Inadequate Education Outcomes

Education plays a critical role in eradicating poverty, and every child has a right to a high-quality education. Poverty is associated with increased rates of hunger, as well as chronic and acute illnesses that may impede learning by causing absences and negatively affecting a child’s ability to concentrate on schoolwork. Youth denied a high school education have higher rates of unemployment, incarceration, and health issues. All schools receiving federal funds under Title I are required to provide all students with key elements of a high-quality education that will enable them to master those high standards. Teachers must be “highly qualified,” use effective instructional strategies, and regularly get intensive training on how to provide this kind of enrichment.

Over the years, the ABA has taken policy positions and sponsored position papers focused on the various issues involved with this topic. These policies and positions are based on the knowledge and intellectual work product of lawyers who could be in a unique position to strengthen community-based efforts to address inadequate education outcomes of low-income Americans. Lawyers can work shoulder-to-shoulder with stakeholders including community-based entities, providers/advocates, academic communities, foundations/funders, politicians, program users/beneficiaries and the public to use the law and justice system to tackle systemic barriers and obstacles to a quality education for low-income and homeless Americans.

The ABA Commission on Homelessness & Poverty has compiled for informational purposes only—without any intended endorsement—the following issues and potential strategies for consideration as each community develops its own unique local plan of action for eliminating legal and justice system related policies, practices, and procedures that unfairly perpetuate or worsen the harmful effects of poverty, particularly those that serve as unfair obstacles and barriers to helping the

---


2 20 U.S.C. §§6314(b)(1)(B)(ii), (C), and (D) and 6315(c)(1)(C), (E), and (F).
every child obtain a high quality education. The Commission is able to offer technical assistance in identifying and convening community stakeholders for roundtable discussions to develop strategic plans for local community action.

**ISSUE: PARENTAL AND FAMILY INVOLVEMENT**

Meaningful family participation is a good predictor of high student achievement at both the elementary and secondary levels. Barriers to family involvement include a lack of time among working parents, negative prior experiences with schooling, an inability to assist children with homework, limited funding to support parent engagement activities, and a lack of staff training in ways to involve parents and families. When parents or other caregivers are involved in a students’ education, students complete more homework, earn better grades and score higher on standardized tests. Children of involved parents also have better attendance records, drop out less often and have greater vocational aspirations.

While studies have shown that these positive outcomes occur regardless of a student’s ethnic or racial background or socioeconomic status, parents of students living in a household with income above the poverty level are more likely to be involved in school activities than parents of children living in a home at or below the poverty line.

**STRATEGIES:**

- Encourage families to embrace educational success as a high priority within the family and convey this to the youth in a caring and supportive manner.

- Encourage parent-teacher communication through several different means (i.e. flyers, phone calls, in-person meetings, emails etc.). Similarly, provide translations if necessary for English as a second language (ESL) parents.

- Teachers should incorporate homework assignments that involve family participation.

- Schools should collaborate with community organizations to offer classes for parents about how to engage in their children’s education and why it is so important.

- Schools should host events at the school (after work hours or on the weekend) for families and students. Examples could include fundraising events, workshops, social events etc. Schools should provide the option of transportation to and from these events.

- School boards should continuously track the effects of involvement, in order to use time and resources wisely.

- Schools should provide equal representation for parents on school governing bodies.
ISSUE: ALTERNATIVES TO DISCIPLINE/ZERO TOLERANCE POLICIES TO EXCLUDE VULNERABLE YOUTH FROM SCHOOL

The ABA believes that removing a student from their educational program through exclusion (suspension or expulsion), when the student’s behavior is not substantially likely to cause injury to self or others, runs counter to the goal of ensuring that all students receive a high-quality education, and is an ineffective means of changing undesirable behavior. Research has shown that even temporary suspension from school contributes to poor academic achievement, lowered self-esteem, alienation from peers, delinquency, gang recruitment, falling behind in class, and ultimately dropping out of school entirely. Research shows that students who are victim to suspensions and zero-tolerance policies in school are much more likely to become involved in the criminal justice system. This is the school-to-prison pipeline.

Given the harmful effects of school exclusion, it is particularly disturbing to note its disproportionate application to students of color and other discrete and insular minorities. In particular, schools suspend African American males at nearly three-times the rate of their white, non-Hispanic peers. Schools disproportionately charge students of color with minor, subjective infractions, such as disobedience or disrespect. Other students subject to excessive exclusion from school include those with disabilities, those in foster care, youth experiencing homelessness, those living at or below the poverty level, and youth who identify as LGBTQ. For more information on alternatives to discipline and the school-to-prison pipeline, click here.

STRATEGIES:

Efforts should encourage law and policy changes that will help students remain in school, promote a safe and supportive school environment, inform students and parents of their rights, and enable students to complete school.

