

“Ending the School-to-Prison Pipeline” Hearing

QUESTIONS SUBMITTED BY SENATOR FRANKEN
To Assistant Secretary Delisle

Question 1: ASSISTANT SECRETARY DELISLE and ACTING ADMINISTRATOR HANES, kids with learning disabilities are more likely than their peers to end up in the juvenile justice system. This suggests that students with disabilities are not receiving the support they need to be successful in school. And, for me, this is an argument in favor of full funding for the Individuals with Disabilities Education Act – or IDEA. But, aside from additional funding, what can the federal government do to help address this disparity?

Answer: Some have asserted that the juvenile justice system is a “default system” for youth who can’t read or write well, who have mental health conditions, and who drop out or are forced out of school.ⁱ Data on the actual numbers of students with disabilities in correction facilities are variable, although there is broad consensus that children with disabilities are overrepresented in the justice system. In 2005, a national survey found an average prevalence rate of youth with disabilities in corrections of 33.4 percent with a range of 9.1 percent to 77.5 percent. Of those youth with disabilities in corrections, approximately 47.7 percent were diagnosed as emotionally disturbed and 38.6 percent were diagnosed with a learning disabilityⁱⁱ (Quinn, 2011).

The attached chart is based on the most recent data collected by the Department of Education (ED or the Department) under section 618 of the Individuals with Disabilities Education Act (IDEA) and the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP). The chart provides a breakdown of each of the disability categories including: the number of students ages 6-21 in correctional facilities, the percentage of students with disabilities in corrections, the percentage of each category served in correctional facilities, the percentage of all students in residential facilities, and a ratio of disproportionality. Students with disabilities ages 6-21 represent approximately 8.43 percent of the overall student population, but 24.45 percent of the population served in correctional facilities, indicating that students with disabilities are almost three times more likely to be served in correctional facilities than would be expected. Unfortunately, students with emotional disturbance are over 17 times more likely to be served in correctional facilities. Other significantly overrepresented disability categories include: Specific Learning Disabilities (2.95 times more likely), Other Health Impairments (2.43 times more likely), and Intellectual Disabilities (2.26 times more likely).

We think the best way to overcome the current overrepresentation of students with disabilities in the juvenile justice system is through good instruction, starting from early

ⁱ Nelson, C. M., Jolivette, K., Leone, P. E., & Mathur, S. R. (2010). Meeting the needs of at-risk and adjudicated youth with behavioral challenges: The promise of juvenile justice. *Behavioral Disorders*, 36(1), 70-80.

ⁱⁱ Quinn, M. M., Rutherford, R. B., Leone, P. E., Osher, D. M., & Poirier, J. M. (2005). Youth with disabilities in juvenile corrections: A national survey. *Exceptional Children*, 71(3), 339-345.

childhood. All children, including students with disabilities, should be in school and engaged in learning. The implementation of multi-tiered prevention and intervention frameworks – providing differing levels of behavioral or instructional supports and interventions based on assessment of the needs of individual students - provides a structure for preventing academic failures and problem behaviors from occurring, identifying and addressing deficits that do occur early and effectively, and providing the long-term supports all children need to meet the desired educational and life outcomes. The Office of Special Education Programs (OSEP) at the Department of Education, through Part D of IDEA, provides assistance to States, districts, and schools to support and improve outcomes for children with disabilities and their families through investments in professional development, technical assistance, technology and media, and parent training.

In addition, students with disabilities should receive, based on their individual needs, wrap-around supports, including counseling and mental health services that are provided in a coordinated and comprehensive manner. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and the Early and Periodic Screening, Diagnostic and Treatment (“EPSDT”) provisions of Title XIX of the Social Security Act (“Medicaid Act”) prevent the segregation, isolation, and unnecessary institutionalization of students with disabilities. Students should remain in and receive support within their communities, rather than being moved to residential institutions, including juvenile detention facilities and jails. Essential mental health services can be critical to student success in school. As necessary, States and school districts should create teams of local coordinated providers of mental health, counseling and support services through EPSDT funding, and in compliance with Title II and Section 504.

