apology and explanation regarding our revision of such policies, and to fully reinstate Ms. Jonetta Brown as a student at Red Rocks High School, and hope that her family is forgiving and decides not to sue.

Now of course, we as a district, school board, etc. ought to consider what alternatives we might utilize instead of such ham-handed procedures. After analysis of the question, I have a suggestion: “**restorative justice**” is worth a hard look. This is a popular response from many schools looking to get away from zero-tolerance policies, and such programs, though they vary, seek to reduce suspensions and other negative effects of zero-tolerance policies. They replace the gestapo-like culture that sadly often develops in such schools with one of understanding, discussion, forgiveness and empathy, by encouraging students and staff “to reflect on their transgressions and their root causes, [to] talk about them – usually with the victims of the behavior – and [to] try to make amends” (O’Donnell, 2018). This is often established via having a “discussion circle”, where students and teachers sit and face each other, while discussing openly their daily school lives as well as their take on problems as a group when they arise.

There are of course challenges that have arisen with schools turning to restorative justice programs, such as mixed results regarding different racial groups, and lack of buy in from some students (Barnum, 2018). Nevertheless, there are many positives that most agree outweigh the cons. Through such a program, whether it is at a public school, or in the criminal justice system, the focus is not on “vengeance against the offender,” or “revenge for the victim.” Rather, the goal of these programs is an all-inclusive desire to “repairing harm for all parties involved” by encouraging communication between all involved, whether offenders or victims, and get them to understand the effect(s) of their actions(s), and why it is not socially acceptable, and what they can do to make things right (Gonzalez, 2017). When such programs are effectively utilized, they lead to less repeat offenses, a post-traumatic stress reduction as well, and safer, healthier school communities (Gonzalez, 2017; “Restorative Justice”, 2017).

In conclusion, while the decision is yours as a district and board, my recommendation remains: reinstate Ms. Jonette Brown immediately, and also commence straightaway to work towards creating a more holistic discipline policy and culture to replace a failing zero-tolerance policy. If such a policy had existed when this occurred, her teacher and class could have easily had a prompt discussion circle to explain to Jonette the fear and issues that such a device at school might bring, and she would have also had a voice to share her thoughts, and explain how she didn't mean any harm, and I'm sure that the issue would have quickly been resolved then and there, and that it wouldn't have been an issue in the future. Unfortunately, we are where we are, and so to avoid similar molehills becoming mountains, I suggest you seriously consider my recommendations. Thank you.

Sources:

- American Psychological Association, Zero Tolerance Task Force. (2008). Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations [Report]. Retrieved April 6, 2019, from <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>
- Barnum, M. (2019, January 4). Major new study finds restorative justice led to safer schools, but hurt black students' test scores. *Chalkbeat.org*. Retrieved April 6, 2019, from <https://chalkbeat.org/posts/us/2019/01/04/the-first-gold-standard-study-of-restorative-justice-is-out-heres-what-it-tells-us/>
- Gonzalez, J. (2018, February 18). Restorative Justice in School: An Overview [Audio blog post]. Retrieved April 6, 2019, from <https://www.cultofpedagogy.com/restorative-justice-overview/>
- Maxime, F. (2018, January 18). Zero-Tolerance Policies and the School to Prison Pipeline. Retrieved April 6, 2019, from <http://www.sharedjustice.org/domestic-justice/2017/12/21/zero-tolerance-policies-and-the-school-to-prison-pipeline>
- Morin, A. (2018, September 26). How Zero Tolerance Policies Can Do More Harm Than Good. Retrieved April 6, 2019, from <https://www.verywellfamily.com/does-zero-tolerance-work-in-schools-620855>
- O'Donnell, P. (2018, April 12). The Ins and Outs of 'Restorative Justice' in Schools [Web log post]. Retrieved April 6, 2019, from <https://www.ewa.org/blog-educated-reporter/ins-and-outs-restorative-justice-schools>
- Rawles, L. (2014). 6 eye-opening examples of zero tolerance discipline [Web log post]. (2014). Retrieved April 6, 2019, from <http://www.abajournal.com/gallery/zerotolerance/>
- Restorative justice in the criminal justice system* (Publication). (2017, March 24). Retrieved April 6, 2019, from University of Wisconsin Population Health Institute website: <https://x78251kcpll2l2t9e46kf96a-wpengine.netdna-ssl.com/wp-content/uploads/2018/02/Restorative-Justice-in-the-Criminal-Justice-System.pdf>
- Winter, C. (2016, August 25). Amid evidence zero tolerance doesn't work, schools reverse themselves. Retrieved April 6, 2019, from <https://www.apmreports.org/story/2016/08/25/reforming-school-discipline>