

President's Message 10/7 to 10/11

At the CISC Conference in Buellton, the primary subject matter was *Student Behavior: Rights, Laws, and Ed. Code*. What follows is an abbreviated version of the presentation with an eye toward MUSD.

Teachers at the conference expressed dismay concerning what they see as an increase in disrespectful student behavior while stating frustration over how their administrators mete discipline to these students. This document is not necessarily a criticism of individual administrators. Instead, the confusion reflects a lack of understanding of the changes in the methods of discipline that administrators use. The intent of this document is to present a fuller picture of the change in procedure as well as call for all stakeholders to articulate safe and healthy work and learning conditions.

All of California's public schools have been caught, mostly unaware, in the sea change in expectations, practice, and the laws regarding student discipline. The overarching alteration is explicitly tied to academic and behavior gaps between student populations. The basis of the changes is rooted in social justice, the civil rights of the student, and the statistical significance of test scores, attendance, and behavioral issues.

Most public school teachers practice, to various extents, disciplinary and instructional programs such as CHAMPS, Response to Intervention (RTI), and Multiple Levels of Student Support (MTSS). These programs represent the underlying assumption that a student may enter the public school classroom with certain (economic, social, academic, emotional) deficits that affect his/her classroom learning. To better serve this student population, effective teaching has been reconfigured in terms of student learning, and our job has expanded to address the "whole child." This means, in practice, the expectation is that teachers *differentiate* instruction to meet the academic needs of all learners as well as provide the student with a more *progressive discipline* that addresses the possible social, behavioral, and emotional deficits that he/she may have prior to stepping into the classroom.

Differentiation and progressive discipline create more work for educators. While the intentions of the following programs and laws are for the benefit of the individual child, the results are that (in addition to having more kids in our class rooms) the expectations and burdens of have increasingly fallen squarely on teachers shoulders. In addition, many school districts have not adequately announced or explained to its teachers the change in the laws or the expectations for their practice in terms of student discipline. The information we tend to receive has been revealed piecemeal in terms such as "make healthier connections" or "create a more positive learning environment" or "what kind of intervention to you use prior to the incident?" Usually, a teacher hears about elements of these programs after there is a problem.

Here is a non-exhaustive list of the various programs that affect classroom management:

- **Restorative Justice (RJ):** RJ is a movement that seeks to make all disciplinary scenarios teachable movements and to provide remedies prior to punishment. RJ asks teachers build positive relationships with students as a foundation for his/her classroom management. RJ proposed as an "alternative to a 'punish/suspend' method of discipline that has been historically used, and which have also been found to disproportionately punish students of color" (*Education Weekly* 2/6/16). The expectation is that the teacher addresses the social, academic, emotional, and

behavioral needs of the child. The assumption is that a student's classroom behavior is influenced by personal and societal forces.

- **Progressive Discipline (PD):** PD changes the way schools discipline its students under the banner of Restorative Justice. The basis of PD is that students are entitled to due process in the classroom. One of the results of PD is more documentation and more progressive intervention by the teacher prior to seeking administrator disciplinary actions. Here's a quick and easy recommendation: document, document, document. Even if you just scrawl "10/10/2019: used proximity to quiet Johnny," it is enough to begin the movement toward administrative interventions, if it is necessary in the future. If time permits, enter the disciplinary action in Q or keep your notes attached to a referral form. This will help an administrator when and if a future situation warrants a significant disciplinary action.
- **Positive Behavioral Intervention and Supports (PBIS).** PBIS comes from the 1997 reauthorization of the Individuals with Disabilities Education Act (IDEA). PBIS is used interchangeably with SWPBS, which stands for "School-wide Positive Behavior Supports." The theory and practice of PBIS moved beyond SPED classes and into the school-wide culture. Again, the idea is to establish strong personal ties with the student as well as utilize preventative strategies prior to punishment.
- **Multi-Tiered Systems of Support (MTSS):** MTSS is an instructional framework that includes "universal screening of all students, multiple tiers of instruction and support services, and an integrated data collection and assessment system to inform decisions at each tier of instruction" (CTA Advisory 40B-IPD). MTSS has replaced or encompassed Response to Intervention (RTI) practices. RTI has two primary elements: instructional and disciplinary. MTSS generally combines the two elements of RTI in its tiered system of support.
- **Ed Code: 48900:** every teacher should familiarize him/herself with this section of our Educational Code. It lists the legal reasons and conditions under which suspension and expulsion are appropriate. Under Ed 48900, the principal and/or the superintendent "may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupils specific misbehavior" (CA Ed Code). In 2017 the CA State Legislature passed Senate Bill 607. SB 607 prohibited suspensions and expulsions under Ed. Code 48900 of students in grades TK-3 for "willful defiance." This year, Governor Newsom signed an addendum to SB 607. SB 419, set to go into effect in July of next year, expands the ban on suspension or expulsions for defiance to grades 4-8. The bill establishes a trial period for these upper grades for 5 years. Under Ed Code 48900, schools "are encouraged to use MTSS to integrate systems, supports, and resources . . . to enable students to be successful in school" (CTA Bargaining Advisory C40B).

What does this mean for you in your classroom?

- Principals "cannot suspend a pupil from school in grades K-3 (4-8 beginning in July 2020) for disrupting school activities . . . or willfully defying the authority of supervisors, teachers, administrators" et al "in the performance of their duties" (Ed Code 48900). Removing a younger child from school causes supervision issues outside of school. Salient to our discussion is that a student may be defiant due to a social, emotional deficit. The child may have developed this

behavioral issue prior to attending your class. You may need to demonstrate that you attempted to address a child's deficit prior to requesting significant disciplinary action.

- A teacher maintains the ability to suspend a student from his/her classroom at any grade level for disruptive behavior and willful defiance for the day of the suspension and the following day. The new legislation allows you to issue *in-school suspensions*. **Nothing has changed here.**
- The teacher must report the suspension to his/her administrator and, is required, "as soon as possible, to ask the student's parent or guardian to attend a parent-teacher conference regarding the suspension" (*CTA Bargaining Advisory C40B*) According to CTA's Legal Department, the conference can be a "phone conference."
- It is a violation of Ed Code 48910 for administration to return the student to class prior to the end of the suspension and administration may not place the suspended student in another teacher's classroom.
- The right to suspend or expel is not unlimited. Except in extreme situations, such as causing physical injury or possessing drugs or a weapon, a student may not be suspended for a "first offense," particularly for defiance. MEA's recommendation is that teachers document all disruptions and disciplinary instances no matter how minor or inconsequential, so if there is a suspension-worthy event, administration cannot interpret it as a "first offense." CTA advises, "A teacher should document the use of other means of correction prior to suspending a pupil from class" (C40B).
- Students who receive SPED services are subject to the same suspension rules as students who do not receive SPED services, except that the suspensions cannot exceed 10 days without an IEP "manifestation determination." This exception comes from Federal Civil Rights law. In short, the question is, "Did the disability cause the behavior?" State law tends to defer to federal law for rules and regulations concerning SPED students.

Discipline procedures are a central component of every school's safety plan. Student discipline is also a part of MUSD's Local Control and Accountability Plan (LCAP). All stakeholders must be involved in the frank and open "reexamination" of the administration of student discipline. Since 2019-20 is a contract year, MEA will work with the District to update our contract to reflect these changes. We all want a safe working and learning environment. We all need to be a part of this conversation.

Have a great weekend!

Brian