


# Education Advocacy for Crossover Youth

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# Today, we will discuss...

- Background
  - School-to-Prison Pipeline
  - Crossover Youth
- Foster/Probation Rights
  - School Stability
  - Changing Schools
  - Graduation Options
- Special Education & School Discipline
- Law Enforcement in Schools
- Advocating in Court
- Q&A

# School-to-Prison Pipeline

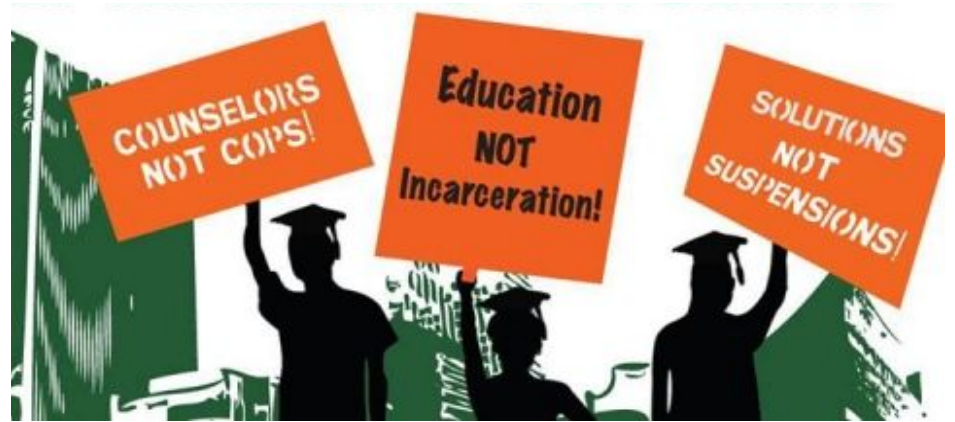
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# School-to-Prison Pipeline

Refers to policies and practices that force children out of the classroom and into the juvenile and adult criminal justice systems.

Also known as “school push-out” or “school force-out.”



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## How it Happens

- Divestment from public schools
- Zero tolerance discipline policies
- Prevalence & dependence on school police
- Racism
- Unmet mental health needs
- Lack of trauma-informed practices

**Separation from school is a risk factor for juvenile justice involvement.**



*Meet “Curtis”*

# 2X

children with learning and behavior disabilities are **suspended** twice the rate of their nondisabled peers



# 3X

children with learning and behavior disabilities are **incarcerated** three times the rate of the overall youth population



25%

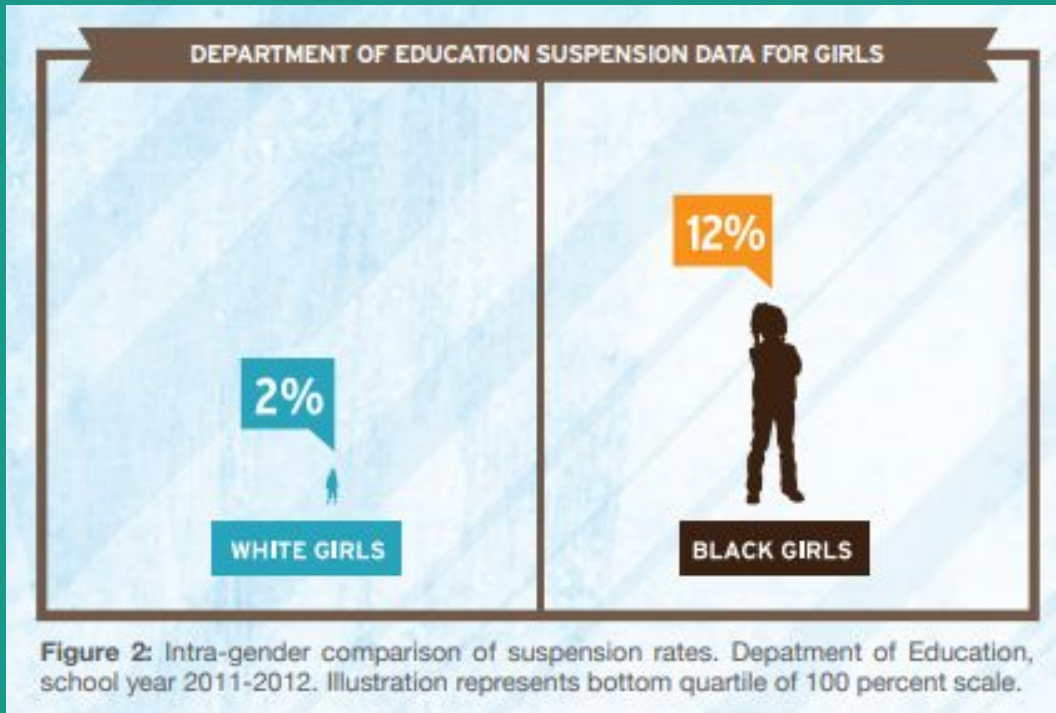
suspension rate for Black boys  
with disabilities

