

# Restorative Justice Legislation in Nevada:

## Recommendations from Teach Plus Nevada Teaching Policy Fellows

### INTRODUCTION

During the 80th (2019) session of the Nevada Legislature, lawmakers passed legislation requiring all Nevada schools, public, private and charter, to implement restorative justice practices. Assembly Bill (AB) 168<sup>1</sup> provides guidelines and parameters for schools concerning student discipline, with definitive specifics regarding suspensions and expulsions. AB 168 aims to address the state's racial disparities regarding exclusionary discipline, which disproportionately impacts students of color<sup>2</sup>, and often results in student entry into the juvenile justice system<sup>3</sup>. The legislation creates the foundation for Nevada schools to begin the transition from punitive discipline to restorative justice.

#### Overall, the Bill:

1. Defines restorative justice as “nonpunitive intervention and support provided by the school to a pupil to improve the behavior of a pupil and remedy any harm caused by the pupil.”
2. Compels all schools to design and provide a plan of action based on restorative justice prior to the expulsion of a student.
3. Prohibits schools from permanently expelling a student under 10 years old, except in extraordinary circumstances; whereby approval of the district governing school board is required.
4. Requires the Nevada Department of Education (NDE) to create model restorative justice plans and professional development curriculum for school districts to support the implementation of restorative justice practices.

As Teach Plus Nevada Policy Fellows and Nevada educators, we have a vested interest in positive changes and improved success for all students. We aspire to address the issue of behavior and discipline, legislation on restorative justice, and its impact on our students in urban and rural school communities in the fifth-largest school district in the country.

In this brief, we aim to address and debunk some of the most common misconceptions that educators have about restorative justice. Debunking myths is critical to dismantling educators' and stakeholders' preconceived notions about restorative justice as an alternative to punitive discipline. The educators' reflections that follow demonstrate that restorative justice practices can be effective when implemented correctly.

### METHODOLOGY

Between October 2019 and March 2020, we read and reviewed research literature on restorative justice and associated restorative justice myths. We conducted individual conversations with teaching colleagues in Clark County regarding local perspectives on restorative justice and district implementation of restorative justice. We researched effective restorative justice implementation models in the Oakland Unified School District, the San

Francisco Unified School District, and Denver Public School.<sup>4</sup> We consulted with district administrators, community leaders, and legislators to discuss and explore opportunities for community collaboration, teacher professional learning, and implementation of restorative justice, as well as possible improvement(s) to existing restorative justice legislation. We analyzed and evaluated existing/seminal research literature, restorative justice legislation, school restorative justice implementation, and community resources to inform our recommendations.

## BACKGROUND/CONTEXT

Numerous research studies and literature indicate that students who are removed from the school environment experience challenges within the school community and later in life, including involvement with the criminal justice system<sup>5</sup>. Data illustrates that Black and Brown students in the Clark County School District (CCSD) are disproportionately disciplined compared to their whiter peers.<sup>6</sup>

In addition, the COVID-19 crisis is significantly impacting the social-emotional well-being of students. The interruption to teaching and learning routines, the immediate removal of the school social structure, and the abrupt transition and acclimation to distance learning have been traumatic. The reopening of schools is certain to bring similar challenges. As teachers, we know that there will be an increased need for restorative justice practices in schools throughout the district(s) due to the trauma experienced from the impact of the pandemic.

Even though effective implementation of restorative justice in the Clark County School District is required by AB 168, to date the professional learning, training, and resources provided to teaching faculty, support staff, and administration within CCSD have been limited. The capacity to effectively facilitate the implementation of restorative justice programs/policies for over 320,000 students in 360 schools is restricted. Systems must be created to train and support educators in making the substantial shift from a punitive model of discipline to restorative student discipline. While some schools have fully embraced restorative justice in their day-to-day practices, others remain resistant to change. There must be a shift in policy, as well as a shift in mindset for the implementation of restorative justice to be successful.

## DEBUNKING MYTHS

In researching and examining restorative justice, we realized that one of the greatest challenges in the cultural shift from punitive discipline to cooperative and constructive restoration are people's mindsets and beliefs about restorative justice. Limited learning opportunities and training create conceptual misunderstandings about restorative justice. To directly address misconceptions, we present the following myths encountered in our discussions, collaborations and consultations. We follow these with recommendations for effective implementation in our school communities.

### Myths

- Restorative justice requires a high level of expertise for effective implementation.

- Restorative justice, as discipline reform, absolves students of responsibility for their actions.
- Restorative justice is a passing discipline fad.
- Restorative justice is intended to remove consequences from student misconduct.
- Restorative justice is a one-size-fits-all system.

**Myth 1: Restorative justice requires a high level of expertise for effective implementation.**

**Truth: Restorative justice requires *radical listening* and a desire for change.**

When I began teaching fourteen years ago, the term “restorative justice” was not used in the professional learning I received. Yet, what I later received was exactly what I needed to begin to implement restorative justice practices effectively. The professional learning consisted of a three-day immersion program, entitled *Capturing Kids Hearts*<sup>7</sup>. It taught administration, teachers, and support staff how to connect with one another and with our students and how to build meaningful relationships.

