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## Stop the School-to-Prison Pipeline


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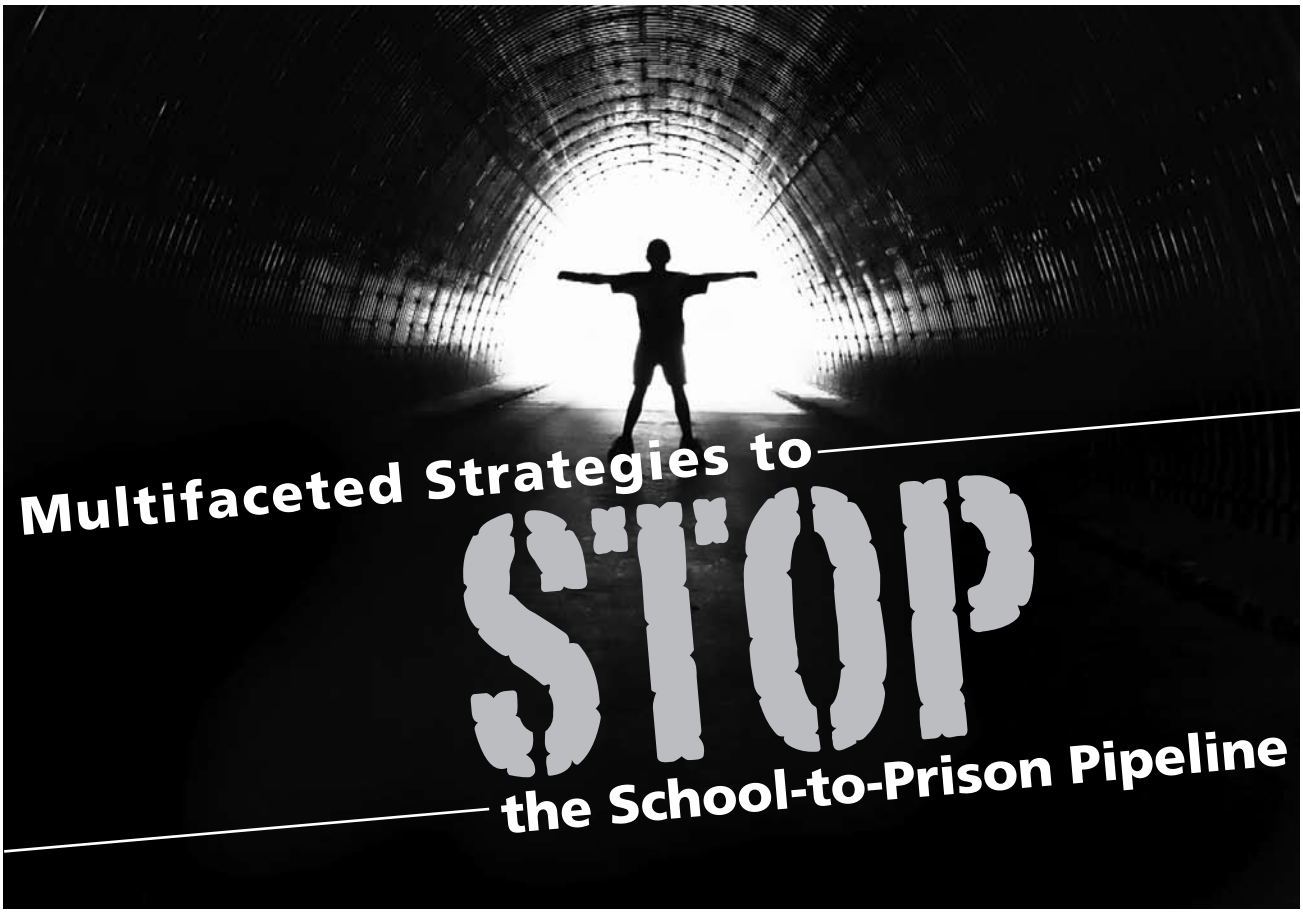


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The struggle for access to meaningful educational opportunities has been central to the broader struggle for civil rights. In 1954 the U.S. Supreme Court, in a landmark decision, held that the segregation of public schools on the basis of race "is a denial of the equal protection of the laws"; the Court said that "education is perhaps the most important function of state and local governments."[1] The Court concluded that "it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education."[2]

The struggle for educational opportunities has extended beyond race. In 1975, faced with evidence showing that the educational needs of millions of children with disabilities were not being met, Congress enacted the Education for All Handicapped Children Act.[3] This statute, now known as the Individuals with Disabilities Education Act (IDEA), focused on correcting two evils: the exclusion of children with disabilities from public schools and the inadequate education of children already admitted to the classroom.[4] The IDEA requires states and local school districts to provide a free appropriate public education and a broad array of procedural protections to all children with disabilities.[5]

[1] *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

[2] *Id.*

[3] Education for All Handicapped Children Act, Pub. L. No. 94-142, § 1, 89 Stat. 773 (1975).

[4] In 1975 Congress found that most disabled students were "either totally excluded from schools or sitting idly in regular classrooms awaiting the time when they were old enough to drop out" (H.R. Rep. No. 94-332, at 2 (1975)). To address this issue, Congress passed the Education for All Handicapped Children Act of 1975. Although its primary goal has remained the same, the Act has been amended and reamended since then and been renamed the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400–1485 (2006); 34 C.F.R. § 4000.340–.350 (2006)).

[5] The IDEA is a comprehensive statutory scheme establishing "an enforceable substantive right to a free appropriate public education" for children with disabilities (*Smith v. Robinson*, 468 U.S. 992, 1010 (1984)).

Despite Supreme Court decisions, legislative mandates, and widespread recognition of the pivotal role that education plays in our society, the denial of appropriate education to children because of their race or disability persists.[6] When race and disability intersect, the extent of exclusion is profound.[7] Indeed, the exclusion of children of color and children with disabilities from public education, thereby pushing them into the juvenile or criminal system, is so common that it has been given a name—the "school-to-prison pipeline." Here I suggest and advocate multifaceted strategies that will fundamentally reverse the school-to-prison pipeline.[8]

## I. The Problem

The school-to-prison pipeline is the product of the policies of school districts, law enforcement agencies, and courts that criminalize in-school behavior or otherwise push disadvantaged, underserved, and at-risk children from mainstream educational environments into the juvenile justice system and, all too often, into the criminal justice system. Although many factors contribute to the school-to-prison pipeline, "zero-tolerance" policies are primary among them.[9]

### A. Zero-Tolerance Policies Defined

Zero-tolerance policies are "school or district-wide policies that mandate pre-determined, typically harsh, consequences or punishments (such as suspension and expulsion) for a wide degree of rule violation."[10] School authorities have often "rigidly and unnecessarily extended what might have been a necessary, fair, limited, and specific response to school violence into areas not contemplated when such policies were initially conceived."[11] Schools too often apply such policies to "frequent and usual student behaviors—minor, disruptive behaviors, such as tardiness, class absences, disrespect, and noncompliance," that years ago would simply have resulted in a detention, a visit to the principal's office, or a meeting between the child's parents and teacher.[12]