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20%

suspension rate for Black girls  
with disabilities





Source: African American Policy Forum and Center for Intersectionality and Social Policy Studies, *Black Girls Matter: Pushed Out, Overpoliced, and Underprotected* (2015), available at [https://www.law.columbia.edu/sites/default/files/legacy/files/public\\_affairs/2015/february\\_2015/black\\_girls\\_matter\\_report\\_2.4.15.pdf](https://www.law.columbia.edu/sites/default/files/legacy/files/public_affairs/2015/february_2015/black_girls_matter_report_2.4.15.pdf).

# \$404k

cost of detaining a young person in  
LA County

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# \$18k

cost of educating a young person  
in LAUSD

**Over 80% of all juveniles and adults in the criminal justice system have experienced school failure or drop out (Sander 2010).**

Approximately 90% of youth in corrections meet the diagnostic criteria for one or more mental health disorders (Stenhjem 2005).

Average age of detained youth is 16 years old, yet average reading level is 5th grade (2016). According to LACOE data, 92% of youth were credit deficient at time of arrest (LA Probation Outcomes 2015).

**20% of students with emotional disturbance are arrested at least once before they leave school, as compared with 6% of all students (Power-deFur 1997).**

# Crossover Youth





## Crossover Youth



- Around 30% of foster youth will cross over into juvenile delinquency system
- Recent study found that over 90% of probation youth had previous contact with child welfare system
- LA County-focused study showed that 80% of probation youth in suitable placement or camp had previous contact with child welfare system
  - Previous contact = at least 1 referral
  - Average number of referrals = 5.6



# Why do foster youth cross over?

- Unaddressed and misunderstood trauma, mental health needs, and other diagnoses
  - Leads to acting out and other problematic coping mechanisms that are criminalized (e.g. substance abuse)
  - Youth that change homes can struggle to obtain regular and appropriate mental health care and medication management
- Criminalization of normal adolescent behavior
  - Especially in group homes
- Negative peer influences and a desire to belong
- School-to-prison pipeline

# Specific Challenges for Crossover Youth

- Common SPED Eligibility
  - Specific Learning Disability
  - Emotional Disturbance
  - Other Health Impairment
- School Instability
  - Transfer records
  - Changes to special ed services
  - Repeat same classes
- Mental Health Issues
  - Anger
  - Anxiety/Depression
  - School avoidance
- Reentry into Community
  - Lack of step-down plans (ex. meds)
  - Slow implementation of court resources
  - Lack of support for ERHs
- Stigma
  - High risk of pushout to alternative school settings
  - Enrollment obstacles
  - Less funder appeal
- Constraints
  - House arrest
  - Probation terms



# Overview of Education Law







# Education Rights Holder

Who can be one?