As a result of program implementation, our school community experienced a 30-40% reduction in suspensions and 45-50% fewer discipline referrals. Building positive, trusting relationships with our students is improving academic and social-emotional development, while also ensuring that students feel seen and heard – through radical listening. Without this professional learning, teachers may be left to figure out restorative justice on their own, which could prove to be challenging.



My ability to connect with my students was strengthened due to the *Capturing Kids Hearts* program. Restorative justice implementation does not require teachers to be experts. However, administration, teachers, and support staff *need* professional learning to implement restorative justice practices effectively.

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**Myth 2: Restorative justice as discipline reform absolves students of responsibility for their actions.**

**Truth: Restorative justice allows students to engage in meaningful, problem-solving practices.**

According to Eden<sup>8</sup>, the most highlighted criticism by some educators is that restorative justice is a discipline reform that does not hold students accountable. Restorative justice practices are a process in which student accountability is fostered. Additionally, this process helps students

build and maintain positive relationships between students and peers, students and families, students and teachers, and students and administrators and other school staff. As a result, referrals, suspensions, and expulsion decrease significantly. Based on this independent study<sup>9</sup>, the implementation of restorative justice results in improvements in school climate.



According to David Yusem<sup>10</sup>, the Restorative Justice Program Coordinator at Oakland Unified School District, restorative justice has had a positive impact on students' self-esteem. Students are learning to build and maintain positive relationships and effectively resolve conflict. Yusem stated that students learned valuable social and emotional skills such as patience, empathy, active listening, and impulse control.<sup>11</sup> As I reflect on my personal and professional experiences with restorative discipline practices, Frederick Douglass' quote best captures the purpose of restorative justice, "It is easier to build strong children than to repair broken men".

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**Myth 3: Restorative justice is a passing discipline fad.**

**Truth: Restorative justice is an approach that encourages collaboration between students and their school community.**

Restorative justice – restitution, reparation, community mediation – is not new, nor is it a purely North American development.<sup>12</sup> It is a practice that dates back to ancient humankind and nascent communities around the world. Disabusing stakeholders of the notion that restorative justice is a trendy new development can aid reception of restorative practices that can help build relationships and heal inequities in our schools and communities. This myth also adds to the assumption that discipline or retribution are the most comprehensive and universal ways of responding to violations of cultural norms. Restorative justice is a worldwide phenomenon that has been and continues to be implemented by societies throughout human history.<sup>13</sup>



Recognizing the beneficial impact of restorative practices, I work to build rapport and community within our classroom – with each student. These relationships allow me to better connect with my students as I learn about their identities, perspectives, and experiences. Providing opportunity to repair harm and rebuild relationships following conflict allows students to remain connected to a positive school community. Restorative justice practices engage students in conflict resolution to address issues that impact their school community.

This choice empowers them to be agents of change within their classrooms, schools, neighborhoods, as well as within their families and the larger community.

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**Myth 4: Restorative justice is intended to remove consequences from student misconduct.**

**Truth: Restorative justice is intended to reduce the disproportionality in discipline.**

According to Clark County School District’s Expulsion, Suspension and Behavior Referral Totals for the 2017-2018 school year, African American students, who represent 13% of total enrollment, had 39% of suspension referrals. These numbers indicate a disproportionality in discipline, most specifically for African American students excluded from school more often than their White peers.<sup>14</sup> In my experience, teachers can have many rules and regulations, but if a relational classroom community has not been built, rules and regulations are null and

void. Restorative justice practices build deep and trustworthy relationships in which students feel valued and worthy.



According to Faina Davis<sup>15</sup>, many schools are forcing children into the school-to-prison pipeline and violence rather than establishing routes for liberation and opportunity. Restorative justice can mitigate this racial bias in school discipline. “There is some evidence that teachers who implement restorative justice with high fidelity will be perceived as more respectful of students of all racial groups, will have

more positive relationships with all students, and will therefore be less likely to rely on punitive school discipline approaches than low-restorative-justice-implementing practitioners”.<sup>16</sup> All of these elements factor into reducing disproportionality in school discipline.

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**Myth 5: Restorative justice is a one-size-fits-all system.**

**Truth: Restorative justice practices allow for greater access to equitable solutions for students and teachers.**

Statistical data indicate that expulsion rates have doubled since the 1970’s and result in lasting negative impacts, including a higher risk of academic failure, an increase in high school drop-out rates, potential involvement in the juvenile justice system, and suspensions and expulsions of black



## RESTORATIVE JUSTICE

### Practices

- Builds meaningful relationships
- Resolves conflict and fosters student accountability
- Promotes positive school community
- Reduces disproportionality in discipline

### Recommendations

- Professional learning or all teaching and support staff and administration
- Comprehensive collaboration among community stakeholders
- Construct model(s) of implementation of restorative justice plan for districts and schools

students three times greater than those of other students.<sup>17</sup> Restorative justice practice can be a measured and humane approach if implemented with integrity, that speaks to the student as an individual and not as a number, and offers support for educators to address each student's needs. As educators, we have been tasked with navigating diverse relationships and increasingly challenging environments as well as developing an acute understanding and awareness of compassion and empathy for others. Before the rigor in a classroom begins, it is the relationships we develop and the care we impart to our students that should, and must, come first if we are to be effective instructional leaders.

