



Student Discipline, Race And Eva Moskowitz's Success Academy Charter Schools

by [Leo Casey](#)-- October 19, 2015

At a recent press conference, Success Academy Charter Schools CEO Eva Moskowitz addressed the issue of student discipline. "It is horrifying," she told reporters, that critics of her charter schools' high suspension rates don't realize "that five-year-olds do some pretty violent things." Moskowitz then pivoted to her displeasure with student discipline in New York City (NYC) public schools, asserting that disorder and disrespect have become rampant.

This is not the first time Moskowitz has taken aim at the city's student discipline policies. Last spring, she used [the editorial pages](#) of the *Wall Street Journal* to criticize the efforts of Mayor Bill De Blasio and the NYC Department of Education to reform the student code of conduct and schools' disciplinary procedures. Indeed, caustic commentary on student behavior and public school policy has become something of a trademark for Moskowitz.

The National Move to Reform Student Discipline Practices

To understand why, it is important to provide some context. The New York City public school policies that Moskowitz derides are part of a national reform effort, inspired by a body of research showing that overly punitive disciplinary policies are ineffective and discriminatory. Based on this research evidence, the [American Academy of Pediatrics](#), the [American Psychological Association](#) and [School Discipline Consensus Project](#) of the Council of State Governments have all gone on record on the harmful effects of employing such policies. The U.S. Education Department, the U.S. Justice Department, civil rights and civil liberties organizations, consortia of researchers, national foundations, and the Dignity in Schools advocacy coalition have all examined the state of student discipline in America's schools in light of this research.¹

Their findings? Suspensions and expulsions, the most severe forms of school discipline, are being used excessively in American schools, often for such minor infractions such as "talking back" or being out of uniform. Further, these severe punishments are being applied disproportionately to students of color, especially African-American and Latino boys, students with disabilities and LGBT youth.

As a result of these data, the U.S. Education Department and U.S. Justice Department issued [guidance](#) to schools, based on their finding that discriminatory uses of suspensions and expulsions were in violation of Title IV and Title VI of the 1964 Civil Rights Act. Since this guidance came from the federal agencies that are charged with the enforcement of the Civil Rights Act, it added the force of the law to the powerful moral arguments for addressing the problem of discriminatory discipline. School districts and schools, public and charter, took notice. The more progressive minded, such as the new de Blasio administration of the New York City Department of Education, began to reform their disciplinary practices in accord with these regulations. As a consequence, the suspensions and expulsions from New York City's public schools have been dramatically reduced.

Moskowitz makes no explicit mention of these developments in her attacks on the de Blasio administration, although a careful reading shows that they are a calculated response to them. Instead, with unverifiable anecdotes, cherry-picked statistics, and out-of-context quotations, Moskowitz dismisses New York City's student discipline reforms as "edu-babble" and "nonsense."²

In a revealing [video interview](#) that accompanied the *Wall Street Journal* op-ed, editorial board member Mary Kissel launches the conversation by declaring that the “Obama administration wants laxer discipline standards for minorities in public schools.” Moskowitz does not disagree. Under the cover of attacks on the policies and practices of New York City public schools, Moskowitz has delivered a shot across the bow of President Obama, retiring Secretary of Education Arne Duncan and incoming Acting Secretary John King. The message is, if you choose to enforce civil rights law when it comes to discipline in Success Academy charter schools, expect an all-out political war.

The Data on Success Academy Schools

Why would Moskowitz feel the need to lay down a gauntlet in opposition to a president and two secretaries of education who have all been vigorous charter school supporters? For that matter, why take on the entire civil rights community? To answer these questions, I decided to take a look at the data on suspensions from New York City schools, both public and charter. There are three repositories of these data: the [Civil Rights Data Collection](#) of the U.S. Education Department; the [School Report Cards](#) of the New York State Education Department; and the school discipline data reports of the NYC Department of Education to the City Council, as required by New York City’s Student Safety Act. (The UCLA Civil Rights Project provides a [user friendly portal](#) for viewing the federal data and, while the Student Safety Act data is not available on the internet, the New York Civil Liberties Union publishes useful annual [Suspension Data Fact Sheets](#).) With three different repositories of data, one would think that it should be a simple matter to locate accurate information. But the reality is rather different.

