



Keep Kids in Class: Written Testimony of  
Massachusetts Appleseed Center for Law and Justice

Submitted September 27, 2011

H 177: An Act to Respond to School Exclusion Data  
and Reduce School Dropouts

H 178: An Act Relative to Students' Access to Educational  
Services and Exclusion from School

MA Appleseed promotes equal rights and opportunities for Massachusetts residents by developing and advocating for systemic solutions to social justice issues. Over the past two years, MA Appleseed has developed particular expertise on the intersection of school discipline, zero tolerance and youth entering the juvenile justice system through its signature project, "Keep Kids In Class," whereby we seek to mitigate the effects of school disciplinary proceedings on the increasing rates of drop-outs and juvenile delinquency.

MA Appleseed supports H. 177 and H. 178. We respectfully submit these comments for your consideration.

This legislation is a critical first step necessary to halt the adverse effects of zero-tolerance policies, to promote fairness and uniformity through clear standards and consistent practices, and to ensure access to public education for all school-aged children. School administrators continue to push out children from their school doors, and leadership is needed from the legislature at this time in order to keep these children in class. Massachusetts cannot afford to cast aside one more child.

Massachusetts has a staggering rate of school exclusions. Zero-tolerance policies continue to hold a presence within Massachusetts' schools, and as a result, children continue to face exclusion—both suspension and expulsion—on a regular basis. With the implementation of such harsh policies, school administrators are casting too broad a net and sweeping out even those children who do not pose a substantial threat to school safety. Zero-tolerance policies fail to consider a child's intent; children who commit minor infractions are therefore excluded under these policies. As a result large numbers of children are pushed out of the classroom, out of the school, many for non-violent offenses.

Legislation is necessary to curb such issues because current strategies implemented by school administrators fail to work. To better understand the numbers and demographics of the children subject to disciplinary action and resulting exclusion, MA Appleseed filed a Freedom Of Information Act request to obtain from DESE headcount data that correspond to publicly available reported school discipline incidents reported pursuant to current state law. An examination of these numbers reflects an alarming trend. The numbers of student exclusions are not decreasing. From 2006-07 to 2009-10, state wide enrollment decreased, yet school exclusion numbers held steady at approximately 34,000 students. In 2009-2010, school districts excluded 34,291 students. Looking back to the 2000-2001 school year, there were 1,621 student exclusions as reported in DESE's annual report, which was an increase of fifteen percent (15%) from the previous year. Over the years, too many children have been excluded from school, without alternative education. Yet, ten years of zero tolerance policies have not improved school safety.<sup>1</sup>

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<sup>1</sup> American Psychological Association, Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations, 63 American Psychologist 852, 860 (2008).

Demographics and place of residence unfairly affect school exclusion rates. It is important to note that those students who are excluded are disproportionately Black and Hispanic. In 2009-2010, Black students comprised fifteen percent (15%) of the excluded population, yet only eight percent (8%) of the student population. Likewise, Hispanic students comprised twenty-eight percent (28%) of the excluded population, yet only fourteen percent (14%) of the general student population. Additionally, schools are disproportionately excluding low-income students. In 2010, low-income students comprised sixty-three percent (63%) of the excluded population, yet only thirty-three percent (33%) of the student population. There is no evidence to suggest that these groups of children display higher rates of behavior warranting disciplinary action.

Race, ethnicity, and socio-economic status are not the only factors that may influence the outcome of a disciplinary incident. It is our experience that schools do not implement disciplinary practices in a uniform fashion. In order to understand current due process protections afforded to students disciplined for violating Massachusetts General Laws Chapter 71, §§ 37H and 37H½, MA Appleseed sampled student high school handbooks of twenty selected school districts. We found that although all of the sampled schools included the minimum requirements of §§ 37H and 37H ½ in their student handbooks, vast discrepancies exist as to how each school handled student offenses. *Depending on where a child lives* and thus attends school in Massachusetts, he or she would be treated very differently in terms of the process afforded prior to and during exclusion.

The Commonwealth needs to legislate best practices to ensure that all children receive fair and uniform treatment. All children of Massachusetts are entitled to equal treatment. A level of fairness is necessary so that all children, regardless of race, ethnicity, socio-economic status, or geographic location, are treated the same given the long-term consequences exclusion imposes. This legislation is necessary to establish uniformity and best practices to ensure equal protection for all students.

The children of the Commonwealth need your leadership. School administrators and educators acknowledge, yet have failed to address, the problems of school exclusion—schools continue to implement harsh, zero-tolerance policies that lead to increased rates of exclusion. This legislation will establish best practices for school administrators to ensure due process requirements are enforced evenly throughout Massachusetts. Leadership is needed by the legislature at this time to manage and address the high rates of school exclusion, establish best practices, and ensure all children are treated equally with uniformity and fairness.

Please do not hesitate to contact us if we can be of further assistance or provide additional information.

Respectfully submitted by:

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