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## RECOMMENDATIONS

As the conversation on restorative justice in Nevada continues and districts wrestle with how to implement a model of restorative justice for their schools, teachers, and students during COVID-19 and beyond, we embrace the opportunity to lend our voices to the discussion. We propose the following recommendations:

**RECOMMENDATION 1: PROVIDE PROFESSIONAL LEARNING TO ALL TEACHING AND SUPPORT STAFF AND ADMINISTRATION ON CULTURALLY RESPONSIVE RESTORATIVE JUSTICE PRACTICES.**

Restorative justice is powerful in its dynamic to transform people, relationships, and communities – most specifically in its build of relationships between students and educators, its resolution of interpersonal conflict and repairing of harm committed, and its promotion of a positive school community. Restorative justice is complex and nuanced and, as such, requires well-designed, sustained professional learning tailored to meet teachers' needs. This recommendation for purposeful planning of *professional learning* rather than *professional development* is intentional – noting that professional development is often a one-time, one-size-fits-all training rather than specifically targeted for students' learning and teachers' professional needs.<sup>18</sup>

Additionally, the commitment to meet the needs of our multi-linguistic and culturally diverse student community, nearly 70% of whom live and learn in Clark County, speaking over 154 languages, requires the inclusion of culturally relevant pedagogy. The inclusion of culturally responsive pedagogy is critical to the respect, regard, and dignity of our students and families, and our multicultural teaching and support staff. “Culturally responsive pedagogy is a student-centered approach to teaching in which the students’ unique cultural strengths are identified and nurtured to promote student achievement and a sense of well-being about the student’s cultural place in the world.”<sup>19</sup>

It is critical that funding is allotted for professional learning for restorative justice in conjunction with culturally responsive pedagogy for the effective, successful implementation of the restorative justice legislation passed in 2019.

### **RECOMMENDATION 2: ADVOCATE FOR COMPREHENSIVE COLLABORATION AMONG ALL COMMUNITY STAKEHOLDERS.**

In acknowledgement of the many restorative justice programs, activities, and initiatives being undertaken by leaders and stakeholders throughout local districts and statewide (i.e. Clark County School Justice Partnership, The Harbor, Code Switch at Touro University, local and state education associations, etc.), and in consultation with state legislators and education leaders, we recognize the need for and recommend comprehensive collaboration among community stakeholders. “Collaborative governance refers to a framework of policy strategy that seeks to engage multiple stakeholders in governance and decision-making processes.”<sup>20</sup> The communication and cooperation of diverse stakeholders are necessary to innovatively leverage and maximize available resources, expertise, and responsibility for student and school improvement.

Given the impact of the COVID-19 crisis on the economy and education in southern Nevada and throughout the state, it is essential that collaboration is prioritized to achieve community and systems change. Restorative justice is part of the systems change that is essential to meet the needs of our students and families. Students, families, and teachers experienced trauma related to the ongoing COVID-19 crisis, the closure of schools, the stress of distance learning, and the racial unrest persisting throughout the country. It is critical to the well-being and care of all students that community partners, leaders, and stakeholders collaborate to repair and build a more just and equitable community. The use of restorative justice practices rather than punitive discipline is central to valuing each student and validating their worth and humanity, in order to provide healing to people, relationships, and the local community.

### **RECOMMENDATION 3: CONSTRUCT AND PROVIDE A COMPREHENSIVE MODEL OF IMPLEMENTATION OF RESTORATIVE JUSTICE FOR DISTRICT SCHOOLS (AB 168).**

According to implementation guides for restorative justice in schools, “Implementing restorative practices is more than just attending a training. It takes thoughtful preparation time, sufficient resources, and dedicated staff to pull it off with fidelity and sustainability.”<sup>21</sup> It is an endeavor that cannot be left to chance. Restorative justice as a shift from punitive discipline to

a relational practice that emphasizes healing and accountability, promoting a transformation that requires more than singular, stand-alone, professional development workshop(s). An effective, proven model of restorative justice implementation is needed for districts and schools to address disproportionality in discipline, suspensions and expulsions, and academic outcomes. We recommend consideration of successfully implemented restorative justice models in comparable urban districts encompassing the three core principles of 1) repairing harm, 2) reducing risk, and 3) empowering community – resulting in improvement of school community culture.<sup>22</sup>

## CONCLUSION

The complexity of restorative justice cannot be overstated. The recommendations of professional learning for teaching and support staff and administration, comprehensive collaboration among all community stakeholders, and the provision of an effective implementation model for restorative justice are vital to the successful realization of the application of AB 168. Nevada students are counting on our community leaders, partnerships, and stakeholders to collectively advocate for and provide the structures needed to ensure equity and justice for each and every student.

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