An ethical analysis of zero tolerance decision-making:

When it comes to all students, are the right decisions being made?

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Abstract

In the wake of increasing use of zero tolerance policies in our schools and the mounting assault on such polices by stakeholders (i.e., parents and outside community groups), the authors have chosen to conduct an ethical inquiry, using specific ethical frameworks (e.g., ethic of critique, ethics of caring, and the ethic of justice) to ascertain whether zero tolerance policies are being carried out consistently and fairly in schools. Unfortunately, initial inquisition would suggest that there are some issues of equity and justice that need to be addressed concerning the implementation of zero tolerance policies by school administrators. In many instances, school administrators are overzealously applying zero tolerance policies for rule violations and infractions that lead to suspension and expulsion that would otherwise carry different penalties. Thus, the purpose of this article is to identify some ethical dilemmas associated with zero tolerance policies, as it relates to student discipline, in schools and to help school administrators become more conscious of ethical and equitable decision-making.
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Introduction

The effectiveness of zero tolerance in elementary and secondary education has received significant attention in the wake of its usage over the past few years. It is an issue that is demanding coverage from several different angles, and each angle warrants scrutiny. One major area of interest concerns the discrepancy between students of color who are subject to expulsion because of zero tolerance rules (Skiba & Peterson, 1999a; Verdugo, 2002). Researchers (Black, 2004b; Cartledge, Tillman, & Johnson, 2001; Casella, 2003; Keleher, 2000; Mosca & Hollister, 2004; Raffaele-Mendez, Knoff, & Ferron, 2002; Skiba & Peterson, 1999b) have consistently found that students of color, specifically African American students, tend to be disproportionately affected in a negative way when school systems had implemented zero tolerance policies. Peterson (2003) also posited that “Zero tolerance suspensions and expulsions consistently yield racial disproportionality that may violate students’ rights to nondiscriminatory educational practices” (p. 69).

The disproportionality of suspension and expulsion rate among African American students has caused the parents of these students to become concerned about their children’s chances for equal treatment in schools where zero tolerance policies are designed to push students out the door through suspension and expulsion (Skiba &
Peterson, 1999a). Thus, a major consequence of students being suspended and expelled is many decide not to finish out their academic years (Peterson, 2003; Skiba & Peterson, 1999). According to Skiba and Peterson (1999a), “Over 30% of sophomores who dropped out of school had been suspended, a rate three times that of peers who stayed in school” (p. 28). Thus, it would seem that the ramification of using such a policy is that it becomes a mechanism for school officials to use in order to “get rid” of the undesirables (Peterson, 2003) as well as those who are experiencing a cultural collision (Beachum & McCray, 2004; Day-Vines & Day-Hairston, 2005) within the established mores of the school.

It could be argued that higher rates of removal among students of color are warranted due to higher rates of misbehavior or more serious disciplinary infractions. However, one must consider the endemic nature of structural racism in American life (schools not being exempt) (Ladson-Billings & Tate, 1995). Skiba and Knesting (2001) asserted, “Yet investigators of student behavior, race, and discipline have found no evidence that African Americans misbehave at a significantly higher rate” (p. 31). Furthermore, these same authors stated that black students are the recipients of “harsher” disciplinary consequences and for “less severe offenses” than their white counterparts (Skiba & Knesting, 2001, p. 31). Researchers at the University of Indiana found no evidence that African American students engaged in more serious disciplinary infractions; in fact, they discovered patterns of differential treatment of African American students for office referrals especially stemming from subjective classroom-level situations (Skiba, Michael, Nardo, & Peterson, 2002).
History of Zero Tolerance Policies

The term, zero tolerance, has not been in popular use for an extended period of time. The actual use of the term came into existence in 1983 when 40 submarine crewmembers were reassigned to a different duty and location. The men were reassigned because of suspected drug abuse (Skiba & Peterson, 1999b). In time, the concept would quickly become a standard operating procedure for many governmental institutions. It was mostly used in the government’s fight on drugs in the early 1980s, but it was not long before the government realized that zero tolerance policies could not be used in every situation; therefore, these policies are not as widely used by the federal government today as they have been in the past (Skiba & Peterson, 1999b).