Such policies are misguided and harmful. They disproportionately push children of color and children with disabilities out of public education and fall far short of achieving their purpose.[13] Moreover, they do not result in safer, more orderly classrooms or a more productive learning environment for other students. As a recent report points out,

[6]See, e.g., Libero Della Piana, *Reading, Writing, Race and Resegregation*, Colorlines (Spring 1999), www.colorlines.com/article.php?ID=319; Florida State Conference NAACP Advancement Project, NAACP Legal Defense and Educational Fund, Arresting Development: Addressing the School Discipline Crisis in Florida (2006), www.advancementproject.org/reports/ArstdDvpmES.pdf; Patrick Pauken & Philip T.K. Daniel, *Race Discrimination and Disability Discrimination in School Discipline: A Legal and Statistical Analysis*, 139 Education Law Reporter 759 ( 2000).

[7]Anna C. McFadden et al., *A Study of Race and Gender Bias in the Punishment of Handicapped Children*, 24 Urban Review 239 (1992).

[8]These suggestions build on the approaches advocated in Monique L. Dixon, *Combating the Schoolhouse-to-Jailhouse Track Through Community Lawyering*, 39 Clearinghouse Review 135 (July–Aug. 2005).

[9]*See* Avarita L. Hanson, *Have Zero Tolerance School Discipline Policies Turned into a Nightmare? The American Dream's Promise of Equal Educational Opportunity Grounded in* Brown v. Board of Education, 9 University of California at Davis Journal of Juvenile Law and Policy 289, 301 (2005).

[10]National Association of School Psychologists, Zero Tolerance and Alternative Strategies: A Fact Sheet for Educators and Policymakers (2008), www.nasponline.org/educators/zero_alternative.pdf.

[11]Zero-tolerance policies began with the Gun Free School Act of 1994, 20 U.S.C. § 8921(b)(1) (1994 & Supp. 2000), which required all states receiving Elementary and Secondary Education Act funds to adopt a policy to suspend from school for at least one year any student who brings a weapon to school. The Act was repealed and reenacted as 20 U.S.C. § 1751(b)(1) (2002) under No Child Left Behind (Hanson, *supra* note 9, at 308–9).

[12]Hanson, *supra* note 9, at 321–22 (citing Russell J. Skiba, Indiana Education Policy Center, Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice (2000), www.indiana.edu/~safeschl/ztze.pdf).

[13]See *id.*, *supra* note 9, at 332–33; Shi-Chang Wu et al., *Student Suspensions: A Critical Reappraisal*, 14 Urban Review 245, 247 (1982).

> [s]chools with higher rates of school suspension and expulsion appear to have *less* satisfactory ratings of school climate, less satisfactory school governance structures, and to spend a disproportionate amount of time on disciplinary matters. Perhaps more importantly, recent research indicates a negative relationship between the use of school suspension and expulsion and school-wide academic achievement, even when controlling for demographics such as socioeconomic status.[14]

## B. Consequences of Zero Tolerance

Despite overwhelming evidence that zero-tolerance policies do not work, school districts continue to use them. While 1.7 million children were suspended from school in 1974, in 2001 the number jumped to 3.1 million.[15] In some states zero-tolerance policies have caused a staggering number of students to be excluded from school. Alabama, for example, has an average of 417 out-of-school suspensions and 7 expulsions every day, and it is far from the worst, placing eighth in the nation in its rate of out-of-school suspensions in 2006.[16] Between the 2000–2001 and 2006–2007 school years, Alabama's enrollment increased by 2.1 percent, yet the number of out-of-school suspensions increased by 33 percent and the number of expulsions by 75 percent.[17] In 2004 Mississippi had the nation's sixth highest out-of-school suspension. The number of students who were suspended in the 2006–2007 school year increased by 23 percent over the previous two years, and expulsions rose by 32 percent.[18]

Suspensions and expulsions correlate strongly with the dropout rate, suspended or expelled students being more likely to drop out of school.[19] Students who are retained in grade—an almost inevitable consequence of multiple suspensions—are also more likely to drop out.[20] These failures place the student at great risk of involvement in juvenile court and the correction system.[21]

Such data led the American Bar Association (ABA) to oppose zero-tolerance policies "that have a discriminatory effect, or mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the student's history."[22] An ABA committee report concluded:

> When the cost appraisal of the impact of zero tolerance includes impacts on an entire commu-

[14]Russell Skiba et al., Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations: A Report by the American Psychological Association Zero Tolerance Task Force 4–5 (2006), www.apa.org/ed/cpse/zttfreport.pdf.

[15]Johanna Wald & Daniel Losen, Defining and Redirecting a School-to-Prison Pipeline: Framing Paper for the *School-to-Prison Pipeline* Research Conference, May 16–17, 2003, at 2, www.justicepolicycenter.org/Articles%20and%20Research/Research/testprisons/SCHOOL_TO_%20PRISON_%20PIPELINE2003.pdf.

[16]With offices that do educational and juvenile justice work in Alabama and Mississippi, the Southern Poverty Law Center has completed, for these states, briefing books that extensively discuss suspension and expulsion data, from which I derive figures I cite in this article. The briefing books, *Effective Discipline for Student Success: Reducing Student and Teacher Dropout Rates in Alabama* and *Mississippi Juvenile Justice Reform Briefing Book*, are at www.splcenter.org/legal/publications/pub.jsp.

[17]U.S. Department of Education, Civil Rights Data Collection 2006, http://ocrdata.ed.gov/ocr2006rv30/ (calculations based on 180 school days).

[18]*Id.*

[19]Virginia Costenbader & Samia Markson, *School Suspension: A Study with Secondary School Students*, 36 Journal of School Psychology 59–82 (1998); Russell Skiba et al., *The Dark Side of Zero Tolerance: Can Punishment Lead to Safe Schools?*, 80 Phi Delta Kappan 372 (1999).

[20]High Stakes: Testing for Tracking, Promotion, and Graduation 129 (Jay P. Heubert & Robert M. Hauser eds., 1999).

[21]Peter E. Leone et al., National Center on Education, Disability, and Juvenile Justice, School Failure, Race, and Disability: Promoting Positive Outcomes, Decreasing Vulnerability for Involvement with the Juvenile Delinquency System (2003), www.edjj.org/Publications/list/leone_et_al-2003.pdf.

[22]Resolution of the American Bar Association on Zero Tolerance Policies (2001), www.abanet.org/crimjust/juvjus/jjpolicies.html#zero.

