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Youth Perspective:

Framing School Discipline in the “Best Interests of the Student”

By: Caitlin Cervenka

In the “zero tolerance” era of school discipline, school districts nationwide have started to reexamine their discipline policies to address their inequitable results. These inequities in discipline are especially prevalent in regards to suspending, expelling, or otherwise excluding from classroom activity students who display behaviors that are termed “disruptive.” This is especially true in the case of students with disabilities and students of color, who are disparately hindered in their educational success by “zero tolerance” exclusionary discipline policies. To address these inequities, Illinois has enacted Public Act 099-0456, which seeks to limit Illinois schools’ ability to impose suspensions and expulsions. This law will take effect September 15, 2016. This Article serves to gain an understanding of this policy from the eyes of a youth who will be most affected by such a policy.

Ryan¹ is a fourteen-year old-student at a therapeutic school in the Chicago suburbs. Ryan’s current school is for students diagnosed with Autism Spectrum Disorder (“ASD”). Ryan currently has an Individual Educational Plan (“IEP”) and a diagnosis of ASD. Before Ryan attended this therapeutic school, he was a middle-school student at a traditional public high school in a suburban school district. As he explains it, Ryan was frequently bullied in class, and he would sometimes react to the bullying in a way that the school interpreted as problematic. Ryan’s teacher and principal would discipline him typically with detention, for these actions, even though many times the bullies faced no consequences. His teacher and principal told him repeatedly that his behavior was disruptive of the learning environment of other students. In fifth grade, when Ryan was eleven years old, his teacher started to put him in the principal’s office for the whole school day, to separate him so that he did not react toward the other students.

Though Ryan’s principal never formally suspended or expelled him, he believes that being isolated from other students and forced to do work independently was a type of exclusionary punishment that his teacher used because she “didn’t want to deal with [him] anymore.”² He says that his teacher took him out of the learning environment, which caused him to miss out on many learning opportunities. No one ever explained to Ryan what the code of student conduct was; he knew that there were behaviors he was not supposed to do and he knew that he was in the principal’s office as a result of engaging in these behaviors. No one, not his teacher, nor his principal, asked him why he was acting in that way; instead, they opted to give him repeated talks about “how to not overreact” to bullying. None of the bullies were subject to exclusionary discipline measures other than after-school detention.

¹ The name of the student has been changed.

² Interview with student on December 1, 2015.

Ryan believes that school districts have been operating under an incorrect paradigm when it comes to school discipline especially in utilizing exclusionary discipline tactics. Ryan thinks that overall, if a student's behavior is disruptive, or violates the school code of conduct in any way, that student needs to be given a space and a voice. He believes the school needs to treat that student as an active participant in his own learning and his own discipline.

Ryan further believes that students with special needs, like him, and especially students with IEPs are subject to disparate application of exclusionary discipline policies. He believes this both because of his own experiences and the experiences of his peers at the therapeutic school he now attends. Ryan's assertion is also supported by school discipline data. Students with disabilities are twice as likely to receive one or more out of school suspensions as students without disabilities. Further, having a disability also changes the way a student may be disciplined while in school. While students with disabilities represent 12% of all students enrolled in public schools nationwide, 75% of all students subjected to physical restraint in school and 58% of students subjected to seclusion in school have a disability.

Ryan believes that the changes to substantive school discipline policy outlined in Public Act 099-0456 ("Act") are a good start to making inclusive school discipline policies. Yet, he questions whether the Act will ultimately prevent teachers and administrators from utilizing the kind of exclusionary discipline policies that they subjected him to.

First, Ryan expressed concern with the requirements for suspension. Under the Act, schools may only use suspensions of three days or less as discipline if the student "pose[s] a threat to school safety or a disruption to other student's learning opportunities." He thinks that the term "disruption" is problematically vague; teachers may, and have in his case, applied this term in a broad way in order to justify exclusionary discipline plans. He thinks that "disruption" can mean anything, and that "substantial disruption" or "extreme disruption" might be a better term that would help teachers understand when it is acceptable to suspend a student for more than three days.