Two national technical assistance centers and a group of model demonstration programs are highlighted below. These investments show the efforts underway to assist states and districts in improving outcomes for children with disabilities, such as increasing school completion and expanding postsecondary education and career options.

For example, in fiscal year 2012, OSEP made an award to launch the Center on School-wide Integrated Framework for Transformation (SWIFT), which brings together special and general education in a comprehensive continuum of supports and services for all students. The SWIFT center will provide intensive, on-site technical assistance to schools and districts to implement a multi-tiered system of support of increasing intensity of instruction and behavioral support for all students. The project will also assist State education agencies to implement statewide school reform. The Center will work with schools to facilitate collaborative teaching between special and general education teachers; involve all school staff, including security guards, paraprofessionals, and support staff, in the teaching and learning process; and assist schools in making data-driven decisions and monitor interventions.

OSEP also has funded the National Technical Assistance Center on Positive Behavioral Interventions and Supports (PBIS) for the past 14 years. This Center has assisted in shaping the PBIS framework and providing direct professional development and technical assistance to more than 17,000 schools. Other Center activities include: (a) web-based collection and dissemination of evidence-based behavior practices and systems and self-assessment tools

(www.pbis.org); (b) a national leadership and trainers forum; (c) three best-practices and systems “blueprints” (Implementation, Evaluation, and Professional Development); (d) numerous publications and professional presentations; and (e) school, district, and State implementation demonstrations. PBIS is a framework for enhancing the adoption and implementation of a continuum of evidence-based interventions to achieve academically and behaviorally important outcomes for all students.ⁱⁱⁱ (Sugai et al., 2000). As a “framework,” the emphasis is on a process or approach, rather than a curriculum, intervention, or practice. Evidence-based behavioral practices are organized within a multi-tiered system of support for all students^{iv} (Sugai & Horner, 2009). The important supportive relationship between positive school climate and individual student success is emphasized as is the relationship between behavior and academic success.

A number of experimental studies have documented the effectiveness of the PBIS framework at the school-wide level. This body of research supports improvements in problem disciplinary behavior (office discipline referrals, suspension, expulsion), school climate, perceptions of safety, organizational health, student bullying behavior, and academic achievement (Horner et al., 2009; ^vHorner, Sugai, & Anderson, 2010; ^{vi}Waasdorp, Bradshaw, & Leaf, 2012).

It is also important to note that the Administration has incorporated lessons learned from PBIS implementation into the President’s plan, *Now is the Time*, to protect our children and communities by reducing gun violence. We proposed \$50 million for a new initiative to help 8,000 schools create safer and more nurturing school climates. These grants will assist schools to use evidence-based strategies to prevent and positively intervene to address problem behaviors such as bullying, drug abuse, and poor attendance, and help school staff put into place sound alternatives to suspensions, expulsions, and referrals to law enforcement.

ⁱⁱⁱ Sugai, G., Horner, R. H., Dunlap, G., Hieneman, M., Lewis, T. J., Nelson, C. M., Scott, T., Liaupsin, C., Sailor, W., Turnbull, A. P., Turnbull, H. R., III, Wickham, D. Reuf, M., & Wilcox, B. (2000). Applying positive behavioral support and functional behavioral assessment in schools. *Journal of Positive Behavioral Interventions*, 2, 131-143.

^{iv} Horner, R., Sugai, G., Smolkowski, K., Eber, L., Nakasato, J., Todd, A., & Esperanza, J. (2009). A randomized, wait-list controlled effectiveness trial assessing school-wide positive behavior support in elementary schools. *Journal of Positive Behavior Interventions*, 11, 133-145.