Zero tolerance policies first appeared in schools in the late 1980s in the wake of increasing school violence. Skiba and Peterson (1999b) indicated the following:

In New York, Donald Batista, superintendent of the Yonkers public school district, proposed a sweeping zero tolerance program as a way of taking action against students who cause school disruption. With its restricted school access, ban on hats, immediate suspension for any school disruption, and increase use of law enforcement, the program contained many of the elements that have come to characterize zero tolerance approaches in the past decade. (p. 373)

Zero tolerance policies received even more support when President William Jefferson Clinton signed into law the 1994 Gun-Free Schools Act (GFSA). According to Skiba and Knesting (2001):

The law mandates a one-year calendar expulsion for possession of a firearm, referral of law-violating students to the criminal or juvenile justice system, and the provision
that state law must authorize the chief administrative officer of each local school
district to modify such expulsions on a case-by-case basis. Originally, the bill covered
only firearms, but more recent amendments have broadened the language of the act to
include any instrument that may be used as a weapon. (p. 19)
The case-by-case caveat was primarily added to “allow school district administrators
and/or boards of education to take the circumstances of the infraction into account and, if
necessary, ensure the legal requirements of the Individuals with Disabilities Education
Act (IDEA) are honored.” (Stader, 2004, p. 62) The GFSA is not a formal zero tolerance
law, but it has spawned many school district-level policies that could be categorized
Act of 1994 and the Columbine, Colorado tragedy in 1999, the tide continues to flow in
the direction of ‘zero tolerance’ policies” (p. 101).
The issues that will be examined throughout this article are multifaceted, and there
are no simple solutions. Indeed administrators have to deal with real issues of violence in
their schools (Noguera, 1995). According to Noguera,

The problem of violence in schools, which is part of the overall problem of violence
in society, has become one of the most pressing educational issues in the United
States…. The escalation of violent incidents and the apparent inadequacy of
traditional methods to curtail them has led to a search for new strategies to ensure the
safety and security of children and teachers in schools. (p. 189)
Thus, the overwhelming response to the issue of violence in schools seems to be the
increasing presence of zero tolerance.

*African Americans Students and Zero Tolerance*
The issue of zero tolerance was explored in greater detail when six African American students were expelled from school in Decatur, Illinois for fighting in the fall 1999 school year (Fuller v. Decatur, 2001). The controversy in Decatur brought masses of demonstrators to the small town where protesting lasted for more than a month. The demonstrations in Decatur centered on what some perceived as the outrageous two-year expulsion, a direct result of zero tolerance policies, the students received as punishment for fighting. “After national publicity and political pressure, the board modified the two-year suspensions to two semesters and made an alternative school placement possible” (Stader, 2004, p. 63).

It is with good reason that many of these parents were concerned about their children receiving such stiff punishment from the school board. Today, in the United States, African American students make-up 16.9% of the student population but account for 33.4% of all school suspensions (Day-Vines & Day-Hairston, 2005). To make matters worst, not only is there research indicating that students who are suspended and expelled from school end of dropping out, but research also indicates that those students who prematurely end their academic career quite possibly face a life of low income earnings and varying degrees of incarceration (NCES, 2003). According to Day-Vines and Day-Hairston, (2005), “52% of African American males who departed prematurely from school had prison records by their 30s. Current projections indicate that 32% of African American males are likely to serve prison terms” (p. 237). In Decatur, Illinois, the protesters indicated that expulsion was too harsh, and the school district had an unacceptable disproportionate expulsion rate among students of color. The fact that African American students, in particular males, (Raffaele Mendez et. al., 2002) are being
suspended and expelled at such an alarming rate throughout many public schools in the country, echoes the sentiments of the protesters in Decatur and forces educators to address the issue of zero tolerance at all levels.

