



# Alternative Schools and Pushout: Research and Advocacy Guide

**Dignity in Schools Campaign**

*Working together to ensure that children are  
treated with dignity and fairness in schools*

**2007**

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# I. INTRODUCTION

## **Dignity in Schools Campaign**

The Dignity in Schools Campaign (DSC) unites advocates, parent and student organizers, educators, and lawyers from across the country to reframe the debate around school discipline from one that favors the punishment and exclusion of children who have been failed by unsafe and underperforming schools, to a human rights perspective that respects the right to education, and advocates for child-centered, dignified reform to keep children in school.

## **Human Rights Framework**

International human rights treaties, like the Convention on the Rights of the Child, recognize that all children have the right to an education aimed at their “*full development.*” Education must ensure “*that essential life skills are learnt by every child...such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility*” (United Nations Committee on the Rights of the Child). School discipline is an essential part of teaching these necessary behavioral and life skills. In order to do that, discipline must be carried out in a way that protects the dignity of the child, that is just and fair, and that keeps children in school. The problem of effectively disciplining youth and keeping them in school is multi-faceted – it is legal, social, political, and cultural. We hope to shift the discussion on school discipline from one about violence, rules, test scores and the criminalization of youth to one about equality, dignity, and human rights. We feel that this framework more accurately addresses the many factors that contribute to students being pushed out of school.

## **About the Research and Advocacy Guide**

This research guide is a compilation of articles, websites, advocacy tips and strategies to aid those who are interested in following up on our recent teleconference call entitled, “Are alternative education programs being used to warehouse kids who have been pushed out?” This conference call was sponsored by the Education Subcommittee of the Children’s Rights Litigation Committee of the ABA Section of Litigation. The guide is a result of contributions from participants of the Dignity in Schools Campaign, including our expert presenters, and is not intended to be a comprehensive overview of all sources on the subject. It is however, a valuable beginning. Suggestions of additional sources are welcome. The research articles and reports are listed in chronological order beginning with the most recent.

This guide is part of a larger project to develop a website to share information about the pushout problem and build alliances among advocates, educators, activists and lawyers across the country. The website and search engine at [www.dignityinschools.org](http://www.dignityinschools.org) will be launched in January 2008. We are coordinating two efforts to gather information for the website:

- *Research on Pushout and Effective Alternatives* – we are compiling summaries of research studies, news articles and advocacy reports to better understand how and why students are pushed out of school, and to understand effective models to prevent pushout.
- *Interviews of Groups on Advocacy Strategies* – we are gathering information at the local level from advocates, organizers, educators and lawyers about effective policy, legislative, legal and organizing strategies for combating pushout.

To get involved email [liz@nesri.org](mailto:liz@nesri.org).

## II. ARTICLES AND STUDIES

### A. Pushout to Alternative Schools

#### **Using Transfers to Alternative Schools to Avoid Responsibility for Low-Performing Students**

##### *Full Report:*

Hill, Elizabeth, "Improving Alternative Education in California," Legislative Analyst's Office (2007).  
[http://www.lao.ca.gov/2007/alternative\\_educ/alt\\_ed\\_020707.aspx](http://www.lao.ca.gov/2007/alternative_educ/alt_ed_020707.aspx)

##### *Summary:*

The Legislative Analyst's Office is a bipartisan organization in California that serves as the "eyes and ears" for the Legislature to ensure that the executive branch is implementing legislative policy in a cost efficient and effective manner. In this 35-page report, the LAO gives an overview of alternative schools in California, the statutory framework for the schools, an overview of the different roles alternative schools can play, and the indicators of quality programs. The report then analyzes the accountability programs for alternative schools and whether they are adequately tracking students' progress. The LAO finds that the state's current accountability system allows schools and districts to use referrals to alternative schools as a way to avoid responsibility for the progress of low-performing students. To solve this problem, the LAO recommends that the legislature improve accountability to focus on student achievement within the alternative schools.

#### **The School-to-Prison Pipeline in Texas**

##### *Full Report:*

Fowler, Deborah Fitzgerald, "Texas' School-to-Prison Pipeline: Dropout to Incarceration: The Impact of School Discipline and Zero Tolerance," Texas Appleseed (2007).  
<http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf>

This report -- the first in a multi-year project examining complex school to prison pipeline issues -- discusses the connection between disciplinary referrals and dropout rates, a dynamic that creates a pipeline into the juvenile and adult criminal justice systems. The report examines the failure of Disciplinary Alternative Education Programs (DAEPs) in Texas to provide quality education leading to high dropout and recidivism rates. The report further documents the over-representation of African American students and special education students in discretionary disciplinary referrals. The report also discusses proven methods of approaching school discipline issues so that schools remain safe and students stay in school and keep learning. Statistics clearly show that not only do DAEPs, as they are presently administrated, fail to make mainstream schools safer places for Texas youth to learn, but they also open gateways to even greater social issues at the state level. Texas Appleseed recommends increased parental involvement, improved Texas Education Agency monitoring and higher DAEP standards as possible keys to solving the behavior management issues faced within Texas schools.

#### **Disciplinary Alternative Education Programs Feed Students into the School to Prison Pipeline**

##### *Full Article and Book:*

Reyes, Augustina H., "Disciplinary Alternative Education Programs," pp. 47-69, in *Discipline, Achievement, & Race: Is Zero Tolerance the Answer?* (2006).

##### *Summary:*

Reyes begins by describing the increasingly common practice of transferring students to alternative schools as a means of removing students that have discipline problems or are labeled as troublemakers from regular schools. She cites the Texas case *Nevarres v. San Marcos C.I.S.D.*, 111 F3d 25 (5th Cir. 1997) as an example, in which the removal of a student to an alternative program was not categorized as a

removal but rather a transfer, and thus did not violate the student's right to an adequate education. Yet these Disciplinary Alternative Education Programs (or DAEPs) are not alternatives to traditional schooling like charter or magnet schools, but rather "feeders into the school-to-prison pipeline." Reyes discusses the convergence of interests between large corporations, schools facing accountability pressures, and educators wishing to remove difficult students from their classrooms which have led to overly harsh, state mandated zero tolerance policies that create disciplinary alternative education programs. Reyes notes that while historically alternative schools took many forms, including innovative choice models, the current mandatory discipline alternative schools "separate out at-risk, low-income, and minority students." Further, while research on effective alternative schools of choice abounds, there is little research on disciplinary alternative education programs. The "Law and Order" theory behind disciplinary alternative education programs is about "conveying harsh punishments," not "teaching appropriate behavior or behavioral expectations." Reyes then offers an in-depth study of DAEPs in Texas, including placement, removal, exit from the DAEP, and disproportionate enrollment of minorities, low-income and at-risk students.