## Automatic:

- biological parents
- adoptive parents
- legal guardians
- youth when they turn 18

## Sometimes:

- relatives
- caregivers
- foster parents
- mentors
- Court Appointed Special Advocates (CASAs)

## Never:

- social worker
- probation officer
- group home staff
- attorney
- school staff
- therapist



# Education Rights of Court-Involved Youth

*...If disabled, they have the same rights as any other students with disabilities! & then some!*

- **AB 167/216:** graduate w/min. state requirements (130 credits)
- **AB 490:** right to local public school/school of origin, immediate enrollment, transfer records, partial credits
- **McKinney-Vento Act:** transportation



# Education Rights of Court-Involved Youth

Why do extra rights exist for these youth?

- Court-involved youth face unique challenges
- They often have poor education outcomes for all of these reasons AND more

Who is eligible?

- All youth with an open DCFS and/or delinquency case

How do you enforce these laws?

- You can file a compliance complaint with the California Department of Education to make sure schools are doing right by these youth.

# School Stability

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# What is School of Origin (“SOO”)?

- Youth may continue attending (or return to) a school as their SOO even after moving homes if it is in their **best interest**

## What is a SOO?

- The school attended when student was permanently housed
  - The school most recently attended
  - Any school the youth attended in the last 15 months to which they felt a connection
- What about transportation?
    - Caregivers (but not bio parents) entitled to reimbursement
    - Group homes should provide
    - Federal law requires transportation plans



## More about SOO

- Every time a youth is potentially changing placements, DCFS and probation must consider school stability
- When a move that would change the youth's school is going to occur, youth, youth's attorney, and youth's ERH must be notified
- If there is a dispute about SOO, the youth has a right to remain in the SOO pending a hearing
- This law applies to all public schools including comprehensive, magnet, charter, and alternative schools
- **Note:** Reach out to LAUSD's Foster Youth Achievement Program for extra support when your student is moving schools.



# School Stability During Covid-19

Key considerations at Best Interest Determination meeting:

- Youth preference
- Available supports/services at SOO vs. new school connected to residence
- In person vs. virtual instruction vs. hybrid
- Anticipated duration of placement

**Note:** You can invite LACOE Foster Youth Services Coordinator to BID and IEP meetings

# Changing Schools







# Right to Immediate Enrollment

- Foster and probation youth have the right to attend their local comprehensive school
  - Can't deny enrollment based on court history
- They must be enrolled in the same or equivalent classes that they were taking at their last school (not all elective classes!)
  - So students can continue earning credits they need towards graduation
- They may immediately enroll
  - At any point during the school year
  - Without documents normally required for enrollment (immunization, transcript, etc)
  - Unless they've been expelled from this school or are under an expulsion order



# Partial Credits

- Foster and probation youth have a right to earn partial credit (or full credit) for the work they complete at each school
  - Youth earn credit based on **attendance** in each class with a **passing** grade
  - Each district has a partial credit policy (average: 14-16 class periods = 1 credit)
- When a youth moves, previous school must issue partial credits on a transcript and send them to the new school
- Receiving school must accept all partial credits earned from previous schools
- **Note:** Charter schools must accept partial credits, but are not required to issue them. Charter schools should have a policy on partial credits too. Keep this in mind when counseling foster or probation youth regarding charter schools.



# Alternative Schools

- Sometimes school districts try to push crossover youth out of their comprehensive school and refer them to alternative schools
  - Ex: Community Day Schools/Continuation Schools, Independent Study Programs
- Some alternative schools can be good for students
  - Ex: Da Vinci RISE High School, Learn 4 Life, CRCD Academy
- However, consider the student's unique needs first and whether the program can accommodate
  - Special education
  - Medication assistance
  - Counseling/therapy

# Graduation Options





# Assembly Bill(s) 167/216

An opportunity to graduate under minimum state graduation requirements (130 credits) vs. the school district graduation requirements (usually 220 credits).