_Sword is too broad_

Another perspective of zero tolerance which also warrants a critical examination deals with the nature of the infraction being committed versus the punishment that is imposed for the misbehavior. This issue is at the center of any controversy surrounding zero tolerance policies—comparable to the discussion of the role race and ethnicity plays in the administering of zero tolerance policies. Many educational stakeholders feel that zero tolerance rules are too broad and disproportionately punish students who may not have been subject to expulsion or suspension if such a policy did not exist (Curwin & Mendler, 1999; Skiba & Peterson, 2000). The problem is that a student who has committed an infraction that falls under a zero tolerance violation in a school district, regardless of the severity of the infraction and the amount of harm it has caused, is subject to being expelled or suspended (Raffaele Mendez et. al., 2002; Skiba & Peterson, 1999a). This situation ultimately renders the administration powerless, or it allows them to opt out of struggling to make ethical decisions as it relates the educational success of poor students and students of color (Casella, 2003). In either case, the opportunity to create positive learning opportunities for students who have committed minor infractions are lost (Da-Vines & Day-Hairston, 2005; Noguera, 1995; Peterson, 2003; Raffaele Mendez, 2002; Skiba & Peterson, 1999b).

_The True Effectiveness of Zero Tolerance_
The overlooked opportunity to create a positive learning opportunity for students who have misbehaved is only one of the ways in which zero tolerance has proven to be ineffective (Peterson, 2003). Since the delivery of zero tolerance to our schools via federal, state and local laws, (i.e., Gun Free Schools Act, state statutes and local board policies) one of the overall inklings of proponents of zero tolerance is that it deters the perpetuators of school misconduct as well as other students from committing school violations repeatedly by removing them from the building (Peterson, 2003). However, research has proven this premise to be unfounded (Raffaele Mendez et al., 2002).

According to Raffaele Mendez et al.,

From a theoretical standpoint, the primary goal of suspension is to decrease or eliminate the probability that a student re-commits an offense that is so serious that another referral to the principal’s office or another suspension is necessary.

Unfortunately, given that many children are suspended multiple times during the year, it does not appear that OSS [out of school suspension] is effective in this aim. (p. 259)

Thus, Noguera (1995) has found the use of suspension to be more of a mechanism used to send a message. Regrettably, this message is directed to the public at large and not students; it is a message that indicates the school officials are still in control and that public education is “still secure” (Noguera, 1995, p. 198).

Along with not being able to deter students from committing school infractions, zero tolerance rules also fail in the sense that they do not provide the opportunity for corrective feedback for students (Day-Vines & Day-Hairston, 2005) and oftentimes as indicated earlier there is not a venue for differentiating the type of punishment in relation
to the infraction (Curwin & Mendler, 1999). For example—in Longmont, Colorado a 10 year-old student was expelled from school because her mother had placed a small knife in her lunch box. The mother’s purpose for placing the knife in her daughter’s lunch box was to provide the child with a utensil to cut her apple. The 10 year-old realized the knife violated the school’s zero tolerance policy and subsequently turned it in to the proper authorities; however, she was still reprimanded and suspended from school. This situation brought national attention to the issue of zero tolerance and the lack of administrators’ discretion or judgment often involved in how students are punished under zero tolerance policies (Cauchon, 1999).

Throughout this article, the authors highlight several ethical principles and analyze their possible affects on administrator decision-making in regard to zero tolerance policies. Theses principles include the ethic of critique, ethic of caring, and ethic of justice. This is an inquiry into the fairness of zero tolerance policies and the ethical ramifications of such policies being used in our schools. The purpose of exploring these principles is to gain more insight into the complexity surrounding zero tolerance policies.

An Ethical Analysis of Zero Tolerance

When making an inquiry into the ethics of zero tolerance, it is worthwhile to observe the ethical decision-making process utilized by school administrators. Scholars (Brown, 2004; Collins, 2003; Decker, 1997; Picucci, Brownson, & Kahlert, 2002; Rooney, 2003) have found that it is the principal who sets the climate of the school. Consequently, if the principal is unconsciously making unethical decisions, it is quite possible that he or she is setting an underlying unethical tone for the entire school culture. According to Calabrese (1989), “Ethical leadership is concerned with fairness, equity, commitment,
responsibility, and obligation” (p.16). Green (2001) stated, “In espousing moral leadership, the leader takes into account the best interest of all children, teachers, parents, and himself or herself” (p. 20) Sergiovanni (1992) found that leaders of a school have an ethical responsibility to ensure that all stakeholders experience a sense of belonging. One important concept linked with Calabrese’s definition of ethical leadership is fairness. The concept of fairness will be addressed throughout this article to assist in the examination of the zero tolerance policies that are being used our schools.