### **Successful Strategy to Combat Illegal School Discharges in New York City**

*Full Article:*

Hyman, Elisa, "School Push-Outs: An Urban Case Study," *Clearinghouse Review Journal of Poverty Law and Policy*, 684 (2005). <http://www.advocatesforchildren.org/pubs/2005/schpushouts.pdf>

*Summary:*

This article describes successful efforts undertaken by Advocates for Children and its allies to address the push-out problem in New York City through a combination of litigation, direct action, public education, community outreach, public policy, and media campaigns. Through the use of surveys, workshops, and hotlines Advocates for Children and other community based organizations documented cases of high school students that had been illegally discharged each year without receiving diplomas. These practices included transferring younger students and students with disabilities to GED programs and outright discharge of students who were told that they were too old to stay in high school, did not have enough credits, or were not on track to receive a high school diploma. Lawsuits were filed on behalf of students from three high schools that resulted in citywide policy changes on transfers and discharges including requiring a planning interview before discharge or transfer, requiring consent of the student and due process procedures. The policy also included review of each discharge or transfer to a non-diploma-granting program. Settlement agreements in the lawsuits required re-enrollment of students, support services, ad monitoring. See the cases and documents at [www.advocatesforchildren.org/pushouts.php](http://www.advocatesforchildren.org/pushouts.php).

Other subsequent cases filed by Advocates for Children and co-counsel include *EB v. Department of Education* at <http://www.advocatesforchildren.org/eb.php> (on behalf of children with disabilities who have been excluded from school without proper notice and due process), and *DS v. NYCDOE* at <http://www.advocatesforchildren.org/boysandgirls.php> (on behalf of students who have been illegally excluded from Boys and Girls High School).

### **Data and Anecdotal Evidence Reveals Pushouts in New York City**

*Full Report:*

Public Advocate for the City of New York and Advocates for Children, "Pushing Out At-Risk Students: An Analysis of High School Discharge Figures" (2002). <http://www.advocatesforchildren.org/pubs/2005/discharge.pdf>

*Summary:*

This report reviews New York City Department of Education discharge data and anecdotal evidence to expose an alarming rate of discharges of students in New York City schools. According to the report, over 160,000 students were discharged between the 1997 and 2001 school years. The report concludes that

children are possibly being moved to GED programs to mask dropout statistics and that many of the discharges may be forced push outs by schools of students who have a legal right to remain in high school. The report also provides an overview of education laws in New York and describes available alternatives to traditional high school.

## **B. Concerns with Alternative Schools**

### **Mission of Alternative Schools, Problems and Prospects**

*Full Article:*

Hadderman, Margaret, "Alternative Schools," in "Trends and Issues: School Choice," Office of Educational Research and Improvement (2002).

[http://eric.uoregon.edu/trends\\_issues/choice/alternative\\_schools.html](http://eric.uoregon.edu/trends_issues/choice/alternative_schools.html)

*Summary:*

This overview includes a brief discussion of the history and purposes of alternative schools, the characteristics of alternative schools, and recommendations for improving alternative schools. Hadderman places the mission of alternative schools into one of three categories: (1) changing the student; (2) changing the school experience; (3) changing the entire educational system. Alternative schools that focus on changing the student are "last-chance" placements, and are either openly punitive, or therapeutic and remedial. Empirical studies of specific alternative schools are discussed that examine each model. Those that attempt to change the school experience for students include career academies, high-engagement schools, and others. Specific alternative programs fitting this model are listed and described. Alternative schools seeking to change the educational system fit the small school and school-within-a-school mold. The author describes in detail alternative schools that have adopted this goal. The research overview identifies "problems and prospects" for alternative schools. Problems include the segregation of struggling students, lack of resources, treatment of students as second-class citizens, and the use of alternative schools as warehouses or dumping grounds for struggling students and ineffective teachers and principals. Potential positives of alternative schools include the ability of well-funded alternative schools to counteract student alienation, the opportunity to establish small schools, and dropout prevention. Finally, Hadderman summarizes recommendations found in prior analyses, including greater control by the alternative school regarding who attends and for how long, recruiting appropriate teachers, focusing on serving a unique student body, and providing adequate facilities and alternative assessments, among others. Successful early college connections through alternative schools are also discussed.

### **Populations That Attend Alternative Schools, Entrance and Exit Criteria, and Resources**

*Full Report:*

Kleiner, Brian, Porch, Rebecca, and Elizabeth Farris, "Public Alternative Schools and Programs for Students at Risk of Education Failure: 2000-01," National Center for Education Statistics, Washington, DC, Westat, Inc. (2002). <http://nces.ed.gov/pubs2002/2002004.pdf>

*Summary:*

This statistical analysis report describes the results of a 2001 District Survey of Alternative Schools and Programs conducted by the National Center for Education Statistics (NCES). The NCES District Survey was the first national study of public alternative schools and programs. The results were based on a questionnaire distributed to a representative sample of 1,534 public school districts. The analysis did not differentiate between alternative programs and alternatives schools, but rather between district characteristics. Some key findings regarding the availability of and enrollment in public alternative schools and programs for at-risk students include: (1) 39% of public schools administered alternative schools or programs; (2) urban districts, districts with 10,000 or more students, districts in the Southeast,

districts with high minority student enrollments, and districts with high poverty concentrations were more likely to have alternative schools or programs; (3) the percentage of students in alternative schools and programs (12%) who were special education students correlated with the percentage of students within the district qualifying as special education; and (4) 54% of districts reported that demand for enrollment exceeded capacity within the last 3 years. Some key findings regarding entrance and exit criteria in alternative schools and programs include: (1) over half of the school districts reported that school conduct violations (i.e., physical attacks or fights, chronic truancy, possession, distribution or use of alcohol or drugs) were a sufficient reason for transferring a student to an alternative setting; (2) 45% of districts indicated disruptive verbal behavior was sufficient reason for transfer; (3) for special education students, an Individual Education Plan (IEP) team decision was the means most commonly employed in students' placement; (4) 25% of districts allowed some, but not all, students to return to their regular school; (5) the reasons most likely to be rated as "very important" in determining whether a student was able to return to a regular school were improved attitude or behavior (82%) and student motivation to return (81%); and (6) districts with 50% or more minority student populations were more likely than those with lower minority student populations to transfer a student for disruptive behavior alone. The study also found that districts in the Southeast were more likely than those in the Northeast, Central, and Western regions to transfer solely for alcohol or drugs, for physical attacks or fights, and for disruptive verbal behavior. Key findings regarding staffing, curriculum and services include: (1) 91% of districts had curricula leading to a regular high school diploma; (2) 87% offered academic counseling; (3) 85% required smaller class size than regular schools; (4) 79% offered career counseling; (5) 79% offered crisis/behavioral intervention; (6) 29% offered extended school day or school year; and (7) 25% offered evening or weekend classes.