## Who is eligible?

- Open DCFS or delinquency case
- Transfer schools after second year of high school
- Cannot reasonably complete school district requirements within 4 years

## Key considerations

- Graduate with their peers on time with a regular district diploma
- Not eligible for UC or CSU if only completing state minimum (need to attend 2-year first)
- Might not be the best choice for youth who are performing far below grade level or who have special education needs



## More about AB 167/216

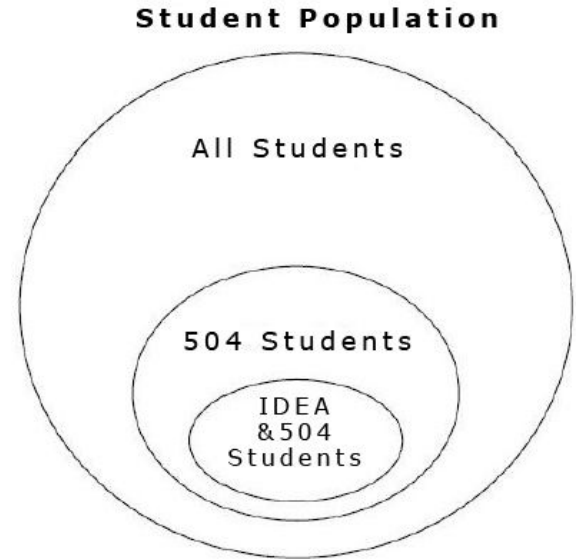
- Youth/their ERH can elect a 5th year to complete the local school district requirements
- Once certified as eligible, youth/their ERH can elect to use this option at any time or pursue the local district requirements at any time
  - Youth cannot be “locked in” to this option - they can change their mind!
- A school district may allow a youth to remain in their local comprehensive school to finish the AB 167/216 requirements (but this is not currently required by CA law)

# Special Education



# Introduction to Special Education

- Federal protections exist to prevent and combat historical **exclusion** of students with disabilities from school
  - Americans with Disabilities Act (“ADA”)
  - Section 504 of the Rehabilitation Act (“Section 504”)
  - Individuals with Disabilities Education Act (“IDEA”)








## Who Qualifies: Section 504 vs. IDEA

	Section 504	IDEA
<b>Purpose</b>	504 Plans: Accommodations	Individualized Education Plan: Special Education and Related Services (including Accommodations)
<b>Eligibility Criteria</b>	<ul style="list-style-type: none"><li>• Have a mental or physical impairment</li><li>• That substantially limits a major life activity</li></ul>	<ul style="list-style-type: none"><li>• Qualifying condition</li><li>• Adversely affects educational performance</li><li>• Condition creates a need for special education services</li></ul>



## Section 504 - “504 Plan”

Section 504 Plan can provide **accommodations** in school to ensure that a child has **equal access** to education. It does not provide **modifications** to the curriculum or classroom.

Examples of Accommodations:

- Not being penalized for absences or tardies related to health (medical appts, sick days)
- Additional time to turn in assignments when absent
- Quality over quantity
- Additional time for passing periods
- Bathroom/office pass
- Preferential seating
- Classroom notes
- Set of books at home



# IDEA - Qualifying Conditions

- Intellectual disability
- Hearing impairment (including deafness)
- Speech or language impairment
- Visual impairment (including blindness)
- *Emotional disturbance*
- Orthopedic impairment
- Autism
- Traumatic brain injury
- *Other health impairments*
- *Specific learning disability*

## OTHER HEALTH IMPAIRMENT

“Having limited strength, vitality or alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment due to a health problem”



# IDEA - Adversely Affects Educational Performance

Consider the impact of the disability on the **whole child** within their educational environment.

- Academic performance
- Behaviors at school
- Ability to attend to classroom lectures
- Ability to participate in class
- Homework
- Overall attendance
- Social emotional functioning



# IDEA - Condition Creates a Need for SPED

**Special education** and **related services** include:

- Specialized Academic Instruction
- Adaptive Physical Education
- Occupational Therapy
- Physical Therapy
- Speech and Language
- Educationally Related Mental Health Services
- Counseling
- Social Work Services



## Special Education ABC's

If eligible for special education, a student with a disability is entitled to a **FAPE** in the **LRE** through an **IEP**.

