

Stopping the Schoolhouse to Jailhouse Pipeline By Enforcing Federal Special Education Law

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David Smith (not his real name) was a 15 year-old, 7th grader at a Jefferson Parish, Louisiana, junior high school who was headed for juvenile detention and, most likely, a life of prisons and jails. The fact that David had been identified as a child with an educational disability (Emotional Disturbance) and had an Individualized Education Program (IEP) in place did not stop his school from suspending him for 79 days during the abbreviated, post-Katrina 2005-2006 school year. No educational or related services of any kind were provided to David during his removal days, with the exception of homebound services for two days per week during one 45-day period. Oftentimes, the school would simply call David's mother or grandmother and demand that he be picked up from school. David had also been arrested at school three times during the school year — proof that the school-to-prison pipeline in Jefferson Parish was working very efficiently.

Despite David's IEP and despite the frequent behavioral problems that were clearly related to his disability, the school had not conducted a Functional Behavior Assessment (FBA) nor developed a Behavior Intervention Plan (BIP), as required by federal law, until months after David had been removed from school. Like the vast majority of children with emotional disturbance in the Jefferson Parish School System, the only help David ever received for the behavioral manifestations of his disability was a completely inadequate fifteen minutes of "counseling" once a month with the school guidance counselor.

Now, hundreds of special education students in Jefferson Parish, Louisiana, who, like David, were systematically denied the help they are due under federal law are getting desperately needed educational services under a new Corrective Action Plan (CAP). The CAP was developed as part of a Mediated Settlement Agreement with the Louisiana Department of Education.

The Settlement Agreement was the result of a legal project jointly run by three civil rights groups — the Southern Poverty Law Center, Southern Disability Law Center, and Juvenile Justice Project of Louisiana. In February 2005, the project filed a class action administrative complaint against the Louisiana State Department of Education after their year-long investigation irrefutably revealed that the Jefferson Parish School System was systemically violating the rights of and failing to educate ➔

David's case vividly illustrates why the following statistics exist:

Seventy percent of children in the juvenile justice system have an educational disability — the vast majority is children with Emotional Disturbance (ED) and children with Specific Learning Disabilities.

Children with ED fail more courses, earn lower grade point averages, miss more days of school, and are retained more often than other students with disabilities.

Children with ED have the worst graduation rate of all disabilities; nationally, only 35% graduate from high school (compared to 76% for all students).

Children with ED are more than three times as likely to be arrested before leaving school as compared to all other students.

Children with ED have alarmingly high drop-out rates and, for those who drop out of school, 73 percent are arrested within five years of leaving school.

Children with ED are twice as likely to be living in a correctional facility, halfway house, drug treatment center, or "on the street" after leaving school compared to other students with disabilities.

Children with ED are almost twice as likely to become teenage mothers as students with other disabilities.

the mostly poor, primarily African-American students diagnosed with an emotional disturbance.

The project found that the school district routinely suspended or expelled children classified as emotionally disturbed for minor offenses related to their disabilities and segregated these students in self-contained classrooms or trailers in violation of federal and state regulations. The district also consistently failed to provide appropriate levels of related services (social work, counseling and psychological services) and vocational

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training to emotionally disturbed children. These practices had a pervasive and dramatic adverse impact on students with emotional disturbance — the vast majority was typically performing several years behind their chronological grade level and their peers by the time they reached junior high or high school. This reality in turn led to abysmal graduation rates and alarmingly high drop out rates for these students. With over 800 children classified as emotionally disturbed, Jefferson Parish was also identifying children as emotionally disturbed at almost three times the state average, yet doing little or nothing to help them.

Based upon this evidence, the project filed a class complaint against the Louisiana Department of Education (rather than the school district), given the State's legal duty to monitor and supervise local school districts and to ensure their compliance with federal special education laws. After the complaint was filed, the Louisiana Department of Education agreed to investigate the project's allegations and sent a monitoring team to the

district for three days. This team confirmed all of the project's allegations and thereafter the Louisiana Department of Education agreed to an extensive Settlement Agreement

The Settlement Agreement required the appointment of a Special Master (Dr. Joe Olmi, a professor in the school psychology program at the University of Southern Mississippi) to oversee the provision of special education services to emotionally disturbed students in Jefferson Parish School System. It also mandated several major systemic changes, which are now included in the Corrective Action Plan developed by Dr Olmi with a district CAP Team including: significantly increasing the frequency and duration of social work, psychological and counseling services provided to emotionally disturbed students; implementing district-wide use of positive behavioral interventions and supports; improving their academic progress at all grade levels; eliminating many harsh and illegal disciplinary practices and policies; significantly increasing their access to less restrictive, general education environments; and significantly expanding their access to vocational training.

The Project's special education legal team is now replicating its successful effort by bringing similar complaints in other large, underperforming school districts across Louisiana. If you are an advocate or attorney interested in finding out more about this exciting new strategy for systemic special education reform, visit our website at www.splcenter.org/jefferson or contact Courtney Bowie, Southern Poverty Law Center staff attorney, at (601) 948-8882. 