### **More Research Needed to Measure Effectiveness of Alternative Schools for At-Risk Youth**

#### *Full Report:*

Lange, Cheryl M. and Sandra J. Sletten, "Alternative Education: A Brief History and Research Synthesis," National Association of State Directors of Special Education (2002).

[http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/19/e4/5c.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/19/e4/5c.pdf)

#### *Summary:*

This paper reviews the alternative education literature from the 1960's to the present in three areas: dropout prevention, special education, and at-risk youth. The paper begins with the history of the alternative schools movement, beginning with the Freedom Schools and Free School Movement of the 1960's and moving into a limited state-by-state survey of the variety and scope of alternative education options available today. The second section examines specific populations in alternative schools, specifically characteristics of students in alternative education programs that serve as drop-out prevention strategies, students with disabilities, and students with high risk health behaviors. The third section examines outcomes for students in alternative schools, concluding that there is a lack of research in this area. There is great diversity in the group of students labeled "at-risk," which must be studied in order to understand their needs. The fourth section discusses implications for policy and practice. Although alternative schools have not been studied on a national basis, the author examines the current state of the knowledge base about alternative schools. More large-scale standardized assessments may be necessary to measure effectiveness. There is little empirical evidence that best practices translate into desired outcomes for students. There is also little research related to how alternative schools are able to meet the needs of special education students. The author concludes that the current research on alternative education does not adequately address the many questions that remain. Issues of program character, student description, special education services, and academic outcomes are all in need of research.

## **History and Characteristics of Ineffective and Effective Alternative Schools**

### *Full Article:*

Fitzsimons-Lovett, Ann, "Alternative Education Programs: Empowerment or Entrapment?" pp. 37-42, in *Addressing the Social, Academic, and Behavioral Needs of Students with Challenging Behavior in Inclusive and Alternative Settings*, Council for Children with Behavioral Disorders, Bullock, Lyndal M., Ed. (2001).

[http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/19/4b/80.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/19/4b/80.pdf)

### *Summary:*

This discussion piece explores the history of alternative education, characteristics of ineffective alternative schools, and characteristics of effective alternative schools. While first grounded in the social justice movement of the 1950s and 1960s, in the 1970s alternative schools began to proliferate for students from low socioeconomic backgrounds and diverse ethnic backgrounds. The authors note an explosion in the number of alternative schools from 1973 to 1975, from 463 to 5,000. The Gun-Free Schools Act of 1994 and the Individuals with Disabilities Education Act of 1997 are cited by the author as "expand[ing] the mission and numbers of students being served in alternative education programs." Noting that students enrolled in alternative schools are disproportionately low-income, students with disabilities, and students from diverse ethnic and cultural groups, Fitzsimmons-Lovett discusses the social and political issues arising from alternative school proliferation. The author asks whether alternative schools are excluding certain groups from regular public schools, and whether these separate, alternative schools are "inherently...unequal." Having set forth these overarching policy questions, the author goes on to identify characteristics of an ineffective alternative education program, including: large size; punitive focus; coercive approach; limited student and teacher choice; minimal caregiver involvement; inadequate or poorly trained staff; unclear, inconsistent operating policies; and little or no community involvement. Characteristics of effective alternative education are called the "Three Cs of Effective Programming," or "Climate, Competency, Community." An effective Climate is established with the following characteristics: clearly established mission; student and teacher choice; structured learning environment with high expectations; focus on the whole student; structured and clear discipline code; opportunities for caring relationships with adults; low student-teacher ratio; student involvement in personal goal setting; appropriate staffing and resources; multidisciplinary, collaborative committee with student representation; program monitoring and evaluation. To ensure Competency, an alternative program should include: use of functional assessment measures; flexible, self-paced curriculum; vocational and school-to-work courses; instruction in social skills, conflict resolution, anger management; teacher training in instructional strategies and discipline management strategies; hiring skilled, well-trained staff and providing them with support. To achieve Community, alternative schools should have: a transition component for entering and leaving the alternative school; access to necessary support services; service learning programs, student-operated business programs, peer tutoring initiatives, and mentoring programs; parent and caregiver support; collaboration between alternative schools and community.

## **Legislated Alternative Schools for Students with Behavior Problems are Not Accomplishing Goals**

### *Full Article:*

Soleil, Greg, "Schools for Disruptive Students: A Questionable Alternative?," Appalachia Educational Laboratory, Inc (1998).

[http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/15/4e/cc.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/4e/cc.pdf)

### *Summary:*

This policy brief discusses the recent safe-schools legislation and the resulting legislative efforts to create alternative schools for students with behavior problems. Identified problems with placing disruptive children in alternative schools include: (1) focusing on problem students may obscure or ignore real problems in the system, (2) programs that target individuals divert resources from everyone else, and (3) a focus on problem students may threaten system equity by segregating poor, disabled, and minority

students in alternative programs. The second section of the brief examines the focus of the three different types of alternative schools: educational, disciplinary, and therapeutic. Mixed signals about the purpose of alternative education in the language of state laws and policy may confuse implementation efforts and thwart evaluation and accountability efforts. Additionally, a punitive alternative education purpose may cause schools to adopt ineffective models for improving learning or behavior, as well as jeopardize system equity and excellence. A chart illustrating implementation issues by school type is included. Factors that contribute to successful learning environments are also discussed. Finally, the author poses questions that should be asked in order to clarify whether or not legislation is accomplishing goals and concludes that “fix the child” tactics and punishment do not produce the outcomes policy makers, educators, and the public seek.

### **Meta-Analysis Finds that Alternative Schools Have Small Impact on Student Success**

*Full Article:*

Cox, Stephen M., Davidson, William S., and Timothy S. Bynum, “A Meta-Analytic Assessment of Delinquency-Related Outcomes of Alternative Education Programs,” *Crime & Delinquency*, Vol. 41, No. 2, (1995).

*Summary:*

This quantitative meta-analysis summarizing prior empirical research on alternative schools finds a small overall effect on school performance, attitudes toward school, and self-esteem, and no effect for delinquency. Fifty-seven (57) evaluations of alternative programs were included in the meta-analysis. Overall, the 57 alternative programs studied offered: self-paced instruction, a less competitive environment, low student-teacher ratios, an informal classroom structure, a more positive learning environment, and individualized instruction. The meta-analysis found that programs targeting a specific population (i.e., “primarily low school achievers or delinquents”) had higher effects than those that did not target specific student populations. The analysis further found that the greater the length of the program (full day as opposed to just after school or half a school day), the better the pre-post study results. The meta-analysis concluded that the highest pre-post effect of attending an alternative program was a more positive attitude toward school. However, while pre-post study designs found this positive effect, control group study designs did not. The most notable negative finding was that alternative schools have not affected delinquent behavior. The meta-analysis also concludes that “methodological shortcomings continue to plague the alternative school literature,” and that “little is known about why some programs are more successful than are others.”