- **FAPE** = Free Appropriate Public Education
- **IEP** = Individualized Education Plan
- **LRE** = Least Restrictive Environment



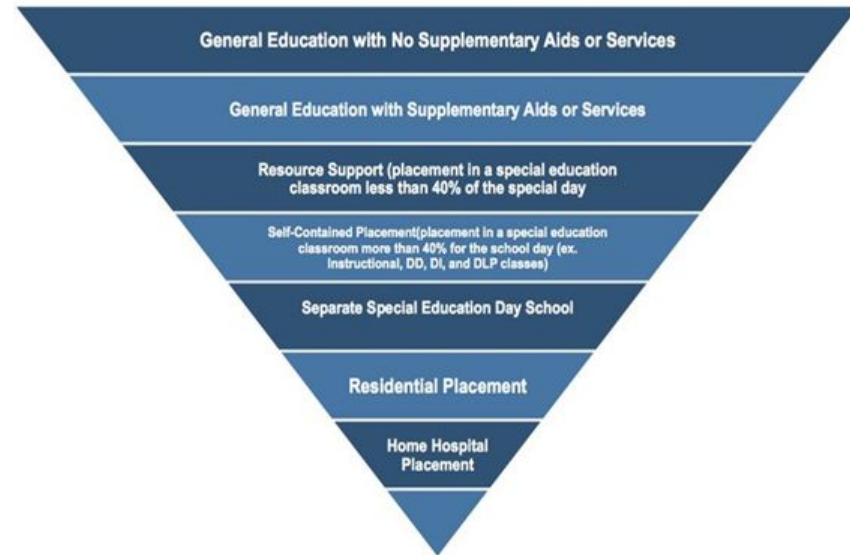
# FAPE = Free Appropriate Public Education

- The school district must create an educational program that is:
  - Tailored to meet the student's **unique needs**;
  - Allowing student to obtain **meaningful educational benefit**;
  - In an environment with the greatest access to **nondisabled peers** practicable;
  - **Free-of-charge** to parent/caregiver; and
  - In a public school setting **or** otherwise provided by the school district.
- The scope of an educational program is broader than academics.

# LRE = Least Restrictive Environment

- Requirement that to the maximum extent appropriate, students with disabilities should be educated with students who are not disabled.
- Congress intended to integrate students with disabilities — but this is controversial.

## The Placement Continuum







# IEP = Individualized Education Plan

- The school district must assemble a team to develop an appropriate IEP for every student eligible for special education and related services.

## CONTRACT

An IEP is a written document listing programs and services that school district is obligated to provide. Must be consented to by ERH.

## TEAM

Mandatory participants include ERH, admin designee, student's special education teacher, and student's general education teacher.

## MEETING

Must occur at least once a year. ERH can request a meeting at any time.



## IEP Advocacy Tips - Detained Students

- If detained, students with IEPs are afforded comparable IEP services for the first 30 days of custody. **Provide a copy of last agreed upon IEP.**
- A 30-day IEP should then be held to discuss what services are appropriate and necessary for the student to access curriculum while detained. **Attend 30-day IEP.**
- **Be creative!** The IDEA allows the IEP team to create an individualized education program.
  - APEX with RSP or BII/BID services
  - SDC with BII/BID services
  - Accommodations
  - DIS counseling vs. psychological services
- Behavior Support Plan