Ethic of Critique

Starratt (1991) indicated that society has always consisted of different groups struggling for a form of control, and philosophers from the Frankfurt School such as Adorno (1973), Habermas (1973), Horkeimer (1974), and Young (1990) have been interested in examining social arrangements through critical theory. Critical theory “questions the framework of the way we organize our lives or the way our lives are organized for us” (Foster, 1986, p. 72). Starratt (1991) asserted, “The point of the critical stance is to uncover which group has the advantage over the others, how things got to be the way they are, and to expose how situations are structured and language is used so as to maintain the legitimacy of social arrangements” (p. 189). An individual who subscribes to the ethic of critique might ask a series of questions: who defines; who controls; and who is benefiting by these arrangements (Starratt, 1991)? Thus, the ethic of critique is an excellent way to start examining the ethical issues concerning zero tolerance.

Issues of defining and controlling are the responsibility of educators. The question of who defines with regard to the context of zero tolerance policies, largely falls within the
purview of teachers within classrooms and the administrators who make disciplinary
decisions. What we mean here is that teachers are largely responsible for establishing a
context for zero tolerance decisions to take place (especially with regard to classroom
behavioral issues). Given the idea that racism in society is inherent and perpetual (Tatum,
1997), it permeates schools and influences situations and decisions. Skiba et al. (2002)
found that “White students were significantly more likely to be referred to the office for
smoking, leaving without permission, obscene language, and vandalism. In contrast,
black students were more likely to be referred to the office for disrespect, excessive
noise, threat, and loitering” (p. 334). According to this information, white students were
referred for objective infractions while black students were referred for more subjective
infractions (Skiba et al., 2002). This information is consistent with studies that note how
students of color perceive the disciplinary procedures of their school to be racially biased
(Sheets, 1996). These results are also related to research that notes how white teachers
have different and negative perceptions of students of color (Beachum, Dentith, &
McCray, 2004; Kailin, 2002). Thus, these perceptions logically can influence who is
referred (e.g., African American students) and the insistence on zero tolerance
disciplinary tactics as a means of discipline.

Building administrators (and sometimes superintendents) are mainly the ones who
control the actual implementation of zero tolerance as a policy. They are the ones who
ultimately use the policies. Similarly, their decisions too could be influenced by
conscious or unconscious bias. Numerous scholars still note the connections of
racial/ethnic bias and zero tolerance policies (Black, 2004b; Skiba & Knesting, 2001;
Skiba et al., 2002; Stader, 2004). Within an ethic of critique it is critical to note the role of ethical leadership. Starratt (2004) asserted:

The work of educational leadership should be the work that is simultaneously intellectual and moral; an activity characterized by a blend of human, professional, and civic concerns; a work of cultivating an environment for learning that is humanly fulfilling and socially responsible. (p. 3)

Therefore, leaders must work diligently to be cognizant of such concerns. This means that leaders have to muster the moral courage to challenge zero tolerance policies that are overly formulaic in their application and take away “their discretionary authority in student discipline situations” (Gorman & Pauken, 2003, p. 29).

So exactly who is benefiting from a zero tolerance policy? Many administrators, educators, and proponents of zero tolerance might emphatically indicate that the majority of students in the school building are benefiting from such a policy. They might argue that the zero tolerance policy helps eliminate “trouble makers” and allows the overwhelming majority of students to receive a quality education. However, there are individuals who disagree with the notion that the majority of students benefit from zero tolerance policies and would even indicate that the zero tolerance policy exerts a negative impact on certain segments of society. For example, the number of African Americans expelled from school because of the zero tolerance policy is not benefiting the African American race. Instead, this increase rate in suspension and expulsion also increases the possibility that many African Americans will experience a life of crime and violence (Day-Vines & Day-Hairston, 2005; NCES, 2003). Under the zero tolerance policy, there
is little latitude for students to be reprimanded in some other way than severe penalties by teachers.