^v Horner, R. H., Sugai, G., & Anderson, C. M. (2010). Examining the evidence base for school-wide positive behavior support. *Focus on Exceptionality*, 42(8), 1-14. Sugai, G., & Horner, R. H. (2010). School-wide positive behavior support: Establishing a continuum of evidence based practices. *Journal of Evidence-based Practices for Schools*. 11(1), 62-83.

^{vi} Waasdorp, T. E., Bradshaw, C. P., & Leaf, P. J. (in press). The impact of school-wide positive behavioral interventions and supports (SWPBIS) on bullying and peer rejection: A randomized controlled effectiveness trial. *Archives of Pediatrics and Adolescent Medicine*.
Bradshaw, C. P., Waasdorp, T. E., & Leaf, P. J. (in press). Effects of school-wide positive behavioral interventions and supports on child behavior problems. *Pediatrics*.

In FY 2012, OSEP funded three Model Demonstration Projects on Reentry of Students with Disabilities from Juvenile Justice Facilities into Education, Employment, and Community Programs. Their purpose is to support the establishment and operation of three model demonstration projects that will develop, adapt, refine, and evaluate models for facilitating the successful reentry of youth with disabilities from juvenile justice facilities into education, jobs, and the community. Each model demonstration project includes the following elements: intensive educational interventions; multidisciplinary assessments and planning; integrated transition services; individualized aftercare; interagency collaboration; research-based interventions implemented with fidelity; and evaluation of services, processes, and outcomes. The projects are designed to reduce recidivism and to support the successful transition of these youth with disabilities back into their communities. Successful transition must be measured, in part, using data on high school completion, postsecondary education, and employment.

Question 2: ASSISTANT SECRETARY DELISLE and ACTING ADMINISTRATOR HANES, following up on a question that I asked during the hearing, please provide data showing the relationship between early education programming and involvement in the juvenile justice system? In particular, please provide evidence showing whether children who receive such programming are more or less likely to be involved in the criminal justice system later in life.

Answer: Few investments have a bigger return to society than high-quality early childhood programs. There is strong research demonstrating that children who attend high-quality preschool are better prepared for school, score higher on reading and math assessments in the elementary grades, are less likely to need special education services, are less likely to be held back in school, and are more likely to graduate from high school than children who do not attend such programs.^{vii} High-quality programs do more than just improve academic achievement—they increase employment and earnings and they reduce crime, delinquency, and teen parenthood later in life. This is why early childhood programs are so important to maintaining our international competitiveness.

The President's FY 2014 budget proposes \$75 billion to provide high-quality preschool for all four-year olds. Funding would be provided to states and distributed to local school districts, or local school districts in partnership with other early learning providers, to offer high-quality preschool programs. An additional \$750 million would provide for competitive grants to states to strengthen their early learning systems. The goal for early learning is improve the health, social-emotional, and cognitive outcomes for all children from birth through 3rd grade, so that all children, particularly those with high needs, are on track for graduating from high school college- and career-ready. To enhance the quality of programs and services and improve outcomes for children from birth through 3rd grade, including children with disabilities and those who are English Learners, the Department will promote initiatives that increase access to high-quality programs, improve the early learning workforce, build the capacity of states and

^{vii} Center for Public Education, *The Research on Pre-K*, 2008.

programs to develop and implement comprehensive early learning assessment systems, and ensure program effectiveness and accountability.

Among the studies that draw this linkage, the Perry Preschool Project study is the most relevant. The other studies listed below also show a link between preschool education and other successful indicators.

Perry Preschool Project (2005): This program was evaluated in one randomized controlled trial of 128 children — 64 in the intervention group that received the preschool program, and 64 in the control group that did not. The data showed that there were significant differences in the groups with regard to their involvement in the criminal justice system. By age 40, students in the intervention group were approximately 46 percent less likely to have served time in jail or prison and 33 percent less likely to have been arrested for a violent crime.