> nity, the financial benefits of suspension and expulsion may completely disappear. If the students who are suspended or expelled do not re-enter school right away, they are likely to fall further behind academically and are at increased risk of falling into criminal activity in the community. Their likelihood of being incarcerated increases accordingly.[23]

In sum, zero-tolerance policies have ostracized whole groups of students—with unfortunate consequences. One opponent of the policies describes their enforcement as "clearly a civil rights issue—perhaps the most compelling issue to be addressed in the context of *Brown* in the new millennium."[24]

## II. The Solution

The school-to-prison pipeline implicates a continuum of settings. Zero-tolerance or similar policies push children out of schools into alternative schools, juvenile courts, juvenile detention, mental health facilities, and, too often, the adult correctional system. Regardless of the setting, the greatest need for advocacy is at one or more of the following focal points: the public school system, the juvenile court system, or the juvenile correctional system. Changing what happens in our public schools is critical in that, absent system reform, children and youths continue to be pushed into the other two systems. Without education reform, students caught up in the juvenile system are much less likely to obtain the services and skills they need upon returning to their communities—services and skills that prevent them from being funneled into the pipeline again and into the adult correctional system.

### A. The Louisiana Effort

In 2005 the Southern Poverty Law Center and the Southern Disability Law Center began using the administrative complaint resolution system under the IDEA to confront systemic issues related to zero-tolerance policies.[25] The initiative began with an administrative class complaint filed against the Louisiana Department of Education after a yearlong investigation revealed that the Jefferson Parish School System was systematically violating the rights of emotionally disturbed students, most of whom were poor African American children. In August 2005 we reached a settlement agreement with the department; the agreement required the appointment of a special master to oversee a corrective action plan that directly benefits as many as a thousand children in Jefferson Parish.[26]

Shortly after filing the complaint in Jefferson Parish, we filed against the East Baton Rouge, Calcasieu Parish, and Caddo Parish school districts in Louisiana administrative complaints seeking classwide relief under the IDEA. We reached settlement agreements with East Baton Rouge in September 2006, with Calcasieu in October 2007, and with Caddo in March 2008. These four school districts serve approximately 25 percent of Louisiana's student population.[27]

These school districts routinely used to suspend or expel students with disabilities for minor offenses. Jefferson Parish even segregated students with disabilities in self-contained classrooms or trailers, in violation of federal and state regulations. The school districts consistently failed to provide appropriate levels of related services (social work, counseling, and psychological services) and vocational training to emotionally disturbed children. By the time they reached junior

[23]American Bar Association, Zero Tolerance Policy: Report (2001), www.abanet.org/crimjust/juvjus/zerotolreport.html.

[24]Hanson, *supra* note 9, at 336–37.

[25]See 34 C.F.R. §§ 300.151–.153 (2006). The complaint resolution regulations implement the General Education Provisions Act, which authorizes the secretary of education to promulgate regulations "governing the manner of, operation of, and governing the applicable programs administered by the Department [of Education]" (20 U.S.C. § 1221e-3).

[26]The complaint, settlement agreement, and other documents are available at www.splcenter.org/legal/schoolhouse.jsp.

[27]Documents in these cases are also available at www.splcenter.org/legal/schoolhouse.jsp.

high or high school, most of these students were performing years behind their peers. This in turn led to abysmal graduation rates, alarmingly high dropout rates, and, for too many students, incarceration in juvenile or even adult correctional facilities.

The settlement agreements mandate major systemic changes such as

- implementing districtwide use of positive behavioral interventions and supports;
- increasing the frequency and duration of social work and psychological and counseling services;
- improving students' academic progress at all grade levels;
- eliminating harsh and illegal disciplinary practices and policies;
- increasing access to less restrictive general education environments; and
- expanding access to vocational training.

The litigation strategy in Louisiana is part of a considered and coordinated set of strategies to decrease suspensions, expulsions, and dropout rates, while increasing graduation rates. The core of this strategy involves using the IDEA-mandated administrative complaint process as the lever to get school districts to adopt school and districtwide positive behavioral intervention and support, with litigation in federal court as a backup if necessary.

Jefferson Parish, where a settlement agreement has been in place longest, is showing impressive results—significant reductions in the number of students being removed from the classroom for disciplinary reasons.[28] The number of special education students who were removed from school for more than ten cumulative days—an indicator for dropping out—plunged 90 percent over two years (from 235 students in 2005–2006 to just 21 students in 2007–2008). The overall out-of-school suspension rate dropped 29 percent after the first year of implementation; for regular students, the reduction was 24 percent.[29]

## B. Positive Behavioral Intervention and Support

Unlike zero-tolerance policies, positive behavioral interventions and supports focus on teaching children new behavior and on changing adults' interaction with children. The approach is research-based, comprehensive, and data-driven.[30] Schools implementing this approach teach social skills, set clear expectations for behavior, acknowledge and reward appropriate behavior, and implement a continuum of consequences for problem behavior.[31] Positive behavioral interventions and supports are employed throughout the school (including the cafeteria and the hallways) and even in the school buses. All school personnel are trained and continually supported in implementing the approach.

Consistent with the results in Jefferson Parish, evidence from elsewhere indicates that positive behavioral interventions and supports, when implemented properly, work. Schools using them have

- substantially reduced office referral rates (and suspension and expulsion rates);[32]

[28]Of the four settlement agreements in Louisiana, the Jefferson Parish agreement has been in place the longest. It is too early to gauge definitively the success of positive behavioral intervention and support in the other three districts.

[29]See school district performance profiles for the 2005–2006 and 2006–2007 school years at www.doe.state.la.us/lde/eia/2115.html.

[30]To ensure correct implementation, schools rely on data, tracked most easily through office referrals, which schools use to design specific interventions to head off problem behavior and to confirm that the interventions were effective.

[31]Positive behavioral interventions and supports are designed for a diverse student body. Tertiary interventions are intensive strategies for chronic academic and behavioral difficulties of the most challenging students (about 5 percent). Secondary interventions are for difficult behavior that limits the academic and social success of about 15 percent of students. Universal interventions, which apply to all students, prevent the development of problem behavior through the implementation of schoolwide activities.

[32]Jeffrey R. Sprague & Robert H. Horner, *School Wide Positive Behavioral Supports*, in The Handbook of School Violence and School Safety: From Research to Practice (Shane R. Jimerson & Michael J. Furlong eds., 2007).