The ethic of critique is designed to initiate a dialogue concerning rules and policies. It is the administrator’s job to critique and question any school policy that might be detrimental to a particular segment of society (Starratt, 1991). Thus, Starratt clearly defined the role of the school administrator concerning his or her greater responsibilities to society.

Hence, the ethic of critique, based as it is on assumptions about the social nature of human beings and on the human purposes to be served by social organizations, calls the educational administrator to a social responsibility, not simply to the individuals in the school or school system, not simply to the education profession but to the society of whom, and for whom he or she is an agent. In other words, schools were established to serve a high moral purpose, to prepare the young to take their responsible place in and for the community. (p. 190)

Here, Starratt has clearly posited that administrators and policymakers must take into account the ramifications of a policy outside the “immediate boundaries” of the organization. In this instance, the “immediate boundaries” would be the classroom or even the school system; the “outside boundaries” would certainly consist of society in general (that is our criminal justice system).

Ethic of Justice

The ethic of justice addresses the issues of governance and fairness. According to Walker and Snarey (2004), “Justice means liberating others from injustice and orientating oneself away from biases and partial passions and toward universal ethical principles” (p.
4). These aforementioned issues are negotiated through the balancing of two competing interests: individual versus community (Cunningham & Cordeiro, 2003).

The situation resulting from these two schools of thought is a dichotomous framework for ethical decision-making. The first school of thought places the most value on the individual. Starratt (1991) wrote, “In this school, the primary reality is the individual, independent of social relationships; the individual is conceived as logically prior to society” (p. 192). This means that ethical decisions would protect individuals against majorities. Conversely, the second school of thought views the community prior to the individual. Thus, the individual thinks about his or her role and life experience in relationship to the greater community (or society). Consequently, ethical decisions are ones that benefit the community (even over the individual).

In the following analysis of the ethic of justice, the utilitarian, libertarian, and liberal egalitarian principles (philosophical values of the liberal democratic tradition) will be used to further investigate the ethical and moral ramifications of zero tolerance policies. The combination of these principles within the complete multi-dimensional ethical framework is noted in Table 1.

*The Infusion of Multidimensional Ethics with Utilitarianism, Libertarianism, and Liberal Egalitarianism*

*Table 1*

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<th>Question(s)</th>
<th>Ethic of Critique</th>
<th>Ethic of Justice</th>
<th>Ethics of Caring</th>
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<td>Who benefits?</td>
<td>How shall we govern?</td>
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Utilitarianism is a principle that is based entirely on the consequences of a policy.

This principle weighs the virtue of a policy against the results of the policy. “An action or policy is right if, from among the available alternatives, it is one that maximizes total benefit, or more technically, satisfies the principle of utility” (Howe, 1993, p. 29).

According to McCollum (1998), utilitarianism is “the school of philosophy that holds that the purpose of government is to foster the happiness of the individual, and the greatest happiness of the most people should be the goal of human existence” (p. 28). The principle utilitarianism would indicate that zero tolerance is good policy because they are removing the “difficult” students from the classroom, and the consequence of the policy is that it enables other “desirable” students to learn without being subject to any disruptions and distractions. The principle of utilitarianism would also indicate that the purpose of zero tolerance policies is to achieve benefit maximization in the classroom.

Many skeptics (Black, 2004a; Mosca & Hollister, 2004; Peebles-Wilkins, 2005; Stader, 2004) of the utilitarian principle assert that the blade of the sword is too wide, and the results often end up doing more harm than good. However, the utilitarian principle seemingly would not take into consideration the negative impact that policies, such as zero tolerance, might have on a presumed small segment of students and society. As long as there is a perceived positive impact on the majority of the students in the classroom...
and in our society, the utilitarian principle supports it. Even so, it could be perilous to sacrifice the liberty and equality of others (that is the undesirable students) for perceived benefit maximization.