Next, Ryan questioned the way that the Act lists exclusionary discipline practices as suspensions of more than three days, expulsions, and transfers to alternative school placements. First, he believes that the type of in school exclusion he experienced is also an exclusionary discipline practice. Second, he does not understand why schools use a transfer to an alternative school placement as a form of discipline. He thinks that if transferring is an option then the student being considered for transfer should have their voice considered and heard as a major factor in that decision. He believes this option should only be used if it is clearly in the best interest of the student, and he believes students should be given an active role in articulating their own best interest. He worries about separating a student from friends, a social network, teachers and administrators that know and understand that student, even if that school is a contentious environment at times. Ryan's opinion is informed by his transfer experience. His option transfer to a therapeutic school was not

presented to him as discipline, but as an option that he was able to choose to solve the issues he encountered in his former classroom. In that way, he was able to start the therapeutic school feeling like he made the choice and not like he was being punished further.

Under the Act, districts may impose suspensions of more than three days, expulsions, and transfers to alternative placements if districts can show both that “other appropriate and available behavioral and disciplinary interventions have been exhausted,” and that “the student’s continuing presence in school would do any of the following: (i) pose a threat to the safety of other students, staff, or members of the student community, or (ii) substantially disrupt, impede, or interfere with the operation of the school.” Ryan is in agreement that safety threats as outlined in (i) must be taken seriously in schools and probably rise to the level of behavior that could be addressed by exclusionary discipline. He does note that the school needs to show that the student is a legitimate threat and not simply that the school does not want to “deal with that student anymore.” However, he thinks that (ii) is too vague and that schools will likely interpret that in the same broad manner that he believes his former school interpreted his behavior. He thinks that pretty much any action could “impede or interfere with the operation of the school” and that schools will not interpret this provision in a way that serves the best interests of the students.

Finally, Ryan took issue with the language of the Act that requires a showing by schools of the “specific reasons why removing the pupil from the learning environment is in the best interest of the school.” He thinks that framing the justification of the use of exclusionary discipline practices as appropriate if it is in the best interests of the school is contrary to the goal of public education, which should strive to act in the student’s best interests. Although Ryan asserts that it is better to have to document a specific reason rather than no reason at all, he still is cognizant of the possible result that school districts will never take measures to serve students’ individual needs if they can only consider the best interest of the school.

While Ryan’s ideas may be based on his own individual negative experience with discipline in public school, his ideas are supported by research that suggests that any changes in the law of school discipline must be accompanied by a significant paradigm shift if they are to truly address the disparities in school discipline on students in special education and students of color. Discipline as a punitive response to student’s behaviors often compounds issues that students, especially students with disabilities, experience; they do nothing to address the actual behaviors they intend to correct, and are a tool used more for the benefit of the school than the child. Exclusionary discipline practices, if used at all, should be coupled with support for students so that they may understand clear expectations of behavior and given an opportunity to voice their own difficulty conforming to the student code of conduct. Additionally, schools need to treat all students, but especially students with disabilities who are particularly vulnerable to exclusion, with practices that respect what is actually in the best interest of the student, based on that student’s own individual needs.

Ryan does not believe that being removed from his former classroom as a result of his behavior gave him incentive to change his behavior. Ryan felt deeply misunderstood and betrayed by his school's refusal to address the root causes of his behavior, which was bullying from his peers. Further, he never felt that his former school was able to engage with him in a way that was socially and emotionally appropriate for him. Instead of engaging Ryan, his former school was only concerned with minimizing his behaviors and the impact of his behavior in the classroom. Ryan is passionate about telling his story to express to schools that they cannot treat exceptional students like him as if they are any less important than other students.

Ultimately, school districts need to shift their mode of operation to best serve students and the learning environment. This will require, as Ryan thoughtfully proposed, an underlying emphasis on acting always in the best interests of the student. Students who act in ways that violate codes of conduct should be understood as experiencing challenges socially and emotionally that should be addressed appropriately. Moreover, students should not be labeled as exhibiting bad or problematic behaviors, and especially should not be labeled as a "disruption." Ryan is happy with his choice to transfer, but he believes it is perhaps not always the most ideal environment for him. Although at a new school, Ryan still feels that his school district's policies make it continuously difficult for him to voice and define his own educational needs. While Public Act 099-0456 is a shift in the right direction, and may result in fewer suspensions and expulsions, it is a good step in ensuring that students like Ryan can access the resources that will help support them in an inclusive classroom environment. Exceptional students like Ryan are an asset to any learning environment if they are given the proper social, emotional, and educational support. Schools need to realize this, and shift their disciplinary paradigm to serve the needs of students like Ryan.

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