- improved attendance and school engagement;[33]
- improved academic achievement;[34]
- reduced dropout rates;[35]
- reduced later delinquency and drug use;[36] and
- improved the school atmosphere.[37]

Approximately 7,100 schools across the country are using positive behavioral interventions and supports.[38] IDEA regulations and the U.S. Department of Education's Office of Special Education Programs specifically encourage their use.[39] On a state level, they are recommended or required by statute in three states and are the subject of statewide initiatives or school-university partnerships in every state. This approach has shown positive effects in elementary, middle, and high schools and has proven to be effective with at-risk students.[40]

## C. Class Administrative Complaints

The IDEA complaint resolution system has been central to our litigation strategy. The IDEA gives the state education agency primary responsibility for ensuring that children with disabilities receive a free appropriate public education in the least restrictive environment.[41] To fulfill its obligation, the state agency must ensure that educational agencies find and evaluate children with disabilities.[42] It must also make certain that an adequate number of well-trained personnel are in place and must coordinate the efforts of other governmental agencies that provide special education and related services.[43] The IDEA requires state education agencies to monitor local education and other public agencies to determine their compliance with federal and state special education laws.[44] States must afford children who have disabilities and their parents the right to an impartial due process hearing.[45] Furthermore,

[33]*Id*. at 18 (citing J. O'Donnell et al., *Preventing School Failure, Drug Use, and Delinquency Among Low-Income Children: Long-Term Intervention in Elementary School*, 65 American Journal of Orthopsychiatry 87 (1995)).

[34]*Id*. at 19.

[35]Josie D. Cortez, New Hampshire's APEX Model at Work, Big Ideas: Dropout Prevention Strategies, Winter 2006, at 1, www.ndpc-sd.org/documents/Big_Ideas/BigIDEAs-2006-01.pdf; JoAnne M. Malloy, Achievement in Dropout Prevention and Excellence I and II (APEX II): A Comprehensive Approach to Dropout Prevention and Recovery (2008), www.ndpc-sd.org/documents/NSTTAC/NSTTAC_2008_Forum/APEX_II_Presentation-JoanneMalloy.pdf.

[36]Sprague & Horner, *supra* note 32, at 18.

[37]R.H. Horner et al., *School-wide Positive Behavior Support: An Alternative Approach to Discipline in Schools*, in Individualized Supports for Students with Problem Behaviors: Designing Positive Behavior Plans (L. Bambara & L. Kern eds., 2005).

[38]Glen Dunlap, Research Professor, University of South Florida, Keynote Address at the Fifth International Conference on Positive Behavior Support: Positive Behavioral Support: Roots, Ruts, and Recipes (March 27, 2008).

[39]See 34 C.F.R § 300.324(a)(2) (2006) ("In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior"); U.S. Department of Education Office of Special Education Programs' Technical Assistance Center on Positive Behavioral Interventions and Supports, www.pbis.org.

[40]Stephen R. Lassen et al., *The Relationship of School-Wide Positive Behavior Support to Academic Achievement in an Urban High School*, 43 Psychology in the Schools 701, 712 (2006).

[41]20 U.S.C. §§ 1412(a)(11), 1416; 34 C.F.R. §§ 300.41, 300.149–.150, 300.175; 300.600–602. The only exception is that states may shift to another state agency their responsibilities for children who have disabilities, were convicted as adults, and are confined to adult prisons (20 U.S.C. § 1412(a)(11)(C)).

[42]20 U.S.C. § 1412(a); 34 C.F.R. §§ 300.100, 300.125, 300.111(a)(i), 300.101–.122, 300.114. A state education agency's supervisory obligations extend not only to local school districts but also to other state agencies (20 U.S.C. § 1416(a); 34 C.F.R. §§ 300.33, 300.145, 300.600(a)(2)). Numerous courts have enforced this obligation; see, e.g., *Parks v. Pavkovic*, 557 F. Supp. 1280, 1288 (N.D. Ill. 1983), aff'd, 753 F.2d 1397 (7th Cir. 1985); *Kruelle v. New Castle County School District*, 642 F.2d 687–98 (3d Cir. 1981); *Garrity v. Gallen*, 522 F. Supp. 171, 224 (D. N.H. 1981); *Kerr Center Parents Association v. Charles*, 897 F.2d 1463, 1470–72 (9th Cir. 1990).

[43]20 U.S.C. § 1412(a)(12), (14); 34 C.F.R. §§ 300.156, 300.154 (a)(4).

[44]20 U.S.C. § 1412(11); 34 C.F.R. § 300.600.

[45]20 U.S.C § 1415(f); 34 C.F.R. §§ 300.511–.515.

when obtaining compliance from the local agency is not possible, the state agency must, under certain circumstances, provide educational services directly to an eligible child.[46]

The complaint resolution system is the most efficient and potentially the most effective means of challenging school district policies and practices that violate the IDEA and contribute to the school-to-prison pipeline. Complaints must be filed in writing with the state education agency or with another public agency as long as the state education agency retains authority to review the public agency's decision on the complaint.[47]

Complaints may involve a single student or a class of students adversely affected by systemic violations of the IDEA.[48] If noncompliance is found, the state education agency (or public agency) must order an appropriate remedy, which may include corrective action such as compensatory services or monetary reimbursement.[49] The remedy may also have the "[a]ppropriate future provision of services for all children with disabilities."[50]

The complaint resolution process has numerous advantages over other litigation methods such as the IDEA's due process system.[51] First, complaint resolution involves no filing fees or other court costs and thus is far less expensive. Second, it is faster; states must, within sixty calendar days after a complaint is filed, issue a written decision that addresses each allegation and contains findings of fact, conclusions, and the reasons for the state education agency's final decision.[52] Third, since the state agency is generally required to conduct an independent on-site investigation, review relevant information, and determine whether the public agency is violating the IDEA, the complaint resolution process can be a source of vital information regarding school district policies, practices, and procedures in the event litigation becomes necessary.[53] And fourth, unlike traditional litigation or the IDEA due process procedures, which allow only a parent, student, or public agency to initiate a hearing, any organization or individual may file a complaint alleging that a public agency has violated the IDEA.[54]

Note that the complaint resolution process brings disadvantages as well. Success depends largely on the state's ability and willingness to investigate effectively and to order appropriate corrective plans when violations are found. The process has no discovery or pleading requirements, and the complainant generally has less control as the investigation unfolds. Seeking review of an adverse deci-

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[46]20 U.S.C. § 1412(a)(1)(A).

[47]34 C.F.R. § 300.151(a)(1).

[48]See Kenneth R. Warlick, Office of Special Education Programs, Memorandum to Chief State School Officers 4 (July 17, 2000).

[49]34 C.F.R. § 300.151(b)(1).

[50]*Id.* § 300.151(b)(2).

[51]For clients of Legal Services Corporation (LSC)–funded programs, the process has an additional advantage. While LSC regulations prohibit participation in class action litigation (45 C.F.R. § 1617.3 (2008)), the regulations define a class action as "a lawsuit filed as, or otherwise declared by a court" to be a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or comparable state statute (*id.* § 1617.2(a)). Therefore the regulations do not appear to prohibit representation in class administrative complaints. Regarding the IDEA due process system, see Warlick, *supra* note 48, at 5 (describing the relationship between state administrative complaint procedures and due process system). According to the Office of Special Education Programs, parents may use the complaint procedures—in addition to the due process hearing system—to resolve disagreements with public agencies over any matter relating to the provision of a free appropriate public education to the child, as well as any other allegation that a public agency is in violation of Part B of the IDEA (*id.* at 4). More important, according to the directive, a state may not adopt a procedure that removes complaints of IDEA violations from the jurisdiction of its state complaint resolution system (*id.*). A similar directive was issued in 2006 to track the 2004 amendments to the IDEA (see Special Education Connections Federal Policy and Guidance—State Complaint Procedures (2006)).