- Prevent disciplinary issues by implementing evidence-based and scientifically valid preventive school-wide practices for improving student behavior and creating a safe school climate more conducive to learning.

- Encourage students to know their rights and, when appropriate, privately enforce existing laws including, but not limited to, Title IX. To learn more about a student’s rights under Title IX, click here.

---

3 118B, 8
4 Id.
5 118B, 14
6 118B, 15
7 118B, 14-15; [other sources for homeless & LGBT youth]
8 118B, 15
• Restrict exclusion offenses to those that are the most serious or dangerous.
• Require use of alternative interventions to resolve disciplinary issues prior to exclusion (click here for alternative strategies for effective school discipline).
• Minimize the length and educational impact of exclusions.
• Prohibit use of school exclusion as a response to truancy.
• Decriminalize school-related behavior and increase the use of positive behavior interventions and support.
• Establish programs and procedures to help parents, students, and their legal representatives understand the rights of students to remain in school.
• Collect data regarding rates of graduation, dropout, truancy, and disciplinary violations, which is disaggregated by race, disability and other disparately affected populations, so that no group is disparately subjected to school discipline or exclusion.

The ABA opposes "zero tolerance" policies that mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the student’s history. The ABA urges the implementation and enforcement of policies that will help advance the right to remain in school, promote a safe and supportive school environment for all children, to enable them to complete their education. (See the ABA Policy on School Discipline “Zero Tolerance” Policies, February 2001).

**ISSUE: INADEQUATE ACCESS TO EDUCATION FOR HOMELESS YOUTH, INCLUDING ACCESS TO EARLY CHILDHOOD EDUCATION**

Under the McKinney-Vento Act, state education agencies (SEAs) must “ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youths. Homeless children and youths must have access to the educational and related services that they need to enable them to meet the same challenging state academic standards to which all students are held. In addition, homeless students may not be separated from the mainstream school environment.”¹² Children and youth experiencing homelessness and/or poverty often lack the documents ordinarily required for school enrollment. Nonetheless, schooling is critical in a child’s development. Oftentimes, it is the only stable and safe environment for a child. Immediately enrolling and continuously enrolling...

students provides stability and avoids the personal, education, and social trauma involved with continuously changing schools.\textsuperscript{10}

States use early childhood education programs to provide children, ages five and younger, with access to educational resources that are often provided by private preschool curriculums. In addition to traditional education benefits, many early childhood curriculums also incorporate health and nutrition programs and engage parents as early as possible to foster parent involvement and investment in their child’s education.\textsuperscript{11} McKinney-Vento extends the right of access to public schooling to homeless preschool children.\textsuperscript{12} For those attending preschool programs, Every Student Succeeds Act of 2015 (ESSA) guarantees school of origin enrollment and transportation rights to homeless preschoolers, just as they are guaranteed to other homeless children and youth in public schools.\textsuperscript{13}

\textit{STRATEGIES:}

\begin{itemize}
  \item Advocate for “full service schools” that connect students and families to a continuum of coordinated and accessible services including: health services; counseling; child care; community policing; mentoring; legal clinics (for information on school-based legal clinics in Connecticut, click here)
  \item SEAs and local educational agencies must review and carry out steps to revise laws, regulations, practices, or policies that can act as barriers to the identification, enrollment, attendance, or success in school of homeless children and youths.
  \item Local educational agencies should facilitate continuity of schooling by ensuring that school personnel are aware of the legal rights of homeless children.
  \item Schools should actively collaborate with local shelters and other service providers to provide continuity.
  \item Empower teachers as advocates. Teachers can ensure that schools place children and youth who experiencing homelessness in the appropriate grade and that they are receiving important support services.
  \item Encourage and foster family involvement in a child’s education through workshops at shelters on topics such as child development, educational rights, etc.
\end{itemize}

\textsuperscript{10} ABA Commission on Homelessness & Poverty, \textit{Educating Children Without Housing}, 32 (4th ed. 2014)

\textsuperscript{11} National Law Center on Homelessness & Poverty, \textit{Homeless Students Count: How States and Schools Districts Can Comply with the New McKinney-Vento Education Law Post-ESSA}, 7

\textsuperscript{12} 42 U.S.C. § 1432(g)(1)(F)(i).

\textsuperscript{13} Id.
• Appoint a homeless liaison in every school district (for more information on local homeless liaisons for school districts, click here).

• Provide family support services such as counseling, job training, etc.

• Ensure that school personnel are knowledgeable about the McKinney-Vento Act and the protections it provides students experiencing homelessness (For more information on federal rights protected by the McKinney-Vento Act and the Every Student Succeeds Act of 2015, click here).

• Encourage teachers to be knowledgeable and flexible regarding incomplete homework, frequent absences, poor hygiene, and hunger.