The longitudinal study found that not only was the program effective as an educational intervention, it also demonstrated other positive outcomes, including a significantly lower rate of crime and delinquency and a lower incidence of teenage pregnancy and welfare dependency. Data collected showed that by the age of 27, program participants were nearly three times more likely to own their own homes than the control group and less than half as likely to be receiving public assistance.

The data also showed that there were significant differences in the groups with regard to their involvement in the criminal justice system. The control group underwent more than twice as many arrests as the program group. Thirty-five percent of the control group were considered frequent offenders (defined as five or more arrests), compared with only seven percent of the program group. In addition, approximately 25 percent of the control group had been arrested for drug related offenses versus seven percent of the program participants. The control group also averaged more months on probation (6.6 versus 3.2 months) and had more than twice as many of its members placed on probation or parole for longer than 18 months (20 percent versus 9). A distinctive feature of this study has been its economic cost-benefit analysis which “indicates a savings to the public of more than seven times the initial investment per child, with a return of \$7.16 for every dollar spent” resulting from tax payer returns based on savings in welfare assistance, special education, prosecution of crime, assistance to crime victims, and increased tax revenue from higher earnings.

Other studies with related data sets include the:

Abecedarian Program (Economics of Education Review 2007): This project was a randomized controlled trial of early childhood education for children from low-income families. Of the original 111 infants enrolled, 101 took part in the age 30 follow-up. Students in the intervention group showed:

- Increased achievement test scores,
- Decreased special education participation and grade repetition,
- Increased employment and earnings, and less welfare dependency,

- Decreased smoking, drug use, and depression, and
- Decreased social services and health care costs.

Chicago Child-Parent Centers (Reynolds, 2007): Established in 1967, the CPC program is currently federally funded through Title I of the Elementary and Secondary Education Act and is still operating in Chicago. Additionally, a partnership of 11 education and nonprofit agencies in Illinois, Minnesota, and Wisconsin have been awarded an Investing in Innovation or “i3” grant of \$15 million over five years from the U.S. Department of Education to scale up this integrated school-based early childhood intervention. The program—which provides intensive instruction in reading and math from pre-kindergarten through third grade, combined with frequent educational field trips—is implemented by certified teachers, has a low child-to-teacher ratio, and provides intensive parent involvement. Based on a quasi-experimental follow-up of 1539 low-income participants who enrolled in either the Child Parent Center program or an alternative intervention, participants who attended the Child-Parent Center beginning in preschool had a better range of positive outcomes at age 24 as compared to the matched-group cohort. Findings provide evidence that high-quality early learning programs can have enduring effects on general well-being into adulthood.

Relative to the comparison group and adjusted for many covariates, Child-Parent Center preschool participants had lower rates of:

- felony arrests and convictions,
- incarceration,
- depressive symptoms, and
- out-of-home placement in foster care.

Participation in both preschool and school-age intervention relative to the comparison group was associated with:

- higher rates of full-time employment,
- higher levels of educational attainment,
- lower rates of arrests for violent offenses, and
- lower rates of disability.

Question 3: ASSISTANT SECRETARY DELISLE, several witnesses have submitted testimony indicating that students of color disproportionately are affected by the school-to-prison pipeline. Does the Department have recommendations for schools and communities to address these disparate impacts?

Answer: As proposed in the President’s plan, Now is the Time, the Department is currently developing a set of specific recommendations to schools and communities on how to improve school discipline practice. This includes joint guidance with the Department of Justice to help schools comply with their federal civil rights obligations in the administration of student discipline. Further, as part of the Supportive School Discipline Initiative, we are working closely

with the Department of Justice, the Council of State Governments, and philanthropic organizations to develop a set of consensus recommendations to improve discipline practice, reduce disproportionality, and dismantle the “school to prison pipeline.”