[52]34 C.F.R. § 300.152(a).

[53]*Id.* §§ 300.152(a)(1), (5).

[54]*Id.* §§ 300.517, 300.507(a), 300.662.

sion on an administrative complaint can be more complicated for complainants.[55]

On balance, however, the advantages of the complaint resolution system far outweigh the disadvantages. The weight of authority supports the proposition that complainants have recourse if the state's investigation, findings, or orders of compliance are inadequate. Federal court cases uphold the state's obligation to ensure that school districts or other public agencies comply with the IDEA, and the cases point to the state's failure to resolve complaints or monitor school districts timely or effectively as evidence of a breach of that obligation.[56]

Furthermore, while complainants have no explicit right to become directly involved in the investigation, they can influence the process in ways other than threatening litigation. Complainants can use the media to bring attention to their concerns and subject the state to scrutiny. Complainants can open a dialog with influential state officials to convince them that, as state officials, they, too, have an interest in improving the lives of all students and that resolving the complaint is one way for the state to achieve this goal.

Beyond attempting to exercise political clout, other actions can maximize the chance of a successful outcome. The complaint should have all (or most) of the documents necessary to establish the violations. Complainants can supply a list of persons who should be interviewed, with contact information. Complainants can give the state education agency a detailed outline of what is necessary to investigate the complaint—among others, information about adequate sample sizes and target groups for file reviews and student interviews.

### D. Other Strategies

While administrative complaints can be a powerful tool in dismantling the school-to-prison pipeline, no single strategy is sufficient. Advocates should use and coordinate strategies that focus on multiple points along the school-to-prison pipeline continuum—e.g., in the school, in the juvenile court, and in juvenile or adult correctional facilities—to obtain the maximum benefit given the resources available. For example, the administrative complaint process may be very effective in causing a school to change its policies or to implement positive behavioral intervention and support but less effective, at least in the short term, in reducing referrals to court. In such a case, advocates contemplating an administrative complaint strategy may want to organize efforts in juvenile court to resist the filing of complaints for school-related behavior.

Nor can a single organization end the pipeline by itself. Far too few advocacy resources are available to parents and children, and so work with coalitions is required.[57] Parent groups, civil rights or-

[55]Courts in the Ninth Circuit generally recognize that the complaint resolution process provides an independent means of challenging school district decisions and policies (*Lucht v. Molalla River School District*, 225 F.3d 1023 (9th Cir. 2000); *S.A. v. Tulare County Office of Education*, No. CVF08-1215LJO GSA, 2009 WL 20298 (E.D. Cal. 2009)). Other courts, however, hold that the IDEA complaint resolution process does not give children with disabilities a private right of action to enforce or contest a state education agency's findings or compliance orders (*R.K. v. Hayward Unified School District*, No. C 06-07836, 2007 WL 4169111 (N.D. Cal. 2007); *Virginia Protection and Advocacy v. Virginia*, 262 F. Supp. 2d 648 (D. Va. 2003)). However, these cases do not consider that the IDEA does clearly provide a private right of action to address the denial of free appropriate public education and other procedural safeguards. Thus plaintiffs challenging a state's shoddy complaint resolution practices might do better to claim that the state, in breaching its duty to exercise supervisory authority over school district noncompliance with the IDEA, violated their rights to a free appropriate public education or other similar statutory rights.

[56]For federal court decisions, see *Beth V. v. Carrol*, 87 F.3d 80 (3d Cir. 1996); *Corey H. v. Chicago Board of Education*, 995 F. Supp. 900 (N.D. Ill. 1998); *New Jersey Protection and Advocacy v. New Jersey Department of Education*, 563 F. Supp. 2d 474 (D. N.J. 2008). Comments on recent federal regulations implementing the 2004 amendments to the IDEA suggest that state law determines the right to appeal a state complaint decision (71 Fed. Reg. 46607 (Aug. 14, 2006)). Nearly every state has a procedure in either common or statutory law for challenging state administrative decisions. Two Minnesota appeals court decisions, both favorable to students, rely on certiorari jurisdiction to review state education agency complaint resolution determinations (*Independent School District 192 v. Minnesota Department of Education*, 742 N.W.2d 713 (Minn. Ct. App. 2007); *Robbinsdale v. Minnesota Department of Education*, 743 N.W.2d 315 (Minn. Ct. App. 2008)). Another possibility is to file a state complaint against the state itself. The comments indicate that in such a case the state education agency may either investigate the complaint or appoint an independent investigator (see 71 Fed. Reg. at 46602).

[57]The Education Department has been urged to fund more lawyers and to create a national backup center and self-advocacy training programs for students with disabilities and their parents (National Council on Disability, Back to School on Civil Rights: Advancing the Federal Commitment to Leave No Child Behind 217–18 (2000) (Recommendation VII.7)).

ganizations, public defender and legal aid programs, protection and advocacy programs, and some juvenile court judges are already on the front line in advocating on behalf of children caught up in the pipeline.[58] Other organizations (such as teachers' unions) and other professional educators, probation officers, and parole officers also must play a role.

Even cases on behalf of an individual child lend themselves to a collaborative approach. There are models for the simultaneous need for adequate juvenile court representation and for meeting the child's educational or social service needs that may underlie juvenile court involvement. TeamChild in Washington State involves close collaboration between juvenile public defenders and legal aid attorneys on all of a juvenile's needs in one comprehensive approach.[59] Variations on this model involve collaboration between juvenile defenders and social workers or other social service professionals. The consensus is that these programs are an extremely positive and promising development in the field of youth advocacy and are highly cost-effective.[60]

### 1. Juvenile Court Push-back

With the advent of zero-tolerance policies, the juvenile court has become what the principal's office used to be: the place where punishment for school offenses is meted out.[61] Instead of detention, however, the penalties include incarceration, stigma, and the denial of educational opportunities. This being the reality, the juvenile court must be a forum for challenging the school-to-prison pipeline. Community lawyers, public defenders, and other advocates can resist the overuse of the courts by school districts.[62]