• Advocate for the establishment of “breakfast programs” for students to ensure that all students have access to a healthy morning meal. Click here to learn more about breakfast programs.

**ISSUE: Special Populations**

All school districts must meet their obligations under Title VI of the Civil Rights Act to ensure students receive equal educational opportunity. Title VI prohibits discrimination on the basis of race or national origin. Children should not be placed in low-track classes disproportionately composed of students of one race if those classes have low academic content and do not fully address the challenging subject matter, which a state in its standards has determined all students should learn.

Also under Title VI, schools are required to identify children who have limited English proficiency, and provide alternative language services that will teach English and allow them equal access to the education program. Federal law also requires that parents of students struggling with language proficiency receive the same information about programs that the district offers to parents.14

Access to education for children and youth with disabilities is often inadequate due to a lack of understanding about their needs, lack of proper teacher training, an unconducive environment at school, and a lack of resources and facilities.15 The federal law called the Individuals with Disabilities Education Act (IDEA) protects the rights of children and youth with disabilities. IDEA ensures that all


students with disabilities receive a free, appropriate public education, including special education and related services.

A quality education is also vitally important for the more than 800,000 children and youth who are involved each year in the foster care system in the United States. One of the major obstacles for children and youth in foster care is transitioning out of care and into adulthood. Education is a key factor in whether a child successfully makes this transition.

**STRATEGIES:**

- Increase awareness about the lack of remedies for privately enforcing Title IX.

- Ensure youth with disabilities receive the protections provided to them by federal law (IDEA) so they are not reprimanded for behavior that may be a symptom of their disability.

- Advocate for school placement stability and continuity for special populations.

- Encourage foster families to understand and advocate for the youth’s education rights and to become involved in the school.

- Caregivers, teachers and families must ensure that youth are prepared to make the transition from high school to postsecondary education or employment by utilizing strategies such as counseling, training, and an individualized education plan, assessing financial aid options and other needs.

**ABA Policy Positions**

The ABA House of Delegates establishes Association policy. The policy-making body is comprised of approximately 550 delegates who represent various groups within the ABA and the legal profession as a whole. ABA policy statements have successfully been used as the foundation for legislative advocacy campaigns on the federal, state and local levels with advocates highlighting the policy as the statement of the organized bar.

The Commission on Homelessness & Poverty has developed a comprehensive body of policy positions that have been approved by the ABA House of Delegates; these policy statements are available online, and the Commission is equipped to provide free technical assistance to advocates. A searchable database of all policy resolutions adopted by the ABA may be access here.

- **Homeless and Foster Youth Education Barriers** (August 2007) The ABA urges Congress to ensure programs of the Elementary and Secondary Education Act support the academic achievement of all McKinney-Vento eligible students, including students experiencing homelessness and in
foster care. The ABA urges amendment of other federal, state, territorial and tribal laws and court and child welfare practices to promote the stability and continuity of education for all students in foster care and students experiencing homelessness by supporting appropriate student placement, prompt school enrollment, attendance, and education success.

- **Right to High Quality Education** (August 2009) The ABA urges federal and state legislatures to pass laws, and national, state, and local education agencies to implement policies to secure the right of every child to a high quality education, to improve implementation and enforcement of existing laws and policies designed to enable a student to receive a high quality education and to assist students in understanding and utilizing existing provisions of law and remediing deficiencies in their implementation and enforcement through administrative and judicial relief. The ABA urges state and local bar associations to seek improvements in state and federal law to protect the right to high quality education, make legal representation available to parents, students and organization seeking to enforce laws related to education and provide community legal education and other assistances to aid in understanding and improved implementation of the right to high quality education.

- **Right to Remain in School** (August 2009) The ABA urges federal and state legislatures to pass laws and national, state and local education, child welfare and juvenile justice agencies to implement and enforce policies that help advance the right to remain in school, limit exclusions from and disruption of educational programs as a response to disciplinary problems, provide students with full procedural protections, reduce criminalization of truancy and other school-related conduct, and establish programs to assist parents, students and legal representatives in understanding and exercising rights to remain in school. The ABA urges federal and state legislatures to legally define, standardize and measure graduation rates, dropout rates, truancy, and disciplinary violations resulting in suspensions and expulsions with data disaggregated by race, disability and other disparately affected populations.

- **Right to Return to School** (August 2009) The ABA urges enactment and implementation of statutes and policies that support the right of youth who have left school to return to school to complete their education in high-quality, age appropriate programs. The ABA urges the enactment of laws and policies that establishes programs and procedures to encourage and assist parents, students and their legal representatives in understanding and exercising student rights to resume their education.

- **Foster Youth Higher Education** (August 2012) The ABA urges lawyers, judges, child welfare and education agency administrators, educators, school regulatory bodies, and legislators to
support the enrollment in and successful completion of postsecondary education by youth in foster care, or those who have been in foster care.