



Discipline And Punishment

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Background

Current Issues

At the beginning of the new millennium, educators, law enforcement agencies, governments, courts, parents, and the general citizenry in the United States considered questions pertaining to student conduct which were new and troubling. The late 1990s witnessed a number of spectacular on-campus crimes by juveniles, acts of murder, suicide, [ASSAULT](#), and massive property damage. The seriousness of these events brought attention to the problems public schools face in managing students who act out in life-threatening criminal ways. Clampdown reaction to enhance security and student protection competed with legal concerns about student Constitutional rights, particularly the right to due process. Other widespread crimes in schools, such as physical conflicts between students and student drug use, weapon possession, and theft, disrupted the academic setting and all too often frustrated the true goals of education: teaching and learning.

Definition

The word, discipline, is akin to the word, disciple. Discipline, in its first definition, means learning, just as the word, disciple, refers to one who learns. Additional meanings of the word, discipline, suggest the complexity of the subject as it pertains to individuals (in this case specifically minors) and the U.S. public school system. Discipline refers to training and experience that corrects, molds, and strengthens individuals' mental faculties and moral character. It also refers to punishment which intends to correct and which is enforced by those in authority or may be self-imposed. Discipline refers to the control gained by enforcing obedience, and it refers to the systematic orderly behavior defined by codes or rules set forth by institutions for their members. Discipline also refers to self-control, to the development of skills that help individuals resist temptation, act positively, and function both independently and cooperatively in ways which enhance personal development and community life. All of these definitions have been central to educators' efforts to find the most effective and useful way to support child development and learning.

Origin of Corporal Punishment

In the colonial era, the Puritan belief that humankind is innately tainted by the Original Sin of Adam and Eve led adults to see children as contaminated by an evil element which needed to be driven out by force. Puritans believed that all disobedience and academic error was the work of Satan, and children's innate proclivity for

evil had to be destroyed through pain and humiliation. The idea that suffering corrects became fundamental to institutional design, whether that design was the stocks in which prisoners were displayed for public abuse or the raised stools and dunce caps intended to correct student misbehavior or ignorance through humiliation. "To spare the rod." it was believed, led inevitably to spoiling the child, so slapping, spanking, and whipping were generally understood as beneficial educational tools. These beliefs persisted. Indeed, as late as 1977, in *Ingraham v. Wright*, the U.S. Supreme Court ruled that spanking did not violate students' rights, noting the widespread use of corporal punishment to maintain discipline in educational settings. Corporal punishment remained legal thereafter in over twenty states.

History

The U.S. Constitution does not address the subject of public education. Apparently the founding fathers thought the implementation of schools ought to be the sole responsibility of the States. Initially, education was for the wealthy, and a belief persisted through the eighteenth century that poor individuals were not educable or were not worthy of being educated. In 1852, however, then secretary of state of Massachusetts Horace Mann urged that States be obliged to offer public education to all children. The revolutionary idea behind this [PLEA](#) was that all individuals could and should be educated irrespective of economic class.

During the middle of the nineteenth century, some U.S. educators studied European models, for example, the theories of Philipp Emanuel von Fellen-berg (1771-1844) who urged that corporal punishment not be used for academic errors and suggested that learning occurred best with encouragement and kindness. Francis Parker introduced European ideas into the public school system in Quincy, Illinois. What came to be known as the progressive Quincy Movement attached kindergarten to elementary education and extended into the early grades the idea of learning through play. These pedagogical developments examined connections between education and discipline and considered teachers' roles in creating environments conducive to learning.

By 1910 attendance at public school was mandatory; children were thus absent on a daily basis from parental direction and placed under the authority of educators. This transfer extended teachers' roles to parental disciplinarians; teachers functioned *in loco parentis*, meaning in the place of parents. During the first decades of the 1900s as teachers were stepping further into these parental roles, State legal systems were beginning to evolve ways to handle juvenile offenders which intended to distinguish them from adult perpetrators. One value attached to this development asserted that while adults should be punished for their crimes, children should be rehabilitated for theirs, thus formalizing a beginning to the separation between juvenile misconduct and suffering as its remedy.

At the beginning of the twentieth century, good discipline was evinced as students sitting quietly while they learned by rote. The conventional wisdom saw education as a process of controlling student behavior while information was transferred from teacher to student. This model continues to shape concepts about classroom activities and goals. Challenging this model, however, were the increasingly popular post-World War II theories of Benjamin Spock (1903-1998) who disapproved of rigid child-rearing techniques and urged adults, parents and teachers alike, to be more affectionate and flexible. Some critics of Spock's theories asserted that they contributed to a growing attitude of permissiveness and relativity which blurred children's understanding of right and wrong and encouraged self-defeating traits like selfishness, indolence, or noncompliance. Additionally, in the second half of the twentieth century, healthcare professionals and educators became more informed about how student misbehavior may be connected to physiological or psychological problems, like attention deficit disorder, hyperactivity, or emotional disturbance. Changes in the family unit, increase in the Hollywood celebration of violence, and effects of illegal drug use also affected students' ability and willingness to learn in school. Finally, in the 1990s, juveniles committed serious felonies on school property, some of which converted schools temporarily to war zones. Reactions to these events caused many people to

advocate for a return to more stringent controls of students, which in some circles acquired to the label, zero tolerance.