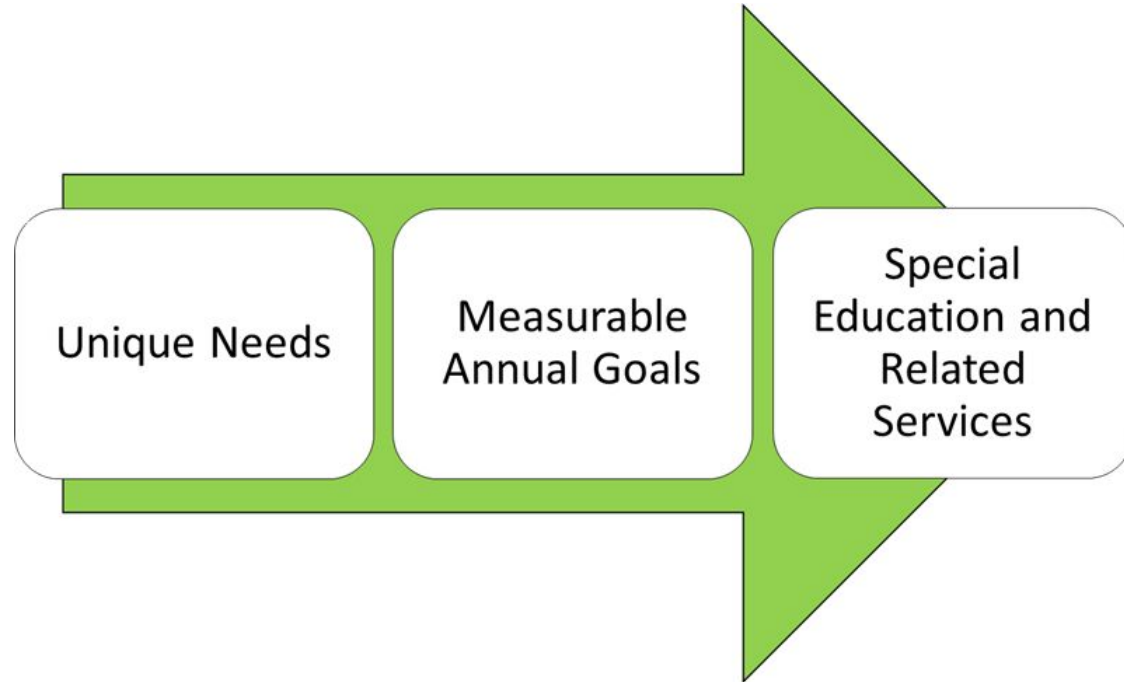


## IEP Advocacy Tips - During Covid-19

- **Request an IEP** to discuss individualized learning plan during the pandemic, especially when the student is in quarantine due to an outbreak.
- **Request service logs** for virtual instruction and related services. LACOE is not providing consistent access to virtual instruction or IEP services.
- **Memorialize all requests in writing**, especially for assessments and additional services/support.
- **Ensure meaningful participation at IEP** - you may need to reschedule or obtain technical assistance (ex. Zoom or Microsoft Teams). If you have an attorney, start a private text thread so you can ask questions during the meeting.
- **Provide public comment** to District/LACOE School Board and LA County Board of Supervisors if your student is not receiving adequate instruction or IEP services.




## Development of the IEP





# Assessments

- The State is required to locate and identify students who require special education (“**Child Find Mandate**”).
- Parents, educators, or another person (like a social worker!) can initiate the special education referral and assessment process.
- Students should be evaluated **every 3 years at least** (during triennial IEP) to ensure that services are appropriate.
- During Covid-19, many assessments were stalled or delayed. You should still request assessments to preserve the timeline. Some districts are conducting virtual assessments.



# Assessments - Advocacy Tips

- Request a Special Education Assessment
  - In writing
  - Give specific reasons
  - Provide documentation/reports
  - **Note:** You, as a CASA, can request an assessment.
- Review the Assessment Plan (15 day rule)
  - Describes assessments and who will do them
- Attend the IEP Meeting (60 day rule)
  - **Note:** You can ask the IEP team to consider a medical evaluation, but be careful about sharing certain information



# School Discipline

- If student with disability is removed from school for **10 days** in one school year, the school must conduct a manifestation determination review (“MDR”).

Is the conduct a manifestation of the student’s disability?

OR

Is the conduct a result of the school’s failure to implement the IEP?

- If the answer is yes to either, then school must (1) conduct a functional behavior assessment and implement a behavior intervention plan or (2) review and modify existing behavior plan and (3) return student to placement from which she was removed.



