

Written Testimony to Senate Judiciary Committee

From: Annie O'Shaughnessy, Vermont Educator and Consultant, True Nature Teaching.

RE: [H. 675 Draft No. 3.2 \(4/9/18\)](#) Sec. 4. Restorative Justice Principles for Responding to School Discipline Problems

April 17, 2018

Dear Honorable Committee Members,

I have been an educator and Circle leader for over twenty years and more recently I've worked as a consultant working with schools on implementation of tier 1 Restorative Practices (RP). I've also worked with schools and communities on conflict resolution. But, it is through teaching a graduate course in Restorative Practices that I have come to know the professional lives of over 70 Vermont educators, principals and school counselors. Through class discussion and journal assignments I have gained an inside view of what has been working and not working regarding the implementation of Restorative Practices in some of Vermont schools.

I have seen through this course and in my own course how powerful RP and I am passionately dedicated to the cause of sharing this approach with Vermont schools.

So I will join my colleague Jon Kidde in saying:

I am excited to see advocacy and support for the application of restorative justice principles in Vermont schools in the legislature.

For the record, while I wholeheartedly support the application of restorative principles in schools, I oppose the language in H. 675 requiring that schools adopt a policy on the use of restorative justice principles for responding to school discipline problems.

What I would like to add to this hearing are two or three stories from the field that demonstrate the danger of this mandate.

These stories strive to illustrate first, that mandating Restorative Justice as a disciplinary response before building a restorative culture through tier 1 work overloads school leadership and undermines teachers, and second, using RJ as a disciplinary response with kids who are not part of a restorative school and classroom culture is not effective in creating real behavioral change for those students. They quickly learn how to "game" the system with no real stake in the process.

First a bit of context: RP is organized into three tiers: preventative, responsive and intensive. Tier one, the preventive, community-building aspect, is the literal foundation of the approach, without it the whole system topples over. And here is an example:

A principal took my semester-long graduate course after she had explored some of the approach on her own. She "aced" the course and was fired up to fully implement it in her school. She had the local CJC do several trainings with her staff who were on board, she changed her school handbooks and she felt ready.

If you didn't know, the RP process for responding to harm is time consuming. Instead of an administrator or teacher doling out out punishments in the form of detentions, suspensions, community work, etc, they have to plan for and engage in a restorative process, which involves

circles, conferences, and dialogues. This involves both the person harmed and the one who has done the harm. It might include a whole class that has been affected, staff members or even coaches and community member. If it is serious, the students might have support people come in, family or friends. All in all, it takes a great deal of energy and time. When done well, schools find out quickly that the time is worth it, as students who go through the process are less likely to repeat their behaviors.

This principal was cautiously optimistic. She was looking forward to spending less of her time chasing behaviors and “punishing” students and more time building relationships and helping students learn from their behaviors. What happened was unexpected. She got the same number of behavior referrals on her desk as she had the year before. Referrals from teachers who kicked kids out of class with things like “Spoke disrespectfully to me.” “Tardy for the second day in the row.” “Called another student a derogatory name.” Normally she would call the student in, dole out the punishment and carry on with her day. But this year she was committed to responding to each one restoratively. She realized there was not enough time in the day.

She called me up, “This isn’t working!” We talked for a bit and we came to the same conclusion. The teachers needed more training in Tier 1 work, the work of building a strong enough sense of belonging, safety and voice in their classroom that when hard things happened, kids and adults could resolve them collaboratively. Without it, they would either be kicking the same number of kids out of class (and burying the principal in work) or tolerating poor behaviors, which limits learning and increases stress for all.

For those teachers to stop sending referrals and deal with the problems in their classrooms themselves, they need to be confident in their use of community building circles, restorative communication and responses. Good training and coaching over time can provide this. What takes more time and is harder to “train” is a fundamental shift in how the teachers view misbehavior--from a rule being broken to an opportunity for learning and growth. Skilled tier 1 teachers know that when a student feels safe and connected they WANT to correct their mistakes. When students feel belonging, safety and voice most stop doing harm in the first place. They begin view their teacher as someone who is doing things *with* them instead of *to* them or *for* them. Different teachers will take different amounts of time and training to learn this approach and experience this shift. But it *must* happen before RJ is used as a disciplinary response on the school-wide level.

Back to our example, this principal literally cannot use RJ for discipline if the teachers aren’t proficient in tier 1 work themselves because they will be buried. The whole effort will implode under the weight. Because RP involves a complete paradigm and mindset shift RJ as a discipline policy cannot work until the whole school culture has shifted through the implementation of tier 1.

My second example shows how important the tier 1 work is for the restorative approach to actually make a change for the student.