Take the data published by the U.S. Education Department: The most recent available dataset is for the school year 2011-12, when the New York City Department of Education was under the administration of Mayor Michael Bloomberg. Bloomberg’s NYC DoE reported suspension rates of 1.7 percent for secondary school students and 0.3 percent for elementary school students, figures which were far below the seven percent suspension rate it had provided under the Student Safety Act.³

But this inconsistency pales next to the data for Moskowitz’s Success Academy Charter Schools: Across all Success Academy schools, just two suspensions were reported to the U.S. Department of Education for 2011-12. During the same year, hundreds of suspensions were reported to the New York State Education Department, for an overall suspension rate of 17 percent.⁴

The numbers that Success Academy chose to report to the federal government were not only so radically at variance with those reported to the New York State Department of Education, but also so obviously wrong, as to appear contemptuous of the charter networks’ obligations under federal civil rights law.⁵

To provide the most complete picture possible of what is happening in both the Success Academy schools and regular New York City public schools, it was necessary to gather data from a number of different sources. Let us start with most recent dataset, for the year 2013-14, which was [published](#) late last spring as part of the New York State School Report Cards. According to the state data, in 2013-14, Success Academy Charter Schools had a total of 728 suspensions for a suspension rate of 11 percent, while the New York City public schools had a total of 9617 suspensions for a suspension rate of one percent.

We know that the NYC public school data is understated, however, because (just as in the case of its report to the U.S. Education Department cited above) only the most serious suspensions are ever reported to the New York State Education Department. Upon request, the New York City Department of Education supplied the Shanker Institute with the total number of all suspensions for the 2013-14 school year. These data showed 53,504 suspensions; yielding an annual suspension rate of five percent.⁶

From the standpoint of Success Academy, therefore, the most charitable reading of these numbers is that the charter school network suspended its students at more than double the rate of the New York City public schools, eleven percent to five percent.⁷

But these numbers are only the beginning of the story. New York charter school management has defended student suspension rates in their schools that are much higher than those of New York City district schools on the grounds

that they educate more students with challenges – students living in poverty, students with special needs, and English Language Learners. The New York State Education Department data includes a fairly robust set of student demographics that make it possible to test this claim by comparing the student demographics of Success Academy charter schools and New York City public schools for the 2013-14 school year.⁸

In fact, on the most important measures, the student demographics of Success Academy schools indicate a lower need student population than are served by New York City public schools as a whole: while 81 percent of New York City public school students are “economically disadvantaged,” 74 percent of Success Academy students fall into that category; while 18 percent of New York City public school students have “learning disabilities,” 14 percent of Success Academy students fall into that category; and while 15 percent of New York City public school students are English language learners, only 5 percent of Success Academy students fall into that category.⁹

Thus, insofar as one credits the argument that a student population with greater needs will necessarily have more problems with behavior and more student suspensions, Success Academy schools should be suspending fewer – not more – students than the New York City public schools.

Why Age Matters

There is one more key issue of comparability that is often lost in these discussions: the age of students. As students enter into adolescence, misbehaviors generally increase and disciplinary consequences for those misbehaviors (such as suspensions) tend to climb in number. For a true “apples-to-apples” comparison, we should look at data for students in the same age groups. As it happens, during the years discussed here, Success Academy Charter Schools served no high school students and had very few students in middle school – in fact, over 90 percent of their students were in the elementary school grades of K through 5.

To adequately compare suspension rates in Success Academy Charter Schools with rates in the New York City public schools, we requested that the New York City Department of Education provide the Shanker Institute with a breakdown of student suspensions by grade level: In 2013-14, the elementary school grades had 6,634 suspensions, the middle school grades had 18,873 suspensions and the high school grades had 27,997 suspensions. That is, the elementary school grades accounted for nearly half of all New York City public school students (47 percent), but only 12 percent of all suspensions; the middle school grades accounted for 22 percent of all students, but 35 percent of all suspensions; and the high school grades accounted for 31 percent of all students, but 52 percent of all suspensions. In other words, in 2013-14, there was 1 suspension for every 67 students in the elementary school grades of New York City public schools and one suspension for every 11 students in the middle and high school grades. By contrast, in Success Academy Charter Schools, there was one suspension for every nine students in 2013-14, and these students were overwhelmingly concentrated in the elementary school grades – a higher suspension rate than for New York City public middle and high school students. Shockingly, when students of the same ages were compared, Success Academy Charter Schools was suspending students at a rate roughly **seven** times greater than in the New York City public schools.¹⁰