# School Discipline During Covid-19

Discipline during Covid-19 can look like:

- Removed from virtual class into breakout room
- Kicked out of virtual class (can't log back in)
- Muted
- Suspension/expulsion for:
  - Conditions in house (e.g. beer bottles in background)
  - Inappropriate use of chat
  - Inappropriate student image
  - Not turning camera on/off





## School Discipline - Advocacy Tips

- Attend the MDR
- Ensure that input is provided
  - Invite coaches, supportive teachers, other allies within the school who are familiar with student
  - Provide letters from medical professionals with diagnosis, current treatment, and recommendations
  - Provide opinion and request that it be documented in the notes
- Look for patterns of same behavior in school records
  - Did the school implement any interventions or did it ignore?

**Note:** You may be called as a witness in expulsion hearing or due process hearing.



# School Discipline - Preventative Advocacy Tips

- Create a robust Behavior Support Plan
  - Informed by Functional Behavior Assessment
  - Incorporate evidence-based behavioral interventions
  - Provide a safety plan, if needed
  - Classroom removals should always be a last resort
- For detained students, LACOE relies heavily on Probation for school discipline.
  - Request attendance records from LACOE and compare number of probation removals to teacher removals - notify attorneys!

# Law Enforcement in Schools

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# Law Enforcement in Schools

- **School police** are employed by the school district.
- **School resource officers (SROs)** are employed by the police department, but assigned to schools.
- School police and SROs are **armed** and have authority to **question, detain, and arrest** students.
- Impact? *Students with disabilities are increasingly arrested for classroom behavior.*

**TABLE A: NUMBER OF FULL-TIME SWORN OFFICERS ASSIGNED TO POLICE DEPARTMENTS (2015-2016)**

<b>District</b>	<b>Full-Time Officers<sup>18</sup></b>
1. Los Angeles USD PD	378
2. San Diego City Schools PD	41
3. Stockton USD PD	26
4. Santa Ana USD PD	25
5. San Bernardino USD PD	24
6. Compton USD PD	23
7. Kern High School District PD	23
8. Twin Rivers USD PD	22
9. Fontana USD PD	16
10. Oakland USD PD	16
11. Clovis USD PD	13
12. Baldwin Park USD PD	9
13. Hesperia USD PD	8
14. Hacienda/La Puente USD PD	6
15. Inglewood USD PD	5
16. Montebello USD PD	5
17. Apple Valley USD PD	4
18. El Rancho USD PD	4
19. Snowline Joint USD PD	4

LAUSD has the most full-time school police.

**TABLE B: SCHOOL-RELATED REFERRALS  
TO LAW ENFORCEMENT AND ARRESTS IN CALIFORNIA (2013-2014)**

Bolded numbers indicate that the student group is overrepresented in this category

	Population	Referrals	Arrests
White	25.0%	22.6%	20.2%
Black	6.2%	<b>15.1%</b>	<b>15.7%</b>
Latino* (*In the Civil Rights Data Collection, this group is referred to as "Hispanic.")	53.1%	51.9%	<b>54.6%</b>
Asian American	10.9%	3.8%	4.5%
Hawaiian/Pacific Islander	0.75%	<b>0.93%</b>	<b>0.94%</b>
Native American /Alaska Native	0.75%	<b>2.3%</b>	<b>1.3%</b>
Two or More Races	3.30%	<b>3.4%</b>	2.8%



# When Are Police/SROs Involved?

California Education Code section 48902 sets forth limited circumstances when school principals **must** notify law enforcement authorities when students commit legal violations.

- Assault with a deadly weapon or force likely to produce great bodily injury;
- Unlawful possession of a firearm in a school zone;
- Unlawful possession or distribution of a firearm on school grounds or at a school activity off grounds;
- Unlawful possession of certain other deadly weapons on school grounds;
- Use or distribution of certain controlled substances or any intoxicants; and
- Possession of an explosive on school grounds or at a school activity off school grounds.