### **Continuation Schools Lead to Student Disengagement**

*Book:*

Kelly, Deirdre M., *Last Chance High: How Girls and Boys Drop In and Out of Alternative Schools*, Yale University Press (1993).

*Summary:*

This book offers an in-depth study of two California alternative “continuation” schools opened in the 1960s. One, Beacon, is located in the suburbs, offers individualized instruction in a smaller environment, serves a mixed income student population, and is predominantly white (55%). The other, La Fuente, is located in the city, offers traditional instruction, has a student population that is predominantly minority and low income, and is almost three times the size of Beacon. Kelly finds that while La Fuente has been somewhat less successful than Beacon at retaining and graduating students, the two institutions are comparable in terms of academic preparation as measured by district-wide standardized test passage rates. In addition to studying the two models of continuation schools, the book examines gender differences and how they impact school engagement. The author concludes that alternative continuation schools conform to a hidden and stigmatizing hierarchy of difference that can contribute to, rather than remedy, student disengagement from school.

## **C. Students with Disabilities and Foster Youth**

### **Research on Teacher Concerns in Private Alternative Special Education Schools**

*Full Article:*

Zetlin, A.G. and L.A. Weinberg, "Private special education schools: An exploratory study of student and teacher needs," *International Journal of Special Education*, 21(1), 143-152 (2006).

<http://www.internationaljournalofspecialeducation.com/articles.cfm>

*Summary:*

This study uses focus group research with teachers to examine the instructional experience in private special education schools, which segregate special education students from their non-special education counterparts, generally enrolling just those students with serious emotional disturbance, severe learning disabilities, multiple disabilities, and mental retardation. These schools tend to be criticized for lack of accountability/standards or monitoring by the state and lack of credentials by staff. The article focuses on the teacher concerns and the type of instructional support that teachers need to be effective as well as the type of resources needed for students to succeed, with some focus on the opinions of novice private special education teachers. It also provides recommendations for how the teacher preparation program can be more supportive of the private education teachers.

### **Further Study Needed to Determine Appropriateness of Alternative Schools for Students with Disabilities**

*Full Article:*

Lehr, C., "Alternative Schools and Students with Disabilities: Identifying and Understanding the Issues," Information Brief, 3(6), University of Minnesota, National Center on Secondary Education and Transition (2004).

[http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/1b/a2/2a.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/1b/a2/2a.pdf)

*Summary:*

This article examines the existing and needed data and reports regarding students with disabilities in alternative schools. There is a lack of information regarding this subject and a serious need for further inquiry. The article provides background on alternative schools and outlines the characteristics that most alternative schools share. It then examines the problems that students with disabilities face (the dropout rate is twice that of general education students), and how the "characteristics of some alternative schools...facilitate successful school completion for those at risk of dropping out." These include counseling and extra support, the teaching of life and job skills, smaller size, goals, and constructive interactions with teachers and other students. The report compiles and summarizes interview responses from state directors of special education, including issues regarding limited data, concerns that students with disabilities may be "pushed out of traditional school in a subtle or overt manner" and "questions about the degree to which alternative schools are appropriate settings for students with disabilities" (p 3).

### **High Drop-Out Rate for Children in Group Homes**

*Full Report:*

Parrish, T., Graczewski, C., Stewart-Teitelbaum, A., and N. Van Dyke, "Educating California's foster youth: The Policies, procedures, and practices affecting the education of children residing in group homes," American Institutes for Research (2002). [www.cde.ca.gov/fg/fr/se/documents/grouphomes.pdf](http://www.cde.ca.gov/fg/fr/se/documents/grouphomes.pdf)

*Summary:*

This 242-page report provides a comprehensive account of education for foster children living in group homes. This group of children is especially prone to dropping out because of multiple placements and the inadequate educational services many receive. The report makes specific recommendations on improvements that should be made regarding educational services for children in group homes.

## **D. Recommendations for Alternative Education Practices**

### **Study of Effective Alternative Schools Yields Key Themes for Students' Success**

#### *Full Report:*

Quinn, M.M., and J.M. Poirier, "Study of effective alternative education programs: Final grant report," American Institute for Research, Washington, DC (2006).

#### *Summary:*

This study examines what strategies and themes are common to alternative schools regarded as effective in working with at-risk students. The study consists of three components: a comprehensive literature review, a quantitative measure of three exemplary alternative schools, and a qualitative analysis of the exemplary schools. The study's review of literature discovered a lack of empirical research analyzing the particular program characteristics of effective programs. The study identifies, despite the lack of empirical analysis, certain characteristics as crucial to effective alternative programming. These characteristics include small classroom sizes, effective classroom management, special training for teachers, and a personalized learning environment, among others.

For the quantitative and qualitative portion, the study selected three alternative programs considered by an Expert Panel to be "exemplary". The study measures quantitatively the programs using three instruments: the At-Risk Student Services Assessment (ARSSA), the Effective School Battery (ESB), and the School Archival Records Search (SARS). Qualitative analysis consisted of interviews with students, teachers, administrators, and parents. The quantitative and qualitative analysis yields several themes that each program had in common which the study concludes to be important characteristics of effective alternative programming. These themes include: a program philosophy of changing the educational approach instead of changing the at-risk student, a shared philosophy that all students have the ability to learn, program administrators who share the mission and values of the program, low teacher to student ratios, specialized training for teachers, a non-authoritarian approach to teacher-student interaction, and encouragement and respect for student and family participation in the program.

Finally, the study concludes that the themes exposed can help build a foundation for future research in the area of alternative education. Additionally, the themes can be used immediately by school administrators and program directors attempting to improve the effectiveness of their alternative programs.

### **Study Finds that Most Drop-outs Were at One Time Overage and Under-Credited Students, and Promotes Creating Educational Alternatives for These Students**

#### *Full Report:*

The New York City Department of Education, Office of Multiple Pathways to Graduation, "Summary Findings and Strategic Solutions for Overage, Under-Credited Youth" (2006).

<http://schools.nyc.gov/NR/ronlyres/BB8FE392-4B44-44D7-B893-242C87E1BE8A/15814/FindingsoftheOfficeofMultiplePathwaystoGraduation.pdf>.

#### *Summary:*

This paper is based on an intensive ten-month long analysis spearheaded by the Office of Multiple Pathways, conducted by the Parthenon Group, and funded by the Bill and Melinda Gates Foundation. It found that nearly all high school drop-outs in New York City were at one point in time in the overage and under-credited (OA/UC) category. It found that half of an entering freshman class will become overage and under-credited throughout high school, with a majority of this population being male and either African-American or Latino. A strategic solution was presented, focusing on the necessity to create a myriad of alternative program options for the OA/UC population. This is directly correlated to the noticeable differences in credit accumulation, proficiency skills, and the overall academic performance of the students. The paper argues that is necessary not only to create alternative options to typical schools

but to create a number of alternatives. The Young Adult Borough Centers (YABCs) represent one such alternative, which are housed in high schools and support students in receiving their diploma and creating post-secondary education plans. Another, the Transfer High School, is opened solely for OA/UC students and provides specialized help and attention to the students. Other programs were created to help students achieve their GED. Another program called “Learning to Work” is integrated throughout all the other programs and promotes the skills needed to be successful in post-secondary education.