Codes of Conduct

In taking charge of students and teaching them, twentieth-century educators repeatedly faced the challenge of designing codes of conduct. Doing so required attention to multiple and sometimes seemingly conflicting issues: school organizational needs, the goals of education, and the nebulous area of personal rights both for those in charge and for those being controlled. Educators had to identify features conducive for learning and then set forth rules and consequences for misconduct which would allow problem children to be handled constructively while the behaving majority of students continued to learn without disruption. In short, educators had to define ways to support classroom productivity, encourage student academic progress, and bring misbehaving individuals back to positive conduct so they could resume learning. In this task, educators, administrators, and staff became increasingly conscious of legal issues connected to students' rights, juvenile legal status, and the handling of student crime. All of these issues were addressed independently by different school boards across the nation and handled differently by school boards and courts over time.

Creating Codes of Conduct

The issues involved in the process of developing these codes of conduct constitute an important part of pedagogical debate and ongoing courtroom deliberation. For example, in *Blackwell v. Issaquene Co. Board* (5th Cir Miss 373 f2d 749) and *Baker v. Downey Board* (California Dist. Ct 307 F supp517), court decisions attempted to define those school requirements and regulations which a court would deem "reasonable." A properly written document had to meet four criteria in order to carry a legal presumption of validity:

- The rules had to be in writing: Regulations students had to obey without a specific verbal command must be in writing.
- The rules had to be specific: Policies had to clearly stated to students, and without referring to an outside source or document the rules had to explain what was expected and what was prohibited.
- The writing had to be authorized: The writer of the rules had to have the authority to define them.
- The written rules had to be published: The code of conduct had be printed and distributed, for example in student handbooks, in letters home to parents, in public announcements during class time and assemblies, and in postings on bulletin boards.

Richard Curwin, a professor of Education at San Francisco State University, devised criteria for making codes of conduct more effective. His suggestions were:

- To use positive rather than negative statements
- To be definite about proper and prohibited behavior
- To be brief
- To spell out consequences

Thus, the courts began the process of educating the educators on how to arrange the business of school so that when it responded to misbehavior its rulings would be deemed valid in the legal setting.

Content of Codes

In light of their wisdom, experience, and training, educators devised these codes to meet their schools' particular goals and challenges. Some school codes employed step programs which distinguished first

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offenders from repeat offenders and which handed down mild penalties for first-offense students but then graduated the penalties for the misconduct of repeat offenders. In these cases, students faced consequences determined by their records of behavior. Thus for a repeat offender a minor [INFRACTION](#) might carry the serious [PENALTY](#) of suspension while the same infraction might elicit only a verbal reminder for the first offender. Some schools set aside special classrooms for extra training in matters of self-control, conflict resolution, and cooperation. Schools elicited parents' participation and support in encouraging their children back to positive behavior and academic progress.

Discipline policies stated clearly that rules benefited everyone in the educational community and were in effect inside school buildings, on school property, inside school-owned vehicles, and at school-sponsored activities on or off campus. Codes included rules about attendance, absence, and tardiness. They outlined steps for parents to take in excusing their children from class and required teachers in how to keep records of student attendance. Patterns of unexcused absence or tardiness were quantified and carried penalties or repercussions which correlated to the extent of the patterns of absence. Misbehaving students might be detained in the classroom after other students were free to go on to non-classroom activities, or they might be required to attend a Saturday detention period. During these times, students might be given extra academic work or required to perform maintenance chores on school property. Repeat offenders were subject by degrees to removal from school; they were removed from class to a study room; placed in an on-sight suspension area; suspended for a specified time; and expelled. Thus, for the benefit of the majority, those individuals who acted out, arguably the ones most in need of education and support, tended to be increasingly marginalized.

When students break the law on school property, police officers must take over for educators. Students who use alcohol or other drugs, who have in their possession or deliver to others controlled substances, who carry weapons, who assault others, are all subject to the same laws they would face elsewhere in the community. Therefore, these forms of misconduct are not within the school's [JURISDICTION](#) solely. Students can be charged for crimes committed on school property; they can go to court and face court decisions that place them in juvenile detention centers. Clearly, school codes must address a vast range of conduct, take into consideration innumerable factors that lie in or beyond the education setting. The codes must respond legally, in line with community, state, and federal laws on issues connected to [DISCRIMINATION](#), harassment, gender, and [DISABILITY](#). Academic codes of conduct aim to support educational goals and be in line with criminal and civil laws. Often times the courts have had the task of deciding if the codes achieve this end.