**In practice**, school officials report other student behavior to law enforcement.



# Interacting with Police/SROs

- **Ask police officer to identify themselves and show proper credentials.**
- **Ask for a lawyer, court order, or warrant before talking to police.** Everything a student shares during police questioning can be used in future criminal prosecutions.
- **Students have a right to remain silent during police questioning.** Students are oftentimes not advised of their Miranda rights.
- **Ask for parent or supportive adult to be present during police questioning.** Students may say whatever they think will please the police officer, even if it may not be the true story.





# Interacting with Police/SROs

- **Show your ID card.** Examples: driver's license, school ID, disabled TAP card, etc.
- **Carry a card with your disability information.**
  - Parent/guardian's name and contact information
  - Disability
  - How your disability affects you
  - Any medications you're taking
  - Regional center information
  - Doctor's name and contact information
  - Emergency contact information

I have been medically diagnosed with an intellectual, developmental or mental disability. My medical condition may impair my ability to communicate with others, especially with strangers or in stressful situations. As a result of my condition, I may present as a person who:

- Appears deaf or unable to understand
- Has difficulty speaking or communicating
- Engages in repetitive or self-stimulating behaviors such as rocking or hand flapping
- Appears anxious, nervous or upset
- Becomes agitated due to physical contact or stressful situations
- Acts indifferent or unresponsive

Please do not interpret my behavior as refusal to cooperate.

*(Please see reverse side for additional information)*

**JESSE WHITE**  
SECRETARY OF STATE



Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Emergency Contact: \_\_\_\_\_

I had a stroke. I have aphasia. It affects my ability to speak, read & write. I know what I want to say, but words don't come out easily.

### Please take time to communicate with me.

Ways you can help me:

- Give me time to communicate and understand.
- Speak slowly; use simple sentences.
- Ask me to show you by gesture, pointing or drawing.
- Write down the main words.
- Ask me yes/no questions.
- Please do not shout.

Thank you for your patience and understanding ☺



### Individual presents with the following challenges:

- Competencies: Primarily independent individual. Vulnerable to anxiety and resulting communication, sensory, and emotional challenges.
- Communication: Under stress may have difficulty speaking or become agitated.
- Sensory Processing: Hypersensitive to sound, touch & light.
- Social Impairment: Generalized social anxiety, needs reassurance and patience.
- Support Strategies:
  - Speak one at a time and be patient
  - Avoid threats or emphasis on dangers or risks
  - Stay calm and use supportive language

# Advocating in Court





# Delinquency Court

- Juvenile judges care about how students are doing in school.
- Attorneys, social workers, and CASAs can collaborate with defense attorneys:
  - Attend court and/or provide a written court report to the judge regarding the education matters. Explain that the delinquency charges are the result of unaddressed disability-related needs.
  - **Inform the judge how virtual instruction is (or isn't) going.**
  - Advocate for more access to community-based services instead of keeping student in custody.
  - Advocate for more therapeutic district-funded placements (i.e. residential treatment center) as an alternative to probation-funded placements (i.e. juvenile camp).

**Note:** Judges love seeing a team supporting the student.



# Dependency Court

- Both school district and DCFS are responsible for providing services to the child
  - *M.S. v. LAUSD*, No. 16-56472 (9th Cir. 2019).
- Services that can benefit the child:
  - Therapeutic behavioral services vs. in-home behavioral services
  - Cognitive behavioral therapy
  - Substance abuse counseling / drug rehabilitation
  - Full service partnership
  - Clothing allowance
  - Case management
  - Family visits



# How Can an Education Attorney Help? How Can Social Workers Support?

- IEP Advocacy
  - Eligibility
  - Implementation
- School Discipline
  - Manifestation Determination Reviews
  - Challenge Expulsions
  - Due Process
- Special Education & Discrimination
  - Due Process
  - Compliance Complaints
  - OCR Complaints
  - UCP Complaints
- Court Advocacy
  - Court Reports

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# Questions?



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