### **Factors Leading to Dropouts and Alternative Schools**

#### *Full Report:*

Barton, Paul E., “One-Third of a Nation: Rising Dropout Rates and Declining Opportunities,” Policy Information Report, Policy Evaluation and Research Center, Educational Testing Service, Princeton, N.J., (2005). <http://www.ets.org/Media/Research/pdf/PICONETHIRD.pdf>.

#### *Summary:*

Barton’s study provides an in-depth analysis of the factors leading to and implications of dropping out of high school, and a discussion of alternative schools. The paper first notes the difficulties of accurately measuring high school dropout or graduation rates and analyzes the trends and changes in high school enrollment over the past few decades. Next, Barton finds environmental factors are closely associated with dropping out of school. Specifically, he finds that socioeconomic characteristics, the number of parents living in the home, and the student’s history of changing schools frequently, although not always determinative, are factors that are associated with 58% variation in high school completion rates among states. School factors that contribute to dropout rates include the state of counseling and guidance in schools that are provided to at-risk students. Barton identifies several approaches to increasing school retention such as alternative schools and Communities in Schools (CIS) that have received positive evaluations. Finally, Barton describes the employment and earning prospects for young dropouts and identifies successful “second-chance” programs that provide opportunities for high school dropouts to return to education and training.

### **School Size and Level of Caring: the Most Important Variables Affecting Student Success**

#### *Full Article:*

Walter-Bailey, Wendy, “Becoming a Pushout: An Ethnographic Study of School Dropouts and Their Perceptions of School Life in the Margins” (2005), (unpublished P.h.D. thesis, University of Indiana - on file with ProQuest Information and Learning Company)

#### *Summary:*

This dissertation finds that small schools that create caring environments have more successful students. The thesis provides recommendations to the educational community of ways that schools could improve the chances for success in support of students. It focuses on the stories of students who have either dropped out of school or been expelled and analyzes what those stories reveal about their perceptions of the schooling process. It also includes perspectives of teachers and staff at the Youth Opportunity Center, an alternative education center where students study to obtain the skills necessary to obtain their GED. According to the author, the most important issue addressed in this study deals with the culture of schooling, citing the politics of size and an ethos of caring as two variables that particularly affected the success or failure of students.

### **Describing Types of Alternative Education Will Encourage Development of Effective Programs**

#### *Full Report:*

Aron, Laudan Y., "Towards a Typology of Alternative Education Programs: A Compilation of Elements from the Literature," The Urban Institute (2003).

[http://www.urban.org/UploadedPDF/410829\\_alternative\\_education.pdf](http://www.urban.org/UploadedPDF/410829_alternative_education.pdf)

#### *Summary:*

This paper surveys the alternative education literature in order to create a typology of the various kinds of alternative education programs based on certain common characteristics. An understanding of the different kinds of alternative education will help to identify what is and is not working. The author examines lists of characteristics shared by promising programs, as well as a number of legalistic and operational definitions present in the literature. Alternative education models are described along four dimensions: (1) what populations are targeted, (2) where they are located, (3) what types of services and programs are provided, and (4) how they are administered and funded. Little rigorous research exists documenting the effectiveness of alternative education programs, and the author suggests unique alternative education accountability and outcome measures. Lists of important characteristics or best practices are included, as they may be useful in creating formal evaluation strategies. The author concludes that developing a typology of programs that describes the full array of alternatives may be an important element in encouraging the development of the most effective programs.

### **How Alternative Schools Can Meet the Needs of the Nation's Vulnerable Youth**

#### *Full Report:*

Zweig, Janine M., "Vulnerable Youth: Identifying Their Need for Alternative Educational Settings," The Urban Institute (2003). [http://www.urban.org/UploadedPDF/410828\\_vulnerable\\_youth.pdf](http://www.urban.org/UploadedPDF/410828_vulnerable_youth.pdf)

#### *Summary:*

Youth who become disconnected from mainstream institutions and systems, particularly schools, experience life-long economic and social hardship. This paper examines the extent to which alternative schools and programs can meet the needs of the nation's vulnerable youth. The first section summarizes the characteristics of youth facing disconnection from society. The second section examines the four areas in which youth disconnect: (1) school completion and dropping out, (2) teen pregnancy and parenting, (3) involvement in the Juvenile Justice system, and (4) leaving the foster care system by aging out. A list of factors that are barriers to school completion and a survey of studies estimating number of youth completing school and dropping out are included. The third section discusses the need for alternative education. There is no comprehensive inventory of who is being reached by alternative schools; however the 2001 NCES District Survey of Alternative Schools and Programs is an important, though limited source of data. Another source of data is the CDC biennial Youth Risk Behavior Surveillance Survey which assesses the extent to which youth take health related risks. The 1998 YRBS results for alternative schools are compared to the 1997 YRBS results for mainstream school settings, highlighting the vulnerability of youth who attend alternative schools. The extent to which alternative school settings represent barriers or opportunities to educational success needs to be studied. It is important to keep vulnerable youth in school, as the cost of such problems to society and to the youth themselves is high. Filling research gaps would help identify appropriate policies and strategies to meet this great societal need.

## **Alternative Schools for Dropout Prevention**

### *Full Report:*

Reimer, Mary S. and Terry Cash, "Alternative Schools: Best Practices for Development and Evaluation," National Dropout Prevention Center (2003).

### *Summary:*

This best practices guide to dropout prevention includes alternative schooling as one of fifteen strategies a school division can employ in grades pre-K-12 in rural, urban, and suburban districts to achieve positive outcomes. The guide notes that alternative schools should be a requirement in every community, not an option, in that they "offer school and community leaders the opportunity to fulfill their legal responsibility to provide equal access to education for all students." It lists the many alternative school types (the alternative classroom, the school-within-a-school, the separate alternative school, the continuation school, etc.) and delivery models (behavior intervention model, punitive model, academic intervention model, school community partnership model, etc.) identified by researchers. Needs and issues surrounding alternative schools include funding, accountability, community relations, good communication between alternative and regular schools, course offerings, etc. Several best practices are identified, including (1) a maximum student/teacher ratio of 1:10; (2) small student base not exceeding 250 students; (3) clearly stated mission and discipline code; (4) caring faculty with continual staff development; (5) school staff having high expectations for student achievement; (6) learning program specific to the student's expectations and learning style; (7) flexible school schedule with community involvement and support; (8) total commitment to have each student be a success. A myriad of additional characteristics of successful alternative schools are provided. The guide proceeds to provide information regarding how to establish an alternative program and how to evaluate alternative schools.