Students' Constitutional Rights and Selected Cases

Educators have to negotiate the complicated terrain of competing entities, managing difficult students yet remaining mindful of their constitutional rights, for example, their rights to privacy, [JUST CAUSE](#), and due process. When crime in schools involve police, certain subjects, conflicts, and events may come before the courts. Courts elucidate legal issues but not once and for all: these judgments can be subsequently redefined, upheld, or found unconstitutional. Questions recur pertaining to the application of Fourteenth Amendment protections to students as these individuals are subjected to school regulations.

Issues pertaining to a student's right to privacy, to reasonable cause for [SEARCH AND SEIZURE](#), and technicalities about Miranda rights, all were examined in *New Jersey v. T. L. O.* (1985) 105 S Ct 733, in which a juvenile (known only by her initials) who was suspected of smoking and then whose purse was found to contain cigarettes, rolling paper, a bag of hashish, and some file cards containing what appeared to be a list of amounts received for drug sales. The Supreme Court had to evaluate the relative rights of the student's right to privacy against the school's need to enforce an orderly environment. One of its conclusions was that education requires a disciplined environment and that means the authority to educate entails the authority to discipline.

In the 1986 case of *IN RE William G.*, 221 Cal. Rptr. 118, a California court decided that students as a group have the right to be protected by school officials from dangerous items or substances and to have enforced an environment conducive for learning. In many cases, the courts have to balance competing entities or claims to rights by opposite parties. In *Bethel v. Fraser* (1986) 478 U.S. 675 and again in *Veronica v. Acton* (1995) 115 S Ct 2386, courts decided that students' rights are secondary to students' safety. In *Georgia v. Combs* (1989) 382 SE2d 691 Ga App 625, the court ruled [PROBABLE CAUSE](#) resulted from articulated facts which led to a high degree of certainty that a search would produce [EVIDENCE](#) indicating innocence or guilt. These and many other cases produce the body of court decisions which evolve social understanding of the law as it applies in everchanging circumstances.

Columbine and Its Aftermath: Zero Tolerance

On April 20, 1999 at Columbine High School in Littleton, Colorado, two heavily armed students killed twelve students and one teacher and seriously wounded nearly two dozen others before killing themselves. The following month in Conyers, Georgia, a 15-year-old student wounded six other students. In December an Oklahoma middle-school student took a semiautomatic handgun to school and wounded five students. In March 2001 a California student killed two classmates and wounded thirteen others.

These and other murders perpetrated by children against classmates and teachers caused a furor of reactive security measures, precaution taking, and a new commitment to stringent control. Zero tolerance, which initially referred to students carrying weapons to school, fueled provisions for suspension and expulsion and increased them. In Chicago, in the wake of commitment to zero tolerance, suspensions and expulsions jumped to an average of 90 per week, mostly Latinos and African Americans. Proponents of more stringent codes pointed to the staggering fact that every day in the United States twelve children are killed by gunshot. The fact that one day they were gathered together in their deaths at Columbine brought national consciousness to a new level. Many schools nation-wide, particularly in urban settings, instigated entry-area body and bag searches, stricter dress codes, and random drug testing. Yet critics of this stringent disciplinary action urged educators to return to a positive vision of students and search for punishments that teach rather than using those that increase the drop-out rate.

The Learning Moment

Many theories about discipline shift attention from external punishment and reward systems to internalization of socialization skills and moral sense. For example in *Schools without Failure*, William Glasser explains the short-term value of external punishment and the limitations of trying to control others through fear tactics. Theorists like Abraham Maslow, in *Motivation and Personality*, and W. Edwards Deming, in *Out of the Crisis*, suggest a return to humane education principles and affirmation of human goodness. Many thinkers want educational institutions to find their path into a new way of being which creates the learning moment, which sees misbehavior as an opportunity and instills faith in human nature as it pursues learning and instructs through misconduct. Marvin Marshall, in *Discipline without Stress, Punishment, or Rewards*, urges people to remember that so long as they are manipulated by outward threats of punishment or hopes of reward, they may be neglecting intrinsic values which in the end are the ones that satisfy, induce self-control, and energize toward self-improvement. These affirmations have to be balanced with the seriousness of turn-of-the-millennium juvenile crimes and the awesome responsibility of educators to keep children safe while they engage in learning.

Additional Resources

Discipline without Stress, Punishments, or Rewards: How Teachers and Parents Promote Responsibility and Learning. Marshall, Marvin. Piper Press, 2001.

Encyclopedia of American Education. 2nd ed. Unger, Harlow. G. Facts on File, 2001.

Safety, Order, and Discipline in American Schools: Defining the Authority of Educators and Law Enforcement Personnel. Avery, Gary. Law Advisory Group, Inc., 2001.

Schools without Failure. Glasser, William, Harper & Row, 1969.

Zero Tolerance: Resisting the Drive for Punishment in our Schools. Eds. Ayers, William, Bernardine Dohrn, Rick Ayers. The New Press, 2001.

Organizations

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