I have a student we'll call John. John is in 11th grade. He hates school. At home, the F-Bomb is part of natural conversation. School, in general is not valued by his peers or family. He shows up in my class the first day and sits in the back corner, arms folded, glaring at me. The first words out of his mouth are, "I hate English." I use a restorative approach with him at every turn. Inquiring into his experiences, seeking common ground and brainstorming solutions. When an f-bomb slips out of his mouth, I let him know it's not ok in class, but I understand the habit of swearing is hard to break. I ask him what I can do to help him break the habit since it won't serve him in a job. I give him opportunities to lead, make copies for me etc.. Slowly he moves his seat to the front. Now he is one of my most participatory students. All year he has sat in our weekly tier 1 circles, without speaking. Yesterday, was the first time he shared. But every one of those circles impacted him, listening to the rest of up. The slowly set up the conditions for him to care about me, about other kids in the room.

This student is someone who would have long been sent to the office without a well-trained Tier 1 teacher. Refusing to do work, swearing in class, throwing a ball across the classroom. All these are "punishable" offenses. But I know that sending him off, excluding him from class, will not only damage our relationship but lead him to be more likely to try and derail class in more and more "sneaky" ways.

If John went to a school where RJ was the disciplinary response but I was not trained in tier 1 work, I would refer him to an RJ team and he would go through the process. Part of that might be an apology to me. If he doesn't have any connection to me, how will that have meaning? He will go through the motions. It might be less harmful than detention but it won't change his behaviors. And, of course, meanwhile, the admin team or RJ continues to be swamped with referrals.

My last example

An educator who has taken my course wrote in her journal about the challenges of working in a school where RP was implemented as a discipline response first—at Tier 2. The principal was well-liked, and had good training in RJE but the training for staff focused primarily on tier 2 interventions, using RJE to respond to harm. Over the summer the handbook and discipline response system was overhauled and they were in business. What happened in that school is typical of schools who do not take the time to shift culture and mindset through tier 1 work. Admin told teachers they needed to use circles to respond to harm and actively discouraged from kicking kids out of class. They were given the circle scripts and some training. It seemed like a good plan.

So teachers led circles to respond to harm without building strong community through many weeks of tier 1 work first. It did not go well. According to this educator, students pushed back. Circles became synonymous with being in trouble. She reported that the circles were actually quite traumatizing for all. Another teacher wrote that in the same school kids were asking, "Can't I just do that circle thing?" when they were caught breaking a school rule. Within no time at all the students were figuring out how to "game" the system. Both teachers felt the system was not changing student behavior and teachers were experiencing more stress.

And this is why: In order for students to be authentically motivated to repair harm they need to feel a sense of belonging, safety and voice. All need to see and respond to disruptive behavior as learning opportunities. While the restorative process itself, at any level, seeks to and often provides those things through its very structure, the deep sense of belonging necessary to motivate restoration and change in behavior patterns is not easily developed during the course of one circle. It must be fostered and developed over time and throughout the entire school. If a school does not take the time necessary to develop this culture through the slow and careful implementation of tier 1, then the RP process risks becoming merely a more benign punitive measure. Students figure out what they need to get through the circle process and say what needs to be said. However, real empathy for the "victim," real change in bullying, harassing, behaviors (for example) can only come from a change of heart. That change of heart comes when the student cares about the community they belong to. A 2009 Center for Disease Control study of 36,000 students found that school connectedness was found to be the strongest protective factor for both boys and girls to decrease violence. Tier 1's primary goal is to develop that connectedness.

Included:

An article from Los Angeles Times that effectively relates the story of the harm that can be done when schools mandate RP as disciplinary response.

An image of the RP continuum that shows all the aspects involved in shifting the culture so that it will be successful.

THIS IS OUR CULTURE | WHOLE SCHOOL APPROACH POSITIVE RELATIONSHIPS | COMMON LANGUAGE POLICIES

PREVENTATIVE

build and maintain relationships | prevent conflict and harm

Identity

Celebrating character and personality
Appreciating background
Understanding cause of behavior
Changing mindsets
ACES

Classroom Practices

Procedures and Routines
Creating a safe environment
Trauma Informed Practices

Community Building

Circle Time Relationships
Building Learning Circles

Curriculum

Social & Emotional Literacy Values
Problem Solving Communication
Restorative Language

repair relationships | resolve conflict
managing difficulties and disruptions

RESPONSIVE

Affective Statements Relational Questioning

"I" statements
Individual Chat
Peer Mediators
Problem Solving Questions
MINOR INCIDENTS / ISSUES

Restorative Group or Circle

Restorative Chat
Whole class
Problem Solving circle
Mini Conference
Scripted questions
Peer Council

Formal Conference

Community Conference
Healing Circle
Class Conference
Scripted questions
SERIOUS INCIDENTS / ISSUES