Libertarianism is the second sub-principle the authors have chosen to explore to better understand the ethic of justice. When probing the libertarian perspective of zero tolerance, one word that is directly associated with it is “liberty.” The principle of libertarianism is interested in equality among all individuals. Thus, a question to explore concerns how would libertarians respond to zero tolerance policies in our schools? Howe (1993) indicated that libertarians are nonconsequentialist, they are not interested in the results of the policy but rather the procedures that are used to arrange and enforce the policies. The principle of libertarianism would find it irrelevant rather a policy led to bad results (that is a large discrepancy in groups who were suspended and expelled from school). Libertarianism is mostly concerned with the equality of the policy. For instance—is everyone being treated equally under the zero tolerance policy? The principle of libertarianism is against social inequality based on the race or ethnic background of individuals (Howe, 1993); and would not subscribe to a policy that makes certain exceptions based on race or gender. Thus, the libertarian philosophy would not inquire into the discrepancies of zero tolerance policies as it relates to race unless it was clearly obvious that the policy was designed to disproportionately target one group over the other.

In the absence of evidence that zero tolerance policies specifically target students of color in schools, libertarianism explicate that the expulsion in Decatur, Illinois, was warranted because equality existed in the school; all students were subject to the same
punishment for violating certain school rules. The students who were involved in the fighting incident were aware of the zero tolerance policy but chose to participate in the fight. Consequently, these students disrupted a school function and broke several school rules. As was noted earlier, libertarianism is in general a nonconsequentialist philosophy; therefore, no other issue would concern them with a zero tolerance policy other than everyone is subject to the same policy and is aware of its penalty in advance.

The third and final principle examined here is the principle of liberal egalitarianism. Liberal egalitarianism is quite different from the aforementioned libertarian philosophy. One of the distinct differences between libertarians and liberal egalitarians is that liberal egalitarians believe in the concept of equity. Curwin and Mendler (1999) posited that zero tolerance policies raise serious ethical challenges with regards to the liberal egalitarian principle. The argument can be made that the concept of zero tolerance originated to help our children—to shield our children from the undesirables, but in this effort, some would argue, it has done more harm than good. The liberal egalitarian principle would dispute the notion that students regardless of the infraction committed should be treated the same. Instead of using the zero tolerance policy in every situation, administrators must begin to implement corrective measures for individual students (Curwin & Mendler, 1999).

Throughout this article it has been made clear how utilitarians might respond to a zero tolerance policy, and their response is directly opposite from the liberal egalitarian view of zero tolerance as it relates to the concept of equity. For example, Howe (1993) has indicated that for most liberal egalitarians “If a school of choice plan were to maximize overall benefits but also result in racial discrimination, the essential interest in, and right
to nondiscrimination would ‘trump’ the principle of utility” (p. 32). It is clear that the liberal egalitarian philosophy would not support a zero tolerance policy if the policy has flaws concerning discrepancies in the students who are expelled. On the other hand, what about the libertarian who insists that such a policy is effective because everyone is subject to the same rules and, therefore, believes equality exists? The one common denominator between libertarians and liberal egalitarians is that both support an effort to bring about equality in our schools. Yet, the divergence in philosophy between the two originates as it relates to the concepts of equity and equality—equality being the process of treating everyone in all situations the same, while equity consists of the notion of recognizing differences and implementing policy accordingly. Liberal egalitarians would move beyond the idea of equality and endorse the notion of equitable policymaking in our schools to try to ensure that students do not have the misfortune of experiencing irrational punishment without opportunity for corrective measures and feedback.

*The Ethics of Caring*

The ethics of caring is a principle that examines the quality of relationships or interactions between individuals. According to Starratt (1991), “such an ethic does not demand relationships of intimacy; rather, it postulates a level of caring that honors the dignity of each person and desires to see that a person enjoys a fully human life” (p. 196). Beck (1994) has found that individuals mostly care about ideas and concepts they deem as important. According to Blustein (1991) and Noddings (1992), individuals have the capacity to “care for” and to “care about.” It is the “caring for” aspect that allows interpersonal relationships to form. When an individual has decided that he or she will care for another individual, a certain amount of growth and development should be
derived from the relationship. “Care means liberating others from their state of need and actively promoting their welfare; care additionally means being orientated toward ethics grounded in empathy rather than dispassionate ethical principles” (Walker & Snarey, 2004, p. 4). Mayeroff (1971) has indicated that the essence of a caring relationship is the ability to promote growth in another individual. A caring relationship requires patience from the caregiver; the caring relationship requires the caregiver to be committed in assisting an individual to realize his or her potential (Mayeroff, 1971).