At a minimum, we know that schools and communities should implement a multi-pronged, multi-disciplinary and comprehensive strategy to improve discipline practices that includes a deliberate and proactive effort to ensure that students are equitably treated. School discipline policies and practices, including those that govern school-based arrests and referrals to law enforcement, must also comply with federal civil rights laws prohibiting discrimination, including on the basis of race, color, national origin, disability, sex and religion.

The pieces of this strategy would encourage schools and communities to:

- Proactively monitor their discipline practices for disproportionality. This can mean instituting steps such as the following:
 - Collect and evaluate data regarding all referrals for student discipline, including those that did not result in disciplinary sanctions or referrals to law enforcement, consistent with the Family Educational Rights and Privacy Act’s protections. Such a recordkeeping system should include demographic information for all students involved (race, sex, disability, age, and English-learner status), as well as a description of the misconduct, grade level of each student referred for discipline, description of attempts to address the behavior prior to referral for discipline, witnesses to the incident, prior history of the student, referring staff member, law enforcement involvement and discipline imposed.
- Assess for root causes where disproportionality exists. This can mean instituting steps such as the following:
 - Work with a consultant or other expert to review and modify disciplinary policies to ensure that rules are clearly defined and that students, staff and parents share a common understanding of the rules. School authorities should strive to reinforce positive student behavior and consider alternatives to expulsion and suspension that manage student misbehavior while keeping students in the classroom.
 - Establish a discipline review team to examine how discipline referrals and sanctions imposed at the school compare to those at other schools. Such a team can, for example, randomly review a percentage of the disciplinary actions taken at each school on an on-going basis to ensure the actions taken were non-discriminatory and consistent with the school’s discipline practices.
 - Implement school climate surveys for students, parents, and school staff to measure their perceptions of school safety and fairness in discipline, as well as their understanding of disciplinary rules and behavioral expectations.
- Engage in a broad-based community and school effort to develop an action plan to root out discrimination in the administration of discipline. This can mean steps such as the following:

- Provide training to staff that emphasizes ensuring fair treatment of students, strategies for managing student behavior and promoting student development outside the disciplinary system, explanation of the discipline code, and information concerning the role of School Resource Officers (police officers posted in schools).
- Ensure that all actions taken by School Resource Officers are reported, and implement training programs for them. Training needs for School Resource Officers should include training in bias-free policing, including implicit racial bias and cultural competence; child and adolescent development and age-appropriate responses; practices proven to improve school climate; restorative justice techniques; working with a diverse student population, including students with limited English proficiency and lesbian, gay, bisexual and transgender students; and data gathering and analysis.
- Provide ongoing information to families and students to explain behavior expectations, present discipline data, and advise them of the availability of a discipline coordinator. In addition, invite feedback on the process, inform parents of the right of students to due process, and offer parents an opportunity to provide input regarding the school's policies.