## **Research Based Practices for Alternative Schools**

### *Full Article:*

Tobin, Tary and Jeffrey Sprague, "Alternative Education Programs for At-Risk Youth: Issues, Best Practices, and Recommendations," Oregon School Study Council, Institute of Violence and Destructive Behavior, College of Education, University of Oregon (1999).

### *Summary:*

This bulletin outlines the characteristics of special and general education students in need of alternative education, and describes alternative program characteristics and research-based alternative education strategies. The authors cite the federal IDEA amendments of 1997 as creating an increased urgency for school divisions to utilize alternative education settings. When an IDEA-eligible student is suspended for more than 10 days, services must be provided, and alternative schools could provide an option for fulfilling this mandate. In addition to special education students, general education students who are unsuccessful in their regular school may find alternative schools an appropriate placement. In particular, alternative schools may benefit general education students at-risk of dropping out of school. Research-based alternative education strategies described by the authors include: (1) low ratio of students to teachers; (2) highly structured classrooms with behavioral classroom management; (3) positive rather than punitive emphasis in behavior management; (4) adult mentors in the school; (5) individualized behavioral interventions; (6) social skills instruction; (7) high-quality academic instruction; and (8) parent involvement. Guidance is provided for how to start an alternative education program.

### III. WEBSITES AND ACTIVISM

**Advocates for Children**, Out of School Youth Project – <http://www.advocatesforchildren.org>

*Summary:*

Established over 35 years ago, Advocates for Children of New York (AFC) is a non-profit organization that protects children (0-21 years) who are at the greatest risk for school-based discrimination and/or academic failure, including children with disabilities, ethnic minorities, immigrants, homeless children, foster care children, and children living in poverty.

Available resources on the website that are relevant to pushout / alternative schools include: publications on immigrant students and parents, education of youth in foster care, education of homeless youth and school access, NCLB student retention and testing, special education, lesbian, gay, bisexual & transgender youth & education, domestic violence & education, and environmental safety in schools. There are also brochures and guide books that help parents deal with issues regarding behavior problems and schooling, alternative options for high school students, educational rights of children in temporary housing in NYC, the legal rights of immigrant students & parents in the NYC public school system, and other information on special education. There is also a separate Links page for parents and other youth advocates, which includes websites for different educational and child advocacy organizations, government agencies, and legal resources.

**Texas Appleseed**, Breaking the School to Prison Pipeline – <http://www.texasappleseed.net>

*Summary:*

Texas Appleseed, a non-profit public interest law organization, utilizes research, advocacy, legal representation and public awareness to address the root causes of important legal and social issues, including the problems associated with Disciplinary Alternative Education Programs (DAEP). The School-to-Prison Pipeline Project described on the website examines how school discipline policies, specifically zero tolerance policies, impact whether or not youth enter the juvenile justice system. In addition to the report described earlier in this guide – “Texas’ School to Prison Pipeline” – the website includes a short policy brief – “Keeping Schools Safe While Reducing Dropouts.” The policy brief describes that DAEPs have five times the dropout rate of mainstream programs. Problems with the DAEPs include overrepresentation of African-American, Latino, and Special Education students; poor quality of their programs; combining students who have committed serious offenses with students who have committed non-violent offenses, resulting in increased delinquency for both groups and potential victimization of vulnerable students; and failure to make mainstream schools safer places. The brief advocates making DAEPs better by increasing parental involvement, demanding the same standards as mainstream schools, and being aware of the risk for racial discrimination.

The website also includes manuals, guides, handbooks and brochures on issues such as mental illness, juvenile delinquency, and immigrant rights. Some of these resources are directed towards attorneys. Most of the materials are published in Spanish as well as English.

**Alternative Schools Project**, University of Minnesota, The College of Education and Human Development - <http://ici.umn.edu/alternativeschools/>

*Summary:*

Funded by the US Department of Education, the Alternative Schools Research Project (2001-2004) gathered and analyzed information on policies and procedures of alternative schools across the nation. The study was broken down into three main parts: the first part is an exploration of alternative schools nationwide. Its goal is to provide a comprehensive understanding of alternative schools and the extent to which they serve students with disabilities. The second part of the study is a focused state-level examination of alternative school policies and practices for students with disabilities. The third part, conducted by field researchers, analyzes anecdotal evidence obtained directly from students, parents,

educators, and administrators who are currently involved with alternative schools and/or programs. Publications on all three parts of the study can be found on the website.

There is also a related web site page which includes brief summaries of and links to organizations which include: the Center for Research on the Education of Students Placed at Risk, Education Commission of the States, International Association of Learning Alternatives, National Dropout Prevention Center, National Institute on the Education of At-Risk Students, Office of Special Education Programs, and the Center for Positive Behavioral Interventions and Supports.

**Alternative Schools Network** – <http://www.asnchicago.org>

*Summary:*

The Alternative Schools Network (ASN) is a Chicago-based network whose members consist of nonprofit, independent, and self-governing schools as well as youth and adult education programs. ASN works to enhance the services provided to children, youth and adults in alternative education settings. They accomplish this through resource development, technical assistance and training, and advocacy. The ASN website has all the relevant contact information for alternative schools in the Chicago area and ways to contact each school. Also, ASN publishes a monthly newsletter with information ranging from current activities and programs taking place in alternative school settings in Chicago to helpful links for further information about alternative schools.

ASN conducts a number of programs throughout the year to educate families about alternative education and to enhance academic equality throughout the alternative schools network. Examples of current ASN projects and programs are the “Youth Enhancement for Success (YES)” program which provides academic and mentoring services to out-of-school youth, and the “Praxis Program” which brings together high school administrators and teachers to discuss and share ideas on how to create a positive learning environment. On the website one can find links to various reports on issues such as the lifetime fiscal benefits to tax payers of having youth and adult high school dropouts return to school, and how to reconnect “disconnected” youth to mainstream education. This second report defines disconnected youth as those between the age of 16 and 24 who are unemployed and out of school. The report gives statistics and demographics about these youth in Illinois, the financial cost they place on society, and some possible ways to reconnect them, including continuing education, returning to traditional high schools, and achieving a degree.

**Jobs for the Future: Striving for Equality in Education** - <http://www.jff.org>

*Summary:*

Jobs For the Future (JFF) is a nonprofit research, consulting, and advocacy organization that believes all young people should have a quality high school and postsecondary educational experience. JFF has a number of projects underway that promote opportunities for people to advance in their education and careers, such as the “Achieve the Dream Campaign” which promotes institutional and policy change for participating community colleges to augment the ability of students to attain degrees and acquire placement into the workforce.

