



Judge Leonard Edwards (Ret.)
Santa Clara Superior Court

Suspensions and Expulsions: It's Time For a Change

A student blows up at a teacher. The teacher's authority is challenged. Emotions rise – the “F” word is used and the student is removed from class, sent to the principal's office, and possibly suspended from school for a few days. A repeat performance will likely result in expulsion.

Sadly, this happens every day in schools across the country. In 2006 more than 3.3 million students were suspended out-of-school at least once and 102,000 were expelled. California schools suspended more than 700,000 students in school year 2010-2011 and expelled 18,000. The majority of suspensions were for minor misbehavior such as “disruptive behavior,” “insubordination,” or school fights. In 2008, 43% of all suspensions were for “willful defiance” or “insubordination.” The suspension rate for students of color is disproportionately higher than for white peers. In 2009-2010, 7 percent of all California students were suspended compared to 18 percent of African American students and 11 percent of American Indian students.

Children placed in foster care have more school suspensions than comparison groups. Studies show that attachment to school and peers is among

the factors that contribute to school success and reduce the likelihood of disciplinary involvement. Foster children and their greater mobility make it more difficult for them to feel attached to a school.

Suspensions are bad for students and bad for the community. Suspended students fall behind in their school work, are often unsupervised at home while parents work, and schools with high suspension rates score lower on state accountability tests and rank lower in National Assessment of Educational Progress (NAEP) achievement ratings in mathematics, writing, and reading than schools with lower suspension rates. Suspended students are twice as likely to repeat a grade and drop out of school. As Chief Justice Tani Cantil-Sakauye noted in her State of the Judiciary speech, school suspension triples the odds of having contact with the juvenile justice system. One study indicated that one-quarter of students involved in the school disciplinary system had contact with the juvenile justice system.

Castle Redmond, a former teacher and case manager in Oakland Unified said that “Suspending kids does not increase graduation rates, increase student health, or make schools safer. Suspended kids

come back, and when they do, they feel less connected to the school and more resentful to the adults on campus.”

Suspensions and expulsions are not necessary. At least that was the conclusion of Garfield High in East Los Angeles, home of the famous movie, *Stand and Deliver*, featuring Jaime Escalante. A couple of years ago the administrators at Garfield High decided not to suspend students from school. The planning took several years, but the results were impressive. Their suspensions decreased from 510 to 1 in 2010-2011 and only 1 again in 2011-2012. Graduation rates and academic achievement increased and the school atmosphere improved significantly. (For details Google “Fix School Discipline – Garfield High”).¹

Other schools have had similar if not as spectacular results. Lincoln High School in Walla Walla, Washington, (a continuation school) modified its approach to student discipline. As the principal explained, “It sounds simple. Just by asking kids what's going on with them, they just started talking. It made a believer out of me right away.” Lincoln's suspensions dropped from 798 to 135 in one year.

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call a recess to recover his good humor. But not WonderWoman – she’s on a mission to wrap up the case! Why can’t WonderWoman remember that in spite of her name she is merely human? A well-timed break is the best antidote to maintain judicial temperament. As the astute judge Greg O’Brien (Ret.) observed, “Demeanor isn’t everything. But it comes close.”

Busted by Body Language.

Just when I think I have it all figured out – Look at me, practicing patience! Avoiding interruptions! Paying attention! – I glimpse my reflection in the government-issue water pitcher on the bench. Ack! Hemorrhoidal countenance, downcast eyes, crossed arms. Busted by bad body language, just as Giants

beat writers identified Brandon Belt was in an early slump in 2012! Constant vigilance is required so that we are aware of what we communicate by our expression and posture. Are we telling participants we are bored and inattentive or engaged and interested? The remedy, as our yoga teacher would tell us, is to sit tall, breathe deeply, and be fully engaged in the moment. It doesn’t hurt to take notes and to make eye contact with the speaker. Oh, and as Judge Bostwick notes, “People are more comfortable doing their jobs when the judge is pleasant and smiles occasionally.” News flash: It is legal to smile in court!

Negative Nancy.

Ever notice how fun and exhilarating it is to be with new

judges? They are excited about their new career, brimming with joy and optimism – as we once were. Where we might see headaches and hassles, they see challenges and learning opportunities. Most of us find it difficult to maintain that ecstatic cheerfulness throughout our career. Instead, we start focusing on the negatives: the difficult litigants, the boring assignment, the struggles with staff shortages. What has changed? Not the job so much but us. We have started taking for granted all the positives and notice instead all the negatives. Somewhere along the way, we stopped appreciating how lucky we are to work in a field that every day offers us opportunities to learn new lessons and make the world a better place. Negative Nancy

might need to develop a practice of gratitude, spending part of every day reflecting on her many, many blessings.

Fortunately, word count limits prevent me from lengthening this list, but obviously, my work is cut out for me. Time to practice patience, listen carefully, take more breaks, sit up straight, and count my blessings. I’m determined to do it, too, because baseball season is upon us, and I *really* want that World Series Ring. A careful and ongoing analysis of my faults can help ensure a winning season. 🍀

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Juvenile court judges have an opportunity to take a leadership role in persuading schools to re-think their suspension and expulsion policies. Standard of Judicial Administration 5.40(e) contains several provisions encouraging judges to provide leadership in the community to address the needs of at-risk children. Subdivision 6 states that “judges of the juvenile court ... are encouraged to [m]aintain close liaison with school authorities and encourage coordination of policies and programs.”

Juvenile court judges can convene the school leaders and others to rethink suspension and expulsion policies. By encouraging the development of on-campus interventions short of suspension and expulsion, school officials will be closing the “pipeline from school to prison” that Judge Steven Teske speaks of. “Zero Tolerance” does not

work as it was intended.² Schools that implement zero tolerance policies are not safer. Moreover, many students who are excluded from the school system later are excluded from mainstream society. Garfield High School has demonstrated that schools can preserve the safety and integrity of the learning environment without resort to suspensions and expulsions.

Addressing these issues presents a challenge and an opportunity for our local communities throughout the state. California leads the nation in so many ways. There is no reason why we should be suspending and expelling as many students as we are. We can start by contacting principals and members of our local school boards and convening meetings around the suspension and expulsion issues. We can learn from Garfield High School and create more progressive and successful school suspension

and expulsion policies. That will lead to even more success in our schools and less involvement in the juvenile justice system. 🍀

ENDNOTES

- 1 For a powerful statement about what Garfield High was able to accomplish, view the video of Ramiro Rubalcaba available on my webpage publications *blog*. JudgeLeonardEdwards.com
- 2 “Are Zero Tolerance Policies Effective in the Schools,” American Psychological Association Zero Tolerance Task Force, *American Psychologist*, Vol. 63, No. 9, pp 852-86.

Family Law Update

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economic situation impeded her ability to obtain full-time employment in her chosen field at a salary sufficient to be self-supporting.” *Ibid* at 1481.

Given the clear step down provisions of the judgment coupled with the fact that she had voluntarily enrolled in the doctoral program, wife simply did not meet her burden to demonstrate that the inability to meet the expectations in the judgment was not in her control. 🍀



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