In *Morgan v. Chris L.* the court ruled that a school district, before it files a petition in juvenile court against a student with a disability, must afford the student the same special education procedural safeguards as would be required for an expulsion or suspension in excess of ten days.[63] The school district had not given notice of its decision to remove the student from his education placement by petitioning the juvenile court beyond a makeshift multidisciplinary meeting. The court affirmed a due process decision that ordered the school superintendent to seek dismissal of the juvenile court petition and awarded the parent attorney fees. The court rejected the argument that the hearing officer was interfering with juvenile court jurisdiction. The order ran against the superintendent, not the court, and the state's juvenile courts were bound to follow federal and state special education law. The Sixth Circuit stressed that the school district had failed to comply with IDEA procedural requirements

[58]Advocacy by parents has long seen that schools meet the needs of students with disabilities (Martin A. Kotler, *The Individuals with Disabilities Education Act: A Parent's Perspective and Proposal for Change*, 27 University of Michigan Journal of Law Reform 331, 362 (1994)). Regarding involvement of civil rights organizations, in 2007 the ACLU Racial Justice Program, the Charles Hamilton Houston Institute for Race and Justice, the NAACP Legal Defense Fund, the Juvenile Law Center, and the Southern Poverty Law Center jointly launched a website (www.schooltoprison.org) to serve as a virtual community for advocates to share resources and exchange ideas on challenging the school-to-prison pipeline. In June 2007 the National Disability Rights Network devoted a full day at its national conference to the "School-to-Prison Pipeline Reform Institute," where many of the strategies I discuss were covered. The National Disability Rights Network and protection and advocacy programs, along with parents and parent groups, have been leaders on special education issues (see www.ndrn.org). Regarding judges' involvement, see, e.g., www.childwelfarepolicycenters.com/page/page/2260730.htm. In Clayton County, Georgia, Judge Steven C. Teske helped develop cooperative agreements among social service providers, law enforcement personnel, school districts, and the juvenile courts to reduce the number of children referred.

[59]See www.teamchild.org.

[60]See Rainer Research Associates LLC, The Federal Byrne Grant Youth Violence Prevention and Intervention Program Cross-Site Evaluation 2003–2004 Program Year (2005), www.teamchild.org/pdf/ByrneEval2004.pdf.

[61]See Dixon, *supra* note 8, at 141 n.43.

[62]*Id.* at 141–43. The University of the District of Columbia law school clinic uses special education law as a tool in advocating on behalf of children in juvenile court proceedings (see www.law.udc.edu/?page=JuvenileClinic). See also Joseph B. Tulman, *Disability and Delinquency: How Failure[] to Identify, Accommodate, and Serve Youth with Education-Related Disabilities Leads to Their Disproportionate Representation in the Delinquency System*, 3 Whittier Journal of Child and Family Advocacy 3 (2003); Special Education Advocacy Under the Individuals with Disabilities Education Act (IDEA) for Children in the Juvenile Delinquency System (Joseph B. Tulman & Joyce A. McGee eds., 1998).

[63]*Morgan v. Chris L.*, 927 F. Supp. 267 (E.D. Tenn. 1994), aff'd, 106 F.3d 401 (6th Cir. 1997) (table; citation disfavored).

in timely determining whether the child was eligible for special education, giving proper notice of an individualized education plan (IEP) meeting, and initiating juvenile proceedings that would lead to a change of placement.

In 1997 Congress amended the IDEA to allow education agencies to report, to appropriate authorities, a crime committed by a child with a disability; the authorities are not prohibited from exercising their law enforcement responsibilities.[64] However, ample opportunity remains, in juvenile court proceedings, to raise school districts' failure to comply with the IDEA. Despite the amendment, nothing in the IDEA restricts the discretion of the juvenile court, in appropriate cases, to consider the school district's wrongdoing in determining whether the charge should be upheld, to divert the case, or to look to the IDEA in determining disposition.[65] Neither is counsel precluded from initiating the special education process (e.g., evaluation, IEP meeting, due process hearing, complaint resolution) or trying to persuade the juvenile justice agency or prosecuting attorney not to prosecute or, at a minimum, to place charges on file (i.e., agree not to prosecute if the child stays out of trouble for a length of time) until the special education process runs its course.[66] Significantly, despite the 1997 amendment, the IDEA still requires a school district to provide an appropriate education and to comply with its procedural protections, including limits on the length of suspensions, manifestation determinations, and functional behavioral assessments.[67]

While the IDEA amendment certainly applies to delinquency proceedings, nothing makes it applicable to status offenses. In such cases *Morgan v. Chris L.* should apply.[68] State law may result in dismissal of the juvenile case or needed educational services for the child. In New Hampshire in certain circumstances a school district must be joined as a party to the juvenile case to recommend placement, determine whether the child is educationally disabled, or review the services offered or provided to a minor already determined to be educationally disabled.[69] The mere fact that a child is subject to juvenile proceedings does not relieve a school district from its IDEA obligations.[70]

Similarly the New York Court of Appeals noted that the legislature

> expressly contemplated some overlap between the Family Court and the committee on special education. Education Law § 4005(1) requires that "[w]hen the placement of a child is being considered by the family court … and such child is thought to have a handicapping condition and may be placed in a child care institution, the family court judge … shall request the school district of residence to provide that the committee on special education of such district evalu-

[64]20 U.S.C. § 1415(k)(6)(A).

[65]See Eileen L. Ordover, Center for Law and Education, When Schools Criminalize Disability: Education Law Strategies for Legal Advocates 54–55 (2002), www.cleweb.org/Downloads/when_schools_criminalize_disabil.htm; Marsha L. Levick & Robert G. Schwartz, *Changing the Narrative: Convincing Courts to Distinguish Between Misbehavior and Criminal Conduct in School Referral Cases*, 9 University of the District of Columbia Law Review 53, 62–63 (2007).

[66]*In re Trent N.*, 212 Wis. 2d 728, 738–39, 569 N.W.2d 719 (Wis. Ct. App. 1997) (both case law and statutes support the proposition that the IDEA continues to apply even when child is involved in juvenile court proceedings).

[67]See 20 U.S.C. § 1415 (k); 34 C.F.R §§ 300.324(a)(2), 300.518, 300.530–.531.

[68]See *In the Matter of Beau II*, 95 N.Y.2d 234 (N.Y. 2000) (rejecting a "blanket rule" in *Morgan v. Chris L.* but recognizing that the IDEA may apply to person-in-need-of-supervision cases if the determination is "case specific"). But see *Larson v. Independent School District No. 361*, 2004 WL 432218, 40 IDELR 231 (D. Minn. 2004) (district did not violate IDEA by referring parents to social worker who initiated child-in-need-of-protection petition and testifying at proceeding).

[69]N.H. Rev. Stat. Ann. §§ 169-B:22, 169-C:20, 169-D:18. See generally Ellen Shemitz, *Protecting Children at Risk in New Hampshire: The Partnership Between the Juvenile Justice and Special Education Systems*, New Hampshire Bar Journal, Dec. 1997, at 60.