JFF has a resource center of publications that contains numerous articles on the field of alternative education, achieving postsecondary education, and preparing for the workforce. For example, “From the Prison Track to the College Track: Pathways to Postsecondary Opportunities for Out-of-School Youth” by Lili Allen, Cheryl A. Almeida, and Adria Steinberg discusses different educational options for students who have been unsuccessful in regular public schools or have dropped out of school for other reasons. The website also has research on reducing dropouts and encouraging school retention and completion. An article entitled “Addressing America’s Dropout Challenge: State Efforts to Boost Graduation Rates Require Federal Support” by Adria Steinberg, Cassius O. Johnson, and Hilary Pennington analyzes what steps need to be taken to improve statewide and national high school graduation rates.

## **Other Web Resources on Pushout:**

**Advancement Project** - <http://www.advancementproject.org/>

**American Civil Liberties Union**

Racial Justice Project - <http://www.aclu.org/racialjustice/edu/index.html>

**Charles Hamilton Houston Institute for Race and Justice, Harvard University**

Redirecting the School to Prison Pipeline Project - <http://www.charleshamiltonhouston.org/Projects.aspx>

**Civil Rights Project, UCLA** - <http://www.civilrightsproject.ucla.edu/>

**Education Not Incarceration**, Four Point Plan to Stop Pushouts – <http://www.ednotinc.org>

**Justice Matters!** - <http://www.justicematters.org>

**Juvenile Law Center**, End Zero Tolerance - <http://www.jlc.org/EZT/>

**NAACP Legal Defense and Education Fund**

School to Prison Pipeline - <http://www.naacpldf.org/issues.aspx?issue=3>

**National Economic and Social Rights Initiative (NESRI)**

Dignity in Schools Project - <http://www.nesri.org/programs/education.html>

**Southern Poverty Law Center**

School to Prison Reform Project - <http://www.splcenter.org/legal/schoolhouse.jsp>

## IV. ADVOCACY CHECKLIST

### What You Can Do if A Child is Going to be Transferred to an Alternative School

#### Identify the reason for and appropriateness of the transfer

##### Reason for Transfer

- What is the official reason given by the school or district for the transfer?
- Does the official reason match the actual actions or performance of the student that resulted in the transfer?
- Is the transfer due to disciplinary, academic or other reasons (special needs, at-risk, foster care)?

##### Limits on Transfer

- Is the transfer *mandatory* (mandated by law), *discretionary* (school official has a choice), or *voluntary* (student must agree)?
- Is the transfer temporary or permanent?
- If the transfer is temporary, for how long, and what steps are in place to ensure that the student returns to regular school?
- Does the student have an Individual Education Plan (IEP) or a 504 Plan? If so, see next page.

##### Student Wishes

- Has the student been involved in the decision to transfer?
- Does the student want to go to an alternative school?
- Does the student want to change schools because of a problem at his/her current school?
- Does the student feel safe at his/her current school?

##### Student Needs

- Can the issues that the student is facing be resolved at the current school?
- Has the student been observed, assessed, or identified as needing special services, if necessary, prior to transfer?
- Does the student have special needs that cannot be addressed at the current school?
- What is the student's language level and does he/she need bilingual education?
- What are the student's strengths and interests and how can these be enhanced?

#### If the transfer is due to academic reasons:

##### Ensure the Student's Rights:

- Determine whether the student has a right to remain in a regular school and until what age.
- Is the student being pressured to leave regular school without appropriate counseling?

##### Were their Improper Reasons for Transfer?

- Is the school refusing to assist the student who is academically struggling or behind in credits?
- Is the school concerned about how the student's test scores will reflect on the schools' performance?
- Does the school have an inappropriate policy of counseling out students who do not complete high school within four years?

##### Consider the Impact on the Student:

- Is the quality of education at the alternative school comparable to the regular school?
- Will the student be able to earn a high school diploma?

# ADVOCACY CHECKLIST

## If the transfer is a disciplinary transfer:

Ensure Compliance with Due Process Rights:

*Check state law and district policy for the due process rights of students.*

- Has the current school taken appropriate steps to resolve any previous disciplinary issue, and the behavior that led to the transfer?
- Has the student been provided with notice, and an opportunity to explain his/her side of the story?
- Identify possible forms of recourse such as meeting with school officials, an appeal to the school board, or obtaining legal representation. These may vary by state.
- Request a Special Education Due Process Hearing if the school knew or should have known that the student is a child with a disability prior to the misbehavior. If so, see below.

Review Zero Tolerance Policies:

- Is the school improperly using zero tolerance policies to justify the transfer by failing to consider alternatives to removal?
- Is the student being removed for a minor, non-violent offense?

Consider the Impact on the Student:

- What are the future educational and developmental consequences of the transfer?
- Will the student be able return to regular school?
- Could the transfer lead to the student becoming involved in the delinquency system?

## If the student has special education needs:

Determine Eligibility

- Is the student eligible or currently receiving services under an IEP or Section 504 Plan?
- If so, ensure that the reason for the transfer is to meet the special needs of the student.
- Ensure that student and parent rights are protected through the IEP process.

Least Restrictive Environment

- Ensure that a transfer to a more restrictive environment is due to the nature or severity of the disability and pursuant to an appropriate decision by the child's IEP or Section 504 team.

Meeting Students' Needs and Providing a Free Appropriate Public Education (FAPE)

- Make sure the alternative school is able to meet the student's needs based on the IEP or Section 504 plan.

If the Transfer is to an Interim Alternative Education Placement (IAEP) Pending Expulsion Hearing:

- Request an expedited due process hearing to appeal an IEP decision to proceed with expulsion (manifestation determination).
- Request an expedited due process hearing to appeal whether the student has committed specific conduct (i.e., drugs, weapons, or serious bodily injury) that allows the school district to transfer the student to IAEP.
- Requests for expedited hearings in both cases noted above will not legally prevent a school district from making an initial transfer to an IAEP, but may prevent an expulsion or shorten the stay in the IAEP.

# ADVOCACY CHECKLIST

## Assess the quality of the alternative school

Talk to teachers and administrators about questions and concerns. Your own impression of the school will give you a sense of whether the student will have a safe and productive learning environment. Consider the following:

### Quality

- Has the school been evaluated?
- Is the school exempted from participating in or publishing its' results on standardized tests?
- Is the school certified or accredited?
- Are the teachers certified?
- Are the teachers qualified to meet the individual or special student's needs?
- What is the student to teacher ratio?
- Will the student be with age-appropriate peers?

### Curriculum

- Is the school geared towards earning a high school diploma, GED, or vocational certificate?
- What classes are offered?
- Does the school offer advanced placement classes?
- What materials are used (i.e. textbooks, computer programs, mail courses)?
- Does the school offer extracurricular activities?
- Are there any transition programs to prepare the student to return to a regular school?
- Will the credits earned at the alternative school count towards graduation?

### Climate

- Does the school have a positive and safe school climate?
- What role do other agencies such as child protective services, the probation department, or the police play in the school?
- What is the school's discipline policy?
- Do students have the same due process rights in the alternative school as they do in the regular school?
- Will the student's behavior challenges be addressed positively?
- Is contact maintained with the home school on behavior and academic progress?