Students with Disabilities Ages 6-12 in Correctional Facilities 50 States and D.C. and Puerto Rico (including BIE schools)						
A) Disability Category	B) Total Students in Correctional Facilities	C) Percentage of all Students with Disabilities in Correctional Facilities	D) Percentage of Total Disability Category Served in Correctional Facilities	E) Percentage of Total Population Served in Juvenile Justice Residential Facilities	F) Percentage of the Overall Student Population	G) Disproportionality (Actual Correctional Facility Population/ Expected Population)
Emotional Disturbance	6,607	38.16%	1.78%	9.33%	0.54%	17.28
Specific Learning Disabilities	7,174	41.44%	0.30%	10.13%	3.43%	2.95
Other Health Impairments	1,841	10.63%	0.25%	2.60%	1.07%	2.43
Intellectual Disabilities/ Mental Retardation	1,008	5.82%	0.23%	1.42%	0.63%	2.26
Multiple Disabilities	178	1.03%	0.14%	0.25%	0.18%	1.40
Traumatic Brain Injury	33	0.19%	0.13%	0.05%	0.04%	1.17
Hearing Impairments	44	0.25%	0.06%	0.06%	0.10%	0.62
Orthopedic Impairments	31	0.18%	0.06%	0.04%	0.08%	0.55
Speech or Language Impairments	329	1.90%	0.03%	0.46%	1.56%	0.30
Visual Impairments	5	0.03%	0.02%	0.01%	0.04%	0.18
Autism	58	0.34%	0.01%	0.08%	0.59%	0.14
Developmental Delay	4	0.02%	0.00%	0.01%	0.17%	0.03
Deaf-Blindness	0	0.00%	0.00%	0.00%	0.00%	0.00
Total	17,312		0.30%	24.45%	8.43%	2.90
Column A	Includes all reported disability categories under the Individuals with Disabilities Education Act (IDEA), Part B.					
Column B	For each disability category, the number of students who are served in correctional facilities is listed. Correctional facilities data are intended to be a count of all children receiving special education in either short-term detention facilities (community-based or residential) or correctional facilities. These data were generated using IDEA Data Explorer on January 4, 2013 at the following link: https://www.ideadata.org/					
Column C	Includes the percentage that each particular disability category makes up of the overall student with disability population being served in correctional facilities. The calculation was made by dividing Column B by the total number of students with disabilities being served in correctional facilities (17,312).					
Column D	Includes the percentage of each particular disability category that is served in correctional facilities (as opposed to other educational environments). The calculation was made by dividing Column B by the total number of students for each disability category, which can be found in Table B1-3 at the following link: https://www.ideadata.org/arc_toc13.asp#partbCC					
Column E	Includes the percentage that each disability category makes up of the entire juvenile justice system population being served in residential facilities. The total population in juvenile justice residential facilities in 2010 was 70,792 according to the National Center for Juvenile Justice (http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/Age_Sex.asp). The calculation was made by dividing Column B by 70,792. Residential facilities include the following placements: 1) Detention Center: a short-term facility that provides temporary care in a physically restricting environment for juveniles in custody pending court disposition and, often, for juveniles who are adjudicated delinquent and awaiting disposition or placement elsewhere, or are awaiting transfer to another jurisdiction; 2) Shelter: a short-term facility that provides temporary care similar to that of a detention center, but in a physically unrestricted environment. Includes runaway/homeless shelters and other types of shelters; 3) Reception/Diagnostic Center: a short-term facility that screens persons committed by the courts and assigns them to appropriate correctional facilities; 4) Long-term secure facility: a specialized type of facility that provides strict confinement for its residents. Includes training schools, reformatories, and juvenile correctional facilities; 5) Ranch/Wilderness Camp: a long-term residential facility for persons whose behavior does not necessitate the strict confinement of a long-term secure facility, often allowing them greater contact with the community. Includes ranches, forestry camps, wilderness or marine programs, or farms; 6) Group Home: a long-term facility in which residents are allowed extensive contact with the community, such as attending school or holding a job. Includes halfway houses; 7) Boot Camp: a secure facility that operates like military basic training. There is emphasis on physical activity, drills, and manual labor. Strict rules and drill instructor tactics are designed to break down youth's resistance. Length of stay is generally longer than detention but shorter than most long-term commitments; and 8) Other: includes facilities such as alternative schools and independent living, etc. These data do not include juveniles who are placed in adult prisons.					
Column F	Includes the percentage of the overall public school population for each disability category. These data were found in Table B1-17 at the following link: https://www.ideadata.org/arc_toc13.asp#partbCC					
Column G	The final column calculates the disproportionate representation of each disability category in correctional facilities. The calculation was made by dividing Column E by Column F. The numerical value is a multiplier that indicates how much more or less likely a child within a particular disability category is to be placed in a correctional facility as compared to chance. For example, students with Emotional Disturbance (ED) represent 9.33% of the correctional facility population, but represent only 0.54% of the overall student population. This means that students with ED are 17.28 times more likely to be placed in a correctional facility than would be expected by their representation in the general student population.					