The Matter of Race

What were the race and ethnicity characteristics of Success Academy’s suspended students? Only the Civil Rights Data Collection of the U.S. Department of Education requires that districts and schools report the race and ethnicity of suspended students; but, as previously noted, since Success Academy reported only two of its hundreds of suspensions to the federal government, we have no direct source of information on this matter. We do know, however, that in the 2013-14 school year, seven of the eighteen Success Academy charter schools (Harlem Success I through V, Bed-Stuy Success I and Bronx Success I) accounted for nearly 90 percent of all suspensions, with suspension rates above the average for all Success Academy schools. In each of those schools, the combined share of African-American and Latino students was in the high 90 percent range.

While Success Academy is on the extreme end of the spectrum, the problem of excessive suspensions for African-American and Latino students runs deep across the charter school sector in New York City, as the Advocates for Children’s report, “**Civil Rights Suspended**,” has documented.

The challenge posed to Success Academy and similar charter schools by the U.S. Department of Justice and U.S. Department of Education's [guidance](#) on student discipline is serious. To be in conformance with civil rights law, these schools will need to make radical reforms to their "no excuses" school culture and practices. Now that Moskowitz has laid down the gauntlet on this issue, many eyes will be on the Obama administration for its response. Changing policies, practices and cultures to make schools into safe and welcoming places that do not resort to the excessive and discriminatory use of suspensions and expulsions is hard, challenging work.

Educators across the country will be watching closely to see if all schools are required to take it on. If the greatest transgressors of federal civil rights law are given a bye for political reasons, it is hard to see how the law can be successfully enforced anywhere. Public scrutiny of the issue is bound to grow in the wake of John Merrow's powerful [PBS News Hour piece](#) on Success Academy's suspension policy. The Obama administration's initiative to end excessive and discriminatory suspensions and expulsions will ultimately stand or fall on its willingness to take on those, such as Moskowitz's Success Academy Charter Schools, who openly refuse to abide by federal civil rights law.

Perhaps the specter of having to make these student discipline reforms was, by itself, sufficient cause for Moskowitz to take on the Obama administration, Duncan, King and the entire civil rights community. But it is not the only issue; Success Academy's student discipline policies are also intimately tied to its practice of refusing to "backfill" empty student seats. I will take up the issue of "backfilling" in a follow-up post on Success Academy Public Schools.

ENDNOTES

1 See the work of the [U.S. Department of Education](#), the [NAACP Legal Defense Fund](#), the [Advancement Project](#), the [American Civil Liberties Union](#), the [UCLA Civil Rights Project](#), [Discipline Disparities: A Research to Practice Collaborative](#), the [Atlantic Philanthropies](#), and the advocacy coalition [Dignity in Schools](#).

2 By way of illustrations, consider the following two examples: First, there is the claim in Moskowitz's op-ed, repeated in the video interview, that "4 percent of New York City high-school students carry a weapon to school; 2 percent carry a gun." These statistics do not reflect the actual numbers of students who were found in possession of a weapon in their school – despite the fact that in New York City, the penalty for possession of a weapon in school is a suspension, and thus appears in the suspension data. But it appears that the real numbers were too low to suit Moskowitz's purposes, since she claims to have obtained her alternative numbers from the NYC Department of Health and Mental Hygiene [epidemiological report](#), "Firearm Deaths and Injuries in New York City," a report that incorporates data from the NYC Youth Risk Behavior Survey. A fuller examination of this survey provides a different picture of school safety than Moskowitz portrays. Since 1997, the numbers of New York City high school youth who reported carrying a weapon of any sort have fallen by more than half, and the numbers who reported carrying a gun have been halved. Indeed, the rate of weapon and gun carrying among high school age youth in New York City is well below the national average. Moreover, the numbers of youth carrying weapons are not uniformly spread across the city, but concentrated in neighborhoods of high poverty – the South Bronx, Harlem and Central and Northern Brooklyn: the rates of firearm violence (death and injury) among high school and college age youth in these areas were at least twice the City's average. Now that Success Academy has begun to open its own high schools, one could employ Moskowitz's logic in this op-ed to Success Academy charter high schools located in its areas of concentration in the South Bronx, Harlem and Central and Northern Brooklyn, and conclude that 8-10 percent of their students would be carrying a weapon in school. It is a safe bet that when it comes to assessing the safety in her own schools, the CEO of Success Academy will be returning to the statistics of students actually found in possession of a weapon in school that she was so quick to disregard in discussing public high schools.