[70]*Ashland School District v. New Hampshire Division for Children, Youth and Families*, 145 N.H. 45, 49 (1996).

ate such child and make written recommendations.[71]

## 2. Federal and State Legislation

Any effective strategy for ending the school-to-prison pipeline must have a legislative component. At the federal level, advocacy is needed to reverse recent amendments to the IDEA and court decisions that make it substantially easier to remove children with disabilities from their placements or weaken parents' ability to access critical procedural protections.[72] Provisions, among others, that should be reversed are those that

- allow school districts, under certain circumstances (weapons, illegal drugs, or the "infliction of serious bodily injury"), unilaterally to remove children with disabilities and to impose an interim placement, regardless of the circumstances or whether the alleged behavior is a manifestation of a disability;[73]
- expand the time limit on interim placement from "45 days" to "45 school days";[74]
- reduce the school district's obligation to children in alternative settings from providing services that will enable the child "to meet the goals" in the IEP to merely allowing the child "to make progress" toward meeting IEP goals;[75]
- substantially weaken the requirements for manifestation determinations and the criteria for changing a child's placement; and
- make it more difficult for parents to obtain attorney fees if they settle a dispute rather than take it to a full due process hearing and prevail.

State legislation should promote positive behavioral interventions and supports and other programs that limit or mitigate the effects of zero-tolerance laws, with the goal of keeping children in school. In many instances these legislative efforts will have to be long-term and focus on educating public officials since the attitudes that favor punitive sanctions are deeply rooted.

Another approach to reform would be changing juvenile statutes to enable courts to dismiss school-related referrals or to ensure that school districts adhere to their obligations to provide appropriate educational services. Obviously advocates should craft such statutes carefully so as not to make juvenile courts an attractive alternative to schools for obtaining necessary services and not to widen the net of children being referred to the juvenile courts.

## 3. Juvenile Justice Reform

Zero-tolerance policies have pushed far too many children—disproportionately children of color and children with disabilities—into the juvenile justice and adult correctional systems.[76] An effective strategy for ending the school-to-prison pipeline must focus on both reducing the number of children who are detained and ensuring full enforcement of incarcerated children's education rights.

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[71] *In the Matter of Beau II*, 95 N.Y.2d at 241 n.4.

[72] See Paolo Annino, *The Revised IDEA: Will It Help Children with Disabilities?*, 29 Mental and Physical Disability Law Reporter 11 (2005).

[73] 20 U.S.C. § 1415(k)(1)–(7).

[74] *Id.* §1415(k)(1)(G).

[75] *Id.* §1415(k)(3)(B)(i).

[76] In recent years the adult jail inmate population under 18 has increased substantially (Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, Key Facts at a Glance—Demographic Trends in Jail Populations: Jail Populations by Age and Gender, 1990–2006, www.ojp.usdoj.gov/bjs/glance/tables/jailagtab.htm). Custody rates are much higher for African American and Latino youths than for white youths (Eleanor Hinton Hoytt et al., Pathways to Juvenile Detention Reform: Reducing Racial Disparities in Juvenile Detention 10–11 (n.d.), www.aecf.org/upload/PublicationFiles/reducing%20racial%20disparities.pdf). Children in the juvenile justice system are disproportionately children with disabilities—as many as 70 percent of residents of youth correctional facilities (Peter E. Leone et al., *Understanding the Overrepresentation of Youths with Disabilities in Juvenile Detention*, 3 University of the District of Columbia Law Review 389–401 (1995)). An even higher percentage (90 percent) has a mental health diagnosis (Randy K. Otto et al., *Prevalence of Mental Disorders Among Youth in the Juvenile Justice System*, in Responding to the Mental Health Needs of Youth in the Juvenile Justice System (J.J. Cocozza ed., 1992)).

**Reducing the Number of Children in Detention.** There are good reasons beyond disproportion to reduce the numbers of children in correctional facilities. Reducing juvenile detention makes school push-out a less viable and attractive option for teachers and school administrators because the students, as they should, will be returning to school. Many detained juveniles are merely status offenders—youths whose actions bring them under juvenile court jurisdiction only because they are minors (usually under 18); relatively few are detained for violent offenses.[77] Overcrowding in juvenile detention centers leads to increased levels of violence and suicides; most public detention facilities where children are detained operate above capacity.[78] The cost to taxpayers of operating such facilities is exorbitant.[79]

A number of detention reform initiatives around the country—e.g., the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative—offer opportunities for advocacy and input.[80] The Casey Foundation initiative is under way in approximately seventy sites. Another advocacy opportunity is the Models for Change initiative, the purpose of which "is to accelerate progress toward a more rational, fair, effective, and developmentally appropriate juvenile justice system."[81] While it focuses on Illinois, Louisiana, Pennsylvania, and Washington, Models for Change recruits other state and local agencies into networks that work on "reducing racial disparities in the juvenile justice system, finding better ways to identify and treat court-involved youths with mental health needs, and improving juvenile defense policy and practice."[82]

**Educational Advocacy in Detention Facilities.** Education advocacy for incarcerated students is very difficult, particularly if the goal is to establish a right to education for all school-age prisoners in adult facilities.[83] Not surprisingly, challenges to the adequacy of education programs in adult prisons have met with mixed success.[84] Even where the entitlement to education is clear, such as in juvenile detention facilities, resolution of claims can take years and face procedural obstacles. To complicate matters, only a few published judicial opinions guide advocates who are concerned about conditions and the right to education in

[77]Howard N. Snyder & Melissa Sickmund, Office of Justice Programs & Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Juvenile Offenders and Victims: 2006 National Report (2006.), http://ojjdp.ncjrs.org/ojstatbb/nr2006/index.html.

[78]Sue Burrell et al., National Juvenile Detention Association & Youth Law Center, Crowding in Juvenile Detention Facilities: A Problem Solving Manual (1998); Annie E. Casey Foundation, 1 AdvoCasey: Documenting Programs that Work for Kids and Families, 1999–2000, Nos. 1–3 (W.J. Rust ed., Spring 1999 to Fall 1999–Winter 2000), www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/16/0f/d0.pdf.

[79]See Annie E. Casey Foundation, About the Juvenile Detention Alternatives Initiative (2009), www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/AboutJDAI.aspx.

[80]See www.jdaihelpdesk.org.

[81]See www.modelsforchange.net/.

[82]*Id.*

[83]See Christine D. Ely, *A Criminal Education: Arguing for Adequacy in Adult Correctional Facilities*, 39 Columbia Human Rights Law Review 795 (2008).