Thus, with the non-malleable aspect of zero tolerance, it is questionable as to whether language such as patience and caring actually exists in such policies. Pipho (1998) asserted that the message being sent by such policies is that there is little or no flexibility for any mistakes to be made by students, which is the result of the reactionary response that has taken place as an answer to the wave of school shootings around the country. The true losers of such policies are the students who do not pose a terrible threat and are caught-up in an inherent dichotomous struggle within the school system surrounding equal respect of all students and consequentialist policies (that is policies that generate strict enforcements for rule violations) that supposedly produce the maximum benefit.

As a result of this dichotomy, policymakers and administrators need to make an inquiry into the ethics of policies such as zero tolerance to ensure that infractions are handled equitably. Over the last half decade, several incidents in zero tolerance schools have lacked certain components of caring as it relates to students. One case dealt with a student who was suspended for waving a stapler around on a school bus; another case dealt with a young female student who was suspended for bringing a finger nail file on the school premises (Leo, 1999).
Some of these incidents have been tried in court to determine if there is indeed a flaw in the implementation of zero tolerance policies. For example, one case that has gone to the courts dealt with a 15 year-old girl in Birmingham, Alabama who took an over-the-counter medication (Motrin) to relieve cramps she was experiencing during the school day. However, because the Jefferson County school system had enacted a policy that prohibited drug use, the student received 15 days in alternative school. Eventually the case was taken to court, and the school’s disciplinary policy was overruled by the judge citing that the use of over-the-counter medication did not rise to the level of punishment imposed on the student. As a consequence of the judge’s decision, many school administrators in surrounding school districts have begun to examine their zero tolerance policies in order to mitigate community reaction as it relates to the discipline of students.

Scholars, such as Casella (2003), have concluded that the wrong message is being sent to children concerning real world issues as it relates to the notion of second chances in life. This in turn may result in children questioning their self-worth and taking a zero tolerance attitude into society after their tenure in school has been completed, leading to individuals exhibiting no tolerance for mistakes on any level. School leaders who subscribe to an ethic of caring would ultimately be concerned with whether or not care is involved in zero tolerance policies, which at the end of the day is when opportunities to correct misbehavior are a part of the discipline process.

In summary, critique, justice, and caring work together in paradigmatic unison. Starratt (1991) opined, “each ethic needs the very strong convictions embedded in the other…Uniting themes from different theoretical foundations attempts to use the genuine strengths and the genius of each theoretical position in the interests of building a rich and
At the heart of the matter is an issue of ethical courage and integrity that causes one to ask broader questions, adjudicate fairly, and make caring decisions on the best behalf of all students.

**Leadership Implications**

After reviewing the ethical principles (i.e., the ethic of critique, care, and justice) and applying them to zero tolerance policies, it has been revealed that there are a plethora of ethical concerns. However, one final component that needs to be added to the discussion is the leadership implications for administrators who are in school districts where zero tolerance policies exist. Thus, the question has to be asked as to whether administrators perceive themselves as acting ethically when enforcing zero tolerance policies?

According to Beauchamp and Childress (1984), “Absolute rules undermine the freedom and discretion of moral agents, and it sometimes results in moral victims who suffer the consequences of overly rigid adherence to rules” (p. 58). Although Beauchamp and Childress recognized the possibility that some rules are absolute and should never be broken, they do question the concept of rules that are not absolute but are not broken. Beauchamp and Childress indicated that “It may be true that in some cases, such as emergencies, the consequences of following some rules would be so terrible that those rules should be overridden” (p. 58).

We have provided some examples of how zero tolerance policies are being used as absolute rules. However, one example that truly indicates how zero tolerance policies are considered absolute took place in Alexandria, Louisiana. According to Portner (1997), an eight-year-old girl was suspended for bringing her grandfather’s watch to school. Attached to the watch was a small knife that was used for decoration. The small knife on
the watch violated the no-weapon policy in the school district. This case is one of the clearest cases of a zero tolerance policy being implemented in an absolute style.