Second, Moskowitz mocks the use of "restorative practices" in New York City public schools by ridiculing a quote from a [website](#), which has no connection either to New York City schools or to any of the significant forces in the movement to reform student discipline. The NYC Department of Education [discipline code](#) includes a description of the restorative practices that should be employed in city schools, explaining how practices such as peer mediation can be used to resolve student conflicts and disputes before they escalate into violence. But Moskowitz ignores this authoritative information.

3 New York City public schools distinguish between "Principal" suspensions, used for less serious misconduct and limited to no more than five days of suspension, and "Superintendent" suspensions, used for more serious misconduct and extending for

as long as a year. As the name suggests, it is in the authority of the Principal to issue a Principal suspension, but a Superintendent suspension requires the approval of the Superintendent and a more formal and quasi-legal due process hearing conducted by the NYC Department of Education. Under Bloomberg, the NYC Department of Education appears to have been reporting only Superintendent suspensions, which accounted for only 19 percent of all suspensions. Since the U.S. Education Department category is “out of school suspensions,” which would cover any loss of school days, there would not appear to be a plausible reason for reporting only Superintendent suspensions.

4 There were seven Success Academy charter schools which had been in existence long enough to report data to the U.S. Education Department for its 2011-12 report: five Harlem Success Academies and two Bronx Success Academies. There is an anomaly in the corresponding New York State Report Card for Bronx Success Academy 2, which is missing data for attendance and suspensions. I therefore calculated the overall figures for Success Academy using the six schools with data. In the next year of the New York State Report Card, which includes data for all seven of the original Success Academy schools and an additional two new schools, the overall suspension rate rose to 19 percent.

5 In the years of the Bloomberg administration, Moskowitz had a close ally on student discipline and other issues leading the NYC Department of Education. Over the course of the decade ending in 2011-12, suspensions in the Bloomberg-run NYC public schools **more than doubled**. So long as the disciplinary policies of the New York City public schools were increasingly punitive, Success Academy had cover for its own policies. But, with changes in student discipline policies arising under the de Blasio administration and the new leadership at the NYC Department of Education, the Success Academy’s record has become increasingly vulnerable.

6 For the 2013-14 student registers in New York City public schools, I have used the numbers from the Department of Education’s **public portal**.

7 In her *Wall Street Journal* op-ed, Eva Moskowitz states that there is an 11 percent suspension rate in Success Academy charter schools, as opposed to a four percent suspension rate in New York City public schools, but does not provide a source for these numbers.

8 There are two missing data points that, if they had been provided, would make the comparison more complete. While the NYSED demographics do include students with disabilities, it does not distinguish between those students with minimal disabilities and those students who have more serious disabilities. And while the NYSED demographics do include a measure of economic disadvantage which is more sophisticated than the crude free and reduced lunch status measure that is often used as a proxy for poverty, it does not break out homelessness, which is the most severe form of economic disadvantage.

9 What is particularly striking about the lower levels of need in the Success Academy student population is that their charter schools have been sited in the historically highest need communities of New York City – Harlem, the South Bronx, and Northern and Central Brooklyn – which should have led to higher, not lower, levels of need. These results would give credence to the claims that Success Academy charter schools have been “creaming” these communities, enrolling a disproportionate number of students that have low levels of need.

10 A more precise estimate would be possible if city, state and federal education authorities required all schools and districts to report their suspensions by grade level. This is a needed policy adjustment