[84]See *Handberry v. Thompson*, 92 F. Supp. 2d 244 (S.D.N.Y.), aff'd in relevant part and rev'd in part, 436 F.3d 52, 70 (2d Cir. 2006); *Paul Y. v. Singletary*, 979 F. Supp. 1422 (S.D. Fla. 1997); *New Hampshire Department of Education v. City of Manchester, New Hampshire, School District*, 23 Individuals with Disabilities Education Law Report 1057 (D.N.H. 1996); *Green v. Johnson*, 513 F. Supp. 965, 973 (D. Mass. 1981). Recent IDEA amendments limit somewhat the state's obligation to provide special education in correctional facilities, but the obligation in juvenile facilities remains. See also 20 U.S.C. § 1412(a)(11)(C), which allows states to restrict who is eligible to receive services, who takes general assessment tests, and who gets transition services, and 20 U.S.C. § 1414(d)(7)(A)–(B), which allows states to modify individualized education plans (IEPs) "to accommodate bona fide security or compelling penological interests."

such facilities.[85] Nevertheless, a number of class actions over the years have challenged the adequacy of special education services, and many of these cases have resulted before trial in consent decrees or settlement agreements.[86]

Despite these difficulties, educational advocacy in this context can stop the school-to-prison pipeline. Agencies responsible for educating incarcerated youths, whether these agencies are local school systems, juvenile justice agencies, private contractors, or state education departments, too often fail to meet IDEA requirements—making the strategies outlined here even more crucial.[87] Making all agencies accountable for ensuring that all children receive an appropriate education means that there is not an easy or cheap way out and makes it more likely that those released from incarceration will be reintegrated into their home communities.

In the juvenile court context, moreover, ensuring the provision of appropriate educational services makes it more likely that the juvenile will have an opportunity for earlier release or less restrictive placement since juvenile court judges often retain broad discretion in placement and ensuring appropriate services for the child. Depending on state law, the continued involvement of the school district maintains the student's connection to his home community. Placement through the juvenile court may not absolve the school district of financial responsibility for the education of the child, thus giving the district a monetary stake in preventing future placements and ensuring that the student receives appropriate services and returns to his home community as soon as possible.[88]

### 4. Media and Public Education

Media shape the way everyone (especially policymakers) understands the world. Used properly, media can create demand for and acceptance of reform and can strongly influence those in power. Any effort to change public opinion or influence public policy must involve "media activism."[89]

By employing a media strategy, advocates can leverage litigation, legislative, and other strategies to improve their chances of success and to create a new understanding of vulnerable youths. Media can, at the same time, work to discredit the current discipline practices in schools.

A media strategy offers varied opportunities, and the effectiveness of a tactic varies with the circumstances.[90] In the school-to-prison context, advocates

[85]See *Alexander S. v. Boyd*, 876 F. Supp. 773 (D. S.C. 1995) (requiring state officials to instruct children's school districts to send IEPs and school records immediately after the children arrive, without waiting for parental consent, in order to ensure prompt identification, evaluation, and placement of the children eligible for special education); *Smith v. Wheaton*, 29 IDELR 200 (D. Conn. 1998) (awarding declaratory relief in suit over conduct of juvenile facility in following IDEA procedures); *Edward B. v. Brunelle*, 662 F. Supp. 1025, 1035 (D. N.H. 1986) (certifying a class consisting of all educationally handicapped students in New Hampshire, placed in a facility pursuant to proceedings under New Hampshire juvenile justice statutes, and not receiving, or not having received, a free appropriate public education).

[86]See, e.g., Peter E. Leone & Sheri Meisel, National Center on Education, Disability, and Juvenile Justice, Improving Education Services for Students in Detention and Confinement Facilities (n.d.), www.edjj.org/Publications/list/leone_meisel-1997.html.

[87]Robert B. Rutherford Jr. et al., Education, Disability, and Juvenile Justice: Recommended Practices 15 (2002); Joe-Anne Corwin, *Juvenile Correctional Educational Standards Approved*, 67 Corrections Today, Feb. 2003, at 83.

[88]See *A.C.B. v. Denver Department of Social Services*, 725 P.2d 94 (Colo. Ct. App. 1986); *Ashland School District v. New Hampshire Division for Children, Youth, and Families*, 681 A.2d 71 (N.H. 1996).

[89]Robert Bray, Spin Works!: A Media Guide for Communicating Values and Shaping Opinion 2, 38–84 (2000). See generally Randy Shaw, Reclaiming America 251–87 (1999) (mobilizing strategies through media and Internet); Michael S. Wald, Comment, *Moving Forward: Some Thoughts on Strategies*, 21 Berkeley Journal of Employment and Labor Law 473, 475 (2000).

[90]"Tactics that have regularly proven successful in a particular context are not guaranteed to work under other circumstances; even objectively foolish strategies have achieved their desired ends. Tactical activists must therefore be open to creativity, innovation, and provocative, controversial, or even dubious ideas" (Randy Shaw, The Activist's Handbook 274 (1996)).

can publicize litigation or other efforts through news conferences and contacts with reporters, op-eds, editorials, and letters to the editor.[91] Publicity can make the case that a school district's or state's zero-tolerance policies are unjust and make little sense, while advocates highlight data to illustrate the benefits of alternatives such as positive behavioral interventions and supports.

In any media strategy hard facts alone will not effect change. To use media successfully to combat the school-to-prison pipeline, advocates must put a human face on our narrative, frame a core, simple message (based on progressive values), and repeat it over and over while ensuring that our facts and stories always support that message.

## III. Education over Punishment

Under the pretense of creating safer schools and communities, school districts have implemented zero-tolerance policies. These failed policies are resegregating our schools by pushing out children of color and children with disabilities. Such policies have created high suspension and expulsion rates, reduced graduation rates, increased school dropout rates, and caused far too many children to be incarcerated in juvenile detention facilities.

The school-to-prison pipeline can be stopped if progressive community and advocacy organizations, as well as individuals working in concert with one another, institute well-planned, coordinated, and multifaceted strategies. These might be

- litigation, both administrative and judicial proceedings;
- community lawyering or advocacy aimed at creating juvenile court pushback;
- state and federal legislation to repeal zero-tolerance laws and promote alternatives;
- juvenile justice reform;
- public education; and
- organizing and coalition building

It is time for a new strategy and vision to emphasize education over punishment. Rather than fostering punitive approaches that do little to enhance children's educational opportunities and move us farther from the vision of *Brown v. Board of Education*, it is time for school districts to implement promising evidence-based practices that promote learning, fairness, inclusion, and a positive environment for all children.

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[91] E.g., a press conference coincided with administrative complaints filed recently in Florida, and coverage was extensive (see, e.g., www.palmbeachpost.com/localnews/content/local_news/epaper/2008/10/01/1001complaint.html; www.tampabay.com/news/education/k12/article834237.ece; www2.tbo.com/content/2008/oct/01/011442/complaint-alleges-hillsborough-withheld-services-6/ (newspaper coverage); www.wptv.com/news/local/story/Group-says-disabled-students-left-behind/1jYE1tnzEECqqBNBf4tikw.cspx; www.baynews9.com/content/36/2008/10/1/387539.html (television coverage).

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