### Transportation

- How far away is the school?
- Does the student require assistance with transportation?

# ADVOCACY CHECKLIST

## Advocacy tips

- Request a **translator** for the parent and/or student if necessary.
- **Meet** with relevant teachers and administrators to gather information and discuss the transfer.
- Request a copy of all the student's relevant **school records**.
  - Review the records to understand the student's history.
  - Ensure that the records are transferred to the alternative school.
- Request a copy of the **school district's policy** on transfers.
- Maintain a **written log** of all communications with school personnel and other persons you come into contact with regarding the student.
- Put your **concerns and requests in writing**. Include the following information if appropriate:
  - The rights of the student and parent
  - Concerns about due process violations
  - The student's version of events
  - Circumstances surrounding the incident or events that should be taken into account
  - The student's individual or special needs
  - Available alternative solutions to transfer
  - A request to reconsider the decision to transfer
  - Other special requests
- **Appeal decisions** to the school principal, superintendent, and school board if appropriate, in writing.
- Contact your local legal aid office for assistance or a referral to an **attorney or advocate** who may be able to assist you free of charge.
- Keep lines of **communication** open.
- Always work toward **solutions** when there is a problem.
- Be **persistent**, but remain calm.

**If you have any questions**, please contact Monica Llorente at the Children & Family Justice Center, Bluhm Legal Clinic, Northwestern University School of Law, [m-llorente@law.northwestern.edu](mailto:m-llorente@law.northwestern.edu).

## V. LEGAL STRATEGIES FOR CHALLENGING ALTERNATIVE SCHOOLS

Because there is no federal right to an education, getting a legal handle on challenging wrongful Alternative Education School (AES) placement or inadequate AES educational practices is difficult. There are several legal strategies that can, however, be pursued.

**Federal Special Education Law:** In many school districts, a disproportionate number of students in AES placements are eligible for special education services under the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.* Many were either not receiving those services in their regular school (which may have led to their referral to AES placement in the first place), or are not receiving sufficient help in the AES placement. IDEA is a powerful federal statute that mandates academic and behavioral support services for children with educational disabilities and provides legal protections against harsh disciplinary measures that often push these students into alternative schools. In fact, one of the main reasons that Congress enacted IDEA was to force public schools to properly educate children whose disabilities cause their challenging behavior.

Students who are sent to an AES must continue to receive special education supports and services, and school districts may also be required to provide services to address the behavior for which the student was transferred in the first place. Supports and services required by IDEA may include social work, psychological and counseling services, and tutoring to improve a child's academic progress. By utilizing the legal protections provided under federal IDEA law, you may be able to get a student transferred out of AES or, at least get the student educational supports and services that will allow him or her to make progress while in the AES placement. For more information on the IDEA and how to use it to advocate for students with disabilities who are facing suspensions, expulsions, and alternative school placement, see <http://www.wrightslaw.com/info/discipl.suspend.crabtree.htm>.

**Federal and State Due Process Challenge to AES Placement:** In *Goss v. Lopez*, the United States Supreme Court held that federal constitutional due process requires, in connection with a *suspension of 10 days or less*, that the student be given oral or written notice of the charges against him, and if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. Although some courts have held that these due process requirements do not apply to the transfer of a student to alternative school, courts have also recognized that there may be due process rights when the alternative school to which the child was transferred is so inferior to the regular school that transfer is tantamount to an expulsion.

**State Constitutional Right to an Adequate Education:** Every state has some education provision in its state constitution. Some state constitutions merely mandate a system of free public schools with no requirement as to quality, some impose a minimal standard of quality, some have specific mandates, and a few make education a very important duty of the state and impose the highest mandate of quality. For a description of the right to an education under each state's constitution, see Mills and McLendon, *Setting a New Standard for Public Education: Revision 6 Increases Duty of the State to Make "Adequate Provision" for Florida Schools*, 52 Fla. L. Rev. 329, 330 (2000). Although "education adequacy" cases which seek to enforce the guarantee that all students receive an adequate education have met with mixed results, it is certainly a legal avenue worth exploring where an AES is failing to provide its students with a minimally adequate education.

**State Laws Directly Concerning Alternative Schools:** Many states have enacted statutes that directly set forth the requirements for alternative schools and these statutes may be enforced when violated. Some states even require that students placed in an AES be given an individualized instruction plan and counseling for both the student and his or her parents. Some states have established specific criteria that teachers must meet in order to teach in alternative schools. Very little litigation has been filed challenging violations of alternative school statutes. A recent case that sought to enforce Tennessee's alternative school statute met with mixed results. *See* [http://www.tba2.org/tba\\_files/TCA/2006/csc\\_121906.pdf](http://www.tba2.org/tba_files/TCA/2006/csc_121906.pdf).

**State Accreditation Administrative Complaints:** Most if not all states have regulatory procedures for filing a complaint with the state department of education when a school district fails to meet accreditation or accountability requirements that are mandated under state law. When an AES is providing shorter school days than regular schools, employing unqualified teachers, or failing to provide the required credits needed to graduate, students fall further and further behind. The failure of these AES's to meet state accreditation requirements should be challenged under the administrative accreditation or accountability complaint process.

## **Dignity in Schools Campaign Participants**

The Dignity in Schools Campaign (DSC) has a managing group that oversees the project, a working group that helps shape the work and direction of the DSC, and a group of collaborating members that support the campaign. The DSC continues to reach out to organizations and individuals across the nation to join its campaign.

### **Managing Members**

Rosa Hirji, Chair of Education Subcommittee, Children's Rights Litigation Committee, ABA  
Monica Llorente, Children & Family Justice Center, Northwestern School of Law  
Elizabeth Sullivan, National Economic and Social Rights Initiative  
Wallace C. Winter, Legal Assistance Foundation of Metropolitan Chicago

### **Working Members**

Christine Agaiby, J.D., Alternatives, Inc.  
Zenaida Alonzo, Law Project of the Chicago Coalition for the Homeless  
Sarah Biehl, Legal Assistance Foundation of Metropolitan Chicago  
Angela A. Ciolfi, JustChildren  
Jim Freeman and Monique Dixon, Advancement Project  
Daniel Losen, Civil Rights Project  
Ellen Raider, Independent Commission on Public Education  
Susan Sandler, Justice Matters!  
Lori Turner, Equal Justice Works Fellow  
Jenny Weisz, Tufts University  
Jonah Zern, Education Not Incarceration

### **Collaborating Members**

Children's Law Center of Massachusetts  
Children's Law Center of Minnesota  
Community Asset Development Re-Defining Education (CADRE)  
Just Children, Virginia  
National Children's Law Network  
Oklahoma Lawyers for Children  
Rocky Mountain Children's Law Center, Colorado  
Support Center for Child Advocates, Pennsylvania