

Who Let the Kids Out?  
Keep Kids In Class:  
Breaking the School  
to Prison Pipeline

While Massachusetts may rightly boast one of the top school systems in the nation, not all of our students receive the benefit from it. As Massachusetts apprehensively eyes the twin specters of increasing truancy rates and a drop-out rate of 3.9%, fully understanding the role of discipline is a critical first step in tackling the problem of why a segment of Massachusetts children are not staying in school.

Massachusetts Appleseed, in collaboration with a coalition of legal service providers and education advocacy organizations, is examining the intersection of school discipline, zero tolerance and youth entering the juvenile justice system. Through its signature initiative, entitled “Keep Kids In Class: Breaking the School to Prison Pipeline,” Massachusetts Appleseed seeks to mitigate the effects of elementary and secondary school disciplinary proceedings on the increasing rates of drop-outs and juvenile delinquency.

# What do the numbers show?

Data currently collected by DESE regarding students excluded from school pursuant to Massachusetts state law shows cause for concern.

*How many?* Of the approximately 968,000 students enrolled during the 2006–2007 school year, over 64,000 of them were excluded from school for at least 1 day or more.

*Age?* Children as young as 4 years old (enrolled in pre-kindergarten) were excluded from school for at least 1 day or more; children as young as 10 (enrolled in the 4th grade) were permanently excluded from school pursuant to state law.

*How long?* 4,201 incidents resulted in exclusion of 10 days or longer; 365 youth were permanently excluded or expelled from school that same year.

*Who?* Of those 64,000, 33% were general education students, whereas 67% were special education students. These students were mostly males (75%). These students tended to be poor (60%). These students are disproportionately African-American and Hispanic. African-American comprise 19% of the exclusions, yet only 8% of the general student population. Hispanic students comprise 26% of the exclusions, yet only 13% of the general student population

*Trends?* Schools report a significant increase in “discipline by exclusion” at 6th grade, when the data show suspensions jump from 4% to 10%. The second significant increase in the use of suspensions occurs in 9th grade where the incident rate climbs to 20%; exclusions drop back to 13% in grade 10 and continue to decline from there.

# How does discipline work in Massachusetts?

Education is not a fundamental right, although Massachusetts does recognize that school-aged children are entitled to a public education. Students can forfeit their right to access to public education if they misbehave so long as the revocation is not arbitrary or capricious. In 1993, The School Reform Act expanded the discretion of school principals which included, among other things, the authority to exclude students for misconduct that threatens the safety of other students and staff and inhibits the learning environment. This gave the principals unfettered discretion; yet, provided no mechanism to appeal decisions beyond the school district level. In practice this means:

- Students of any age can be permanently expelled from school;
- If a student is expelled, the school is not required to review the matter to reconsider reentry of the student to school and no other school district is required to admit such student;
- General education students are not entitled to receive any educational services; although students who qualify for special education are entitled to continue to receive educational services; and,
- Students can be suspended indefinitely for merely being charged with a felony delinquency or expelled permanently if found delinquent.

# Re-thinking Effectiveness of Zero Tolerance Policies in Education

Zero tolerance is a punitive and exclusionary attitude towards school discipline. Zero tolerance in education evolved from policies developed by federal and state drug enforcement agencies in the 1980s as part of a “get tough on crime” mentality. Although the zero tolerance mantra was eventually phased out of federal and state drug enforcement agencies as being too inflexible, and therefore unworkable, Congress and state legislatures continue to implement the zero tolerance policy in public schools.

Zero tolerance policies have negatively influenced school discipline procedures. In the context of the zero tolerance mindset, Massachusetts state law, specifically M.G.L. c. 71 §§ 37H and 37H1/2 creates a barrier to public education. Rigid application of § 37H to exclude students from school by school administrators with a zero tolerance attitude contributes to the drop-out rate and thus populates the “School To Prison Pipeline.” The result is that such students are “pushed” out of the school system, many of whom become involved in the criminal justice system. For these reasons, it is a critical public policy matter to reduce the incidence of school exclusion by limiting school exclusion to only those students who truly represent a substantial threat to school safety.

Across the nation, advocacy organizations are starting to examine the downstream effects of zero tolerance in education and rethink the efficacy of such policies. Massachusetts Appleseed is advocating for such a review in our state.

Although stories and anecdotal evidence abound, little is known statistically about who is getting disciplined in Massachusetts schools, for what kind of behavior, and how the discipline is meted out, much less when and why certain approaches are chosen. By identifying and examining when zero tolerance leads to student “push out,” advocates will be able to shine a light on problems and initiate policy reforms.

# Conclusions and Recommendations

We urge the Department of Elementary Secondary Education to increase its data collection and its oversight of the implementation of disciplinary policies. More data, thoughtfully disaggregated and correlated to relevant aspects of school success is imperative to highlight and define the problem in order to implement change

That said, what the available data does make clear is:

- There are too many children out of school on any given day in Massachusetts (64,000 incidents per year).
- Too many suspended children are too young to be spending time out of school.
- 6th and 9th graders are especially at risk of being disciplined and need special support.
- Impacted students are most likely to be male, poor and participants in a special education program.
- Hispanic and African-American students are disproportionately represented among these students.

### **Recommendations for Legislative Reform**

We recommend that M.G.L. c 71 §§ 37H and 37H ½ be revised to limit school exclusions solely to the behavior that was originally contemplated by the Massachusetts legislature and eliminate exclusions for so-called “friction crimes.”

### **Recommendation for Data Collection and Increased State Oversight**

We recommend that the legislature create accountability through improved reporting requirements and increased state oversight.

### **Keep Kids in Class: Breaking the School To Prison Pipeline**

Recognizing that school discipline issues occur across a continuum, Massachusetts Appleseed will initially focus its project work on the two ends of the School to Prison Pipeline spectrum: the educational community and the juvenile justice system.

### **Work with the Judiciary**

Massachusetts Appleseed seeks to tap into the experience of the juvenile court judges to gain insights into potential strategies to address the needs of this population of students. Massachusetts Appleseed is currently developing a survey for juvenile court judges to better understand the dynamics and effects of school discipline policies on the juvenile justice system and vice versa.

### **Work with Educators and other Stakeholders**

Ultimately, Massachusetts Appleseed intends to work with educators and other stakeholders to identify educational approaches that will better address the challenges that educators face. Our hope is to identify those resources and frameworks which will support a learning climate that engages students and teachers to foster learning and keep kids in class.

Massachusetts Appleseed is collaborating with other thought-leaders in this area and with stakeholders in the educational community to identify areas for systemic reform and to propose regulatory initiatives.

This is the first in a series of white papers that will document the development and success of this initiative. For the full text of this white paper, please visit our website at [www.massappleseed.org](http://www.massappleseed.org).



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