

FairTest

National Center for Fair & Open Testing

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U.S. Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights, and Human Rights
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Hearing on Ending the School-to-Prison Pipeline

Dear Chairman Durbin, Ranking Minority Member Graham, and Members of the Subcommittee on the Constitution, Civil Rights, and Human Rights:

Thank you for the invitation to submit testimony for the subcommittee on the Constitution, Civil Rights, and Human Rights of the Senate Committee on the Judiciary hearing on ending the school-to-prison pipeline.

My name is Monty Neill, and I am Executive Director of the National Center for Fair & Open Testing (FairTest). FairTest advances quality education and equal opportunity by promoting fair, open, valid and educationally beneficial evaluations of students, teachers and schools. FairTest also works to end misused and flawed testing practices that impede those goals. We place special emphasis on eliminating the racial, class, gender, and cultural barriers to equal opportunity posed by standardized tests.

As part of its mission, FairTest has addressed how the high-stakes uses of standardized tests, particularly as a result of the No Child Left Behind Act (NCLB), have led to increased disciplinary sanctions against students. This has disproportionately affected students of color, students with disabilities, and those from low-income families and communities. High-stakes tests are those that play the sole or primary role in educational decisions, such as determining high-school graduation or school sanctions under NCLB (FairTest, 2004, 2012).

Zero tolerance discipline and high-stakes testing policies have similar philosophical underpinnings and similarly destructive results. Both stem from a 1980s movement to impose more punitive policies in criminal justice and public education. Together, they have helped turn schools into hostile environments for many students. The result is a “school-to-prison pipeline,” in which large numbers of students are pushed out of school and into the juvenile and criminal justice systems. Too many young people end up in prison, at a cost many times greater than that of a good education. It is a senseless waste of resources and human potential, damaging to both individuals and society.

How does high-stakes testing contribute to the pipeline?

High-stakes testing turns many classrooms and schools into test prep centers rather than offering rich, engaging, well-rounded instruction. Narrow, rote instruction bores and alienates students. Many tune out, feeling they are little more than their scores (FairTest, 2004), and leave school. In addition, exit exams result in many thousands of students leaving high school without diplomas (FairTest, 2008). These tests have been found to lower graduation rates without improving the quality of education (Hout & Elliot, 2011). Some students see no realistic option other than dropping out. Others fail the tests or are deliberately pushed out to manipulate school performance statistics. Regardless of which specific cause, young people who leave or are pushed out are much more likely to end up in trouble or in prison.

Tests and zero tolerance work hand in glove.

NCLB has raised the stakes attached to test results, especially in urban, low-income districts, which face severe sanctions for failure to boost test scores. Zero tolerance imposes harsh penalties for nonviolent infractions, some as harmless as drawing on desks with erasable markers (Herbert, 2010). It provides a pretext for removing low-scoring students and improving a school's test score bottom line. The superintendent of the El Paso public schools was convicted and imprisoned for initiating district policies to remove low-scoring students from school (Fernandez, 2012). In Florida, researchers found schools gave low-scoring students longer suspensions than high-scoring students who committed similar infractions (Figlio, 2003). Zero tolerance and high-stakes testing reinforce each other, creating a downward spiral.

Punitive culture promotes strategies to weed out 'troublemakers'/low scorers.

The damage to school climate and decreased engagement with school foster problem behaviors, which schools and districts too often counter with zero tolerance discipline. Since NCLB, the use of strategies such as withdrawing students from school rolls or sending them to alternative schools or GED programs has increased. Out-of-school suspensions and expulsions are also on the rise nationally, with startling increases in many states (Advancement Project, 2010).

Students of color and the disabled increasingly bear the brunt.

Racial disparities in student suspensions and expulsions are large and increasing. Black students are more than three times as likely to be suspended (Losen and Gillespie, 2012). Between 2002-03 and 2006-07, expulsions decreased by 2% for white students, but increased 33% for blacks and 6% for Latinos. Similar disparities exist for students with disabilities (SWD). In Ohio, for example, SWDs were twice as likely to be suspended out-of-school as their peers in 2007-08. And in Texas, in 2005-06, students enrolled in special education accounted for 11% of the student population but 26% of all out-of-school suspensions (Advancement Project, 2010). Vastly disproportionate numbers of low-income, racial minority, SWDs and English language learners fail state exit tests and do not obtain diplomas (FairTest, 2009).

Prison populations reflect disparate impact of zero tolerance, testing.

The student groups affected by these policies are more likely to drop out and become caught up in the juvenile justice system, making them more likely to land in prison. People of color and those with disabilities are overrepresented in U.S. prisons. Approximately 8.8% of public school children have been identified as having disabilities that impact their ability to learn, but students with disabilities are represented in jail at a rate nearly four times that (Quinn, 2005). One in nine black males between the ages of 20 and 34 is behind bars, compared to one in 30 for men in that age group in general (Pew, 2008).

To undo the damage: reform assessment, reverse zero tolerance.

Zero tolerance is not working. However, alternative prevention and intervention strategies being implemented around the country have been proven successful. For example, a community push for new discipline policies in Denver Public Schools led to a 63% reduction in referrals to law enforcement and a 43% reduction in out-of-school suspensions (Advancement Project, 2010). The New York Performance Standards Consortium (2012), a network of New York high schools that have state permission to use performance tasks instead of standardized tests, reports its 5% suspension rate is less than half the city's 11%. This success, they conclude, is rooted in using alternatives to standardized tests.

The work of the Judiciary Committee, therefore, could positively influence not only juvenile justice legislation but have a positive impact on the Senate's reauthorization of the Elementary and Secondary Education Act. We recommend that this Committee, perhaps together with the Committee on Health, Education, Labor and Pensions, investigate the ways in which high-stakes testing interacts with overly harsh disciplinary policies to harm young people, undermine school climate and damage educational outcomes. To end the Pipeline, it will be necessary to also end the overuse and misuse of standardized tests.

I would be pleased to discuss these issues with you further. I can be reached at 617-477-9792 or by email at monty@fairtest.org.

Thank you.

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