

# Rethinking Student Discipline

BY DAVID C. BLOOMFIELD

I am a superintendent's worst nightmare. I am an education lawyer. I am a parent activist, serving as an elected representative on a district advisory council and as the complainant in a civil rights action against the district.

As a saving grace, or perhaps worst of all, I am a professor of educational leadership with knowledge of how and why school and district leaders act the way they do, the consequences of those actions and alternative ways of doing things.

## Common Frustrations

The conundrum is that in all of these roles I depend on legal activism, even as I bemoan its necessity. I teach my aspiring school leaders to be pro-active in developing policies and analyzing mandates to improve school climate and protect themselves against legal contest. And, contrarily, I draw upon any possible legislative, executive or judicial source — local, state or federal — in bringing claims against overreaching administrators.

In his 1996 book, *Democracy's Discontent*, political philosopher Michael Sandel identified this uncomfortable duality, which I apparently embody, calling ours a "procedural republic." The procedural republic, Sandel says, is marked by neutrality toward the views of its citizens, preferring instead to prioritize fair procedures over particular ends. Basically, everyone with an axe to grind gets his or her day literally in court and the system sorts out the equities.

That very word, equities, even implies the judicious, time-consuming weighing of all factors: legal, factual, procedural. And

how often do final decisions — long after the student is suspended and returns to school, long after the teacher is confined to the "rubber room" — turn not on the substance of the infraction but on whether due process requirements were adhered to. Procedures! With all of their tripwires, timelines and tedium.

Student discipline is one of the most common arenas of procedural frustration. In its Burden of Law project ([www.cgood.org/burden-of-law.html](http://www.cgood.org/burden-of-law.html)), Common Good, a legal reform organization with which I often work, isolated dozens of steps required to suspend a general education student. If there is a mistake of delay, omission or an internal procedural infirmity, the suspension can be overturned. As a result, rather than be caught up in its snares, principals and superintendents often abandon disciplinary procedures altogether as being too time-consuming and expensive. School climate suffers.

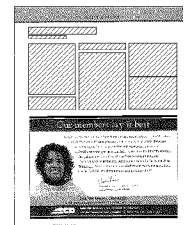
These difficulties are further documented in Common Good's new report on Colorado's public schools, "The New Three R's: Rules, Regulations and More Rules." The study identified a multitude of mandates tying the hands of administrators, among them the habitually disruptive rule, state truancy law, schools of choice law, zero tolerance policy and something called the "reasonable physical intervention" clause in the Colorado Anti-Violence Code. Good luck keeping track of the mandates, let alone following them.

## A Supportive Option

How do we get out of this financially, emotionally and instructionally draining mess?

Sandel suggests a one-word solution: Community, or the more cumbersome but perhaps clearer, political economy of citizenship. The latter denotes the mutual give-and-take that he favors and the incentive that stakeholders have in making sure the social center holds.

This opposing scheme to the procedural republic requires inclusive, mutually responsive bodies that can handle disputes infor-



mally because they carry the confidence of the majority. Individuals restrain unfettered self-interest for the common good, as professed through the community body. It shifts ego from the individual to the group. Rather than asking, "What is good for me?" it asks, "What is good for us?"

Suspensions are not necessarily the best disciplinary method anyway, with alienated students becoming more alienated and falling further behind once they return to school. But, in our hyper-legalistic society, there is great institutional and popular attractiveness to clear punishment following from clearly defined procedures. If it's morally satisfying on TV, why not in school?

But that is the trap of the procedural republic. It promises morality but delivers technocracy inimical to the concept of a school community. Less procedurally intense, solution-driven teams representing a variety of constituencies have much greater flexibility in improving school climate than quasi-judicial practices carried out in isolation by school and district administrators. In trading off harsher punishments for schoolwide buy-in, these teams can avoid most court oversight that now stymies principals and superintendents.

Surprisingly, when educators, lawyers and scholars get together, there seems to be consensus on this strategy for working our way out of this legal morass. Student

support, rather than sterile discipline, was the watchword at an October 2007 Common Good conference in Washington, D.C., meant to address legal impediments to classroom disruption. Commentators across the political spectrum urged a variety of school-based mechanisms for changing behavior rather than more punitive alternatives.

If we can promote the idea of collaborative leadership within schools, creating systems where decision making becomes a community practice, we have a chance of diminishing the adversarial poison that currently marks school politics. Without that, we will stay trapped in our current swamp of decisional paralysis, defensiveness and litigiousness.

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