There are some reasons that administrators might approach zero tolerance policies as absolute. First, some districts require administrators to enforce zero tolerance policies, and administrators simply have no choice in reprimanding students. Second, in circumstances where administrators are provided flexibility in punishing students, many administrators still treat the district’s zero tolerance policy as an unconditional rule in order not to seem biased against certain groups. Some administrators perceive zero tolerance policies as a safety net that will protect them against accusations of being biased and any potential lawsuits for treating students differently (Portner, 1997).

Administrators who subscribe to this type of thinking have a supposition that students are being treated equally because students are subject to the same rules and regulations. This also leads them to the belief that the majority of students in the school are benefiting by doing away with the “trouble makers” who commit infractions. However, those who have limited cultural capital within society might disagree with this type of logic. African American students who are more likely to experience expulsion or suspension than any other group would disagree with the principle of benefit maximization. Students who are more prone to drop out of school because of zero tolerance policies would also disagree with the utilitarian principle. Also, the eight-year-old girl in the previous example would certainly inquire as to the non-existence of equality in such a rule and the lack of discretion in such a policy that could have a detrimental impact on her educational career and life. School leaders must recognize that education consists of more than simply preparing children for the workforce. Black (2004a) posited that zero tolerance policies
are having a negative impact on teaching children certain values such as understanding, kindness, and justice.

Viewing zero tolerance policies as fixed or absolute seems to be the prevailing way of dealing with them. Another way to address such policies is to work to reconstruct them. Ironically, ethical frameworks like critique, justice, and caring become a way to work towards initiating such a change. An ethic of critique compels the leader to carefully examine the outcomes of zero tolerance policies. Starratt (1991) asserted, “From a critical perspective, no organizational arrangements in schools ‘have to be’ that way; they are all open to rearrangement in the interest of greater fairness to their members. Where unjust arrangements reflect school board or state policy, they can be appealed or restructured” (p. 190). Starratt highlighted the leader’s ethical duty to address and if necessary reconstruct policies that are unfair or unethical. An ethic of justice forces the leader to deal with issues of fairness. With this viewpoint, leaders must see beyond utilitarianism (greatest good for the greatest number), and libertarianism (liberty as the standard for all), to understanding that liberal egalitarianism too, is an ethical position that is rational (not overly sentimental) and deserves parity with its ideological colleagues. An ethic of caring guides the leadership into action. This ethic requires skillful handling of complex relationships and organizational politics (Starratt, 1991). Furthermore, “Care means liberating others from their state of need and actively promoting their welfare; care additionally means being orientated toward ethics grounded in empathy rather than dispassionate ethical principles” (Walker & Snarey, 2004, p. 4). Thus, educational leaders should not be totally bound by policies that are unethical, in fact, they have an ethical duty to challenge such policies. What would schools be like if leaders openly challenged
and changed policies that disproportionately impacted poor students and students of color?

Because of these implications that a zero tolerance policy might have on a student, school districts should implement such policies cautiously and make every effort to understand how they affect the decision-making ability of school leaders as well as the impact it has on students and parents. If the policy is administered carelessly, it could be devastating for a student who would ordinarily not be subject to any type of suspension or expulsion. It is the ethical leadership styles of school leaders that will have an impact on the entire school. Administrators must inquire (Ethic of Critique) as to what their role is in shaping a student’s life (Ethics of Caring) and are they overzealously using zero tolerance policies to the detriment of students (Ethic of Justice). This approach is crucial because it gets to the foundation of the controversies surrounding zero tolerance. School boards and administrators must ask the tough questions. Were zero tolerance policies designed to be unconditional in the enforcement of infractions, and are we acting in a good faith effort when administering such policies? Can we defend our actions under ethical scrutiny when we do administer them? These are questions that will need to be further explored to determine administrator’s perceptions of zero tolerance and its implementation; however, there is strong preliminary evidence to suggest that school districts along with school leaders are overzealously administering zero tolerance policies and are maybe teaching the wrong lessons to our children.
References


*Fuller v. Decatur* (2001). F. 3d 662 (7th Cir.).


