



Senate Committee on Education

October 13, 2015

SB 208

My name is Rodd Monts and I am the Field Director for the ACLU of Michigan. Mr. Chairman, thank you for this opportunity to testify today.

We oppose SB 208 in its current form because we believe the evidence shows that zero tolerance policies that impose a one-size-fits-all structure do more to negatively impact student outcomes than to preserve school safety.

To be clear, we want school districts to have all of the tools necessary to maintain safe environments for students, staff and volunteers. However, we believe that can be accomplished better by allowing districts to make expulsion and suspension decisions on a case-by-case basis, without mandating a blanket, 180-day exclusion for acts of misbehavior. When these serious incidents occur, school districts should have the discretion to determine whether some other term of exclusion, use of alternative behavior management strategy, or means of effectively addressing the conduct in question is more appropriate for the student and others involved.

The roots of zero tolerance school discipline can be traced to the Gun Free Schools Act of 1994, a federal law intended to keep classrooms safe by requiring that any student caught with a gun in school be expelled for a year. No one wants children bringing guns to school or threatening staff. As the parent of a fifth grader in public school I want his school administrators to have policies and practices in place to keep his building as safe as possible.

But it is important to understand that when the law was written the drafters recognized that there would undoubtedly be cases with mitigating circumstances so they allowed states to include one or more exceptions to mandatory expulsion – which Michigan did. Unfortunately, our research shows that school boards are unaware that they have the option, and we would say the responsibility, to review each expulsion case for mitigating circumstances.

Michigan currently has four exceptions to the weapons offense that provide school administrators a mechanism for evaluating each case to determine the student's degree of culpability and their intent of doing harm. We ask that you explicitly include a level of discretion in this legislation - a requirement that each case of student expulsion be reviewed based on the exceptions in the law.

The ACLU of Michigan has been working on school discipline issues for a number of years and we have released two reports on the impact of discipline policies and practices on students across our state. We know that zero tolerance policies have dramatically increased the numbers of students kicked out of the public schools for a full academic year. Consider that the year after the GFSA became law, in 1995, there were about 240 expulsions annually from Michigan schools and today we have over 1,800¹. Nationally, there are some 130,000 expulsions annually².

Over the years, zero tolerance has morphed into an "approach" to discipline that has resulted in a dramatic increase in suspensions as well. The suspension rates nationally have doubled over the past few decades from about 3.5% in the 1970s to about 7% today. In Michigan we are at about 9 percent with some 137,000 students suspended annually³.

When students are not in school they cannot learn and are often left unsupervised which increases the likelihood they may be involved in unproductive or even illegal activity. This is especially true when you have a student out of school for 180-days.

Currently, 38 states and the District of Columbia limit zero tolerance school discipline to weapons. This includes Ohio, Illinois and Indiana⁴.

Michigan is among 12 U.S. states that call for mandatory expulsion for offenses other than weapons possession. And Texas is the only state that has a more expansive list of offenses included in its zero tolerance law than we do currently.

I must also note that despite the increased use of zero tolerance discipline over time groups like the American Psychological Association (APA) have found little evidence that

¹ Stone-Palmquist, P. (2004). Michigan's Brand of Zero Tolerance: Is There Another Way? *The Michigan Journal of Public Affairs*, Vol. 1, Summer 2004.

² Dunbar, C. (2015). *For Naught: How Zero Tolerance Policy and School Police Practices Imperil Our Students' Future*. ACLU of Michigan.

³ U.S. Department of Education (2012). Office for Civil Rights 2009-2010 National and State Estimates. Washington

⁴ Source: <http://safesupportivelearning.ed.gov/school-discipline-laws-regulations-state>.

mandatory suspension and expulsion policies make schools safer⁵. In fact, the APA found that more student removal equals a less satisfactory climate in schools. They note that zero tolerance doesn't improve behavior but instead leads to future incidents of misconduct and increases risk of dropout or failure to graduate on time – and given the fact that 68% of the people sitting in Michigan prisons don't have diplomas that heightened risk is significant.

The empirical data and the unintended consequences of zero tolerance laws are worth considering before moving forward with this bill. We welcome the opportunity to work with the sponsor on language that would provide school districts and school boards the discretion necessary to consider individual circumstances when confronted with serious incidents of misconduct.

Thank you.

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⁵ American Psychological Association Zero Tolerance Task Force (2008). Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations. *American Psychologist*.

